

# Law of the Republic of Azerbaijan

## On Banks

This Law defines the principles, rules and standards for organization, internal management, regulation of activities and liquidation of banks for the provision of most complete compliance of the legal base of banking system to international standards, increase of role of banking services in economy, enforcement of the protection of bank depositors and creditors, and general provision of stable and safe banking system.

### ***Chapter I. General Provisions***

#### ***Article 1. Key Definitions***

*1.0* Following definitions are applied in this Law:

*1.0.1* **Bank**— legal person, which implements the attraction of deposits from individuals and legal entities or other return assets, issuance of credits from its behalf and from its own funds, as well as implementation of payment and cash-desk and money transfer operation by the client request.

*1.0.2* **Bank Holding Company** — company, which has one or more subsidiary banks with banking license, activities of which are controlled by the bank regulation authorities of the country of headquarter residence.

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

*1.0.4* **Bank branch** — separated unit of the bank, which is not the legal person, located outside of the bank location, for the liabilities of which the bank itself is responsible, allowed to implement the entire or part of the banking operations scope allowed to the bank.

*1.0.5* **Bank department** — separated unit, which is not the legal person, located outside of the bank location, for the liabilities of which the bank itself is responsible, which attracts its deposits on the territory of republic and/or holding money transfer, payment and cash-desk operations.

**1.0.6 Representation of the Bank** — separated unit of the bank, which is not the legal person, located outside of the bank location, not entitled to be engaged in banking activities, representing and protecting its interests.

**1.0.7 Non-bank credit organization** — *legal entity having the status of non-bank credit organization, not being a bank according to the law.*

**1.0.8 Bank license** — special permit issued in accordance with procedures established under this Law, providing exclusive rights for implementation of activities, related to attraction of deposits from individuals or legal entities or other reimbursable funds, award of credits on its behalf at own expense, as well as provision of payment, cash-desk and wire transfer operations by client request.

**1.0.9 Bank credit** (hereinafter — credit) — monetary mean, issued as a debt for determined amount under or without the mortgage with the condition for repayment at predetermined time (with the right of extension of the term) and payment of interest (commission awards) in accordance with executed contract. The term credit also means other right, related with requirement of payment of any accepted liability on payment of funds, guarantee, provision of mortgage securities with discount or under interest and repayment of funds, issued in any form on the basis of contract.

**1.0.10 Deposit** — funds, deposited or transferred to current, savings (deposit) or other account on bank's balance, stipulating the repayment or transfer to other account by the requirements of client (depositor) with or without payment of interest or commission awards under the provisions of appropriate contract.

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

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

**1.0.13 Persons related to the bank** - *the persons, as stipulated in Article 49-1.1 of the Civil Code of the Republic of Azerbaijan, as well as any person who, regardless of the share in the authorized capital of the bank, on the basis of the agreement, directly or indirectly has a share that allows to have a significant influence on the bank's decision-making; members of the Audit Committee of the Bank; employees of the internal audit department; other bank employees involved in decision-making; chief accountants of the Bank and its branches; persons having family ties with mentioned persons, as stipulated in Article 49-1.1.3 of the Civil Code of the Republic of Azerbaijan; persons who are entitled to act on behalf of the persons related to bank; legal entities in which persons referred to in Articles 49-1.1.6 and 49-1.1.7 of the Civil Code of the Republic of Azerbaijan, participate with at least 20 per cent share; persons with whom transactions were conducted that differed significantly from market conditions and did not have obvious economic grounds;*

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

1.0.15 Word «**local**» towards bank, branch or representation means the bank, branch or representation which major operations are performed on the territory of the Republic of Azerbaijan.

1.0.16 Word «**foreign**» towards bank, branch or representation means the bank, branch or representation, which major operations are performed outside of the territory of the Republic of Azerbaijan.

1.0.17 «**Credit organization**» - bank, local branch of foreign bank or non-bank credit organization.

1.0.18 «**Person having acceptable and necessary characteristics**» - individual, who is civilly impeccable, and is thought to be fair and trustful for its social position and professional qualities, experience, business interests of whose let him be the owner of majority participation share in the bank, administrator, temporary administrator and liquidator;

1.0.19 «**Civil impeccability**» for the owner of majority of participation share, and if it is the legal entity, for management of his executive authorities, as well as the management of subsidiary structures of the bank means the absence of criminal conviction for deliberately performed crimes; for administrator, temporary administrator and liquidator- absence of conviction, absence for criminal records on heavy crimes against property or for economic activities, absence of restrictions by the court order, for holding of the position or engagement in professional activities, absence of the fact on insolvency announcement by the court.

1.0.20 «**Prudential**»- method of deliberate behavior, management and control, which is based on norms, rules, requirements and indicators directed at provision of bank operations security.

1.0.21 **Accumulated capital of the bank (own funds)** — representing the capital used for the purposes of prudential payments, the amount of components (elements), included into level I capital (basic) and level II (additional), determined by regulatory acts of *the financial markets supervisory authority* and difference of deductions from them.

1.0.22 **Financial markets supervisory authority** - *structure established by the relevant executive authority to implement the regulation and control of the financial markets.*

1.0.23 **Fund** is a legal entity established under the Law of the Republic of Azerbaijan "On Deposit Insurance";

1.0.24 **Insolvent bank** is a failed bank or solvency of which is under threat, in respect of which one or several grounds specified in Articles 57.1.1-57.1.3 of this Law are established;

1.0.25 **Resolution** - implementation by the financial markets supervisory authority of the measures provided for in Article 57.6 of this Law, for the immediate and less costly withdrawal of the insolvent bank, including the banking holding company, from the financial market;

1.0.26 **The action plan** for the resolution is a document that reflects the method, conditions, term and economic justification for a resolution of the insolvent bank;

1.0.27 **The bridge bank** is a bank established and managed by the financial markets supervisory authority for the purpose of full or partial transfer and temporary management of healthy assets and liabilities of an insolvent bank;

1.0.28 **The buyer bank** is a bank that, in the manner prescribed by this Law, by means of an auction acquires assets and liabilities of the insolvent bank;

1.0.29 **The investor** is a legal entity or an individual who has applied to the financial markets supervisory authority for the purchase of an insolvent bank or bridge bank in the manner prescribed by this Law;

1.0.30 **Temporary administrator** is a person appointed by the financial markets supervisory authority in cases provided for by this Law, exercising on behalf of the financial markets supervisory authority all the powers to manage an insolvent bank within the framework of the resolution, including the authority of the general meeting of shareholders of the bank;

1.0.31 **The healthy asset** is an asset that, according to the normative acts of the financial markets supervisory authority, is classified as a standard asset;

1.0.32 **A systemically important bank** is a bank that meets the criteria established by regulatory acts of the financial markets supervisory authority;

1.0.33 **Voluntary restructuring of the bank's obligations** is a set of administrative, legal, financial, organizational and technical and other measures and procedures that are implemented on the basis of a restructuring plan (hereinafter - restructuring plan) in order to improve the financial standing of the bank.

## **Article 2. Banking system and its legal basis**

2.1. Banking system of the Republic of Azerbaijan comprised of the *financial markets supervisory authority, the Central Bank* of the Republic of Azerbaijan (hereinafter referred to as *the Central Bank*) and credit entities.

2.2. *The Central Bank* — supervisory authority for financial markets of the state and its activities are regulated by the [Constitution of the Republic of Azerbaijan](#), Law of the Republic of Azerbaijan «On *Central Bank* of the Republic of Azerbaijan», Civil Code of the Republic of Azerbaijan, this Law and other relevant state legislative acts, as well as international treaties, to which the Republic of Azerbaijan is a signatory.

2.3. Activities of credit organizations in the Republic of Azerbaijan are regulated by the [Constitution of the Republic of Azerbaijan](#), this Law, Civil Code of the Republic of Azerbaijan, Laws of the Republic of Azerbaijan «On *Central Bank* of the Republic of Azerbaijan», «On *non-bank credit organizations*» and «On Credit Unions», *other regulatory legal acts of the Republic of Azerbaijan, normative acts of the financial markets supervisory authority and Central Bank adopted in accordance with them*, as well as international treaties, to which the Republic of Azerbaijan is a signatory.

2.3-1. *Relations in the banking sector in the Alyat free economic zone are governed in accordance with the requirements of the Law of the Republic of Azerbaijan “On the Alyat free economic zone”.*

2.4. Credit organizations, when making decisions related with current banking activities, shall be independent from state authorities and municipal bodies, which can not interfere into the activities of credit entities. Credit entities can not be forced to be engaged in activities, which are irrelevant to their business.

2.5. Credit organizations, in all events, with exception of cases when the relevant state and credit organization take the responsibility, shall not be responsible for state liabilities, and state shall not be responsible for liabilities of credit organizations.

### **Article 3. General rules for implementation of banking activity**

3.1. Banks and non-bank credit organizations may implement the banking activities on the territory of the Republic of Azerbaijan on the basis of special permit (license), issued by the *financial markets supervisory authority*.

3.2. Deposit operations may be implemented only by banks *and national operator of mail service*.

3.3. In accordance with the *Laws of the Republic of Azerbaijan «On non-bank credit organizations» and «On credit unions»* and other legislation, provisions of this Law, with exception of *Articles 3.1, 3.4, 35.4 and 42*, shall not be applicable to licensed and regulated credit unions and other non-banking credit organizations.

3.4. Licensing and regulation of the banking activity of non-bank credit organizations, specified in Article 3.3 of this Law, shall be performed in accordance with *Laws of the Republic of Azerbaijan «On non-bank credit organizations» and «On credit unions»* and regulatory acts of the *financial markets supervisory authority*. ~~Requirements to professional qualifications and experience of executive employees of non-banking credit entities shall be determined by the *Central Bank*.~~

3.5. If it is established by the *financial markets supervisory authority* that any person is engaged in activities specified in Article 3.1 of this Code, without the license, it will issue to this person the demand on discontinuation of such activity, *take other statutory measures* and inform *the Central Bank and relevant state authorities*.

### **Article 4. Name of Bank**

4.1. The brand name of the bank established under its Charter shall include the word «bank». No bank shall be entitled to change its name in any document, announcement or advertisement, to be different from the name indicated in the Charter.

4.2. In the name of legal person, who is not involved in banking activity, it is prohibited to use word «bank» (word combination containing word «bank»), with exceptions, when it is obvious from the text in which word «bank» was used, that this word has no relevance to banking activities.

4.3. Names of subsidiary banks shall include the name of parent bank. Names of branches, departments or representation of banks, word «bank» shall be indicated to mean the legal dependence and belonging.

4.4. In the name of banks, the license of which is cancelled, shall be added the words «in the liquidation stage».

4.5. In the name of bank words «Republic of Azerbaijan», «state», «national» shall be used only in cases, stipulated under the legislation.

4.6. Banks can not use identical names.

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

5.1. The limit of participation of the foreign capital in the banking system of the Republic of Azerbaijan is determined by the *financial markets supervisory authority*.

5.2. The limit of participation of foreign citizens and foreign legal entities in local banks, with exception of foreign bank or foreign bank holding company, is determined by the *financial markets supervisory authority*.

5.3. *The financial markets supervisory authority receives the necessary information* for implementation of its monitoring functions for regulation of local subsidiary banks, branches and representations of foreign banks and foreign bank holding companies, as well as foreign branches and representations of local banks and implementation of control over them on the basis of cooperation with relevant foreign bank regulation authorities not contradicting the legislation of the Republic of Azerbaijan (including international treaties to which the Republic of Azerbaijan is a signatory). Information exchange with foreign bank control agencies and authorities *is performed by the financial markets supervisory authority* on the basis of provision of confidentiality. For these purposes the *financial markets supervisory authority* may enter into agreements on cooperation with foreign banking regulation and control authorities.

5.4. Foreign citizens and foreign legal entities, registered in offshore zones, the list of which is determined by the *financial markets supervisory authority*, including also foreign banks and foreign bank holding companies, can not be the founders or shareholders of local banks, as well to to establish local subsidiary banks, open local branches and representations.

## **Chapter II. Issuance of licenses and permits for implementation of banking activities**

### **Article 6. Banking licenses and permits**

6.1. The *financial markets supervisory authority* has exclusive rights to issue and cancel the banking licenses, as well as issuance of permits to banks for opening of branches, departments and representations, and cancellation of issued permits.

6.2. Banking licenses and permits shall be issued in writing for unlimited period of time. Banking licenses and permits may be used only by persons they have been issued to, and can not be transferred to third parties. Banking licenses and permits enter into force from the date of issuance by the *financial markets supervisory authority*.

6.3. *If the applicant does not have sufficient organizational and technical training or qualification, then the financial markets supervisory authority introduces restrictions on the exercise of some kinds of activities, permitted to the banks by this Article 32 of this Law, in issued banking license and permission.*

## **Article 7. Application for obtaining of banking licenses and permits**

7.1. For obtaining of bank license and permit, founder of the bank or their representatives authorized in accordance with legislation shall submit the written application to the *financial markets supervisory authority*. The pro-forma and contents of application, attached documents shall comply with requirements, determined with regulatory documents of the *financial markets supervisory authority*.

7.2. During review of application on obtaining of bank license and permit, the *financial markets supervisory authority* shall receive the information from financial, tax and law-enforcement agencies on financial status, professional activities of major shareholders (if these are legal entities, information on management) and administrators, on whether they had any criminal convictions in the past. This requirement is also application to persons, which in future will wish to obtain major shares of the bank (if these are legal entities, information on management), newly appointed administrators and management of executive authorities of legal persons, reorganized into subsidiary structures of the bank. For these purposes, financial, tax and law enforcement agencies shall submit to the *financial markets supervisory authority* the information which may be required.

7.3. The state duty fee shall be paid for the initial application review and issuance of banking license at the amount and in accordance with procedures, stipulated under the law of the Republic of Azerbaijan «On state duty fees».

## **Article 8. Rules for review of application for obtaining of banking license**

8.1. Review of application on obtaining of banking licenses comprised of two stages:

8.1.1. the initial application of bank founders or representative authorized in accordance with legislation on obtaining of bank license and its review (first stage) and

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

8.2. Following documents are attached to initial application:

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

8.2.1.1. if such owner is the legal entity— its name, address, type of commercial activity, audited financial reports, covering no less than three last fiscal years (if the legal person was established for less than three years, last fiscal years or year) as well as information and documents, reflecting auditor's opinion, as well as the copy of decision of competent management authority for obtaining of intended share of such person;

8.2.1.2. if this person is the foreign legal authority, in addition to documents, identified in Article 8.2.1.1 of this Law, legalized in accordance with legislation document, verifying the registration in the country of residence, charter, audited financial reports for the period of not less than three fiscal years and auditor's opinion;

8.2.1.3. if this owner is the individual, his complete name and citizenship, information from identification document or other document, verifying the identity, resident address, information and documents, reflecting the occupation;

8.2.1.4. if the owner is a foreign citizen— in addition to documents, specified in Article 8.2.1.3 of this Law, references from one or more financial entities of the country of his residence, and/or extraction of bank account record;

8.2.2. The amount of proposed charter capital of the bank, proposed share of each owner (shareholder) in the charter capital of the bank, their majority participation in other entities, as well as for each legal entity the information on majority of shares of legal entity in the capital of other legal entity;

8.2.3. If the owner of proposed majority participation share of the bank is the legal entity, the list of its management authority executives, statement of civil impeccability, signed by each manager, with notary approved signatures;

If the manager is a foreign citizen, statement of existence or absence of criminal convictions, issued by law enforcement agencies of the country of residence, legalized in accordance with procedures of legislation;

8.2.4. If the legal person, holding the majority of shares, is incorporated into the group of companies, information on the group, including the information on persons, who have majority of shares in other organizations, incorporated into group, and administration of the group;

8.2.5. If the owner of the proposed majority share in the bank is the individual, his statement of impeccability verified by notary approved signature;

If the owner of the majority of shares is foreign citizen, the statement on existence or absence of criminal convictions, issued by relevant authorities of the country of residence, and legalized in accordance with legislation;



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

8.2.7. Business plan, defining the commercial strategy of the bank, intended activities, organization structure including the system for internal controls and financial broadcasting for initial three years (balance report, profits, losses);

8.2.8. The list of intended bank administrators, as well as copies of documents, reflecting the information on professional suitability and experience of each of the them (educational background and work experience), approved by notary, application filled by these persons, the size and list of the majority shares in bank and other legal entities, signed statement of civil impeccability with notary approved signatures;

If the administrator is a foreign citizen, the statement on existence or absence of criminal conviction, issued by the relevant authority of the country of residence, and legalized in accordance with procedures of legislation;

8.2.9. For local subsidiary bank of the foreign bank or foreign bank holding company — documents, indicated in Article 13.2 of this Law;

8.2.10. *Document*, verifying the payment of state duty fee for review of initial application.

8.3. If the *financial markets supervisory authority* finds mistakes or shortages in the initial application or documents attached to application, submitted for proposal, it shall send the notification on such to the applicant within 15 days and proposes to correct all mistakes and shortages. If the *financial markets supervisory authority* will not sent to applicants the written notification within established term, documents shall be deemed as accepted for review.

8.4. *The financial markets supervisory authority* reviews the initial application no later than within 90 calendar days from the date of submission of notification indicated in Article 8.3. of this Law, and in the event of participation of foreign founders - no later than within 180 calendar days and makes the appropriate decision. In each event, the *financial markets supervisory authority* sends the decision to applicants.

8.5. The decision of *the financial markets supervisory authority* on positive resolution of initial application following shall be indicated:

8.5.1. bank business plant and minimum size of payable charter capital with consideration of types of banking activities submitted in documents;

8.5.2. all restrictions included in the banking license and their explanation;

8.5.3. terms to be complied with by application before issuance of banking license, and requirements to them;

8.6. If the *financial markets supervisory authority* will reject the initial application for obtaining of banking license, it shall indicate the reasons for rejection.

8.7. If in the event of rejection of initial application, another application is submitted to the *financial markets supervisory authority* for obtaining of banking license, it shall be considered as new application.

8.8. If the *financial markets supervisory authority* has accepted the initial application for obtaining of bank license, it shall open the account on applicant bank's name to obtain the payment of minimum size of the initial charter capital.

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

8.10. Following documents shall be attached to final application for obtaining of banking license:

8.10.1. copies of documents on state registration and charter, as well as bank procedures;

8.10.2. copy of the decision of general meeting of shareholders on founding of the bank and appointment of its administration;

8.10.3. if requirements are established by the decision of the *financial markets supervisory authority* within the acceptance of the initial application for obtaining of banking license, document (documents) verifying the compliance with such requirements;

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

8.10.5. documents, verifying the formation of the corporate management system of the bank, including the management bodies, acceptance of technical provision and security measures;

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

8.11. The final application of the bank and attached documents shall be reviewed no later than within 30 calendar days. If mistakes or shortages are found in the final application and/or documents attached, the *financial markets supervisory authority* shall send the notification for their correction to the applicant. Re-submitted documents shall be reviewed

by the *financial markets supervisory authority* no later than within 15 calendar days. *The financial markets supervisory authority*, upon the establishment of compliance of documents with requirements of Article 8.10 of this Law, and the payment of minimum charter capital to the *financial markets supervisory authority*, makes the decision on issuance of banking license and within 5 calendar days sends the written notification on such decision to the applicant.

## **Article 9. Licensing of national branches of foreign banks**

9.1. No foreign bank shall be allowed to establish branches in the Republic of Azerbaijan without bank license, issued by the *financial markets supervisory authority*.

9.2. Review of application on obtaining of banking license for establishment of local branch of the foreign bank comprised of two stages:

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

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

9.3. Following documents, legalized in accordance with the legislation of the Republic of Azerbaijan shall be attached to the initial application for establishment of the branch of foreign bank in the Republic of Azerbaijan:

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

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

9.3.3. if the bank is incorporated within the group of companies, the information on such group, including the information on persons, who have the majority of shares in other organizations, included into the group and administrators of these persons;

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

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

9.3.6. statute of branch. In the statute, along with other information related with the activities of branch, shall be indicated the types of banking activities, procedure for controlling by the bank and liquidation of the branch;

9.3.7. business plan, defining the commercial strategy of the branch, stipulated activities, organization structure, including the internal control structure, as well as financial forecasts for initial three years of branch operations (balance report, profits, losses);

9.3.8. documents, specified in Article 13.2.1 of this Law;

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

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

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

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

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

## **Article 10. Requirements for administrators**

10.1. Administrators of banks, their branches, divisions, representations and local branches and representations of foreign banks shall be the persons having acceptable and necessary characteristics.

10.2. The administrators of banks, their branches, representations and local branches and representations of foreign banks can not be the following persons:

10.2.1. administrator, who participated in the process of identification of business strategy и decision making in the bank, which was forced for liquidation or announced insolvent due to deterioration of financial position and violation of prudential requirements, *within a period of at least one year* prior to the date of taking decision on liquidation or bankruptcy (such persons can not be administrators in other bank for the period of *two* years);

10.2.2. persons, dismissed from the position of administrator of any bank, branch, or division under the demand of the *financial markets supervisory authority* for his replacement with other persons for the period of not less than three years (with exception of persons, to whom the court decision on reinstatement of his position is put in force);

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

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

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

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

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

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

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

10.3. The Administrator for appointment to position shall comply with following requirements:

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

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

10.3.3. for the chief accountant of the bank and bank branch (head of accounting service) — existence of higher education in economics and minimum 2-years of work experience as accountant in the bank or special education and minimum 5 years of work experience as accountant, including minimum 2 years of work experience in the banking. These requirements also are applicable to deputies, which have the signature authority of the chief accountant. *The chief accountant of the bank or the person, performing these duties should be professional accountants.*

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

10.4. The bank or foreign bank, which have the local branch, shall send to the *financial markets supervisory authority* the written notification on all appointment and changes, stipulated for the position of bank administrator or local branch of the foreign bank. To the notification in relevant cases shall be attached the information and documents, stipulated under articles 8.2.8, 9.3.10 and 11.3.5 of the Law. *The financial markets supervisory authority* within 30 calendar days notifies about its opinion sent to bank or local branch of

foreign bank, as in cases, stipulated under this Article, shall appoint the time for qualification testing of administrators. If the applicant did not receive the notification within this time, the incumbent of administrator shall be considered as approved.

If the appointments stipulated for the position of administrator do not reflect the provision of legislation, *the financial markets supervisory authority requires* their replacement.

Bank Board Members, head of internal audit department, chief accountant of the bank (head of accounting services) and deputies, holding his signature authority, as well as heads of local branches of national and foreign banks (head of accounting service) and deputies, holding their signature authority, shall pass the qualification testing in *the financial markets supervisory authority*. Upon the obtaining of approval of *the financial markets supervisory authority* to these positions, administrators *start* the implementation of their duties.

Rules for implementation of qualification testing defined by *the financial markets supervisory authority* .

10.5. Requirements stipulated under this article shall be applicable for the entire period of activities of the bank and local branches of foreign banks.

## **Article 11. Obtaining of permits for opening of branches, divisions and representations of local banks**

11.1. Local bank shall not be entitled to open the branch, division or representation without the permission of the *financial markets supervisory authority*.

11.2. Rules for obtaining of permit for opening of divisions of local banks and local representations and cancellation of such permits, as well as conditions and provisions in connection with their activities shall be defined by regulatory procedures of the *financial markets supervisory authority*.

11.3. For opening of local or foreign branches and representations, the local bank shall apply in writing to the *financial markets supervisory authority*. Following documents are attached to application:

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

11.3.2. Statute of the branch or foreign representation. In the statute, along with other information shall be indicated the address of the branch or foreign representation, types of banking activities (only for branches), authorities of administrators, bank control and monitoring procedures, procedures for branch or representation liquidation;

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

11.3.4. copy of the decision of competent bank authority on appointment of administrators (heads) of the branch or foreign representation;

11.3.5. for each administrator of the branch or foreign representation the list of the major shareholding in the bank and other legal entities, copies of documents, reflecting the information on professional suitability and experience (education and work experience), approved by notary, application filled by these persons, signed statement on civil impeccability approved by notary;

11.4. If the *financial markets supervisory authority* will identify mistakes or shortages in application or documents attached to the application, it shall within 10 calendar days send the notification to applicant on these mistakes or shortages and proposes to remedy such mistakes or shortages. If the *financial markets supervisory authority* will establish the absence of mistakes or shortages in the application or the documents attached, within 10 days it shall send to the bank the written notification on acceptance of its application. If the *financial markets supervisory authority* will not send the written notification within this period, documents shall be considered as accepted for review.

11.5. The *financial markets supervisory authority* no later than within 90 calendar days from the date of sending of notification on acceptance of application for approval of opening of the branch or foreign representation of the local bank, shall review the application in accordance with procedures of this Law and make the relevant decision. In each case the *financial markets supervisory authority* shall sent the decision to the bank. In the event of approval of application, the *financial markets supervisory authority* issues the permit immediately. In the permit shall be indicated the information on the type and extend of activities, which will be engaged in the branch or foreign representation, as well as the list of limitations, included in the permit. In the decision of the *financial markets supervisory authority* on rejection of application for approval or restrictions applied to permit reasons for such decisions shall be indicated.

11.6. If the decision is issued for opening of the foreign branch or foreign representation of local bank, shall be considered also the issue of the ability to control the activities of the branch or representation on the basis of mutual cooperation, in accordance with procedures, defined by the banking control authority and control of the country in which the activities will be performed.

11.7. Local bank, which opened the foreign branch or representation, upon the obtaining of relevant decision in the country of residence within 5 calendar day shall send the written notification on this to the *financial markets supervisory authority*.

## **Article 12. Obtaining of permits for opening of local representations of foreign banks**

12.1. Foreign bank shall not be entitled to open the representation in the Republic of Azerbaijan without the permit of the *financial markets supervisory authority*.

12.2. For obtaining of permit for opening of the local representation, the foreign bank shall apply to the *financial markets supervisory authority*. Following legalized documents are to be submitted to the application:

12.2.1. copy of the charter of the bank and decision of competent authority for opening of representation;

12.2.2. information on bank, its organization structure and management authorities with indication of the competent management authority, which has made the decision on establishment and liquidation of representation;

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

12.2.4. audited financial report for the last fiscal year of the bank;

12.2.5. status of representation with his indicated authorities and address;

12.2.6. note, issued by the bank on professional qualifications and work experience of representation administrators, as well as existence or absence of persons convicted;

12.2.7. documents specified in article 13.2.1 of this Law.

12.3. If the *financial markets supervisory authority* will identify mistakes or shortages in application or documents attached to the application, it shall within 10 calendar days send the notification to applicant on these mistakes or shortages and proposes to remedy such mistakes or shortages. If the *financial markets supervisory authority* will establish the absence of mistakes or shortages in the application or the documents attached, within 10 days it shall send to the bank the written notification on acceptance of its application. If the *financial markets supervisory authority* will not send the written notification within this period, documents shall be considered as accepted for review.

12.4. The *financial markets supervisory authority* no later than within 60 calendar days from the date of sending of notification on acceptance of application for approval of opening of representation of the foreign bank, shall review the application in accordance with procedures of this Law and make the relevant decision. In each case the *financial markets supervisory authority* shall sent the decision to the relevant foreign bank.

12.5. Upon the state registration of the representation of foreign bank and issuance of the copy of state registration document and written statement on absence of significant changes in initial information, the *financial markets supervisory authority* shall issue the permit.

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



**Article 13. Additional requirements for issuance of license to local subsidiary bank of the foreign bank and foreign bank holding company, local branches of foreign bank and opening of the representation of the foreign bank**

13.1. Banking licenses to local subsidiary banks of the foreign bank or foreign bank holding company, local branched of the foreign bank or foreign bank holding company, local branches of the foreign bank and permits for opening of local representation of foreign banks *are issued* only upon consultations between the *financial markets supervisory authority* and foreign competent authorities, which regulate and monitor the activities of the foreign bank or foreign bank holding company, and establishment of required consolidated control and monitoring over such bank or bank holding company.

13.2. The application for banking license for subsidiary bank of the foreign bank or foreign bank holding company, branches of foreign bank and application for permitting of the opening of local representation of the foreign documents, in addition to documents specified in Articles 8 and 9 of this Law, shall also include the following documentation:

13.2.1. for the subsidiary bank, branch or representation of the foreign bank— written notification of the bank regulatory authority of the country in which the foreign founder bank is resided, on existence of the bank permit to engage in deposits and other return payments from individuals and legal entities in this country, as well as implementation of the control and monitoring by this authority over the bank activities and permit to establish the subsidiary bank or open the branch, representation of this bank;

13.2.2. for the subsidiary bank of the foreign bank holding company- written notification of the regulatory bank authority of the country in which the bank holding company is resided, on implementation of control over this company, existence of one or more banks, holding licenses for engagement of deposits and other reimbursable payments from individuals and legal entities and written permit of this authority for foundation of subsidiary bank.

13.3. In subsidiary banks of foreign banks and foreign bank holding companies no less than one member of the Board, and in local branches of foreign bank no less than one of administrators shall be the citizen of the Republic of Azerbaijan.

**Article 14. Provisions for issuance of bank license or permit**

14.1. Bank license, considering the necessity for provision of reliable and prudential management of local bank branches and foreign bank, in accordance with this Law *is issued* only under the compliance with following provisions:

14.1.1. if the starting foundation capital of the bank or funds, equivalent to the starting foundation capital of the local branch of foreign bank, no less than the amount established during the approval of initial application by *the financial markets supervisory authority*;

- 14.1.2. if facts are absent that influence on the bank of one of more founders with controlling shares, provide basis for worries on reliable and prudential bank management;
- 14.1.3. if relations between the bank and foreign bank or foreign bank holding company, with controlling participation shares, do not interrupt the regulatory control functions of *the financial markets supervisory authority and the Central Bank*, regulatory authorities of the country of founder bank or bank holding company residence, efficient control is implemented over them, and bank regulatory authorities of this country will cooperate with *the financial markets supervisory authority*;
- 14.1.4. if individuals, who are the owners of the majority of participation shares and management of executive authorities of legal entities are the persons with acceptable and necessary characteristics;
- 14.1.5. if bank administrators or foreign bank branch administrators comply with requirements of Article 10 and when relevant to requirements of Article 13.3. of this Law;
- 14.1.6. if internal control and management procedures of the bank or local branch of foreign bank are adequate;
- 14.1.7. if business plan, including financial forecasts of the bank or local branch of foreign bank are adequate;
- 14.1.8. if local subsidiary bank is not the subsidiary of legal entity (with exception of the bank or bank holding company);
- 14.1.9. if bank is the subsidiary bank of foreign bank or foreign holding company, foreign bank or foreign holding company guarantees the reimbursement of future liabilities of the subsidiary bank in case, stipulated under the Civil Code of the Republic of Azerbaijan;
- 14.1.10. if foreign bank guarantees the timely and sufficient satisfaction of future liabilities of the subsidiary bank;
- 14.1.11. if bank is the subsidiary bank of the foreign bank or foreign holding company, bank regulatory and control authority of the country of foreign founder bank or foreign bank holding company, issued the permit for foundation of subsidiary bank and upon the consultations between *the financial markets supervisory authority* and this authority it was established that this authority on the consolidated basis will implement the required control over the foreign bank or foreign bank holding company and their subsidiary banks (foreign and local);
- 14.1.12. if the bank regulatory and control authority of the country, where located is the office of the foreign founder bank, has issued the permit for opening of local branch and implements the required control over the banking activities;

14.1.13. if the bank is the member of the group of companies, such membership will not prevent the control functions of *the financial markets supervisory authority and the Central Bank*;

14.1.14. if the document supported financial status of founders or foreign bank, which has established the local branch is satisfactory;

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

14.2. Considering the necessity for the provision of reliable and prudential management of local and foreign branches of local banks, foreign representations and local representations of foreign banks, permit for their opening *is issued by the financial markets supervisory authority* in accordance with this Law, only under the compliance with following provisions:

14.2.1. if the document supported financial status of bank, is satisfactory;

14.2.2. if administrators of the branch or representation comply with requirements of Article 10 of this Law;

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

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

14.2.5. if the bank regulatory authority of the country, in which the foreign branch, representation of the local bank is located, on the basis of cooperation with *the financial markets supervisory authority* will implement the required control over this branch, representation;

14.2.6. if the bank regulatory authority of the country in which the foreign founder bank is located issued the license for opening of local representation and will implement the required control over the banking activity;

14.2.7. if the place, where the local branch of the bank will operate, complies with technical equipping requirements, established by *the financial markets supervisory authority* for implementation of banking activities;

14.2.8. if operations implemented by the branch on bank accounts, are performed in the reporting of the founder bank in time regime, established by *the financial markets supervisory authority*;

14.2.9. if documents, submitted for obtaining of permit for opening of the branch or representation, comply with requirements of the legislation of the Republic of Azerbaijan.

14.3. If the application on obtaining of banking license or permit is rejected, the applicants upon obtaining of *the financial markets supervisory authority's* decision on rejection may

apply to court in accordance with procedures of *the Administrative Procedure Code of the Republic of Azerbaijan*.

## **Article 15. Registry of banking licenses and permits**

15.1. *The financial markets supervisory authority* shall maintain the centralized registry, of banks, branches, divisions and representations, available to public. The Registry shall include the names, addresses of banks, branches, divisions and representations, information on administrators, registration numbers and dates of issue or cancellation of licenses and permits, information on bank, branches, divisions and representations, the activities of which are seized.

15.2. Banks within five calendar days shall send the written notification to *the financial markets supervisory authority* on changes in information, included the registry.

## **Article 16. Cancellation of bank license or permit**

16.1. *The issue of cancellation* of the banking license of the bank or local branch of a foreign bank is considered by *the financial markets supervisory authority* only on the basis of one of the following conditions:

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

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

16.1.3. in the event of insolvency announcement of the bank;

16.1.4. in the event of establishment that information used for submission on application for licensing is incorrect;

16.1.5. if in accordance with bank license within the twelve months from the date of validity of the license the bank or local branch of the foreign bank did not commence operations or it was established by *the financial markets supervisory authority* that the bank or local branch of the foreign bank within six months did not attract deposits or other reimbursable funds, or did not awarded credits;

16.1.6. if the amount of charter capital or accumulated charter capital of the bank or amount of assets equivalent to charter capital or accumulated capital (assets equivalent to accumulated capital of local branch of the foreign bank) of the local branch of foreign bank, less than the amount of minimum charter capital or accumulated capital, established by *the financial markets supervisory authority* for the banks;

16.1.7. if the adequacy capital of the accumulated bank capital or assets, equivalent to accumulated capital of local branch of the foreign bank less than 3 percent;

16.1.8. if the bank or local branch of the foreign bank could not fulfill their liabilities before creditors, including non-provision of security of entrusted assets;

16.1.9. if the bank of local branch of the foreign bank did not implement the management or current activities in the reliable and prudential manner or more than two times have violated the requirements of this Law, *the Law of the Republic of Azerbaijan «On struggle against the legalization of monetary funds or other criminally obtained assets and the financing of terrorism»*, regulatory requirements of *the financial markets supervisory authority and the Central Bank*;

16.1.10. in the event of implementation of activities, not stipulated under the license or permit;

16.1.11. if facts, indicated in Articles 14.1.2—14.1.4 are established and requirements of article 14.1.5—14.1.7 of this Law are not fulfilled;

16.1.12. in the event of reformation of the bank into the subsidiary bank of another bank without the permit of *the financial markets supervisory authority*;

16.1.13. in the event of cancellation of the license of foreign bank or foreign bank holding company, who have the local subsidiary bank or branch;

16.1.14. in the event of reorganization of the bank without permit of *the financial markets supervisory authority*;

16.1.15. in the event of impossibility of implementation by *the financial markets supervisory authority or Central Bank* of control over subsidiary banks of foreign bank and foreign bank holding company, as well as the bank, who is the member of the group of companies, due to the insufficient control by the bank regulatory authorities of the country of their location;

16.1.16. in the event of establishment of the fact of deliberate submission to *the financial markets supervisory authority or the Central Bank* of incorrect reporting and information;

16.1.17. in the event of non-submission to *the financial markets supervisory authority or the Central Bank* of the monthly report at the date of three last reports;

16.1.18. if the bank or local branch of foreign bank in accordance with this Law and regulatory procedures of *the financial markets supervisory authority or the Central Bank* did not fulfill instructions or other written prescriptions issued by *the financial markets supervisory authority or the Central Bank*;

16.1.19. *if provided for in the action plan under the resolution of an insolvent bank*;

16.1.20. *if not completed within the period provided for the implementation of the action plan under the resolution of the bank or if the measures to rehabilitate solvency have not given results.*

16.2. *The issue of cancellation of the permit, issued to branches and representations of local branches, including local representations of foreign bank is considered by the financial markets supervisory authority only on the basis of one of the following conditions:*

16.2.1. in the event of establishment that information used for submission on application for permitting is incorrect;

16.2.2. in the event of cancellation of banking license;

16.2.3. in the event of bank insolvency announcement;

16.2.4. in the event of bank liquidation;

16.2.5. if upon obtaining of permit within the twelve months from the date of validity of the license operations did not commence or it was established by *the financial markets supervisory authority* that activity of local bank was seized within six months;

16.2.6. in the event of non-fulfillment of requirements set in Articles 14.2.1-14.2.5 of this Law;

16.2.7. in the event, if bank, branch or representation, which obtained the permit, did not perform the management or current activities in reliable or prudential manner or more than twice have violated the requirements of this Law, *the Law of the Republic of Azerbaijan «On struggle against the legalization of monetary funds or other criminally obtained assets and the financing of terrorism»*, and regulatory requirements of *the financial markets supervisory authority and the Central Bank*;

16.2.8. if activities were implemented, which were not stipulated under the banking license or permit;

16.2.9. if the decision is made on closing of branch or representation;

16.2.10. if the bank regulatory authority of the country in which the foreign branch or representation of local bank are resided, did not adequately controlled their activities.

16.3. *The financial markets supervisory authority* shall inform the bank on cancellation of banking license with indication of reasons.

16.4. *If any of the grounds specified in Articles 16.1.9, 16.1.15, 16.1.16, 16.1.17, 16.1.18 and 16.2.7 of this Law exists, the Central Bank refers to the financial markets supervisory authority on matters within its competence with reasonable written application for cancellation of banking license or permit.*

## **Article 17. Cancellation of banking license or permit under the bank's own request**

17.1. Bank applies to *the financial markets supervisory authority* for cancellation of its banking license or permit, issued for opening of the branch or representation.

17.2. Bank attaches to the request on cancellation of its issued license the liquidation plan, approved by the bank, financial report for the period of previous three months starting from

the date of application, approved by external auditor. *The financial markets supervisory authority* no later than within 90 calendar days from the date of application, shall make the decision on bank's request.

*The financial markets supervisory authority* no later than within 30 calendar days from the date of application, shall review the request for cancellation of permit, and attached liquidation plan, shall make the decision on bank's request.

17.3. If the liquidation plan and solvency of the bank or local branch of foreign bank are considered acceptable, as well as in the event of sufficient amount of liquid assets for satisfaction of own liabilities upon cancellation of banking license, *the financial markets supervisory authority* shall make the appropriate decision on application, and bank or local branch of the local bank are liquidated in accordance with Article 58 of this Law.

17.4. Motivated decision on rejection of application for cancellation of banking license or permitting shall be sent immediately by *the financial markets supervisory authority* to the bank or foreign founder company and its local branch.

### **Article 18. Publishing and effectiveness of decision on cancellation of banking license or permit**

18.1. *The financial markets supervisory authority* shall implement the state registration of the decision on cancellation of banking license or permit of the local representation of foreign bank within 5 calendar days from the date of its making and send the notification of cancellation to tax authorities, as well as publish the official announcement in mass media. Decision on cancellation of banking license or permit of the local representation of foreign bank shall enter into force at the date following the date of publishing, unless other date is included in the announcement.

18.2. Starting from the effective date of cancellation of banking license or permit of the local representation of foreign bank, in the name of relevant bank, branch or representation shall be added words «in the process of liquidation» and it shall be prohibited to implement any activities on the basis of banking license or permit. After this, the bank, branch or representation in accordance with procedures stipulated under the legislation shall be liquidated in accordance with legislation with consideration of procedures of this Law, with exception of initiation of bankruptcy procedures of the bank or local branch of foreign bank.

18.3. Decision of *the financial markets supervisory authority* on cancellation of banking license or permit of local and foreign bank may be appealed in the court in accordance with *the Administrative Procedure Code of the Republic of Azerbaijan*. Submission of appeal shall not stop the implementation of the decision of *the financial markets supervisory authority*.

## **Chapter III. Foundation, management and internal audit of banks**

### **Article 19. Foundation of banks**

19.1. *Except as provided in Article 57-8 of this Law, the bank shall be established by at least three legal entities and/or individuals and operates in the form of open joint-stock company.*

19.2. Political parties, public associations, funds and other non-commercial organizations can not be the shareholders of the bank.

19.3. *Except cases stipulated in Article 106-1.5 of the Civil Code of the Republic of Azerbaijan, the bank may issue nominal share only. Owners of preference shares shall not have the voting rights.*

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

## **Article 20. Charter and regulations of the bank**

20.1. Bank founders shall develop and approve the charter in accordance with Civil Code of the Republic of Azerbaijan. Changed into the bank charter shall be introduced by the advance written consent of *the financial markets supervisory authority*.

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

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

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

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

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

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

20.3. Copy of the bank certificate, approved by notary, internal procedures, approved by the bank, as well as the list of bank executives, to whom the signature authority on the bank activity contracts is assigned to, shall be submitted by the bank to *the financial markets supervisory authority* in one copy and shall be retained by *the financial markets supervisory authority*.

20.4. Changes to the charter of bank shall undergo the state registration in accordance with procedures, defined by the Civil Code of the Republic of Azerbaijan. Changes made to the



charter and regulations of the bank, shall be submitted to *the financial markets supervisory authority* within five calendar days.

## **Article 21. Requirements for the capital of banks and local branches of foreign banks**

21.1. Bank shall permanently maintain the accumulated capital, and local branch of the foreign bank shall retain the assets, equivalent to accumulated capitals at the minimum level of amount of accumulated capital established by *the financial markets supervisory authority* for banks. Structure, components and procedures for payment of accumulated capital of the bank, as assets equivalent to accumulated capital in the local branch of foreign bank, shall be established by *the financial markets supervisory authority*.

21.2. No bank without preliminary written permit of *the financial markets supervisory authority* can reduce the accumulated capital via the payment of its value during the purchasing of shares or reduction of nominal value of shares.

21.3. No foreign bank without preliminary written consent of *the financial markets supervisory authority* may reduce assets equivalent to accumulated capital of local branch, via re-call of assets, equivalent to charter capital.

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

21.5. Administrators of the bank or local branch of foreign bank in all cases, when it is established that accumulated capital or assets equivalent to accumulated capital have reached the level of 25 percents of minimum amount of accumulated capital established by *the financial markets supervisory authority* for banks or 3 percents of the rate of adequacy, shall immediately submit the notification on this to *the financial markets supervisory authority*.

## **Article 22. Restriction of the majority of participation shares in the charter capital of the bank**

22.1. Any person shall be entitled to obtain the majority of shares in the charter capital of the bank, including the shares in addition to those that he already holds, obtaining for predominant shares, as well as increasing the majority of shares which would result in achievement of 20 percent, 33 percent, 50 percent of voting shares, or charter capital, or resulted in reformation of bank into the subsidiary structure of this person in accordance with procedures of this Law.

22.2. Bank, which received the information that the person with majority of shares in the capital, has obtained or increased the majority participation in the capital of other legal entity, shall immediately submit the written notification to *the financial markets supervisory authority*.

22.3. Bank, which obtained the information that the legal entity with majority of shares in the capital, has obtained or increased the majority of participation share in the capital of any

person, shall immediately inform *the financial markets supervisory authority* the written notification on this.

22.4. Competent authority of the bank for purchasing of the participation share, stipulated under article 22.1 of this Law, together with application and decision submits to *the financial markets supervisory authority* the following documents:

22.4.1. if this owner is a legal entity:

22.4.1.1. name of the legal entity, address, information on type of commercial activity, audited financial reports, covering the minimum period of last three fiscal years (and is legal entity was established for less than three years, last fiscal years) and auditor opinions, as well as approved copy of the decision of competent management authority, allowing the purchasing of stipulated participation share of this person;

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

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

- Document verifying the registration in country of residence, charter (statement), audited financial report for the minimum period of previous three fiscal years and auditor's opinion;
- If the executive is the foreign citizen, note on existence or absence of criminal conviction, issued by the executive authority of the country, in which he resides;

22.4.1.4. if the person is the foreign bank, additional note, issued by the regulatory banking authority of the country of bank's residence, verifying the existence of bank license for implementation of bank activities, related with attraction of deposits and other reimbursable assets from individuals and legal entities in this country, and its consent with purchasing of participation share in the organization;

22.4.2. if this person is the individual:

22.4.2.1. complete name and citizenship, information of the identification document, information and documents, reflecting the type of activity, legal entities owned and controlled, and type of their occupation, signed statement on civil impeccability with notary approved signatures;

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

22.4.3. information on the amount of majority of ownership share of this person in the capital of banks or other legal entities;

22.4.4. information on the amount of majority of ownership shares of banks or other legal entities in the capital of this person;

22.4.5. key direction of the activities of legal persons, specified in Articles 22.4.3 and 22.4. of this Law, and addresses of their headquarters.

22.5. *The financial markets supervisory authority* in accordance with Article 22.4 of this Law no later than within 90 calendar days shall review the submitted application. If within this period *the financial markets supervisory authority* does not provide the written notification to the bank, the application shall be deemed as approved. *The financial markets supervisory authority* may reject the issuance of permits in following events:

22.5.1. if documents stipulated under Article 22.4 of this Law are not submitted completely;

22.5.2. if managers of executive authorities of legal person do not have acceptable and necessary qualities;

22.5.3. if the individuals does not have acceptable and necessary qualities;

22.5.4. if the financial status of legal entity, which will obtain the majority of participation share, is not satisfactory;

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

22.5.6. if the bank regulation and control authority of foreign country did not permit the foreign bank or foreign bank holding company to re-organize the bank into their subsidiary structure;

22.5.7. if *the financial markets supervisory authority and the Central Bank* can not implement its controlling functions, due to the fact, that necessary control over the foreign bank or foreign holding company at the country of residence, is not performed or regulatory authorities of this country refused to cooperate.

22.6. In the permit issued by *the financial markets supervisory authority*, shall be indicated the maximum term, when obtaining of participation share shall be completed.

22.7. If any person will purchase such participation share without the preliminary consent, *the financial markets supervisory authority* shall issue the written prescription to this person on cancellation before the established date of purchased participation share in the bank.

If maximum terms established for purchasing of majority of participation shares will not be complied with, *the financial markets supervisory authority* upon the expiry of such terms

shall issue the written prescription to this person on cancellation before the established date of purchased share.

Voting rights of these persons in the part, which shall be cancelled shall not be taken into consideration at the meetings of the general meeting of shareholders.

22.8. Any person, which has the majority participation shares in the bank capital, before the reduction of shares of his owned voting share or share in the charter capital to the level below 20 percent, 33 percent or 50 percent, shall notify *the financial markets supervisory authority* on such event in writing.

22.9. Banks, as soon as they will be notified on purchasing or cancellation of any shares, resulting in reduction or increase of shares in their capital, compared to what is indicated in Articles 22.1 or 22.8 of this Law, shall inform *the financial markets supervisory authority* on this. Banks also, no less than two times a year shall inform *the financial markets supervisory authority* in writing on their major shareholders, their addresses, and information on share size of these persons.

22.10. *The financial markets supervisory authority* applies to the court on confiscation or recall by the bank of shares of persons, which have the majority shares in the capital of bank in the event of following facts:

22.10.1. if none of the heads of executive authorities of legal entity or individual is not the person, who holds acceptable and necessary qualities;

22.10.2. in the event of influence on bank to the extend, when it creates threats to financial standing of the bank or its reliable management;

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

22.10.4. if the necessary control over the foreign bank or foreign bank holding company in the country of residence not performed by the bank regulatory authority of the country of residence, or such authority refused to cooperate with *the financial markets supervisory authority* in this area.

22.11. In accordance with Article 22.10 of this Law, the court shall review the application of *the financial markets supervisory authority* no later than within 30 calendar days.

## **Article 23. Bank management structure**

Each bank is managed by the general meeting of shareholders, which is the supreme management authority, Supervisory Board, which is the authority performing control over its management and operations, Auditing Committee, which organized the auditing activities in the bank, and Board of Directors, which is the responsible executive authority. *The powers of the executive authority of the Company may not be transferred to another legal entity or private entrepreneur (manager) in accordance with the agreement.*

## **Article 24. General meeting of shareholders**

24.1. Exclusive competence of the general meeting of shareholders shall include:

24.1.1. approval of the bank charter, introduce amendments and changes to the charter;

24.1.2. approval of bank regulations and introduction of amendments and changes to procedures;

24.1.3. establish interest rates of bank, allocation and asset categorization policies, as well as general financial, control, administrative and human resource policies of the bank;

24.1.4. adopt decision on participation of the bank in capitals of other legal entities, establish branches and representations of bank and terminate their activities, approved their statutes;

24.1.5. adopt decisions on implementation of planned and when necessary unplanned audit and appoint the external auditor for this purpose;

24.1.6. adopt and approve the bank budget;

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

24.1.8. appoint and dismiss the members of the Supervisory Board ~~and Audit Committee~~ of the Bank, approve regulations ~~of these management authorities~~, define terms and conditions for recruitment of bank administrators, *subject to the requirements of this Law*;

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

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

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

24.1.12. adopt decisions on increase or reduction of charter capital, define terms and provisions for issuance of bank stocks, as well as to express consent for the purchasing of majority participation shares in the bank;

24.1.13. approval annual financial reports of the bank, approved by the external auditors and recommended by Audit Committee, as well as to make decisions on establishment of reserves at the expense of net profit and payment o dividends;

24.1.14. make decisions on sale, reorganization and liquidation of bank;

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

24.2. issues, assigned under articles 24.1.2—24.1.7 of this Law to exclusive competence of the general meeting of shareholders, may be assigned for resolution to the Supervisory Board of the bank.

24.3. The Foundation Meeting of the bank shall be deemed as valid with participation of all founders or their representatives. Following general meetings of shareholders (*including the newly convened and reconvened general meetings*) shall be deemed as valid in the event of participation of all shareholders, holding the minimum of 60 percent of voting shares. At the foundation meeting of the bank, decisions on its foundation, approval of charter and formation of management authorities shall be made unanimously. Decisions on introduction of amendments and changes to the charter, appointments and dismissal of the members of Supervisory Board and Board, sale, reorganization of the bank, purchasing of other bank and termination of activities of the bank shall be taken by the majority of 75% of shareholder votes, represented at the meeting. *The decision on transaction with the cost of more than 5 percent of the value of bank assets, which is expected to conclude with the person related to the bank, shall be taken by a simple majority of the general meeting of shareholders with voting rights on the basis of the opinion of the independent auditor involved by the bank.* All other decisions are made by the simple majority of participating shareholder votes.

24.4. *Except as provided in Articles 49-1.2 and 49-1.3 of the Civil Code of the Republic of Azerbaijan*, shareholders have the voting rights pro-rata to their shares in the charter capital of the bank. Each shareholder may use his voting right at the general meeting of shareholders personally or via his authorized representatives. Power of attorney is prepared in writing and attached to the protocol of meeting. The Power of Attorney is issued before the meeting start. For persons representing the shareholders legally, no separate power of attorney is required. Such persons shall present the document verifying their authority.

24.5. Shareholder meetings can be implemented as planned or emergency basis. For the implementation of each *regular* general meeting of shareholders, no later than within 45 calendar days until the meeting date, shareholders are provided with notification on venue, time and procedure for review of the agenda materials, as well as the agenda of the meeting itself and based on this is published release in mass media. It is not allowed to make decisions on issues not included in the agenda, which is send together with notification. Planned meeting are implemented not less than one time per year. Planned meetings are implemented no later than within two months upon the development of financial report of the bank for each year and completion of external audit.

Emergency meetings can be called by the request of shareholders, which own no less than 5 percent of voting shares, Supervisory Board, Audit Committee and the Board. Procedure and *terms* for the re-call of the emergency meeting is regulated by the Civil Code of the Republic of Azerbaijan.

24.6. If all shareholders with voting rights are represented at the shareholder meeting, the meeting shall be deemed authorized independent of the time and method of its call. If all

shareholders with voting rights will agree, issued may be discussed which are not included in the agenda, and decisions may made on this.

## **Article 25. Supervisory Board**

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

25.1.1. control over the management and activities of the bank, including the report of the Bank Board;

25.1.2. issuance of recommendations for general meeting of shareholders and the board;

25.1.3. recall of the each general meeting of shareholders via sending of notification and approved the agenda for each meeting, with exception of emergency meetings, held by the demand of shareholders, as well as the Audit Committee and the Board under their agenda;

25.1.4. in the event of reveal of violation of existing legislation by the bank, warn the general meeting of shareholders, Audit Committee and the Boars on such violation, and submit the notification *on facts of violations of the requirements of the legislation and the Law of the Republic of Azerbaijan «On struggle against the legalization of monetary funds or other criminally obtained assets and the financing of terrorism» to the financial markets supervisory authority;*

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

*25.1.5-1. appoint and dismiss members of the Bank's Audit Committee, approve the regulations of the Audit Committee;*

25.1.6. manage and represent the bank in the event of conflict of interest between the bank and one or more of the board members;

25.1.7. adopt rules and internal procedures, necessary for provision of reliable and prudential bank management, *and also form and apply the system of internal control against legalization of monetary funds or other criminally obtained assets and the financing of terrorism;*

25.1.8. adopt decisions on establishment of bank capital reserves;

25.1.9. *subject to the requirements of Articles 24.3 and 25.1.10 of this Law,* permit the execution of relevant deals on behalf of bank at the value exceeding 50 percent of the charter capital of bank, and in cases stipulated under the bank's charter;

25.1.10. *decide on the conclusion of transactions with related persons worth up to 5 percent of the value of bank assets, except cases related to the competence of the general meeting of shareholders.*

25.1.11. make decisions on detailed inspection of bank operations and its separate segments;

25.1.12. control the results of internal and external audits, as well as *audit authorities* and adopt measures as a result of these audits;

25.1.13. implement other authorities stipulated under this Law, bank charter and regulatory documents of *the financial markets supervisory authority*.

Supervisory Board before the execution of authorities stipulated under article 25.1.6 of this Law, shall send to *the financial markets supervisory authority* the written notification with indication of basis and calls the emergency meeting of the general meeting of shareholders. *The financial markets supervisory authority* may express its attitude towards the decisions of Supervisory Board.

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

25.2. Supervisory Board of the bank consists of the odd number members, with minimum membership of three persons. Members of the board are the individuals, appointed by the general meeting of bank shareholders for the period of no more than 3 years from the shareholders and/or third parties. Board members may be re-elected for additional terms. General meeting of shareholders appoints the chairman from the members of Supervisory Board. At the general meeting of shareholders may be appointed the award for the members of Supervisory Board in the form of interest from undistributed profit of the bank or in the form of wages.

25.3. individuals, not complying with requirements of article 10 of this Law, cannot be the members of the Supervisory Board and by the decision of the general meeting of shareholders may be released from the duties of the members of Supervisory Board.

25.4. Supervisory Board is considered authorized in participation of more than half of its members. The procedure for implementation of meetings is defined in the charter of the bank or statute of the Supervisory Board.

25.5. Meetings of the Supervisory Board are implemented no less than one time in three months. Protocol on results of meetings is implemented in accordance with procedures, complying with requirements of the Civil Code of the Republic of Azerbaijan.

25.6. Decisions of the Supervisory Board are made by the simple majority of votes of members participating in the meeting. Each member is allowed to one vote. No abstaining voting is allowed. In the event of equality of votes, the vote of the Chairman of Supervisory Board is decisive.



## **Article 26. Management Board**

26.1. Management board of the bank shall be responsible for management and implementation of bank activities.

26.2. Management board consists of the odd number of members, not less than three persons. Members of the Management Board are assigned by the general meeting of shareholders of the bank for the period of no more than 3 years. They can be re-elected for additional term. General meeting of shareholders appoints one of the members of the Management Board as chairman of the Board. Authorities of the chairman of Management Board are determined by the statute of the Board.

26.3. individuals, who do not correspond to requirements of Article 10 of this Law cannot be the members of the Board and by the decision of general meeting of shareholders shall be released from the duties of the member of Board.

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

26.5. Decision of the Management Board shall be adopted by the simple majority of votes of members, present at the meeting. Each member has one vote. No abstained voting is allowed for members. In the event of equality of votes, the vote of the Chairman of Board is decisive.

## **Article 27. Audit Committee and internal audit**

27.1. There shall be independent Audit Committee functioning in each ban and internal audit division (department, section etc.).

27.2. The competence of the Audit Committee shall include:

27.2.1. determination of the auditor policies and strategies of the bank;

27.2.2. approval of the internal audit plans and implementation of control over the auditor unit;

27.2.3. introduction of proposals to competent management authorities of the bank in relation with assignment of external audit;

27.2.4. organization of joint operation with external auditors, assistance in implementation of the results and recommendations of audit;

27.2.5. maintenance of contacts between the management authorities of the bank and external auditors, as well as regulatory authorities;

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

27.2.7. implement other authorities, stipulated under the regulatory documents of *the financial markets supervisory authority*.

27.3. Audit Committee consists of the odd number of members, not less than three persons. Members of the Committee are assigned by the *Supervisory Committee* of the bank for the period of no more than 3 years. Committee members can be re-elected for additional term. General meeting of shareholders appoints one of the members of the Committee as chairman of the Committee. General meeting of shareholders may establish the awarding for the members of the Audit Committee in the form of wages.

27.4. Entities, who do not correspond to requirements of Article 10 of this Law, *as well as being members of other bank management body*, cannot be the members of the Audit Committee and by the decision of *the Supervisory Committee* shall be released from the duties of the members of Audit Committee.

27.5. Audit Committee is authorized if more than half of its members present at meeting. The procedure of meetings holding is regulated by approved Audit Committee Regulations.

27.6. Decisions of the Audit Committee shall be deemed authorized if more than half of its members present at meetings. Each member is entitled to one vote, and not abstained voting is allowed. In the event of equality of votes, the vote of the Committee Chairman shall be decisive.

27.7. Internal Audit division (department, section etc.) functions under the control of the Audit Committee and implements together with executive authorities of the bank continuous control of the efficiency of the activities of internal control systems and risk management.

27.8. Management and employees of the internal audit department shall be appointed and dismissed by the Supervisory Board of the bank by proposal of the Audit Committee.

27.9. Standards and activity procedures of the Audit Committee and internal audit division of the bank are determined by *the financial markets supervisory authority*.

## **Article 28. Disclosure of commercial interests**

28.1. Each member of the Supervisory Board, Audit Committee and Management Board shall disclose to the ~~Management Board~~ and Supervisory Board his and his family members' major commercial interests. Such information shall be disclosed by these persons during their election for managements authorities of the bank and following periods in accordance with internal procedures of the bank.

28.2. During the discussion of the issue, related with interests of one of the members of Supervisory Board, Audit Committee, Management Board and any other committee or working group of the bank, as well as internal audit division associate, as well as the employee of the internal audit unit, this member shall inform on his interests before discussions, not participate in discussions and decision making, and his participation is not considered for the quorum.

28.2-1. *Members of the Supervisory Board, the Audit Committee and the Board, as well as heads of structural divisions of the bank (branches, representative offices, departments and so on.) are obliged to provide information that they, as well as persons referred to in Articles 49-1.1.3 and 49-1.1.5 of the Civil Code of the Republic of Azerbaijan, act as related person in respect of the transaction, as well as on the characteristics (arising, volume, etc.) of their interests in connection with this transaction, in the manner prescribed in articles 49-1.5, 49-1.6 and 49-1.7 of the Civil Code of the Republic of Azerbaijan.*

28.3. Members of the Supervisory Board, Audit Committee and Management Board of the bank shall disclose the information during execution of deals with stocks of the bank in accordance with provisions of the Civil Code of the Republic of Azerbaijan.

28.4. *Providing information in cases when the personal interests of the members of the Management Board may lead to a conflict with the interests of the bank, as well as the conclusion of transactions contrary to the interests of the bank, are carried out in accordance with the requirements of article 107-10.5 of the Civil Code of the Republic of Azerbaijan.*

## **Article 29. Reorganization of banks**

Reorganization (merger, association, division, separation or reformation) of the bank) including the bank the license of which is cancelled shall be allowed in accordance with procedures established by *the financial markets supervisory authority*, and with its prior written consent.

## **Article 30. Limitation of banks participation in the capital of legal entities**

30.1. Bank is not entitled to purchase the share of the bank in other legal entity, if such purchasing will result in one of the following:

30.1.1. if balance amount of participation exceeds 10 percent of the cumulative bank capital;

30.1.2. if the accumulated balance amount of all such shares of the bank exceed 40 percent of the accumulated bank capital.

30.2. Bank, with prior written consent of *the financial markets supervisory authority* may obtain the participation share, which may establish or increase the majority of participation share in the capital of legal entities, as well as to reorganize the legal entity into the subsidiary structure of the bank.

30.3. During the implementation of measures for the financial restatement of the person, who is the debtor of the bank or within the term of two years stocks (shares) transferred to the ownership of the bank as exchange for debts, in accordance with Article 30.1 of this Law shall not be considered during the calculation of the majority of participation share.

30.4. Banks for obtaining of permit on the basis of Article 30.2 of this Law, shall submit to *the financial markets supervisory authority* the written application with following documents attached:

30.4.1. verified copy of the decision of competent management authority in the capital on purchasing of stipulated participation share of the bank in the capital of other legal entity;

30.4.2. information on amount of majority participation share of the bank in the capital of other legal entity and the size of majority participation share, which will be formed as a result of increase of the stipulated participation share;

30.4.3. information on main directions of activities of legal entities, stipulating obtaining of the majority of participation share in the capital, audited financial reports for at least preceding three years (all preceding years, if the legal entity was established less than three years) and auditor opinions (requirements for reporting, reflecting the financial status for newly established legal entities shall not be applicable);

30.4.4. if the legal person as a result of obtaining of stipulated participation share is reorganized into subsidiary structure of the bank, list of executives authorities of this legal entity and signed statement on civil impeccability by each person, approved by notary;

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

30.4.5. if legal person, who will purchase the majority of participation share in the bank, is a foreign bank, additional statement, issued by the bank regulatory authority of the country, where headquarters of this foreign bank are located, verifying existence of bank license for implementation of banking activity involving attraction of deposits and other reimbursable assets from individuals and legal entities in this country, and its non-objection against purchasing of the stipulated participation share in the organization.

30.5. *The financial markets supervisory authority* no later than within 90 calendar days shall review the documents submitted in accordance with procedures of Article 30.4 of this Law. If within this period *the financial markets supervisory authority* in writing will not inform the bank on its attitude towards the application, the application shall be considered as approved. *The financial markets supervisory authority* does not issue permits to the bank for participation in the capital of other legal entity, if following is determined:

30.5.1. if not all documents, stipulated under Article 30.4 of this Law are submitted;

30.5.2. if executives of the authorities of legal entity, reorganized into the subsidiary structure of the bank as a result of purchasing of stipulated participation share, do not have acceptable and necessary characteristics;

30.5.3. if the financial status of legal entity, which intends to purchase the participation share is not satisfactory or purchasing of such share will result in worsening of financial standing of the bank;

30.5.4. in the event of impossibility of implementation of control functions by *the financial markets supervisory authority and the Central Bank*, due to the fact, that the bank regulatory and control authority of the country, where the foreign bank, purchasing the participation share is located, did not provide the adequate control over them or such body refused from cooperation.

30.6. During issuance of the permit to the bank, *the financial markets supervisory authority* shall establish the maximum term for purchasing of participation share.

30.7. If bank purchases the majority participation share without the permit or does not comply with terms, determined for purchasing of participation share, *the financial markets supervisory authority* shall send the written notification to this bank demanding the termination of its participation share before the date indicated in instruction, or that the permit became invalid.

30.8. If bank regulatory and control authority of the country, where the foreign bank is located, did not implement the adequate control over this bank or this authority refused to cooperate with *the financial markets supervisory authority*, *the financial markets supervisory authority* shall issue the written prescription to the bank on for alienation or re-call of the majority participation share in the capital of legal entity within the established term.

## **Chapter IV. Requirements for Bank Activities**

### **Article 31. Requirements for reliable bank operations**

31.1. Bank shall implement the management and current operations in reliable and prudential manner in accordance with requirements of the [Constitution of the Republic of Azerbaijan](#), Civil Code of the Republic of Azerbaijan, *the Law of the Republic of Azerbaijan «On struggle against the legalization of monetary funds or other criminally obtained assets and the financing of terrorism»*, other legislative acts, as well as this Law, legislative acts of *the financial markets supervisory authority and the Central Bank*, bank charter, all limitations, specified in the banking license or permit.

31.2. Bank shall permanently retain the accumulated capital and liquid reserves in accordance with established procedures, take necessary actions against the price fluctuations of assets for implementation of their liabilities and non-occurrence of losses, maintain the accounting documentation stipulated under the legislation and other required documents, form and apply control mechanisms over the bank operations, provide the diversification (division) of assets for maximum reduction of loss risks.

### **Article 32. Types of bank activities**

32.1. Banks, unless its restricted by the bank license obtained from *the financial markets supervisory authority*, may be engaged in following activities:

32.1.1. attraction of poste restante deposits (payments) and immediate deposits and other reimbursable funds;

32.1.2. award of credits (with or without guarantee), including the consumer and mortgage crediting, factoring with right of regress or without such right, forating, leasing services and other types of crediting;

32.1.3. opening and maintenance of accounts of individuals and legal entities, including correspondent accounts of banks;

32.1.4. clearing, payment and cash-desk servicing, provision of transfer services for funds, securities and payment instruments;

32.1.5. issuance of payment instruments (including credit and debt cards, traveler cheques and bank transfer promissory notes);

32.1.6. at its own expense or at the expense of its clients sales and purchasing of financial assets (including cheques, transfer promissory notes, debt liabilities and deposit certificates), ~~foreign currency~~, precious metals and *precious stones*, currency and interest instruments, shares and other securities, as well as forward contracts, swap agreements, futures, options and other funds, related to currency, shares, bonds, precious metals or interest rates;

*32.1.6-1. carrying out currency exchange operations at own expense or at the expense of customers;*

32.1.7. attraction of deposit and allocation of precious metals;

32.1.8. issuance of guarantees, including guarantees for fulfillment of liabilities at own expense or at the expense of letters of credits of clients;

~~32.1.9. professional activities at stock exchange markets;~~

32.1.10. provision of financial consulting, agent and advisory services;

32.1.11. provision of information and provision of services on credits and audit of solvency;

32.1.12. acceptance for safekeeping of documents and valuables, including monetary means (safekeeping in special premises and deposit boxes);

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

32.2. Banks, in addition to activities listed in Article 32.1 of this Law may also be involved in activities stipulated under the legislation, with exception of activities stipulated under Article 33 of this Law.

32.3. If for any type of activity, specified in Article 32.1 of this Law, in accordance with legislation special permit (license) is required, banks may engage into such activities only upon obtaining of special permit (license).

### **Article 33. Types of activities not engaged by banks**

33.1. No bank can be engaged in wholesale or retail trade, production, transportation, agriculture, development of mineral resources, construction and insurance, or with exception of insurance companies, participate in such activities as partner, companion or shareholder, with exception of activities, for which the permit is issued in accordance with Article 32 of this Law.

33.2. For the compensation of liabilities, bank may be engaged in activities, stipulated under Article 33.1 of this Law, only with the permission of *the financial markets supervisory authority* and only for the period of time, specified in such permit, or participate in legal entities, implementing these activities as a partner, companion or shareholder.

### **Article 34. Prudential standards and requirements**

34.1. Banks for the period of their activity shall comply with prudential standards and requirements established by *the financial markets supervisory authority* in relation with own assets, above balance liabilities and amount of capital, including the open currency position.

New standards and requirements established by *the financial markets supervisory authority*, changes and amendments to them shall enter into force not earlier than one month upon the official notification of banks, and changes to requirements, related to the size of charter or accumulated capital, — not earlier than six months upon the official notification of banks. New prudential standards and requirements shall not have retroactive force.

34.2. *The financial markets supervisory authority* for the provision of financial stability of bank and local branches of foreign banks shall determine following prudential standards and requirements:

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

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

34.2.3. measures assets at the risk rate for main and accumulated capital (for local branches of foreign banks— measures assets at the risk rate of assets, equivalent to main and accumulated capital);

34.2.4. liquidity indicators;

34.2.5. maximum value of credit risks for one debtor or group of interrelated debtors;

34.2.6. maximum value of accumulated amount of large credit risks;

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

34.2.8. maximum amount of accumulated credits, awarded to persons related, ~~and persons acting on behalf of persons related~~;

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

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

34.2.11. limits for open currency positions;

34.2.12. requirements for special reserves, established at the expense of costs on coverage of potential losses, dependent on classification and evaluation of assets, over balance liabilities;

34.2.13. requirements for assets, calculation of interest on which is discontinued;

34.2.14. requirements for operations implemented with *persons* related;

34.2.15. requirements for compliance with assets and liabilities payments terms and interest rates;

34.2.16. *rules of cash transactions in credit institutions.*

34.3. During implementation of regulation of activities of the banks and local branches of foreign banks, *the financial markets supervisory authority* ~~as necessary~~ *applies* all or part of prudential standards and requirements, specified in Article 34.2 of this Law.

34.4. Banks shall comply with corporate management standards established by *the financial markets supervisory authority*.

34.5. For the reduction of bank activity risks, protection of depositors and creditors, *the financial markets supervisory authority*, in addition to standards and requirements, stipulated under article 34.2 of this Law, shall be entitled to establish additional standards and requirements, on the basis of international banking control practices. *The financial markets supervisory authority is entitled to establish standards and requirements for systemically important banks that differ from the standards and requirements established for banks in accordance with Article 34.2 of this Law.*

34.6. *The financial markets supervisory authority* may establish for the banks with foreign capital and local branches of international banks, requirements for placement of their assets in the Republic of Azerbaijan.

## **Article 35. Relations between the banks**



35.1. Banks may implement in accordance with *the Civil Code of the Republic of Azerbaijan* on mutual basis all types of operations, open deposit, correspondent and other accounts, with exception of cases restricted under this Law, regulatory instructions and prescriptions of *the financial markets supervisory authority and the Central Bank*, as well as licenses and permits.

35.2. Banks may cooperate between each other on banking activities. Banks for this purpose may transfer funds and securities between each other, use clearing and payment mechanisms, accept securities for deposits, establish non-commercial unions for support of members activities, as well as execution of contracts on implementation of activities on support of development and stability of banking, participant banks of such contracts shall within 7 calendar days upon making of these contracts submit copies of contracts to *the financial markets supervisory authority*.

35.3. It is prohibited for banks to enter into agreements that will stimulate the creation of monopolies for banking services and limitation of competition in banking, as well as implementation of non-approved operations. Control over implementation of anti-trust procedures in banking shall be performed by *the financial markets supervisory authority* and relevant state authorities.

35.4. *Banks are obliged to transfer information about each debtor to a centralized credit registry, established in the financial markets supervisory authority in the manner established by the financial markets supervisory authority. Information collected in the centralized credit registry is subject to the rules for the protection of bank secrecy established by this Law.*

*The procedure for submission of information about their debtors by banks to the credit bureau and the procedure for obtaining this information from the credit bureau are regulated by the Law of the Republic of Azerbaijan "On Credit Bureaus".*

35.5. Disputes between local banks, between the local bank and local branch of the foreign bank and representations, as well as local branches of foreign banks shall be resolved in the courts of law of the Republic of Azerbaijan, in accordance with procedures stipulated under the *Civil Procedure Code of the Republic of Azerbaijan*.

## **Article 36. Relations between banks and their clients**

36.1. Relations between banks and their clients are implemented in accordance with Civil Code of the Republic of Azerbaijan, acts of *normative nature*, adopted by *the financial markets supervisory authority* in accordance with this code, and contract.

36.2. Clients shall be independent in selection of banks for implementation of banking activities and for these purposes may use the services of one or more banks. Rules for opening, maintenance and closing of accounts shall be compliant with the Civil Code of the Republic of Azerbaijan, *normative* documents, adopted by *the financial markets supervisory authority* in accordance with this code as well as present Law.

Procedures for opening of special election accounts, maintenance and stoppage of operations shall be determined in accordance with Election Code of the Republic of Azerbaijan upon the consent of *the financial markets supervisory authority*.

36.3. Bank by the request of its client, either individual or legal entity, wishing to become its client, shall provide its banking license, ~~information on financial standing (accounting balance for preceding month, quarter and year, profit and loss reports) as well as financial statements and auditor opinion over last reporting year.~~

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

36.5. Bank is not entitled to determine and control the purposes for which the client uses his funds, impose any restrictions, not stipulated under the law or contract on the right of client to use his funds as he wishes.

36.6. Each bank shall be free to set service conditions under the contract with its clients, to include interest rates, commissions and other payments for banking services, as well as provisions and rules for the payment of credits issued by the bank. *When changing the par value of banknotes and standard of price (denomination) in the Republic of Azerbaijan the banks shall not collect the commission fees and any other charges for replacement of old banknotes by the new banknotes.*

Interests on credits are calculated and paid in accordance with provisions of the contract made between the bank and its clients. Interests rates and other payments, which shall be paid on bank debts, shall be calculated only at the amount of residual debt for days of debts.

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

### ***Article 37. Correspondent accounts of bank and authorities on assets transferred to the bank***

37.1. To funds and other valuables of legal entities and individuals, retained in the bank, under conditions and in accordance with procedures stipulated under legislation, arrest may be imposed by the decision of court or *executive official*. Bank from the moment of obtaining of decision on imposing of bank account arrest, shall stop all payment operations on deposits and other accounts at the amount of arrested funds.

Arrest on correspondent accounts of the bank can be imposed only by the decision of court at the volume of liabilities on own requirements of the bank.

*In accordance with the procedure and terms stipulated by the law the financial monitoring authority may suspend the execution of banking transactions suspicious on the legalization of monetary funds or other criminally obtained assets and the financing of terrorism.*

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

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

### **Article 38. Payments and money transfers**

38.1. Banks implement payments and money transfers in accordance with the Civil Code of the Republic of Azerbaijan and legal documents adopted by *the financial markets supervisory authority and the Central Bank* in accordance with this code, banking business practices, as well as relevant contracts.

38.2. Banks shall implement international settlements and money transfers in accordance with legislation of the Republic of Azerbaijan, ~~including~~ the legal documents of *the financial markets supervisory authority and the Central Bank*, international treaties to which the Republic of Azerbaijan is a signatory, as well as banking business practices and relevant contracts.

38.3. *The financial markets supervisory authority* determines minimum requirements on provision by banks of reliability and security of used automated payment and money transfer systems, protection of banking information.

### **Article 39. Retention of documentation**

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

39.2. *Banks must ensure keeping identification and verification documents, as well as documents relating to operations with monetary funds or other property within the period specified in Article 10 of the Law of the Republic of Azerbaijan "On Counteracting Legalization of Criminally Obtained Funds or Other Property and the Financing of Terrorism".*

### **Article 40. Maintenance of operations with persons related to banks**

40.1. Banks cannot issue credits to persons related to banks ~~and persons acting on behalf of persons related to banks~~ in following events:

*40.1.1. in the event of absence of the opinion of the independent auditor and the resolution of the general meeting of shareholders with the right to vote, if the amount of credit issued to the related persons is 5 or more percent of the value of the bank's assets;*

*40.1.1-1. in the absence of the decision of the Supervisory Board, if the amount of credit issued to the related persons makes up to 5 percent of the value of the bank's*

*assets, except for the cases of transfer of authority to take a decision on granting credits to these persons to the general meeting of shareholders;*

40.1.2. if as a result of issuance of credit the accumulated amount of credits awarded by the bank to legal person exceeded the amount equal to 10 percent of the accumulated bank capital, and for individuals the excess was equal to 3 percent;

40.1.3. if as a result of award of credits issued by the bank to persons related to banks ~~and persons acting on behalf of persons related to banks~~, the accumulated amount of credit exceeds the amount equal to 20 percents of the accumulated capital of the bank.

40.2. If the credit to persons related to banks ~~and persons acting on behalf of persons related to banks~~, is awarded with violation of provisions of article 40.1 of this Law, such credit shall be paid immediately. Members of Supervisory Board of the bank, *voted for the relevant decision*, shall be responsible for the payment of principal amount, interests and other payments on credits, awarded with violation of requirements of Article 40.1 of this Law.

40.3. Award of privileged credits or implementation of other operations under privileged provisions to persons related to banks ~~and persons acting on behalf of persons related to banks~~ compared to other clients.

40.4. *Other terms of entering into transactions with persons related to banks are established by Article 49-1 of the Civil Code of the Republic of Azerbaijan.*

## **Article 41. Banking confidentiality**

41.1. In accordance with Civil Code of the Republic of Azerbaijan the bank shall provide the confidentiality of bank accounts, operations and balances, as well as client information, addresses and management. Bank maintains the confidentiality of information on existence of client property in the bank's depositories, information on owners of such property, its type and value.

41.2. *The information that in accordance with the Civil Code of the Republic of Azerbaijan consists of banking secrecy can only be issued to the clients and their representatives, as well as the external auditors, financial monitoring body and a financial market supervisory authority. To state authorities and their executives such information can be provided under the valid court order related with resolution of claim, arrest, confiscation of property for compensation of client liabilities and property in the bank's depository. Due to direction of executive documents for enforced execution, information on balance on client accounts shall be submitted to executive officials on the basis of information received from sources determined under the legislation. In case of occurrence of insured accident stipulated by the Law of the Republic of Azerbaijan «On insurance of contributions», information about depositors shall be submitted to the Contributions Insurance Fund in an order established by the legislation». Information on debtors shall be transferred to credit bureaus in the order established by the Law "On Credit Bureaus" of the Republic of Azerbaijan.*

Information on bank account and bank operations of any legal entity or individual taxpayer entrepreneur serviced by the bank, shall be submitted to tax authorities only in cases and in accordance with procedures stipulated under [the Tax Code of the Republic of Azerbaijan](#).

Information on funds paid to the special election account and expended, shall be submitted to the Central Election Commission in accordance with procedures stipulated under the [Election Code of the Republic of Azerbaijan](#).

*When opening an account for clients or providing them with financial services, the bank must ensure compliance with the requirements of regulatory legal acts of the Republic of Azerbaijan, as well as international treaties of the Republic of Azerbaijan, providing for the exchange of tax and financial information, and, in accordance with these international treaties, pursuant to the provisions of the Article 76-1 of the Tax Code of the Republic of Azerbaijan, submit information on financial transactions, conducted by legal entities and individuals of foreign state on the territory of the Republic of Azerbaijan, to the authorities of these foreign states.*

*Information constituting bank secrecy shall be issued to the Accounts Chamber of the Republic of Azerbaijan in the manner established by the Law of the Republic of Azerbaijan “On the Accounts Chamber”.*

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

41.4. In accordance with contract between *the financial markets supervisory authority* and bank regulatory authority of the foreign country, if the object of information exchange is the information on subject performing activities or getting prepared to perform activities on the territory of relevant state, such information shall not be deemed the disclosure of banking confidentiality, provided that such information was not submitted to third parties and is used for banking control purposes only.

41.5. Current and former administrators of the bank and other employees, as well as shareholders of the bank shall bear civil, administrative and criminal liability in accordance with procedures stipulated under the relevant legislation of the Republic of Azerbaijan in connection with disclosure of information comprising the banking confidentiality and made available to them in connection with the administrative or employment duties in the bank.

41.6. In the event when the information containing the bank confidentiality was illegally disclosed by the bank, clients whose right have been violated, may require the compensation of losses incurred by the bank in accordance with the Civil Code of the Republic of Azerbaijan.

## **Article 42. Prevention of legalization of money or other criminally acquired assets and the financing of terrorism**

*42.1. Credit organizations shall submit to the financial monitoring authority the information about the money assets and other transactions subject to monitoring in relation to struggle*

*against legalization of monetary funds or other criminally acquired assets and the financing of terrorism, form and apply their own internal control systems, carry out other activities established by the laws of the Republic of Azerbaijan and international treaties to which the Republic of Azerbaijan is a signatory.*

*In accordance with the procedures and cases stipulated by the law, credit organizations takes measures for identification of the customer, the beneficial owner and the authorized representative, as well as verification of received identity information, complies with the requirements for documenting and storing information.*

*It is not allowed to open anonymous accounts, including anonymous savings accounts and issuing anonymous certificates of deposit.*

*42.2. Other requirements, in addition to the requirements specified in Article 42.1 of this Law shall be established by the Law of the Republic of Azerbaijan «On struggle against the legalization of monetary funds or other criminally obtained assets and the financing of terrorism» and other ~~regulations~~ legal documents.*

## **Chapter V. Accounting and reporting in banks. Control over the activities of banks**

### **Article 43. Accounting and financial reporting**

*3.1. The bank and the local branch of a foreign bank are obliged to prepare financial statements in accordance with International Financial Reporting Standards. Accounting rules, including the form and content of annual financial statements in banks and local branches of a foreign bank, are established by the Central Bank in agreement with the body (structure), established by the relevant executive authority.*

*43.2. Control over activities in the field of accounting and financial reporting in banks is carried out by the Central Bank in accordance with this Law and the Law of the Republic of Azerbaijan "On accounting".*

### **Article 44. External audit**

*44.1. Financial activity of the bank or local branch of the foreign bank shall be subject to annual external audit by the auditor licensed for implementation of auditor activities.*

*44.2. An audit shall be conducted in accordance with the Law of the Republic of Azerbaijan "On the Audit Service".*

*44.3. External auditor, implementing the audit of the bank or local branch of the foreign bank, along with rights and obligations stipulated under the Laws of the Republic of Azerbaijan "On Audit Service" and "On compulsory insurance of auditor's professional liability" shall perform the following:*

44.3.1. preparation of the report and conclusion on whether the financial report creates the complete and true picture on its financial standing;

44.3.2. helps bank to maintain the accounting, systems and procedures of financial control on appropriate level;

44.3.3. informs *the financial markets supervisory authority* on illegal and damaging actions of the administrator and any employee, as well as deficiencies in the management or current activities.

44.4. Foreign bank, which has the local branch or representation, shall provide consolidated implementation of the audit of local branch and representation.

44.5. *The financial markets supervisory authority* may establish minimum requirements in accordance with international banking control practices on implementation of audit of bank and local branches of foreign banks. If the external audit does not correspond to the requirements of *the financial markets supervisory authority*, *the financial markets supervisory authority* may demand the replacement of auditor, and implementation of another audit at the own expense of the bank.

#### **Article 45. Filing and publishing of financial statements**

45.1. *The bank is obliged to submit and publish the annual financial statements audited by the external auditor no later than five months after the end of the fiscal year, and the consolidated financial statements audited by the external auditor no later than six months after the end of the fiscal year, along with the auditor's opinion.*

45.2. *The bank is obliged to submit and publish annual financial statements audited by the external auditor no later than five months after the end of the fiscal year, and consolidated financial statements audited by the external auditor of a foreign bank no later than eight months after the end of the fiscal year, along with the auditor's opinion.*

45.3. *The bank and the local branch of a foreign bank, within the terms provided for in Articles 45.1 and 45.2 of this Law, are obliged to submit annual financial reports to the Central Bank, as well as publish them on their official website and gazette and provide the Central Bank with information on this.*

45.4. *The bank and the local branch of a foreign bank are obliged to provide copies of annual financial statements and summary (consolidated) financial statements, along with the auditor's opinion, to any person on the basis of his request free of charge.*

#### **Article 46. Report of banks and control over their activities**

46.1. *In order to assess the financial standing of the bank, the bank and local branches of the foreign bank are required to submit prudential reports, both own and of affiliated business entities, individually and on a consolidated basis, to the financial markets supervisory authority and banking statistics reports – to the financial markets supervisory authority and central bank. The form, content and rules for submission of prudential reports to the*

*financial markets supervisory authority. The form, content and rules for submission of banking statistics reports shall be established by the Central Bank with the approval of the financial markets supervisory authority.*

46.2. Banks and local branches of foreign bank in place shall be audited one time a year only by inspectors of *the financial markets supervisory authority* or external auditors, appointed by *the financial markets supervisory authority*. When there is of loss of banking assets, as well as for purposes of clarification of facts of legislation violation, *the financial markets supervisory authority* may conduct additional audits in banks and local branched of foreign bank. The audit team may also include on the basis of cooperation also employees of the bank regulation authorities of other banks, with which *the financial markets supervisory authority* has entered into agreement on cooperation for auditing. Procedural rules for implementation of audits shall be determined by the decisions of *the financial markets supervisory authority*.

46.3. In accordance with Articles 46.1 and 46.2 of this Law, *the financial markets supervisory authority* and its appointed auditors shall have the following authorities:

46.3.1. to have access to any bank, its branch, department, subsidiary economic units, as well as local branches of foreign bank and review their reports, accounting books, documentation and other records, demand for their clarifications;

46.3.2. require from administrators, employees and agents of the bank its subsidiary economic units, persons, holding majority of participation share in bank, persons related to the bank ~~and persons acting on behalf of persons~~, relating to the bank, department of the bank and local branch of the foreign bank submission of all necessary information on any issue, related to management of this structures, and current activities, including the client operations.

46.4. Local representation of foreign bank shall submit to *the financial markets supervisory authority* their management procedures and reports on current activities, to show, that its activities do not extent the requirements of legislation and charter. Form, content and procedure for submission of the report are determined by *the financial markets supervisory authority*.

For the clarification of the report data, inspectors of *the financial markets supervisory authority* may implement the on-site inspection of the representation of foreign bank.

46.5. Bank, its subsidiary economic units, branch and division, local branch and representation of foreign bank during implementation of duties of inspectors of *the financial markets supervisory authority* or their appointed auditors in accordance with this Article shall provide necessary conditions and organizational and technical facilities.

46.6. *The financial markets supervisory authority* is not authorized to implement inspections in banks and local branches of foreign banks, receive their reporting or information under the demand of other persons, with exception of enquiries under the cooperation arrangements from foreign bank regulatory authorities, as well as in cases of valid court orders.



46.7. Relevant executive authority implementing the tax control in the Republic of Azerbaijan *shall inspect* the activities of the bank and local branches of foreign banks only as taxpayers. During implementation of inspections, information and documents may be received only in accordance with rules determined under the Tax Code of the Republic of Azerbaijan for disclosure of information representing the banking confidentiality.

### **Article 46-1. Contributions paid to the financial markets supervisory authority**

*Banks and local branches of foreign banks pay contributions to the financial markets supervision authority in the amount and in the manner established by that authority.*

## **Chapter VI. Measures of influence and sanctions against banks**

### **Article 47. Measures of influence applied to banks**

47.1. In the event of determination of prudential norms and requirements by the bank, implementation of his activities with violation of requirements of this Law, *the Law of the Republic of Azerbaijan «On struggle against the legalization of monetary funds or other criminally obtained assets and the financing of terrorism»* and legal documentation of *the financial markets supervisory authority*, violation of limitations, included in the banking license or permit issued to *the financial markets supervisory authority*, or determination of basis, which can result such violations, dependent of the nature of violation, *the financial markets supervisory authority* is entitled to apply one of the following influence measures to banks:

47.1.1. require the bank obligation letter for correction of such violations;

47.1.2. enter into agreement with the bank;

47.1.3. issue instructions to the bank;

47.2. In the event of requirement of *the financial markets supervisory authority* on provision of obligation letter on correction of violations or facts, which may result in violations, in the letter submitted by the bank to *the financial markets supervisory authority*, shall be indicated measures, which will be applied by the bank for correction of allowed deficiencies, and terms for their implementation.

47.3. In the agreement made by and between *the financial markets supervisory authority* and bank, shall be indicated urgent measures for correction of identified deficiencies and primary measures to be applied.

47.4. In the instructions of *the financial markets supervisory authority*, obligatory for the bank shall be issued written instructions to the bank on execution of corrective measures, indicated in the Article 48 of this Law, and terms for correction of deficiencies.

During application of corrective actions, aimed at improvement of the financial standing of the bank, bank within two weeks shall submit to *the financial markets supervisory authority* the plan on implementation of measures in accordance with issued instructions.

Court appeal of the required instruction of *the financial markets supervisory authority* shall not prevent from execution of such instruction.

47.5. Bank shall inform *the financial markets supervisory authority* on execution of relevant obligation letter, agreements and instructions, specified in Articles 47.2, 47.3 and 47.4 of this Law within terms specified in these documents.

## **Article 48. Corrective actions applied to banks**

48.1. *The financial markets supervisory authority* in accordance with article 47 of this Law shall apply to the bank following corrective actions:

- 48.1.1. limitation or suspension of implementation of certain banking activities;
- 48.1.2. temporary suspension of administrators;
- 48.1.3. stoppage of implementation of banking operations and deals with persons, *related to banks*;
- 48.1.4. limitation of acceptance of deposits;
- 48.1.5. limitation or suspension of attraction of funds from sources other than funds attracted from founder banks, subsidiary banks or local branches of foreign banks;
- 48.1.6. limitation, suspension or cancellation of shares in the capital of other legal entities;
- 48.1.7. interruption of opening of new branches and departments or suspension of activities of existing branched and departments, or stoppage of their activities;
- 48.1.8. suspension of provision of financial privileges;
- 48.1.9. change to procedures and provisions for award of credits and attraction of deposits;
- 48.1.10. requirement for increase of capital;
- 48.1.11. requirements for establishment of capital reserves from profits;
- 48.1.12. dependent on quality of assets, requirement for reduction of establishment of special reserves and/or charter capital at the volume of bank loss amount;
- 48.1.13. suspension of issuance of provisions on obligations (guarantees) of other persons;

48.1.14. limitation or suspension of payment of dividends;

48.1.15. introduction of changes to operations and internal control procedures of the bank;

48.1.16. requirements for implementation of emergency general meeting of bank shareholders.

48.2. Corrective actions, specified in Article 48.1 of this Law, may be applied separately or simultaneously.

48.3. *The right of attraction of deposits of individuals by the Bank shall be suspended also on the grounds stipulated by the Law of the Republic of Azerbaijan «On insurance of contributions».*

## **Article 49. Sanctions**

49.1. *The financial markets supervisory authority*, in cases stipulated under Article 47.1 of this Law, along with corrective actions stipulated under Article 48.1 of this Law, may also apply following sanctions against banks:

49.1.1. apply penalties to the bank and bank administrators, as per [Administrative Violations Code of the Republic of Azerbaijan](#);

49.1.2. dismiss administrators from their positions.

49.2. In the event of application of sanction, stipulated under Article 49.1.2. of this Law by *the financial markets supervisory authority*, the dismissal of bank administrator from his position shall be implemented immediately under the decision of the competent management authority of the bank.

49.3. *The financial markets supervisory authority* may decide to cancel the banking license on the basis stipulated under Article 16 of this Law.

49.4. Application of sanctions does not release the bank from fulfillment of liabilities before creditors, including bank clients, as bank administrators (with exception of those dismissed from their duties) from implementation of their duties.

## **Article 50. Procedure for application of sanctions**

50.1. Current sanctions against banks and administrators are applied in case and in accordance with procedures stipulated under the [Administrative Violation Code of the Republic of Azerbaijan](#). Procedure for review of materials on application of sanctions, stipulated under Articles 49.1.2 and 49.3 of this Law, and documentation for results is determined by *the financial markets supervisory authority*.

50.2. Sanctions, stipulated under Articles 49.1.2 and 49.3 of this Law, shall be applied by the decision of ~~the Board~~ *the financial markets supervisory authority*.

50.3. *The financial markets supervisory authority*, during making of decision on application of sanctions stipulated under Article 49 of this Law, shall immediately sent the appropriate notification on such decisions to the relevant bank.

50.4. Persons, against whom the sanction is applied, may appeal such sanction in the court of law in accordance with the *Administrative Procedure Code* of the Republic of Azerbaijan. Submission of appeal does not prevent from execution of sanctions applied in Articles 49.1.2 and 49.3 of this Law.

## **~~Chapter VII. Temporary administrator~~**

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

~~51.1. *The financial markets supervisory authority* shall appoint the temporary administrator in cases when the following determined:~~

~~51.1.1. amount of the accumulated capital of the bank reached the level of 25 percent of the minimum amount of accumulated capital, determined by *the financial markets supervisory authority* for banks or 3 percent of the rate of its adequacy;~~

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

~~51.1.3. bank did not submit the statement on initiation of bankruptcy procedures;~~

~~51.1.4. banking license is cancelled for other reasons, stipulated under this Law.~~

~~51.2. *The financial markets supervisory authority* shall be entitled to appoint a temporary administrator to the bank, if bank did not fulfill the requirements stipulated under Articles 47, 48 and 49.1.2 of this Law.~~

### **~~Article 52. Appointment of temporary administrator~~**

~~52.1. Temporary administrator is appointed from the employees of *the financial markets supervisory authority* or outside parties (individuals and/or legal entities) for the maximum period of 12 months. Appointment term may be extended for the maximum period of 6 months.~~

~~52.2. Wages and costs incurred in association with temporary administrator are paid by the bank, and missing part by *the financial markets supervisory authority*.~~

~~52.3. *Persons related to bank*, as well as bank's creditors and debtors (with exception of *the financial markets supervisory authority*) can not be appointed as temporary administrators.~~

~~52.4. In the decision of appointment or extension of the term of temporary administrator shall be indicated relevant basis, information on temporary administrator and term of his service. *The financial markets supervisory authority* upon making of decision shall provide its immediate submission to the chairmen of Supervisory Board and Management Board of the bank.~~

~~52.5. Temporary administrator in its activities is guided by this Law, existing legislative acts, including normative documents of *the financial markets supervisory authority*, as well as prescriptions and recommendations.~~

~~52.6. Supervisory Board of the bank within 5 calendar days from the date of submission of verified copy of the decision of *the financial markets supervisory authority* on appointment of temporary administrator shall make the decision on replacement of appointed temporary administrator or expression of consent and submit the verified copy of decision to *the financial markets supervisory authority*. If the bank did not express its attitude to the application of *the financial markets supervisory authority*, it shall be deemed to agree with decision on appointment of temporary administrator.~~

~~52.7. *The financial markets supervisory authority*, upon obtaining of objection against newly appointed temporary administrator, within 5 calendar day shall re-consider its decision, make the decision on cancellation of appointment or its retention in force, explaining the decision. Decision of *the financial markets supervisory authority* on appointment of other temporary administrator or retention of incumbent of previous appointee, shall be immediately provided to relevant bank.~~

~~52.8. Temporary administrator, appointed by the *the financial markets supervisory authority*, independent of cases, stipulated in Articles 52.6 and 52.7 of this Law, upon the making of decision of *the financial markets supervisory authority* on appointment of temporary administrator, shall immediately start the execution of his duties. In the event of change of appointment of temporary administrator, temporary administrator shall immediately transfer the management of bank assets, accounting books and records to newly appointed temporary administrator.~~

~~52.9. Bank may submit appeal to the court against the decision of *the financial markets supervisory authority* on appointment of temporary administrator, and in the event of disagreement with the decision of *the financial markets supervisory authority* on appointment of temporary administrator and submission of such decision, may appeal against these decisions in accordance with *the Administrative Procedure Code of the Republic of Azerbaijan*.~~

### **~~Article 53. Authorities of temporary administrator~~**

~~53.1. Temporary administrator from the date of his appointment:~~

~~53.1.1. stops the authorities of management authorities, related with bank management;~~

~~53.1.2. authorities of the management bodies, related with bank management shall be transferred to temporary administrator. Temporary administrator cannot take any decisions on sales, reorganization or liquidation of the bank. Sales and reorganization of the bank can be implemented by the court's decision only;~~

~~53.1.3. develop within the 60 calendar days period as latest the report on current financial standing of the bank and submits to *the financial markets supervisory*~~

~~authority. The report shall include the value of assets, which can be sold during the bank liquidation. External auditor can also be invited for the development of report. Auditor services are paid by the bank. The financial markets supervisory authority makes appropriate decision on submitted report;~~

~~53.1.4. deals on behalf of bank shall be implemented with the written permit of the temporary administrator, otherwise they deemed invalid.~~

~~53.2. Temporary administrator along with authorities of the management bodies of the bank also implements the following:~~

~~53.2.1. takes measures on safekeeping of property and documentation of the bank;~~

~~53.2.2. determined the creditors of the bank and amount of fund liabilities before them;~~

~~53.2.3. takes actions in accordance with legislation on re-payment of debts to the bank;~~

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

~~53.2.5. when necessary, in accordance with procedures of legislation, cancels the executed contracts, stipulating the investment of bank, or introduce to them changes and amendments, as well as changes commissions, interests and their terms;~~

~~53.2.6. issues claims to courts on behalf of the bank and in its interests;~~

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

~~53.2.8. in accordance with Article 57 takes measures on improvement of the financial standing of the bank.~~

~~53.3. Temporary administrator with the consent of the financial markets supervisory authority may attract for bank's management other persons, including administrators and employees of the bank.~~

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

~~53.5. Law enforcement agencies upon the application of temporary administrator shall provide his access to the management of bank assets, accounting books and records as well as their security.~~

#### **~~Article 54. Control of the financial markets supervisory authority over temporary administrator performance~~**

~~54.1. The financial markets supervisory authority implements control over the temporary administrator within the entire period of his performance.~~

~~54.2. The financial markets supervisory authority is authorized to:~~

~~54.2.1. issue recommendation on main directions of bank management and in accordance with Article 57 of this Law recommend the temporary administrator on measures for improvement of bank's financial standing;~~

~~54.2.2. issues in writing obligatory for implementation instructions to temporary administrator;~~

~~54.2.3. require the provision on information on activities of temporary administrator;~~

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

~~54.2.5. to extend the period of appointment of temporary administrator in accordance with Article 52.1 of this Law.~~

~~54.3. Temporary administrator reports on implementation of its activities to the financial markets supervisory authority only.~~

## **~~Article 55. Moratorium~~**

~~For the evaluation of assets and financial standing of banks for the period of appointment of temporary administrator of the bank, as well as for the purposes of prevention of reduction of assets value, by the application of the financial markets supervisory authority the court may completely or partially stop the payments on deposits of legal entities and individuals and other liabilities of bank. For such application the court makes the decision within 48 hours and such decision is sent for implementation immediately.~~

## **~~Article 56. Stoppage of performance of temporary administrator~~**

~~56.1. The activity of temporary administrator may be stopped by the decision of the financial markets supervisory authority in following events:~~

~~56.1.1. upon the expiry of the term established by the financial markets supervisory authority;~~

~~56.1.2. Early stoppage of performance of temporary administrator;~~

~~56.1.3. in the event of appointment to court liquidator to the bankrupt bank.~~

~~56.2. In stopping of the performance of temporary administrator due to improvement of financial standing and activities of the bank (including early stoppage), all restrictions applied to the bank by the decision of the financial markets supervisory authority and temporary administrator shall be cancelled.~~

~~56.3. If measures taken by the temporary administrator not related to the improvement of financial standing and performance of the bank or deficiencies in bank activities have not been resolved, the financial markets supervisory authority shall take the decision on early termination of authorities of temporary administrator, and bank license and permits for implementation of banking operations shall be cancelled on the basis stipulated under this Law.~~

~~56.4. Upon the termination of authorities of the temporary administrator he shall develop and submit to the financial markets supervisory authority the final report within 30 days.~~

## **Chapter VIII. Resolution of the insolvent bank**

### **Article 57. Appointment of the temporary administrator of the insolvent bank**

*57.1. The financial markets supervisory authority shall decide on the appointment of the temporary administrator of the bank in connection with the loss of solvency in cases when one or more of the following grounds are established:*

*57.1.1. the aggregate bank capital falls to 25 percent of the minimum amount of total capital established for banks by the financial markets supervisory authority, or its adequacy ratio falls to 3 percent;*

*57.1.2. the bank can not ensure the execution of payments under any obligation or does not have sufficient liquidity to fulfill obligations, the term of which expires, with the exception of cases established by Article 57-11 of this Law;*

*57.1.3. a banking license must be revoked on the grounds specified in this Law.*

*57.2. If the bank does not comply with the requirements of articles 47.5, 48.1 and 49.2 of this Law, the financial markets supervisory authority may appoint the temporary administrator.*

*57.3. The decision of the financial markets supervisory authority to appoint a temporary administrator of the bank should be reasoned with references to the bank's prudential reports, a report on the results of the audit performed by the bank or on the reports of external auditors. The decision on the appointment of a temporary administrator or on the extension of the appointment period shall specify the information about him and the term of his authority. On the day the decision is made to appoint a temporary administrator of an insolvent bank, the financial markets supervisory authority appoints the bank of the temporary administrator from among its employees or other persons (individuals and (or) legal entities) and from that day proceeds to the process of the bank resolution. After the decision-taking on the appointment of an temporary administrator the financial markets supervisory authority immediately ensures the delivery of this decision to the chairmen of the Supervisory Board and the Management Board of the bank.*

*57.4. From the day of appointment of the temporary administrator to the bank:*

*57.4.1. all powers to manage the bank are suspended, including the authority of the general meeting of shareholders of the bank;*



*57.4.2. all powers to manage the bank, including the authorities of the general meeting of shareholders of the bank pass to the temporary administrator.*

*57.5. The temporary administrator shall, not later than 30 calendar days from the day following his appointment, prepare, in accordance with the financial indicators of the insolvent bank and submit an action plan containing the methods, conditions, economic rationale and terms of the resolution to the financial markets supervisory authority.*

*57.6. The insolvent bank is managed by the temporary administrator within a period of not more than 9 months. This period may be extended by the financial markets supervisory authority for a period of up to 3 months. During this period, the financial markets supervisory authority carries out the following measures in connection with the resolution of the insolvent bank:*

*57.6.1. merger of an insolvent bank into a healthy bank;*

*57.6.2. full or partial transfer of assets and liabilities of the insolvent bank to the buyer-bank;*

*57.6.3. establishment of a bridge bank, the transfer of healthy assets and liabilities of an insolvent bank to the bridge bank and the sale of a bridge bank to an investor;*

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

*57.6.5. liquidation of an insolvent bank.*

*57.7. The temporary administrator ensures that the funds that can be received by the bank's creditors within the framework of the bank's resolution exceed funds that can be received in case of bank liquidation.*

*57.8. In order to assess the assets and financial condition of the bank, as well as to prevent the decrease in the value of assets during the appointment of the temporary administrator for the bank, the court may suspend in full or in part the payments (declare a moratorium) on deposits of legal entities and individuals in the bank and other obligations of the bank.*

## **Article 57-1. Management of the bank by the temporary administrator**

*57-1.1. The temporary administrator must meet the requirements for bank administrators, established by this Law.*

*57-1.2. The affiliated persons, shareholders, creditors and debtors of an insolvent bank cannot be appointed as the temporary administrators. If such circumstances are revealed after the appointment of the temporary administrator, his activity shall be terminated.*

*57-1.3. All expenses for managing the bank are carried out at the expense of the bank. If the bank does not have its own funds to manage the bank, the bank is managed on the basis of the estimated cost approved by the financial markets supervisory authority, at the expense of the financial markets supervisory authority. The resolution of the bank, which does not have sufficient funds for management, should be completed within 3 months.*

## **Article 57-2. The powers of the temporary administrator in connection with the management of the bank**

*57-2.1. From the date of submission to the bank of the decision of the financial markets supervisory authority on the appointment of the temporary administrator of the bank, the management bodies must hand over to the temporary administrator the seals, stamps, all property, accounting books and other documents of the bank and provide him with the necessary information in connection with the bank's activities.*

*57-2.2. At the request of the financial markets supervisory authority, the relevant executive authority must ensure that the temporary administrator can access the bank building, receive assets, books and records of the bank in its management and their protection.*

*57-2.3. Transactions and operations of the management bodies of the bank, concluded and carried out from the day of appointment of the temporary administrator, shall not have legal force and shall be recognized as null and void. The temporary administrator, along with the fulfillment of the powers of all the management bodies of the bank, shall also:*

*57-2.3.1. take measures to protect the property and documents of the bank;*

*57-2.3.2. identifies the bank's creditors and the amount of the bank's monetary obligations to them;*

*57-2.3.3. take measures to return debts to the bank;*

*57-2.3.4. sign agreements and documents on behalf of the bank;*

*57-2.3.5. refuse to fulfill contractual obligations that caused the deterioration of the financial status of the bank as a result of the conclusion of contracts, including loan agreements, on terms that are clearly contrary to the interests of the bank and takes measures to terminate these contracts in the manner established by the Civil Code of the Republic of Azerbaijan;*

*57-2.3.6. in the order established by the Civil Code of the Republic of Azerbaijan, take measures to terminate contracts that provide for investment by the bank, or to introduce amendments and additions to them if they cause damage to the bank's financial stability;*

*57-2.3.7. if necessary, in the prevention of deterioration in the quality of assets, carry out restructure of loans issued by the bank (extension of the loan repayment period, reduction or cancellation of interest, writing-off of bad debts);*

*57-2.3.8. organize an audit of the bank's activities and examination of legal documents;*

*57-2.3.9. take measures provided for in Article 57-10 of this Law, examine the circumstances that led to the loss of solvency by the bank, apply to the competent*

*authorities to bring to justice those persons who are suspected of such circumstances, raise claims in court for compensation of damage caused to the bank;*

*57-2.3.10. issue orders, including dismissal from work in the bank and the subsidiary legal entities established by him, changes in working conditions, transfer to a lower position, suspension from office, official distribution among employees;*

*57-2.3.11. take measures to reduce the costs of the bank;*

*57-2.3.12. with the permission of the financial markets supervisory authority, attract to the management of the bank other persons, including managers and employees of the bank;*

*57-2.3.13. suspend distribution of profits and payment of dividends;*

*57-2.3.14. prepare and submit to the financial markets supervisory authority a draft of an action plan on a resolution of an insolvent bank;*

*57-2.3.15. perform work to implement the action plan for the resolution of the insolvent bank;*

*57-2.3.16. once a month submit to the financial markets supervisory authority a report on his activities and on the execution of the action plan for a resolution of an insolvent bank.*

*57-2.4. In order to improve the financial condition of the bank, rehabilitate the lost capital and liquidity, the temporary administrator also exercises the following powers:*

*57-2.4.1. in the preparation of the action plan on the resolution of the bank, sets the volume of assets and liabilities of the bank, prepares an updated balance sheet, reassesses the total capital and determines the bank's capital deficit;*

*57-2.4.2. increases the bank's capital:*

*57-2.4.2.1. in lieu of an increase in the share in the authorized capital, contributes in the authorized capital in the amount of the bank's missing capital, deposits held by the bank that belong to the shareholders of the bank with a predominant share of participation;*

*57-2.4.2.2. in lieu of an increase in the share in the authorized capital, contributes in the authorized capital subordinated debt from secondary capital, directly or indirectly provided to the bank by the shareholders of the bank with a predominant share of participation;*

*57-2.4.3. sells or pledges a share (part thereof) in the subsidiary legal entities established by the bank, the real estate and other assets in the ownership.*

### **Article 57-3. Measures to prevent deterioration of assets of an insolvent bank and possible losses**

*57-3.1. The temporary administrator must take measures to protect the property and documents of the bank. Within 30 calendar days from the date of appointment, the temporary administrator must conduct an inventory of the bank's assets and liabilities and prepare an updated balance sheet of the bank.*

*57-3.2. Within 45 calendar days from the date of appointment, the temporary administrator conducts an analysis of the circumstances that caused deterioration of the bank's financial condition, including an analysis of contracts, agreements concluded by the bank during the last 2 years, as well as conducted operations to identify the following circumstances*

*57-3.2.1. alienation or transfer to use of the bank's property on terms and at prices, significantly lower than market conditions and prices;*

*57-3.2.2. granting the benefits under credit agreements to the client, not applied in normal market conditions;*

*57-3.2.3. conclusion of credit and other contracts in order to acquire the assets of the bank;*

*57-3.2.4. conclusion by the bank of the granting of certain privileges to certain creditors and benefits of transactions in connection with payments or property;*

*57-3.2.5. conclusion of contracts with affiliated parties of the bank that violate the requirements of legislation or threaten the interests of depositors and creditors of the bank;*

*57-3.2.6. purchase of property, goods and services at prices significantly exceeding their real value, by the bank on the basis of concluded contracts;*

*57-3.2.7. overestimation of the value of property acting as collateral for loans.*

*57-3.3. The contracts provided for in Article 57-3.2 of this Law shall be deemed null and void. The temporary administrator takes measures established by law to recover the assets of the bank lost on the basis of the mentioned contracts, as well as to compensate the damage caused to the bank.*

*57-3.4. The decisions made by the temporary administrator in connection with the management of a bank within the framework of this Law may be appealed by the concerned persons in administrative order and in court.*

### **Article 57-4. Supervision of the temporary administrator activity**

*57-4.1. The financial markets supervisory authority controls the activities of the temporary administrator in the following order:*

*57-4.1.1. requires information about the activities of the temporary administrator and receives a report from him;*

*57-4.1.2. gives the temporary administrator recommendations and binding written instructions in connection with the management of the bank and the implementation of the action plan for the resolution of the bank;*

*57-4.1.3. decides on the extension of the appointment of the temporary administrator;*

*57-4.1.4. considers complaints filed by concerned parties on decisions taken by the temporary administrator in connection with the management of the bank under this Law.*

*57-4.2. The financial markets supervisory authority terminates the activities of the temporary administrator in the following cases:*

*57-4.2.1. at the end of the appointment of the temporary administrator;*

*57-4.2.2. in case of early termination of the activities of the temporary administrator in the cases provided for in Article 57-4.3 of this Law;*

*57-4.2.3. when forced to liquidate or declare insolvent the insolvent bank;*

*57-4.2.4. after the fulfillment of the action plan for the resolution of the insolvent bank.*

*57-4.3. If the fulfillment of the action plan for a resolution of an insolvent bank is not completed within the stipulated time period or measures related to the rehabilitation of solvency will not give results, the financial markets supervisory authority shall decide on early termination of the activities of the temporary administrator and cancellation of the bank's license.*

*57-4.4. After the termination of the activity, the temporary administrator prepares the final report within 30 days and submits it to the financial markets supervisory authority.*

## **Article 57-5. Action plan on the resolution of the insolvent bank**

*57-5.1. The financial markets supervisory authority must approve the measures for a resolution of an insolvent bank within 15 calendar days from the date of its submission to the temporary administrator. This period can be extended by the financial markets supervisory authority up to 15 calendar days.*

*57-5.2. The action plan is prepared by the temporary administrator with appropriate analysis and calculations based on the principle of calculating the minimum losses.*

*57-5.3. The action plan should reflect the appropriate measures to rehabilitate the bank's solvency or liquidation through one of the measures provided for in Article 57.6 of this Law and established on the basis of the results of the inventory of assets and liabilities of the insolvent bank and an assessment of the state of the bank's finances and assets.*

57-5.4. *The action plan, in particular, includes:*

57-5.4.1. *substantiation and comparative analysis of expenses for the selection of one of the measures specified in Article 57.6 of this Law as a measure of a resolution of an insolvent bank as the most profitable in terms of losses and expenses (rules and methodology for conducting such an analysis are established by the financial markets supervisory authority);*

57-5.4.2. *methods, procedure and conditions for regulating relations with participants in the process, depositors of the bank and other creditors during the resolution of the bank;*

57-5.4.3. *the auction terms for electing a bank-buyer and investor;*

57-5.4.4. *term of implementation of the action plan;*

57-5.4.5. *the estimated value of assets that can be sold at the time of bank liquidation.*

57-5.5. *After the action plan is approved by the financial markets supervisory authority, the temporary management of the bank and (or) liquidation of the bank is carried out on the basis of this plan. The financial markets supervisory authority may amend and supplement the action plan.*

## **Article 57-6. Transfer of assets and liabilities of an insolvent bank to a buyer bank**

57-6.1. *In accordance with the action plan, the temporary administrator must ensure, in accordance with the law, the transfer of assets and liabilities of the insolvent bank of the bank to the buyer. A buyer bank willing to accept assets and liabilities of an insolvent bank must be a healthy bank. In order to determine whether the buyer bank is a healthy bank, the financial condition of the buyer bank, the management system, the ability to perform its duties to depositors and creditors, the fulfillment of prudential requirements, as well as the risks that will create the transfer of assets in the banking system are assessed by the financial markets supervisory authority. The buyer bank that received the positive opinion of the financial markets supervisory authority as a result of the evaluation may participate in the auction provided for in Article 57-6.3 of this Law.*

57-6.2. *The temporary administrator shall prepare a register of assets and liabilities to be transferred. During the transfer of assets and liabilities, the temporary administrator in accordance with the order established by Article 82 of this Law must treat all creditors equally and in good faith.*

57-6.3. *The buyer bank is selected through an auction conducted in accordance with the rules established by the financial markets supervisory authority. The contract concluded with the bank chosen as a result of the auction should reflect the obligation of the said bank to accept the assets and liabilities of the insolvent bank.*

57-6.4. *Obligations of the insolvent bank are transferred on the basis of an agreement on transfer of debts concluded with the buyer bank in their balance value. For the conclusion of an agreement on*

*the transfer of debt, the consent of creditors, as well as the introduction of amendments and additions to the agreements concluded with creditors of the insolvent bank of the bank, is not required. The buyer bank receives all rights and obligations of the debtor in respect of creditors.*

*57-6.5. The assets of the insolvent bank are transferred on the basis of an agreement concluded with the buyer bank on the cession of the claim and transfer of rights to securities, taking as a basis the existing transactions and contracts related to securities. To conclude such a contract, the consent of the debtors is not required. The buyer bank receives all creditor's rights and obligations with respect to debtors, related to claims and rights to securities transferred to it. Additions and amendments to the agreements concluded between the respective debtors and the insolvent bank are not required.*

*57-6.6. The contracts specified in Articles 57-6.4 and 57-6.5 of this Law may be drawn up as one document (a mixed contract).*

*57-6.7. The temporary administrator informs debtors and creditors about the transfer of assets and liabilities of the insolvent bank to another bank within 5 days from the date of the conclusion of the relevant contracts.*

*57-6.8. On the day of completion of the transfer of assets and liabilities to the buyer bank, the financial markets supervisory authority shall take a decision to liquidate the bank license of the bank that has lost the bank's solvency and, in the case provided for in Article 59.1 of this Law, apply to the court.*

## **Article 57-7. Sale of an insolvent bank and merger into a healthy bank**

*57-7.1. The temporary administrator, in accordance with the action plan related to the bank resolution, sells the insolvent bank to the investor with confirmation of the court decision.*

*57-7.2. The investor must meet the requirements established by the financial markets supervisory authority.*

*57-7.3. Starting from the day of confirmation by the court decision of selling to the investor the insolvent bank under the plan of activities related to the resolution of the bank:*

*57-7.3.1. The temporary administrator receives the right to dispose of shares on behalf of the shareholders of the insolvent bank;*

*57-7.3.2. If the total capital of the insolvent bank is less than the authorized capital, the temporary administrator makes a decision to fix a new nominal value of the bank's shares and reduce the authorized capital of the bank in the appropriate amount. If the bank loses capital, the value of the authorized capital of the bank is reduced to 1 (one) manat;*

*57-7.3.3. Shareholders of the bank are prohibited from disposing of shares in any form, in particular, to privatize, encumber them or transfer them to trusted management. Information on such encumbrance of shares is entered in the register of*

*securities owners on the basis of a request from the financial markets supervisory authority.*

*57-7.4. The selling price of an insolvent bank is established by means of an auction conducted in accordance with the rules established by the financial markets supervisory authority. The results of the auction should allow to rehabilitate the solvency of the insolvent bank with the least expenses and losses. The temporary administrator sells an insolvent bank to an investor elected through an auction.*

*57-7.5. Sale of an insolvent bank to an investor is carried out on the basis of an agreement on the purchase of bank shares.*

*57-7.6. The procurement contract provides the following:*

*57-7.6.1. The investor's obligation to bring the insolvent bank in accordance with the prudential requirements established for banks within the prescribed time;*

*57-7.6.2. Terms of cancellation of the contract, if the investor can not fulfill the obligation to capitalize the bank and (or) rehabilitate the solvency, including the stabilization of banking operations.*

*57-7.7. The contract for the purchase of shares concluded between the temporary administrator and the investor is considered the basis for registration of the rights to shares in the name of the investor in the register of securities owners.*

*57-7.8. The merger of an insolvent bank into a healthy bank is carried out in the form of the sale of a bank in the manner provided for by the 57-7 article of this Law to the investor bank.*

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

*57-8.1. According to the action plan related to the resolution of the bank, the financial markets supervisory authority in order to fully or partially transfer the assets and obligations of one or several insolvent banks and temporarily manage them makes a decision to establish a bridge bank.*

*57-8.2. The financial markets supervisory authority is considered to be the founder of the bridge bank and its sole shareholder. The activity of the bridge bank is regulated by the rules approved by the financial markets supervisory authority. The standards established by the financial markets supervisory authority for other banks, as well as the requirement of the Central Bank for the storage of mandatory resources, applied to banks as a tool for the implementation of monetary policy does not apply to the bridge bank.*

*57-8.3. A special simplified procedure for establishment of a bridge bank, issuing and registering shares, issuing a banking license to a bridge bank is established by the financial markets supervisory authority.*

*57-8.4. Sale of the bridge-bank to the investor is carried out by means of an auction conducted in accordance with the rules established by the financial markets supervisory authority. The powers of*



*the bridge-bank management bodies are exercised by the temporary administrator and, before the sale to the investor, the bridge-bank is managed by the temporary administrator.*

*57-8.5. The initial selling price of the bridge-bank is fixed according to the methodology approved by the financial markets supervisory authority. The investor who offered the highest price for the purchase of the bridge-bank and assumed the obligation to bring the bridge-bank in compliance with the prudential requirements established for the banks within the established period or merger into one of the existing healthy banks is considered the winner of the auction.*

*57-8.6. When fulfilling obligations, the financial markets supervisory authority, in accordance with the order established by Article 82 of this Law, must treat all creditors equally and in good faith.*

*57-8.7. The bridge bank obtains all rights associated with the transferred assets (including rights related to pledge agreements) and accepts all rights and obligations of the debtor with respect to creditors of the insolvent bank on the transferred obligations without making additions and changes to previously concluded contracts.*

*57-8.8. Between the financial markets supervisory authority and the investor within 7 days from the date of submission to the investor of a written notice of the announcement of the winner of the auction, an agreement is concluded on the purchase of shares of the bridge bank. This contract is considered the basis for registration of rights to shares of bridge-bank in the register of securities owners in the name of the investor.*

*57-8.9. The procurement contract should reflect the investor's obligation to bring the bridge-bank in compliance with prudential requirements established for banks or merge into one of the existing healthy banks within the period stipulated in the contract, but not exceeding 3 months. The funds received from the sale of the bridge bank are sent to repay the claims of creditors of the insolvent bank.*

*57-8.10. In the event that the investor fulfills all the terms of the procurement contract, the bank loses its bridge-bank status. Three months after the loss of the bridge-banking status, the financial markets supervisory authority conducts an inspection in the bank to establish compliance with the standards set for banks.*

*57-8.11. Within 3 working days from the moment of loss of the status of the bridge bank, the financial markets supervisory authority decides to terminate the activities of the temporary administrator.*

*57-8.12. On the day of completion of the transfer of assets and liabilities of the insolvent bank of the bank, the bridge-banking supervisory authority takes a decision to liquidate the bank license of the insolvent bank and, in the case provided for in § 59.1 of this Law, applies to the court.*

*57-8.13. The financial markets supervisory authority should ensure the sale of the bridge bank to the investor within 6 months from the moment of its establishment. This term can be extended by decision of the financial markets supervisory authority for a period not exceeding 3 months. The financial markets supervisory authority monitors the activities of the bridge bank until the status of the bridge bank is lost.*

*57-8.14. If the bridge-bank is not sold within the period established by Article 57-8.13 of this Law, the financial markets supervisory authority shall take appropriate measures to liquidate the bridge-banking license and compulsory liquidation.*

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

*57-9.1. With respect to a systemically important bank, measures for financial rehabilitation with the involvement of public funds can be implemented.*

*57-9.2. Criteria for assessing the bank as a systemically important bank are established by the financial markets supervisory authority in consultation with the Central Bank and the relevant executive authority.*

*57-9.3. If an insolvent bank meets the criteria established by the financial markets supervisory authority with respect to a systemically important bank, the financial markets supervisory authority shall develop an action plan related to the financial rehabilitation of the bank.*

*57-9.4. The draft action plan is developed by the financial markets supervisory authority, with appropriate analyzes on the principle of allocating state funds to the health of the bank for the least amount and calculating the minimum losses.*

*57-9.5. The action plan should reflect measures to rehabilitate the solvency of the bank by any of the methods specified below, established by assessing the financial and property status of the bank on the basis of the results of the inventory of assets and obligations of the insolvent bank:*

*57-9.5.1. joining at least 75 percent of the shares of the insolvent bank to a bank owned by the state in accordance with the Civil Code of the Republic of Azerbaijan or the purchase in this way of a bank owned by the state;*

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

*57-9.5.3. acquisition by the state of less than 50 percent of the bank's shares, subject to the maintenance of the bank's management in the hands of the state with the consent of the bank's shareholders and the further sale of the state's shareholding to the bank's current shareholders or all of the bank's shares to another investor.*

*57-9.5.4. adoption of measures provided for in Article 57.6 of this Law for the purposes of the resolution of a systemically important bank.*

*57-9.6. The action plan includes, in particular, the justification of expenses and their comparative analysis for choosing one of the methods specified in Article 57-9.5 of this Law, which is the most effective in terms of losses and expenses as a measure to rehabilitate the solvency of an insolvent bank and indicates the amount of public funds required for the rehabilitation of the bank.*

*57-9.7. After the financial markets supervisory authority has developed the action plan, the amount of public funds required for the rehabilitation of the bank and the methods of payment are submitted to the relevant executive authority for approval. The action plan on the proposal of the relevant executive body is supplemented and (or) amended. After the action plan is submitted within 10 days, the relevant executive authority submits its reasoned conclusion concerning the plan. The financial markets supervisory authority after receiving the conclusion of the relevant executive authority within 3 days shall submit an action plan related to a systemically important insolvent bank together with a conclusion to the relevant executive authority for the adoption of an appropriate decision. If the relevant executive authority positively considers the proposal for the rehabilitation of the bank, decides on the financial rehabilitation of the bank and approves the corresponding action plan.*

*57-9.8. The purchase by the state of an insolvent systemically important bank is carried out by placing on the securities market of bonds issued secured by means of the state budget or state guarantee by the relevant executive authority. If the total capital of an insolvent systemically important bank is less than the authorized capital, a new nominal value of the bank's shares is established and the authorized capital is reduced in the appropriate volume. If the bank's capital is lost, the value of the authorized capital of the bank is reduced to 1 (one) manat and is purchased at the specified price.*

*57-9.9. The temporary administrator, appointed by the financial markets supervisory authority, carries out measures for the financial rehabilitation of the bank on the basis of an action plan approved by the relevant executive authority. The temporary administrator shall exercise the powers provided for by Articles 57-2 and 57-3 of this Law related to the rehabilitation of the solvency of an insolvent systemically important bank.*

*57-9.10. If within 3 months after the approval of the action plan related to the rehabilitation of the solvency of the insolvent bank, the application of one of the methods provided for in Articles 57-9.5.1-57-9.5.3 of this Law is not possible, the financial markets supervisory authority shall take measures under the resolution of the bank, in accordance with the procedure provided for in Article 57.6 of this Law.*

### **Article 57-10. Payment of damage incurred to the bank and return of funds paid for the rehabilitation of the bank's solvency**

*57-10.1. When implementing the rehabilitation of the solvency of a systemically important bank, rehabilitated under the conditions provided for in Article 57-9 of this Law, the bank's administrators and shareholders having a significant share of participation must pay damages to the bank within the period stipulated in Article 57-9 of this Law, established by the temporary administrator.*

*57-10.2. Damage caused to the bank as a result of the following illegal actions of bank administrators and shareholders having a significant share of participation should be paid:*

*57-10.2.1. sale, donation, misappropriation or embezzlement of the main assets of the bank;*

*57-10.2.2. the provision of fixed assets of the bank against a pledge or encumbering the bank's assets in another form;*

*57-10.2.3. the issuance of loans to persons who are clearly not solvent;*

*57-10.2.4. opening of deposit accounts in the country or abroad and provision of funds on these accounts on pledge as collateral;*

*57-10.2.5. payment of bonuses and dividends to shareholders or bank administrators in case of unprofitable work of the bank or in a volume disproportionate to the bank's income;*

*57-10.2.6. conclusion of contracts that caused deterioration of the bank's solvency, as provided for in Article 57-3.2 of this Law;*

*57-10.2.7. misappropriation or embezzlement of the bank's property in order to secure tangible and intangible property benefits of any kind for themselves, persons belonging to the bank or other persons in another form and rights to the said property.*

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

*57-10.4. The temporary administrator, on the basis of the prepared act, sends a notification to the persons who caused damage to the bank about the payment of damage voluntarily and establishes the time for payment of the damage. If the persons who caused the damage to the bank do not pay the damage in a voluntary manner within the prescribed period, the temporary administrator applies to the court to pay damages in a compulsory manner.*

*57-10.5. The temporary administrator, within the framework of establishing damage to the bank, may request information from shareholders, bank administrators, persons related to the bank about money or other property in their possession and ownership, income received during the last two years, dividends and bonuses received from the bank. The financial markets supervisory authority may request information from state bodies, offices, enterprises and organizations about funds or other property owned and owned by the said persons, incomes received during the last two years.*

*57-10.6. If it is established that the bankruptcy of the bank or the loss of solvency occurred as a result of illegal decisions of bank administrators, other actions and inaction and they do not have solvency for the specified obligations, the court on the basis of the request of the temporary administrator can, in accordance with the Law of the Azerbaijan Republic "On Insolvency and Bankruptcy" declare these persons bankrupt within the damage inflicted on the bank. If these illegal actions are carried out in order to obtain profit by the shareholders of the bank, the court can take the same decision with regard to those who have received as a result of these illegal actions.*

*57-10.7. The provisions of Article 57-10 of this Law also apply to the resolution of insolvent banks, carried out by the temporary administrator in accordance with Article 57 of this Law.*

## **CHAPTER VIII-I. VOLUNTARY RESTRUCTURING OF THE BANK'S OBLIGATIONS**

## **57-11. Voluntary restructuring of the bank's obligations**

*57-11.1. Obligations of a bank to its creditors, except for obligations of bank to its insured depositors, can be voluntarily restructured in accordance with the procedure provided for in this Law.*

*57-11.2. If due to absence or lack of funds or impossibility of use of funds for any reason a bank is not able or likely to be not able to comply with demand (demands) of its creditors, under the decision of the Supervisory Board the bank may commence the process of the voluntary restructuring of the bank's obligations. A copy of the decision of the Supervisory Board on the voluntary restructuring of the bank's obligations shall be submitted to the financial market supervisory authority not later than the first business day following the date of the resolution of the Supervisory Board.*

*57-11.3. Within 10 calendar days from the date of adoption of the resolution of the Supervisory Board on the voluntary restructuring of the bank's obligations, the financial market supervisory authority shall enter into a written agreement with the bank on the matter of the voluntary restructuring of the bank's obligations. This period can be extended up to 10 calendar days upon the decision of the financial market supervisory authority.*

*57-11.4. Within 10 calendar days from the date of the written agreement of the financial market supervisory authority and the bank on matter of the voluntary restructuring of the bank's obligations, the bank shall prepare and submit a written draft of the restructuring plan for the review of the financial market supervisory authority.*

*57-11.5. Where the financial market supervisory authority establishes any suggestions on the draft of the restructuring plan submitted to the financial market supervisory authority, the financial market supervisory authority shall submit a written notice to the bank and shall require the bank to make additions and/or amendments to the draft of the restructuring plan. Upon the bank making additions and/or amendments to the draft of the restructuring plan, the bank shall re-submit the written draft of the restructuring plan to the financial market supervisory authority. If the financial market supervisory authority is in agreement with the draft of the restructuring plan, the financial market supervisory authority shall submit a written notice to that effect to the bank.*

*57-11.6. Upon the date of receipt of the written notice of the financial market supervisory authority on agreement with the restructuring plan, the bank shall in accordance with the procedure stipulated by the civil procedure legislation apply to the court for the commencement of the voluntary restructuring of the bank's obligations within period specified in the written notice of the financial market supervisory authority. Upon the court decision on commencement of the restructuring (hereinafter referred to as the «court decision on the voluntary restructuring of the bank's obligations») becoming effective and for the period of time of implementation of the voluntary restructuring of the bank's obligations in accordance with the restructuring plan, but not exceeding 180 days, limitations referred to in Article 57-11.8 and 57-11.21 of this Law shall apply to the bank. This term may be extended ~~for the period of not more than 90 days in total~~ by the court upon the mutual request of the bank and financial market supervisory authority. Extension for each application can not exceed 180 days. The number of such extensions is not limited.*

*57-11.7 Within 7 calendar days from the date when the court takes a decision on the voluntary restructuring of the bank's obligations, the bank shall publish a notice of the voluntary restructuring of the bank's obligations in at least two periodicals of mass information circulated through the entire territory of the Republic of Azerbaijan or one internationally recognized publication, as well as on its official Internet site and that notice shall contain the right of all creditors whose obligations are included into the restructuring plan to acquire copies of the court decision on the voluntary restructuring of the bank's obligations and of the restructuring plan from the court or the legal address of the bank.*

*57-11.8. Referring to Article 57-11.6 of this Law, following the date when the court decision on the voluntary restructuring of the bank's obligations comes into effect, the bank would be entitled:*

*57-11.8.1. to suspend fulfillment of sale and purchase, exchange, gift agreements or any other agreements providing for the disposal of any assets of the bank, to suspend entering into agreements creating any risks for the bank, including, loan, credit, guarantee agreements or agreements providing any kind of financing;*

*57-11.8.2. to suspend performance of obligations included into the restructuring plan of the bank as approved by the court.*

*57-11.9. For the purpose of receiving the consent of creditors whose obligations are included into the restructuring plan, the bank shall convene a meeting of creditors whose claims the bank proposes to restructure. Within the period till the meeting of creditors, in case there is a change in the restructuring plan which has been approved pursuant to the Article 57-11.5 of this Law, the restructuring plan shall be submitted to the financial market supervisory authority for review at least 30 calendar days before the meeting of creditors.*

*57-11.10. Within 10 calendar days the financial market supervisory authority shall consider the restructuring plan submitted to the financial market supervisory authority in accordance with Article 57-11.9 of this Law, and where the financial market supervisory authority has comments, shall in writing require the bank to eliminate such discrepancies. The bank shall take into account comments of the financial market supervisory authority with respect to the restructuring plan, shall make the relevant amendments and shall re-submit the plan to the financial market supervisory authority. The bank shall publish a notice within 10 working days about the restructuring plan approved by the financial market supervisory authority in at least two periodicals of mass information circulated through the entire territory of the Republic of Azerbaijan or one internationally recognized publication, as well as on its official website and that notice shall contain the availability of all creditors whose obligations are included into the restructuring plan to acquire a copy of the restructuring plan from the legal address of the bank.*

*57-11.11. Creditors whose claims the bank proposes to restructure may attend the meeting by themselves or their authorized representatives. For the approval of the restructuring plan by creditors whose obligations are included into the restructuring plan, creditors holding at least 2/3 of which the bank proposes to restructure further to the restructuring plan shall provide their consent for the restructuring.*

*57-11.12. Following the approval of the restructuring plan in accordance with Article 57-11.11 of this Law, the bank shall, within 1 business day, submit the written restructuring plan to the financial market supervisory authority or, if the restructuring plan is not approved in accordance with the*

*procedure specified in Article 57-11.11 of this Law, the bank shall submit to the financial market supervisory authority a written information that the restructuring of obligations of the bank in accordance with Article 57-11.11 of this Law is not possible. Where the restructuring plan is not approved in accordance with the procedure referred to in Article 57-11.11 of this Law, the voluntary restructuring of the bank's obligations shall be considered to fail. Subject to the approval of the restructuring plan by creditors further to the Article 57-11.11 of this Law, voluntary restructuring of the bank's obligations shall be carried out in relation to all obligations which the bank owes to creditors and which the bank proposes to restructure further to the restructuring plan.*

*57-11.13. Following the review of the financial market supervisory authority for the restructuring plan, the bank shall in accordance with the procedure stipulated by the civil procedure legislation apply to the court for the approval of the restructuring plan.*

*57-11.14. Since the entry into force of the court decision to approve the plan for voluntary restructuring of the bank's obligations and during the validity of the restructuring plan:*

*57-11.14.1. execution started against the bank on any relevant execution document for obligations, the restructuring of which is provided, shall be suspended;*

*57-11.14.2. execution of claims of creditors whose obligations are provided for restructuring against the bank arising from these obligations shall be suspended.*

*57-11.15. Restructuring plan of the bank shall contain the following information at least:*

*57-11.15.1. objective, procedure and period of restructuring;*

*57-11.15.2. list of obligations to be subject to restructuring;*

*57-11.15.3. list of measures to be undertaken within the framework of restructuring;*

*57-11.15.4. limitations to apply to the activities of the bank.*

*57-11.16. Where the bank in restructuring is a member of any bank holding company, the restructuring plan shall refer to factors which may have an impact upon subsidiary banks of the bank holding company.*

*57-11.17. Voluntary restructuring of the bank's obligations shall terminate in the following cases:*

*57-11.17.1. a court issues a decision on termination of the voluntary restructuring of the bank's obligations pursuant to the Article 57-12 of this Law;*

*57-11.17.2. the financial market supervisory authority adopts a resolution on withdrawal of the banking license and mandatory liquidation of the bank whose obligations are proposed for the restructuring;*

*57-11.17.3. the Supervisory Board of the bank adopts a resolution on termination of the voluntary restructuring of the bank's obligations.*

*57-11.18. Where the voluntary restructuring of the bank's obligations terminates due to the full performance of the restructuring plan, obligations of the bank included into the restructuring plan shall be deemed to be duly performed.*

*57-11.19. Bank shall within 3 calendar days submit a notice of completion of the voluntary restructuring of the bank's obligations in accordance with the procedures and within the time specified in the restructuring plan, or shall within 10 calendar days from the date when a court decision on termination of the voluntary restructuring of the bank's obligations comes into effect, submit a copy of such court decision to the financial market supervisory authority and the creditors whose obligations have been included into the restructuring plan.*

*57-11.20. The financial market supervisory authority shall exercise control over the implementation of the restructuring plan by the bank.*

*57-11.21. Except for cases referred to in the restructuring plan, the bank shall not have the right to take a decision on participation in other legal entities or on increase of its share in other legal entities.*

## **Article 57-12. Termination of the voluntary restructuring of the bank's obligations**

*57-12.1 Decision on termination of the voluntary restructuring of the bank's obligations shall be passed by the court upon application of the financial market supervisory authority where there exists at least one of the following grounds:*

*57-12.1.1 expiration of the term of restructuring as provided for in the court decision on the voluntary restructuring of the bank's obligations;*

*57-12.1.2 implementation of all measures referred to in the restructuring plan;*

*57-12.1.3 cancellation of the voluntary restructuring of the bank's obligations at the decision of the financial market supervisory authority in the following cases:*

*57-12.1.3.1 there exist sufficient reasons to assume that the voluntary restructuring of the bank's obligations will not lead to the financial rehabilitation and improvement of operations of the bank;*

*57-12.1.3.2 creditors do not consent to the voluntary restructuring of the bank's obligations in accordance with the procedure outlined in Article 57-11.11 of this Law;*

*57-12.1.3.3 the bank fails to implement all of the measures referred to in the restructuring plan;*



57-12.1.3.4 *the bank fails to implement orders or other written instructions of the financial market supervisory authority during the period of implementation of the voluntary restructuring of the bank's obligations.*

57-12.2 *Implementation of all measures as per the restructuring plan shall terminate all court and/or arbitration decisions issued in relation to obligations which have been proposed to restructure following the date when the court decision on the voluntary restructuring of the bank's obligations comes into force as well as execution of such court and/or arbitration decisions.*

## **Chapter IX. Liquidation of Banks**

### **Article 58. Voluntary liquidation**

58.1. On the basis of the decision of general meeting of shareholders in accordance with Article 17 of this Law, upon the cancellation of the bank license by *the financial markets supervisory authority*, shareholders of the bank shall implement the voluntary liquidation of the bank.

58.2. Voluntary liquidation of the bank is implemented in accordance with procedures, stipulated under the Civil Code of the Republic of Azerbaijan *subject to the requirements of this Law*. In this case the bank shall submit to *the financial markets supervisory authority* requested documents and information and fore clarification of rising issues, upon the written request of *the financial markets supervisory authority* create conditions for access to facilities by its authorized representatives and for the work on accounting books and records of the bank in connection with its liquidation.

58.3. *The financial markets supervisory authority*, upon establishment that liquidation commission did not provide the liquidation of the bank in accordance with procedures stipulated under the legislation, and that bank did not comply with Article 58.2 of this Law, may adopt relevant measures for forced liquidation of the bank in accordance with procedures of this Law.

### **Article 59. Forced liquidation**

59.1. *The financial markets supervisory authority* applies to court with request on forced liquidation of the bank, with exception of banks voluntarily liquidated or announced insolvent, license of which is liquidated for other reasons, stipulated under Article 16 of this Law and appointment of liquidator (liquidators).

~~Incumbent of liquidator (liquidators) is proposed to the court by *the financial markets supervisory authority*. Persons related to bank, as well creditors and debtors of the bank (with exception of *the financial markets supervisory authority*) can not be appointed liquidators.~~

59.2. Court shall review the application of *the financial markets supervisory authority* for forced liquidation of the bank and appointment of liquidator no later than within 7 calendar

days and makes the appropriate decisions. Non-participation of the bank in the court does not prevent from review of application.

*The court appoints the Fund as a liquidator by its decision on compulsory liquidation of the bank. The court's decision on compulsory liquidation of the bank shall be sent to the financial markets supervisory authority and the Fund not later than on the day following its approval. The Fund may assign the functions of the liquidator to legal entities or individuals on the basis of a contract. The Fund is directly responsible for the liquidation of the bank with the least expenditure and consideration of the rights and legal interests of all creditors and the assignment of the functions of the liquidator to other persons does not release the Fund from this responsibility. The amount of services or wages of legal entities and individuals attracted by the Fund as a liquidator is established in agreement with the financial markets supervisory authority. The estimate of costs associated with the liquidation of the bank is approved by the financial markets supervisory authority on the basis of the submission of the Fund every three months.*

*The liquidator involved by the Fund on the basis of the contract must meet the requirements of civil faultlessness provided by this Law. Persons, shareholders having a relationship with a compulsorily liquidated bank, as well as creditors and debtors of the bank, can not be involved in the bank's liquidation process. If such circumstances are revealed after the involvement of the liquidator, their activities are terminated by the decision of the Fund and a new liquidator is appointed to the bank.*

59.3. Decision of the court on forced liquidation of the bank to be liquidated and appointment of liquidators from the date of adoption shall be sent for execution immediately, and appealing against this decision in accordance with the *Administrative Procedure Code of the Republic of Azerbaijan* does not stop its execution. Information on initiation of the liquidation process of the bank and appointment of liquidator shall be published immediately by liquidator in mass media, and appropriate notification shall be sent by him to the Supervisory Board and Management Board.

59.4. Court decision on forced liquidation of the bank and appointment of liquidator may be appealed in the court by the bank shareholders or Supervisory Board in accordance with procedures of the *Administrative Procedure Code of the Republic of Azerbaijan*. Copy of the claim is sent to *the financial markets supervisory authority*.

Court decision on forced liquidation shall remain in force until the use of all protection measures and does not interrupt the authorities of liquidator for implementation of liquidation activities.

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

59.5.1. all authorities on bank's management, including the authorities of the general meeting of shareholders shall be transferred to liquidator (*in case the temporary administrator is appointed to the bank, the powers of the temporary administrator are terminated by the financial markets supervisory authority from the moment the court makes a decision on compulsory liquidation of the bank*);

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

58.5.3. for the purposes of bank asset preservation and execution of court decisions, all arrest applied on assets shall lose their legal force;

59.5.4. with exception of bank liabilities paid within the amount of mortgage, remaining assets shall be protected from arrest or disposal.

*59.6. From the moment of appointment of the liquidator, the bank's management bodies (in case of appointment of the temporary administrator, the temporary administrator) hand over the seals, stamps, all property, accounting books and other documents of the bank to the liquidator on the basis of the acceptance certificate. If the liquidator appointed to the bank is replaced by another, the acceptance and delivery procedure is carried out in the same manner. The acceptance-delivery report shall be approved by a decision of the court that issued a decision on the compulsory liquidation of the bank. Decisions and directions adopted by the liquidator are compulsory for employees of the compulsory liquidated bank.*

59.7. All costs associated with liquidation of the bank, are compensated at the expense of bank assets. Wages of liquidator (liquidators) by the proposal of *the financial markets supervisory authority* are determined by the court. These costs are compensated out of turn.

59.8. Forced liquidation of the bank is implemented in accordance with procedure determined under the Civil Code of the Republic of Azerbaijan *subject to the requirements of this Law*. Intermediate liquidation balance, report on implementation of liquidation activities and liabilities, as well as the liquidation balance of forced liquidated bank shall be approved by the court. Terms of submission of relevant reporting are determined by the court.

59.9. By the decision of court the liquidator may implement one or several operations, stipulated under Article 74 of this Law.

59.10. Within the period of forced liquidation of the bank, liquidator reports on his activities to *the financial markets supervisory authority* in accordance with form and within the term determined by him, as well as submits documentation and information requested by the *the financial markets supervisory authority*.

~~In the event of establishment of non-appropriate implementation by liquidator of its functions, by the request of *the financial markets supervisory authority* the court may replace the liquidator with other.~~

59.11. If liquidator during implementation of activities on forced liquidation will determine the existence of basis, indicated in Article 61 of this Law, he shall apply to *the financial markets supervisory authority* with motivated start of bankruptcy procedures against bank.

## **Chapter X. Bankruptcy of banks**

## **Article 60. Regulation of procedures on insolvency and bankruptcy of banks**

60.1. Law of the Republic of Azerbaijan «[On insolvency and bankruptcy](#)» and any other laws, which are completely or partially contradict this law, shall not be applied to banks.

60.2. Banks may be announced insolvent only in accordance with procedure, determined under this Law, by the decision of court. Out of court procedure on announcement of bank insolvency is illegal.

## **Article 61. Basis for start of bankruptcy procedures**

61.1. Bankruptcy procedures on banks may start one or several of following basis:

61.1.1. if it is established by *the financial markets supervisory authority* that accumulated capital is less than 25 percent of the minimum size of accumulated capital, determined for banks, or 3 percent of the adequacy rate of accumulated capital;

61.1.2. if bank is incapable to implement its financial liabilities, at the due date (*except for the period of restructuring from the moment of entering a written agreement between the bank and the financial markets supervisory authority concerning issues of voluntary restructuring of the bank's obligations under Article 57-11 of this Law*);

61.1.3. if upon the submission of creditor claims the bank is not capable to cover financial liabilities with due date (*except for the period of restructuring from the moment of entering a written agreement between the bank and the financial markets supervisory authority concerning issues of voluntary restructuring of the bank's obligations under Article 57-11 of this Law*).

## **Article 62. Application for the initiation of bankruptcy procedure**

62.1. Application on initiation of the bankruptcy procedure shall be reviewed by the court in following events:

62.1.1. in the event of submission of application by *the financial markets supervisory authority* along with decision on cancellation of banking license and financial report, verifying the existence of basis indicated in Article 61 of this Law;

62.1.2. in the event of application submission by creditors along with other documents, verifying the requirement of creditors in accordance with Article 62.2 of this Law.

62.2. if in accordance with Article 61.1.3 of this Law the bank did not fulfill its liabilities, one or several creditors can apply to *the financial markets supervisory authority*. *The financial markets supervisory authority* shall review the application within 5 calendar days from the day of obtaining, and if it establishes the fact of non-execution of its duties by the

bank, it shall make the decision on transfer to the court of application on cancellation of banking license and initiation of bankruptcy procedures. *The financial markets supervisory authority* shall submit the application to the court within 3 calendar days from the date of decision. If the fact of non-execution of liabilities is not established, *the financial markets supervisory authority* sends the motivated rejection to creditors. Rejection by *the financial markets supervisory authority* of application of creditors shall not prevent them from submission of relevant applications to the court.

62.3. Application, upon its submission by *the financial markets supervisory authority* immediately becomes the moratorium. Due to moratorium no creditor without the permit of court can not take measures, requiring the compensation of debts or transfer of bank's property for compensation of debt or provision of arrest of mortgage, or to continue or start the procedure, related with raising of claims against bank.

### **Article 63. Appointment of temporary administrator**

63.1. *The financial markets supervisory authority* upon submission by the bank creditors in accordance with Article 61.1.3 of this Law to *the financial markets supervisory authority* of application on initiation of bankruptcy procedure on bank, shall appoint the temporary administrator of the bank in accordance with procedures of Article 57 of this Law. Temporary administrator in accordance with Article 57-2 of this Law shall immediately accept the bank management.

~~63.2. In the event stipulated under Article 63.1 of this Law, for appointment of temporary administrator are not applicable provisions of Article 52.6 of this Law.~~

### **Article 64. Court proceeding**

64.1. Upon acceptance of the application for initiation of bankruptcy procedures the court invites *the financial markets supervisory authority*, all other applicants and bank itself, and if application is submitted by *the financial markets supervisory authority*, also temporary administrator of the bank to participate in the application review proceedings. Court proceedings shall start within 48 hours from the moment of submission of application.

64.2. Court proceedings shall be completed within 7 calendar days from the date of provision of application. Court rejects or satisfies the application on the basis of court review proceedings..

### **Article 65. Basis for rejection of application**

65.1. Application on startup of bankruptcy procedures shall be rejected by court in following events:

65.1.1. if application does not correspond with requirements of Article 62.1 of this Law;

65.1.2. if *the financial markets supervisory authority* protested against the application in accordance with Article 65.2 of this Law;

65.1.3. if any document submitted to the court for explanation of application or other evidence will be false or incorrect and if this application or other application without documentary support does not comply with provisions of this Law;

65.1.4. if the application submitted by creditors is not grounded;

65.1.5. if satisfactory evidences are demonstrated to the court and *the financial markets supervisory authority* on reinstatement of capital at the amount which terminated the basis shown in Article 61.1 of this Law.

65.2. If application on announcement of bank insolvency was submitted by bank's creditors, *the financial markets supervisory authority* may protest against application in following cases:

65.2.1. if *the financial markets supervisory authority* established absence of basis for initiation of bank bankruptcy. Court may require from *the financial markets supervisory authority* to demonstrate evidences verifying its conclusions, including the financial report of the bank, approved by *the financial markets supervisory authority*;

65.2.2. if in accordance with Article 57-9.7 of this Law, the decision of relevant executive authority on financial improvement is submitted to the court.

### **Article 66. Rejection of ungrounded application submitted by bank's creditors**

66.1. If bank creditors have submitted the ungrounded application on initiation of bankruptcy procedure against bank, court may at any time reject this application, on the basis, specified in Article 65.1.4 of this Law, in writing with or without proceedings. *In the case of rejection of the application* the court *imposes* the obligation on the applicants to compensate for costs and losses, incurred by the bank and/or *the financial markets supervisory authority* as a result of application submission.

66.2. Person found guilty in the submission of ungrounded application for initiation of bankruptcy procedure shall bear liability in accordance with administrative legislation of the Republic of Azerbaijan.

### **Article 67. Forced liquidation of the bank announced insolvent**

If the application on the start of bankruptcy procedure on the bank, submitted by the *the financial markets supervisory authority*, rejected for the reasons other than those indicated in Articles 65.1.3—65.1.5 of this Law, the forced liquidation of the bank is performed in accordance with Article 59 of this Law.

### **Article 68. Decision on insolvency announcement of the bank**

Bank is announced insolvent in accordance with court decision on satisfaction of application on the start of bankruptcy procedure and liquidator (liquidators) are appointed to the bank.

Decision of the court on insolvency announcement of the bank shall be sent immediately for execution and from this moment the bank bankruptcy procedure is started.

### **Article 69. Submission and publication of the decision on insolvency announcement of the bank**

Liquidator immediately after the insolvency announcement of the bank submits this decision to the bank and three times with frequency of 7 calendar days publishes the decision in the mass media.

### **Article 70. Appeal**

70.1. Shareholders or Supervisory Board of the bank, as well as *the financial markets supervisory authority* may appeal the court decision on insolvency announcement of the bank in accordance with procedures stipulated under the *Administrative Procedure Code of the Republic of Azerbaijan*. Court decision on insolvency announcement of the bank shall remain in force until all protective measures are applied.

70.2. Appeal of court decision by the bank shall not stop the actions of liquidator on implementation of his duties within the bank bankruptcy procedure implementation.

70.3. Appeal of the bank decision by *the financial markets supervisory authority* stops the actions of liquidator on sales and transfer of bank assets until the resolution of dispute in the court.

### **Article 71. Liquidator**

71.1. *The court appoints the Fund as a liquidator by its decision to declare the bank bankrupt. The court's decision on compulsory liquidation of the bank is sent to the financial markets supervisory authority and the Fund not later than on the day following its approval. The Fund may assign the functions of the liquidator to legal entities or individuals on the basis of a contract. The Fund is directly responsible for the liquidation of the bank with the least expenditure and consideration of the rights and legal interests of all creditors and the assignment of the functions of the liquidator to other persons does not release the Fund from this responsibility. The amount of services or wages of legal entities and individuals attracted by the Fund as a liquidator is established in agreement with the financial markets supervisory authority. The estimate of costs associated with the liquidation of the bank is approved by the financial markets supervisory authority on the basis of the submission of the Fund every three months. The liquidator involved by the Fund on the basis of the contract must meet the requirements of civil faultlessness provided by this Law. Persons, shareholders having a relationship with a compulsorily liquidated bank, as well as creditors and debtors of the bank, can not be involved in the bank's liquidation process. If such circumstances are revealed after the involvement of the liquidator, their activities are terminated by the decision of the Fund and a new liquidator is appointed to the bank.*

71.2. Salary (*service payment*) of liquidator and incurred costs related to bank liquidation process shall be compensated at the expense of bank assets, and missing part shall be compensated by *the Fund (with right of recourse)*.

71.3. Liquidator appointed to the bank is the only legal representative of the bank and bank representative, as authorities of the general meeting of shareholders, as well as other management authorities of the bank shall be transferred to the bank. All claims raised against bank shall be submitted to liquidator.

71.4. Protocol on transfer of documentation and property of liquidated bank from administrators to liquidator shall be approved by the court.

Liquidator in cases required by the provisions of this Law, may at any time apply to court for receiving of instructions.

Liquidator acts under the control of court in close cooperation with *the financial markets supervisory authority*.

71.5. Liquidator when necessary may engage for the work in the bank announced insolvent, independent lawyers, accountants and other experts under conditions approved by court.

*71.6. Prior to making an entry in the state register of legal entities on liquidation of a bank that is in the process of liquidation pursuant to article 61.12 of the Civil Code of the Republic of Azerbaijan, the liquidator must submit bank statistical reports to the financial markets supervisory authority and the Central Bank.*

*71.7. In accordance with Articles 59.2 and 71.1 of this Law, since its appointment the liquidator carries out the following powers:*

*71.7.1. exercises all powers to manage the bank, including the authority of the general meeting of shareholders of the bank;*

*71.7.2. takes measures to protect the property and documents of the bank, draws up an interim balance sheet, and also manages the bank's assets;*

*71.7.3. draws up a register of the bank's obligations to depositors and takes measures in accordance with the law to pay compensation;*

*71.7.4. registers the claims of creditors and takes measures for their payment;*

*71.7.5. takes measures to recover the debts that exist with the bank;*

*71.7.6. terminates labor contracts concluded with bank employees at any time;*

*71.7.7. takes measures to terminate the contracts concluded by the bank in accordance with the procedure established by Article 79 of this Law;*

*71.7.8. if provided for in the action plan, sells and transfers assets and obligations of the bank;*

*71.7.9. carries out restructuring of loans issued by the bank (extension of the loan payment period, reduction or cancellation of interest, writing-off of bad debts);*



*71.7.10. considers the circumstances that led to the compulsory liquidation of the bank, appeals to the appropriate authorities to bring to justice those suspected of the occurrence of such circumstances and solicits in court on behalf of the bank.*

~~71.8. Person replacing the auditor, in all cases of replacement of liquidator by other persons, accepts the authorities of liquidator, accounting books and reporting documentation under the delivery and acceptance documentation and banking assets controlled by the liquidator, as well as accounting documentation and liquidator reporting, prepared within the bank liquidation process. Delivery acceptance protocol shall be approved by the court.~~

## **Article 71-1. Control of the financial markets supervisory authority over the activity of the liquidator**

*71-1.1. The financial markets supervisory authority exercises control over the liquidator during all of its activities.*

*71-1.2. The financial markets supervisory authority is entitled:*

*71-1.2.1. request information about the activities of the liquidator;*

*71-1.2.2. receive a report from the liquidator;*

*71-1.2.3. give recommendations and binding written orders related to the implementation of the current activities of the liquidator;*

*71-1.2.4. inspect the activities of the liquidator;*

*71-1.2.5. consider complaints of interested parties on decisions taken by the liquidator under this Law related to the management of the bank.*

*71-1.3. During the bankruptcy of the bank, the liquidator reports on its activities to the financial markets supervisory authority in the form and terms established by the said authority, including documents and information required by the financial markets supervisory authority.*

## **Article 72. Results of bank insolvency announcement**

72.1. From the moment of enforcement of the decision on bank insolvency announcement:

72.1.1. have the legal force only actions of liquidator or his authorized representative on behalf of bank;

72.1.2. stopped by court decisions all claim proceedings to the bank;

72.1.3. no other claims are proceeded by court against the bank and all claims against the bank are raised only within the bankruptcy procedures, stipulated under this Law;

72.1.4. shall lose legal force in cases stipulated under the legislation all arrests applied to assets;

72.1.5. stopped the execution of documents transferred into bank assets, with exception of execution the debts on assets guaranteed by mortgage, in accordance with Article 81 of this Law;

72.1.6. stopped calculation of interests and other payments on bank liabilities. During this the calculation of interests and other payment on bank assets is continued.

72.2. Upon the enforcement of the decision on insolvency announcement of the bank, transfer of bank shares by the liquidator to other persons shall be *implemented* only by the court decision in accordance with Article 74 of this Law.

### **Article 73. Finalization of settlements in payment systems**

73.1. Independent of provisions of Article 72.1 of this Law:

73.1.1. payment orders on payments included in the payment systems and recognized as irrevocable under the rules of these systems, including payments on securities, in the event of decision for insolvency announcement of the bank shall remain in legal force and are obligatory for third parties, provided, that payment orders are irrevocable until the enforcement of this decision;

73.1.2. transfers specified in Article 73.1.1 of this Law, shall not have any legal force and are not obligatory for third parties, provided that liquidator may evidence that system operator is informed on making of decision on announcement of bank insolvency before these payment orders were made irrevocable in accordance with rules of applied system.

73.2. Any legislative act or instruction, canceling or postponing the agreement and deal, made before the enforcement of decision on announcement of bank insolvent, cannot cancel the results of clearing, implemented from funds of payment systems.

### **Article 74. Transfer and sale of bank shares, assets and liabilities**

74.1. For the purposes of increase of interests in banking system and banking value for creditors, with application of *the financial markets supervisory authority*, court may adopt the decision, for bank liquidator to implement one or several operations under provisions recommended by *the financial markets supervisory authority* and approved by the court, for provision of following:

74.1.1. complete or partial transfer of charter capital of the bank and/or;

74.1.2. sales or transfer completely or partially bank assets and liabilities together.

74.2. Banks upon its insolvency announcement and before liquidation may apply at any time and receive permit for implementation of operations in accordance with Article 74.1 of this

Law. Application on this, submitted to the court, is reviewed within one week and appropriate decision is made.

74.3. For implementation of operation, for which the permit was received in accordance with Article 74.1 of this Law, consent of bank shareholders or any of its management authorities is not required. Transfer of liabilities enters into force for all relevant parties since the day following the date of publication of relevant information in mass media.

74.4. For sales of bank assets in regular order within the bank bankruptcy procedures the bank decision is not required.

### **Article 75. Report on property status**

75.1. Bank liquidator within 30 calendar days from the date of bank decision on insolvency announcement of the bank shall submit to the court the report on property status. The report shall include:

75.1.1. bank assets, including bank requirements on unpaid banking shares, awarded credits, including the liabilities on guarantees and mortgages, non-executed sales and purchasing contracts, as well as the balance value and estimated sale (market) value of assets;

75.1.2. contracts, which let the other persons to own the property of the bank, including rent, leasing and mortgage contracts;

75.1.3. contracts on provision of services to the bank;

75.1.4. deals entered with the bank within 90 calendar days before the making of decision on insolvency announcement of the bank, and within 1 year for persons related to bank.

75.1.5. information on determined facts on deliberate set up of conditions for creation of bank insolvency situation by the bank, hiding, destruction of the property or property liabilities, as well as information on them and other illegal actions.

75.2. The report is made on quarterly basis, General information shall be *submitted* for information of bank creditors, requirements of which are included to the list of verified requirements, developed in accordance with Article 77 of this Law.

### **Article 76. Registration of requirements**

76.1. Requirements to insolvent bank, with exception of cases stipulated under Articles 77.1 and 77.2 of this Law, shall be registered in writing by the liquidator within the period of 60 calendar days from the date of first publication in the mass media on information on court decision on insolvency announcement of the bank. Court may extend this term for all creditors only once for the period of 30 calendar days. By creditor enquiry they shall be issued with the receipt on registration of requirements.

76.2. For registration of requirements, creditors submit documents, which verify the legal basis of their requirements, as well as the following information:

76.2.1. creditor name and address;

76.2.2. amounts of interests and other payments, included to the principle amount of requirements;

76.2.3. information on mortgage or guarantee on requirements.

76.3. Court decision on insolvency announcement of the bank shall stop the duration of statute of limitation on requirements for deposits, reflected in accounting and reporting documentation. Statute of limitation on all remaining requirements shall be stopped upon registration of these requirements. Statute of limitation on all remaining requirements shall be started again at the date of inclusion of these requirements to the distribution schedule in accordance with Article 87 of this Law.

### ***Article 77. Acceptance of requirements***

77.1. With exception of requirements related to deposits, reflected in accounting and reporting documentation of the bank, shall be registered only requirements accepted in accordance with Article 76 of this Law. Requirements related to deposits shall be accepted to extend of amounts reflected in the accounting documentation.

77.2. With exception of requirements raised for lower amount, than those reflected by the bank, requirements reflected in the accounting and reporting documentation of the bank, shall be accepted in the amount reflected in documentation. Requirements raised in lower amount shall be accepted as represented.

77.3. Bank creditors, whose requirements were satisfied by the mortgage of bank assets, may register their requirements at the amount of difference between the required amount and potential sales price of assets on public sales. Each requirement, registered in such form, is not executed until the end of sales or sales of assets in other form in accordance with Article 81 of this Law.

77.4. Requirements, amount of which is not established, may be accepted by liquidator estimated value.

77.5. Upon clarification of registered requirements the liquidator includes accepted requirements into the list of accepted requirements, and rejected requirements into the list of rejected requirements with indication of grounds for rejection. Requirements registered with partial rejection, shall be included into both lists of accepted and rejected requirements. In each of two lists shall be indicated the name and address of the enquirer, amount of requirements and evidences for satisfaction of raised requirements. Requirements included into the lists, shall be distributed by categories and allocated in the order of satisfaction.

77.6. Each list is developed within 30 days from the date of completion of the registration due date of requirements and submitted to court for approval. After this the liquidator shall

on quarterly basis renewed lists to court for approval. Before the approval of these lists, court by the approval by liquidator may transfer requirements from one list to other. Court may determine, which evidences are required for approval of rejected requirements.

77.7. Court, no later than within 60 calendar days from the date of submission of the list of rejected requirements for clarification purposes sets the date for implementation of hearings. Creditors, requirements of which are rejected, may during these hearings submit to liquidator and to court evidences verifying their requirements. Date for each hearing is sent to creditors by mail and information published by liquidator in mass media. Notification on start of hearings on identical requirements for more than one time shall not be sent to same creditor. Upon completion of hearings the court adopts the decision on approval or rejection of requirements. If the creditor did not participate for the non-valid excuse at the hearing to which he was invited in accordance with *the Civil Procedure Code of the Republic of Azerbaijan*, his requirements are rejected. For creditors, requirements of which are rejected, shall be sent the notification by liquidator.

77.8. Requirements approved by the court shall be mandatory, these requirements are excluded from the list of accepted or rejected requirements and are included into the list of approved requirements. This list is retained by the court and liquidator. To creditors, requirements of which are approved by court, written notification shall be issued by the liquidator.

77.9. Liquidator does not implement any payment for requirements rejected by court. Creditor whose requirement was rejected by court may submit appeal on the decision of court within two weeks from the date of obtaining of notification on this decision. Such appeals shall be reviewed no later than within 7 days from the date of submission of appeal to court, and relevant decision is made. Submission of appeal does not cancel the validity of court decision on rejection of requirement.

77.10. For the purposes of maintenance of bank confidentiality, specified lists are not provided for information of creditors.

## ***Article 78. Balance reckoning and deduction***

78.1. In the event of compliance with requirements of Article 82 of this Law between reckoning of liabilities may be performed between the insolvent bank and its creditors.

78.2. If liquidator has established bank debts, obtained illegally before the decision of court on initiation of bankruptcy procedures, the reckoning of debts and requirements, which are received by bank upon making of decision and liabilities established is not allowed.

## ***Article 79. Termination of existing contracts***

79.1. Liquidator at any time may one-sidedly terminate all existing contracts of insolvent bank on deliveries of goods and services, including the contracts on sales, rent, leasing, and financed purchasing. At this the bank creditor may apply claim on compensation of its losses due to contract termination to the court, which made the decision on bank insolvency.

79.2. Liquidator at any time in accordance with procedures of *the Labour Code of the Republic of Azerbaijan* may terminate employment contracts, made between the bank and bank employees.

### **Article 80. Resolution of disputes via negotiations**

Bank liquidator upon obtaining of preliminary consent of the court for regulation of requirements may enter into negotiations with any creditor or debtor of the bank. Results of such regulation cannot be appealed or protested.

### **Article 81. Requirements guaranteed by mortgage**

81.1. All assets, providing the mortgage for approved requirements of creditors to bank and mortgages on own requirements of the bank, shall be sold by liquidator on open market, with exception of following events:

81.1.1. purchasing by liquidator of securities, foreign currencies and other assets, which can be sold on market within shortest terms, at the market trading such assets, is allowed;

81.1.2. purchasing by creditors of securities, foreign currencies and other assets, which can be sold on market within shortest terms, at the market trading such assets, is allowed;

*81.1-1. Sale of assets specified in Article 81.1 of this Law, by public auction shall be held not later than 30 days from the date of entry into force of a court decision declaring the bank bankrupt.*

81.2. If liquidator establishes that it can not sell assets, stipulated under the Article 81.1 of this Law, on open trades at profitable price, court may permit to sell such assets by other means at the price established by the court.

81.3. Assets not specified in Article 81.2 of this Law, upon the enquiry of liquidator shall be transferred by creditor for disposal by liquidator.

81.4. Approved requirements of creditors in the order of execution shall be compensated from funds, received from sales of mortgage. If approved requirement of creditors is not compensated completely, the unpaid amount is compensated in order, specified in Article 82 of this Law as non-guaranteed requirement of the creditor.

### **Article 82. Order of payments**

82.1. Assets of the bank, announced insolvent, shall be distributed between its creditors at in the following order:

~~82.1.1. requirement for deposit by individuals of the amount of up to 10 million manats, with exception of deposits of individuals in the form of bond securities;~~

82.1.2. requirement as per right of regress of the *Contributions Insurance Fund*;

82.1.3. all costs and expenditure, incurred by the temporary administrator and liquidator in relation with implementation of bankruptcy procedures, including their wages, stipulated for the implementation of bank liquidation activities;

82.1.4. requirements of bank employees in connection with injuries and mortalities incurred during business hours;

82.1.5. requirements of bank employees and former bank employees on payment of ~~pensions~~, allowances, wages, which shall be paid for no more than six months period before the date of court decision on insolvency announcement of the bank;

82.1.6. bank liabilities in connection with services of temporary administrator and procedures on improvement of financial standing;

82.1.7. taxes on mandatory payments to the budget for the period of no more than one year before the date of court decision on insolvency announcement of the bank and amount payable *to the extra-budgetary state fund for compulsory state social insurance contributions and unemployment insurance contributions, as well as to the fund of compulsory health insurance for compulsory health insurance premiums*;

82.1.8. non-guaranteed requirements of creditors;

82.2. Residual funds are paid to bank shareholders pro-rata to their participation in accordance with procedures of legislation.

### **Article 83. Liquidation plant**

83.1. Liquidator no later than within 120 calendar days from the date of bank decision on insolvency announcement of bank shall apply to court for approval of the developed detailed plan on bank liquidation:

83.1.1. current financial report, indicting bank assets and liabilities with their possible liquidation value, forecasted financial report over three months period following the current date. In the liabilities column of the balance shall be indicated the requirements accepted from creditors, including rejected requirements;

83.1.2. quarterly report on future and forecasted profits and expenditures of the bank;

83.1.3. report on executed works for sales of main assets and other assets of the bank as well as sale plans;

83.1.4. report on court and out of court actions, directed at coverage of bank requirements, including the actions on cancellation of illegal contracts and transfers, as well as rights, obtained as a result of such contracts and transfers;

83.1.5. report on illegal actions of bank administrators and actions directed for obtaining of compensation to the favor of bank;

83.1.6. report on extension of validity or partial termination of existing contracts, such as insurance contracts, employment and service orders, including the detailed analysis of the financial provisions to bank employees;

83.1.7. report on liabilities of the bank and schedule of stipulated payments to bank creditors within the following quarter;

83.1.8. report on incurred and future costs and expenditures for liquidation.

83.2. Liquidation plan is renewed on quarterly basis. Liquidation plan upon approval by court shall be *submitted* for information, with exception of information containing the banking confidentiality, to creditors of the bank, include into the list of approved requirements, prepared in accordance with Article 77 of this Law.

#### **Article 84. Improvement of financial standing of insolvent banks**

Insolvent bank may be completely or partially subjected to the procedure on improvement of financial standing, with exception of cases stipulated under Article 57-9 of this Law.

#### **Article 85. Unacceptability of lawsuit agreements with creditors**

Execution of lawsuit agreements or other contracts by and between the bank and creditors, directed at reinstatement of banking activity is not allowed.

#### **Article 86. General meeting and committee of creditors**

86.1. General meeting of creditors in connection with liquidation of insolvent bank may be implemented in cases, if court by the enquiry of liquidator, supported by *the financial markets supervisory authority*, will make the decision on necessity for implementation of such meeting for efficient liquidation of the bank.

86.2. Creditors' Committee on issues related to liquidation of insolvent bank may be established only in cases, if court by the enquiry of liquidator, supported by *the financial markets supervisory authority*, will make the decision on necessity for establishment of such committee for representation and protection of significant interests of creditor groups.

86.3. In the court decision allowing the establishment of the general meeting of creditors and committee of creditors, shall be defined the scope of responsibilities and authorities of the meeting of committee.

#### **Article 87. Satisfaction of requirements**

87.1. In accordance with Article 82 of this Law, approved requirements shall be distributed by categories and included into the distribution schedule, classified in accordance with order of payment. Requirements for each category are satisfied only upon the complete satisfaction



of requirements of previous group. If there are no sufficient funds for satisfaction of requirements within the group, payments shall be distributed in percentages, pro-rata to requirements.

87.2. Schedule of payments to bank creditors, whose requirements are approved and included into the distribution schedule, shall be submitted to court by liquidator for approval.

87.3. Schedule of payments, approved by court is final and shall not be subject to appeal.

87.4. Upon the approval of the payment schedule by court, liquidator shall immediately execute the payments, included in the schedule. Unpaid amounts for payment to creditors, payment amounts of which are included into the schedules of payments, in the event of impossibility of contact with such creditors shall be deposited to special account in the *Central Bank*. Liquidator upon publishing of information in mass media proposes to these creditors apply for obtaining of these funds. Funds deposited under this procedures may be received by specified creditors on these requirements or their heirs before the expiry of claim term under these requirements. Upon the expiry of claim term, unpaid amounts are transferred to the state budget.

## **Article 88. Bankruptcy procedure of the local branch of foreign bank**

88.1. Bankruptcy procedure of the local branch of foreign bank may be started in the event of existence of one of following circumstances:

88.1.1. in the event of establishment of one of conditions specified in Article 61 of this Law;

88.1.2. in the event of initiation of bankruptcy procedures against the foreign bank in the country of its residence. In this event the procedure is initiated by the application of *the financial markets supervisory authority*.

88.2. For the purposes of provisions of this chapter, any branch of foreign bank, including assets and liabilities, received as a result of its activities in the Republic of Azerbaijan, or including also assets and liabilities established by any other means, shall be considered the subsidiary bank of the foreign bank, provided that independent of this, foreign bank shall be completely responsible for liabilities of local branch.

88.3. From moment of presentation of court decision on initiation of bankruptcy procedures against the local branch of foreign bank, all operations, implemented by the local branch of foreign bank in the Republic of Azerbaijan shall be seized. At this with preliminary written consent of the liquidator appointed to the branch the exclusion of these activities shall be organized.

88.4. On local branch of foreign bank announced insolvent, Article 78 of this Law shall be applied only in the event of reckoning or reduction of balance from liabilities occurred as a result of foreign bank operations in the Republic of Azerbaijan, or at any was related to these operations.

88.5. In the event of initiation of bankruptcy procedures on foreign bank, which has the branch in the Republic of Azerbaijan, for compensation of liabilities occurred as a result of banking operations on the territory of the Republic of Azerbaijan, in the first place shall be used assets of local branch.

88.6. Insolvency procedure initiated on the local branch of foreign bank in the Republic of Azerbaijan for compensation of branch creditor claims shall not prevent the application of foreign assets of the bank for compensation of such claims.

### **Article 89. Insolvency of the Central Bank**

89.1. For provision of equal use by local and foreign creditors of shares of insolvent bank, acting via the network of branches in more than one country:

89.1.1. if local insolvent bank has branches and representations in other country, *the financial markets supervisory authority* cooperates to the required extent with bank regulatory authorities of this country;

89.1.2. if creditor of local insolvent bank partially was satisfied for his requirements to the bank branch in other country, the uncompensated balance on creditor requirements may be presented to the bank announced insolvent;

89.1.3. is determined to which extent the decision on bank on insolvency announcement of the bank, made abroad and measures taken abroad for security and improvement of financial standing of the foreign bank influence their branched in the Republic of Azerbaijan;

89.1.4. if foreign bank is in liquidation process in the country of residence and *the financial markets supervisory authority* deems the transfer or pass of assets acceptable from the points of view of interests of creditors of local branches of foreign bank located in the Republic of Azerbaijan, *the financial markets supervisory authority* applies to the court for making of decision on transfer or pass of such assets to the liquidator in foreign country.

### **Article 90. Participation of foreign bank in court proceedings in connection with insolvency**

First instance court, which reviews the case on insolvency announcement of the bank or in connection with bank announced insolvent, shall receive the opinion on *the financial markets supervisory authority* on this issue in accordance with Civil Procedure Code of the Republic of Azerbaijan.

### **Article 91. Completion of bankruptcy procedures**

91.1. Upon the completion of bank liquidation and submission to court of relevant report, liquidator by the court decision shall be released from his duties. In the same court decision shall be taken the resolution on transfer of accounting and other documentation to the State Archive in accordance with procedures of legislation.

91.2. In the event of payment to bank creditors or depositing to the *Central Bank* in accordance with procedures of Article 87.4 of this Law, of funds obtained from sells of bank assets, the bankruptcy procedure of the bank by the court decision is considered completed.

91.3. Court decision on completion of bank bankruptcy procedure shall be sent by court to *the financial markets supervisory authority* and state registration authorities, as well as to be published in the mass media. Liquidated bank is extracted from the state registry for legal entities.

## **Chapter XI. Transitional and final provisions**

### **Article 92. Protection from court claims**

*The Bank, members of the Board of Directors of the Central Bank and other officials, the financial markets supervisory authority and members of its Board of Directors and other officials, as well as temporary administrators and employees, specified in accordance with this Law during implementation of regulatory, control and liquidation functions stipulated under this Law shall not be liable for any losses incurred as a result any actions or lack of action, provided the absence of evidences that such actions or lack of actions resulted from illegal actions or negligence.*

### **Article 93. Transitional provisions**

93.1. Banks acting within year from the moment of enforcement of this Law provide the execution of following requirements:

93.1.1. banks acting in the form of limited liability companies shall be reorganized into the joint-stock companies in accordance with provisions of Article 19 of this Law;

93.1.2. participation of banks in other legal entities engaged in activities prohibited by the provisions of Article 33 of this Law shall be liquidated.

93.2. Local representations of foreign banks, registered before the enforcement of this Law, within one year shall be registered under central registry maintained by *the financial markets supervisory authority*, and shall submit the reporting documentation to *the financial markets supervisory authority* in accordance with Chapter V of this Law.

### **Article 94. Final provisions**

94.1. Along with cases directly indicated in this Law, Chapters IV, VI, VIII, VIII-I, IX, X of Law are also applicable to local branches of foreign banks.

94.2. This Law is entered into force from the date of publishing.

94.3. In connection with enforcement of this Law, Law of the Republic of Azerbaijan «[On Banks and Banking Activity](#)» from June 14, 1996 and resolution of Milli Mejlis of the

Republic of Azerbaijan «On Approval of Rules on Preservation of Banking Confidentiality» from January 19, 1995 shall be deemed invalid.

*President of the Republic of Azerbaijan*

*Ilham ALIYEV*

*City of Baku, January 16, 2004*

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