

BANKING LAW

The Parliament of Romania adopts this law

Chapter I - General Provisions

Section I - Field of Application

Art. 1- The banking activity is performed in Romania through the National Bank of Romania and banks.

By law, other legal persons may be authorised to carry out banking activities, on condition that the principles of this law be observed.

Art. 2- This law applies to banks which are Romanian legal persons, set up as commercial companies, as well as to the subsidiaries of banks in Romania, foreign legal persons.

The provisions of Chapter X of this law is also applicable to legal persons performing interbank funds transfers.

Section II - Definitions

Art. 3- In the understanding of this law, the terms and phrases used below shall have the following meanings:

a) "*The National Bank of Romania*" is the central bank of the Romanian State and has a legal personality; its competencies are those stipulated in the Law on the Statute of the National Bank of Romania and in this law;

b) "*bank*" means a legal person authorised to mainly carry out activities of accepting deposits and granting credits in its own name and account;

c) "*subsidiary*" means a legal person where another person or group of persons acting jointly, hold 50% or more of the voting right shares or a significant participation allowing them to exercise effective control over the management or policies of the subsidiary;

d) "*branch*" means an operational unit of a bank, without legal personality, directly performing all or some of the bank's activities, within the limits of the terms of reference granted by the bank;

e) "*affiliated to a bank*" means a branch of the respective bank or a commercial company for which the bank is a branch or a commercial company which, together with the respective bank, are subject to the joint control of another commercial company;

f) "*deposit*" means an amount of money entrusted under the following terms:

- to be totally reimbursed, with or without interest or any other facilities, upon demand or at a term agreed by the deponent and the depository;
- not to refer to property transfer, services supply or warranty granting;

g) "*credit*" means any commitment to pay an amount of money in exchange for the right to the reimbursement of the paid amount, as well as to the payment of an interest or other expenses related to this amount or any extension of the debt maturity and any commitment to acquire a title incorporating a claim or any other right to the payment of an amount of money.

With regard to the maturity, the credit can be:

- short-term credit, the reimbursement term of which shall not exceed 12 months;
- medium-term credit, the reimbursement term of which shall be between 1 and 5 years;
- long-term credit, the reimbursement term of which shall exceed 5 years.

h) "*bank managers*" are the persons, at least two in numbers, who, in accordance with the documents of association and/or the decisions of the bank's statutory bodies, are authorised to manage and co-ordinate the bank activity on a daily basis and are invested with the competence to engage the bank's responsibility. These are the president and vice-president (s) of the Board of Directors, in the case of banks which are Romanian legal persons, and managers empowered to legally engage in Romania foreign banks authorised to operate on Romanian territory through subsidiaries;

i) "*significant shareholder*" means a person who holds at least 5% of a bank's shares ;

j) "*person*" means the natural or legal person or any group of persons who act jointly and who constitute or not a legal person;

k) "*group of persons who act jointly*" means two or several persons who concluded an agreement with a view to obtaining or exercising voting rights in order to have a common policy in their relation to the bank.

An agreement is assumed to exist between:

- spouses, relatives and in-laws up to the second degree, inclusively, as well as between them and the companies under their effective control;
- a company, the president of the board of directors and the administrators of a company;
- a company and the companies over which it directly or indirectly exercises its effective control;
- companies placed under the effective control of the same person or persons;

l) "*company under effective control*" means a company in which a natural or legal person:

- holds at least 50% of the voting rights;
- is authorised to appoint or replace the majority of the members of the Board of Directors;
- may decide upon the management and the financial and banking policy on the basis of an agreement concluded with other shareholders or associates;

m) "*licence*" represents the document issued by the National Bank of Romania, which grants the right of carrying out the financial activities specified therein;

n) "*regulation*" means a legal document, issued for the implementation of this law and which is mandatory for all banks. This category includes: regulations, norms, circular letters and any other documents of a general nature issued by the National Bank of Romania;

o) "*order*" means an document issued by the National Bank of Romania for the implementation of this law or a regulation issued on the basis of this law and which is mandatory for one or several banks;

p) "*capital*" means the value of the net patrimony calculated as a difference between the total assets and the liabilities, indicated in the balance sheet, in accordance with the regulations of the National Bank of Romania. Upon bank set up, this represents the social capital.

r) "*own funds*" mean the own funds the calculation methodology and minimum level of which are established by the National bank of Romania;

s) "*credit documentation*" means the documentation which lies at the basis of an agreement concluded between a bank and another person for granting a credit and which includes at least the following:

- the current financial standing of the credit demander and of any of its warrantors, including the financial flows projections for the credit reimbursement and interest payment period;
- a description of the way the complete payment of the debt is guaranteed and, as the case may be, an evaluation of the goods set up as a warranty;
- a description of the credit granting terms, including the credit value, the interest rate, the reimbursement schedule and the debtor's objectives or purpose for which the credit was requested;
- the signatures of each of the persons who authorised the credit in the name of the bank;

t) "*remedy measures*" mean the measures for the elimination of the consequences of one/several of the facts provided for in Article 69 of this law and which may include:

- drawing up a plan for the increase of the own funds;
- setting up by the Board of Directors of the bank of committees for the supervision of the credit administration, management of assets and liabilities and internal control;

- suspending the administrators for a period not exceeding one year or their replacement ;
- replacement of the executive directors and auditors;
- improvement of the internal control measures;

u) “*unique debtor*” means any person or group of natural and/or legal persons to which the bank is exposed and which are economically connected among them in the sense that:

- one of the persons exercises, directly or indirectly, the power of control over the others;
- the cumulated level of the credits granted to them represents an unique credit risk for the bank, as the respective persons are connected to such an extent that, in the event that any of them has difficulties in reimbursing the credit, another one/others shall have similar difficulties. The following elements, without limitation, shall be taken into account for this type of persons:
 - they are the subsidiaries of the same person;
 - they have the same management;
 - they have crossed warranties;
 - they have a direct commercial interdependence, which cannot be substituted in a short term;

v) “*exposure*” means any commitment taken by a bank to a unique debtor, may it be effective or potential, emphasised by the balance sheet or outside it, including, without limitation the following:

- credits;
- discounted trade bills;
- investments in shares and other securities;
- endorsed trade bills;
- issued guarantees;
- opened or confirmed letters of credit.

x) “*bank prudential supervision*” means establishing banking prudence norms and indicators and monitoring their observance, with a view to preventing and limiting the banking risks and, thus, ensuring the stability and viability of the whole banking system.

Section III - Interdictions

Art. 4- It is forbidden to any person to carry out banking activities on the Romanian territory without a license granted by the National Bank of Romania.

Art. 5- It is forbidden to any person who does not have a license issued by the National Bank of Romania to use the word “bank” or derivatives of the word “bank” with regard to an activity, product or services, except for the case in which this use is established or recognised by law or by an international agreement, or when it results

without any doubt from the context in which the word “bank” is being used that it does not refer to banking activities.

Art. 6- It is forbidden to any foreign bank to directly engage in a financial activity in Romania, except for the case when the activity is carried out through a subsidiary set up as a bank, Romanian legal person, or a branch for which a licence has been issued by the National Bank of Romania.

Art. 7- It is forbidden to any person other than an authorised bank, or a company authorised in accordance with the law, to engage in deposit acceptance activities.

Chapter II - Activities Licensed to Banks

Art. 8- Banks which are Romanian legal persons and branches of foreign banks may perform the following activities, within the limits of the granted licence:

- a) deposits acceptance;
- b) credit contracting, which includes factoring and discounting of trade bills, including forfeiting;
- c) issuing and administration of payment and credit instruments;
- d) payments and settlement of accounts;
- e) financial leasing;
- f) fund transfers;
- g) issuing of securities and assuming engagements;
- h) transaction in their own name or in the clients' name with:
 - negotiable monetary instruments (cheques, bills of exchange, deposit certificates);
 - foreign exchange;
 - derived financial instruments;
 - precious metals and objects made of precious metals, precious stones;
 - securities;
- i) intermediation of securities investments and providing related services ;
- j) administration of the clients portfolios, in the clients name and risk;
- k) securities custody and administration;
- l) acting as depository for investment trusts;
- m) strong boxes renting;
- n) financial and banking consulting;
- o) mandate operations.

Banks may carry out the activities provided for by the legislation on securities and stock exchanges through distinct companies, specific to capital market, which shall operate under the regulation

and supervision of the National Securities Commission, with the exception of the activities which, according to this legislation, may be performed directly by the banks.

Financial leasing operations shall be performed by banks through distinct companies, set up for this purpose.

Chapter III - Bank Licensing

Art. 9- Banks which are Romanian legal persons may operate only on the basis of a licence issued by the National Bank of Romania. They are set up as joint stock companies based on the approval granted by the National Bank of Romania, observing the provisions of the law in force applicable to commercial companies.

The provisions of the above paragraph are also adequately applied in the case of subsidiaries of banks which are foreign legal persons.

Art. 10 - Foreign banks are compelled to notify the National Bank of Romania with regard to the opening of representative offices in Romania, in accordance with the regulations issued by the National Bank of Romania.

Representative offices of foreign banks in Romania shall limit their activity to information, liaison and representation deeds and shall not perform any of the operations subject to the provisions of this law.

Art. 11 - The licensing application shall be submitted to the National Bank of Romania in the forms established by the latter. The documentation which should accompany the application, the licensing terms and procedures shall be established by regulations of the National Bank of Romania.

The terms under which licences can be granted shall be regulated by the National Bank of Romania and shall refer, but not limit, to :

- a) qualification and professional expertise of the bank managers;
- b) minimum level of the subscribed share capital which has to be fully paid in cash at incorporation;
- c) bank feasibility study;
- d) bank significant shareholders and founders;
- e) shareholding structure;
- f) bank headquarters;
- g) the bank's independent auditor, according to the provisions of Art. 61.

Art. 12 - The National Bank of Romania can require an applicant to supply any additional information and documents if, in its opinion, the ones already supplied are incomplete or insufficient.

Art. 13 - In at most 4 months from receipt of the application, the National Bank of Romania shall approve the bank set up or shall reject the application and inform the applicant, in writing, about its decision, together with the reasons it was based upon, if the application was rejected.

In 2 months from the notification about the set up approval, with a view to obtaining the operation licence, the documents certifying the legal set up of the bank shall be submitted to the National Bank of Romania. In the case of banks being set up through public subscription, these documents may be submitted within 8 months.

The National Bank of Romania decides about licensing a bank to operate within at most 4 months from the date the documents provided for at paragraph 2 were received.

Art. 14 - The licensing application shall be rejected if:

- a) the submitted documentation is incomplete or is not drafted in accordance with the legal provisions in force;
- b) the submitted documentation is insufficient to determine whether:
 - the bank shall carry out an activity in keeping with this law;
 - the respectability, education level and professional expertise of the bank managers and the quality of the significant shareholders are not adequate for the fulfilment of the objectives indicated in the feasibility study and of the proposed financial and banking activities to be performed;
- c) the share capital is lower than the minimum level established by the National Bank of Romania;
- d) the proposed legal status differs from the one provided by Art. 9 of this law;
- e) after the evaluation of the feasibility study and/or of the annual reports of the foreign banks, as the case may be, it results that the bank cannot ensure the fulfilment of the proposed objectives under circumstances compatible with the proper functioning of the banking system and with the rules of a prudent banking practice, capable to ensure the clients' safety, or they do not correspond to the conditions on the market segment to be covered by the financial services provided by the bank;
- f) the managers, administrators or auditors are not sufficiently respectable, trained or professionally experienced for the

respective position, according to Art.25 of this law or they made the object of one of the measures stipulated at Art.69 or Art. 70;
g) the quality of the founders or of the significant shareholders does not correspond to the necessity to guarantee a sound and prudent bank management, for reasons of the following type:

- their financial power is not sufficient to avoid dependence on the distributed dividends or on other advantages they might obtain from a bank, in order to fulfil their financial obligations during the first 3 years of banking activity;
- the source of the funds used to obtain the participation is a domestic credit;
- judicial conviction;
- the legal persons who have the capacity of founder or significant shareholder have not been in function for at least three years;

h) prior to obtaining the set up approval, the founders made public notifications with regard to the bank incorporation or operation;

i) the provisions of the present law or the regulations passed for its application are not observed.

Art. 15 - The provisions of Art.11-14 are also adequately applied in the case of foreign banks branches, the licence application being submitted to the National Bank of Romania by the respective foreign bank.

Chapter IV - Licence Withdrawal

Art. 16 - The National Bank of Romania may withdraw the licence granted to a Romanian bank or subsidiary, to a subsidiary or branch of a foreign bank:

- upon the bank's request;
- as a sanction, in accordance with Art.69, paragraph 2, letter e);
- based on one of the following reasons:
 - a) the bank did not start performing the operations for which it was licensed within one year from licence granting, or it did not exercise the deposit acceptance activity for more than six months;
 - b) the licence was obtained based on misrepresentation or by any illegal means;
 - c) the shareholders decide to dissolve and to liquidate the bank;
 - d) a merger or a substantial sale of the bank's assets has been performed;

e) the competent authority in the country where the bank which established a subsidiary in Romania has its headquarters has withdrawn its banking activity licence;

f) the licence of the bank the subsidiary of which is functioning in Romania has been withdrawn.

Art. 17 - The decision of the National Bank of Romania to withdraw the licence shall be notified in writing to the respective bank, subsidiary or branch, together with the reasons which laid at the basis of the decision, and it shall be published in the Official Gazette (Monitorul Oficial al Rom`niei), Part I, as well as in two national scale publications.

The decision to withdraw the licence shall be effective as of the date of its publication in the “Monitorul Oficial al Rom`niei” or a future date to be specified in the respective decision.

Art. 18 - Commencing on the date of the coming into force of the decision to withdraw the licence, the respective bank, subsidiary or branch is forbidden to engage in any financial operation.

Chapter V - Bank Merger and Division

Art. 19 - In the event of bank merger or dividing, the legal provisions in force and the regulations of the National Bank of Romania shall be observed.

Art. 20 - The merger of the two or several banks or the division of one bank are decided upon by each bank, in accordance with its own statutes. Prior to starting its activity, the bank or banks resulted from a merger or a division are bound to obtain the licence from the National Bank of Romania.

Chapter VI - Bank Organisation and Management

Art. 21 - The bank organisation and management shall be established in the bank incorporation documents, in accordance with the commercial legislation and with the provisions of this law.

Art. 22 - In all its official papers, the bank shall be clearly identified by a minimum of data: the name under which the bank is recorded in the Trade Registrar, subscribed share capital, headquarters address, number and date of the registration in the Trade Registrar, number and date of registration in the Banking Registrar.

Art. 23 - The bank is bound only by the signature of at least two of its managers, with the competencies established by its own incorporation documents, or of at least two persons empowered by them, according to the bank's own regulations or to the regulations issued by the National Bank of Romania in this sense.

Art. 24 - Each bank shall have its own regulations, approved by the Board of Directors, which shall establish at least the following:

- a) the bank's organisation structure;
- b) the competencies of each of the bank's departments and the relations among them;
- c) the competencies of the branches and other secondary premises of the bank;
- d) the competencies of the risk committee, assets and liabilities administration committee, credit committee; set up of these committees is compulsory for the bank to carry out its activity;
- e) competencies and responsibility of the bank managers, executive directors, chiefs of the branches and of other secondary bank premises as well as of employees engaging in financial and banking operations on behalf of and for the account of the bank;
- f) the bank's internal audit system.

Art. 25 - The bank managers shall be Romanian residents, shall exercise exclusively the functions they have been appointed for and at least one of them shall be a Romanian citizen. They must be faculty graduates, to have worked for at least five years in the financial and banking field and not to have caused, by their activity, bankruptcy of a commercial company.

Persons appointed as bank managers shall be approved by the National Bank of Romania prior to starting to exercise their function.

The National Bank of Romania may also establish other regulations and ethical and professional norms related to the quality and activity of the bank staff.

Art. 26 - In the event that the bank's Board of Directors delegates part of its powers to a managing board, according to the law, all bank managers shall be part of this board.

In this case, the president of the board shall also preside the managing board.

Art. 27 - Administrators of a bank may be only natural persons, at most 11 in number. Their term of office cannot exceed 4 years and they may be re-elected.

In addition to the provisions of the legislation in force regarding administrators, a person cannot be elected as member of a bank's Board of Directors, and if he/she was elected, he/she loses his/her mandate, if:

a) he/she is an employee of the respective bank, with the exception of the bank managers;

b) he/she is an employee, an administrator or an auditor in another bank. Exception to this are employees and administrators of a bank in case they are elected administrators of a bank's branch;

c) he/she was withdrawn his/her approval by the National Bank of Romania, in accordance with Art.69 or was replaced, in accordance with Art. 70 of this law, following a remedy measure taken by the bank.

Art. 28 - May be appointed as bank auditors only natural persons who are qualified accountants or certified accountant, who graduated high education institutions, according to the law, have worked in the financial and banking field for at least five years, as well as audit companies authorised to perform this activity on the territory of Romania.

Persons who, in accordance with Art. 70 of this law, were replaced following a remedy measure taken by the bank during the last five years, cannot be bank auditors.

Chapter VII - Conflict of Interests

Art. 29 - The bank administrator shall notify the bank in writing about the nature and extent of his interest or material relation if he/she:

a) is a party in a contract concluded with the bank;

b) acts as administrator of a legal person which is a party in a contract concluded with the bank;

c) has a material interest or relation with a person who is a party in a contract concluded with the bank, with the exception of deposit contracts or valuables custody contracts.

Art. 30 - The obligation provided for at Art.29 devolves upon the administrator of a bank in the event that he was or should have been aware of the fact that such a contract was or is about to be concluded.

Art. 31 - The administrator of a bank is bound to submit in writing to the bank's Board of Directors, any time deemed necessary, but not less than once a year, a statement indicating the name and address of his/her associates and data regarding the administrator's and his/her family's material interests of a financial, commercial, agricultural, industrial or any other nature.

Art. 32 - An administrator who has a material interest or relation in the sense of Art. 29, 31 and 33 shall not participate in the debates regarding to the contract and shall abstain from voting on any issue related to the contract.

In order to constitute the quorum necessary for taking a decision on the respective contract, the administrator shall be considered as present.

Art. 33 - An interest is considered to be material in the sense of the provisions of Art. 29 and 31 , in the event that it refers to the possession, business or interests of the family (husband/wife, relative and in-laws up to the second degree) of the person who has the interest.

Art. 34 - In the event that an administrator does not declare a conflict of interests in conformity with the provisions of this chapter:

a) the bank, one of its shareholders or the National Bank of Romania can require the court to cancel the contract in which he/she has an undeclared material interest, according to the provisions of this chapter;

b) the National Bank of Romania can, according to Art.70 of this law, ask the bank to suspend the administrator for a period which shall not exceed one year or to replace the administrator.

Chapter VIII - Professional Secrecy

Art. 35 - The bank shall maintain the confidentiality of all its transactions and services, including the identity of the accounts holders.

Art. 36 - The staff of a bank subject to the provisions of this law is not entitled to use or disclose, neither during the term of service or after the term cessation, any of the facts or data which, in the event they became publicly known, might damage the interest or prestige of the bank or of any of its clients.

The above provisions also apply to persons who acquire information of the previously mentioned type from reports or any other bank documents.

Art. 37 - Any of the members of a bank's Board of Directors, as well as all of the persons who participate in the bank activity, are compelled to maintain the professional secrecy. Information on the amounts deposited and the transactions performed in the name of natural and legal persons shall be disclosed only to the holder or his legal representatives, and in criminal causes when criminal action was initiated against the holder, at the written request of the public prosecutor or of the court. The bank staff cannot use, in their own interest, information related to the bank, which they hold or became aware of in whatever way.

The provisions of paragraph 1 also apply to persons who obtain information of the type mentioned above from audit or supervising activity or from bank reports or documents.

Chapter IX - Operational Requirements

Section I - General Provisions

Art. 38 - In their activity, banks shall observe the regulations and orders issued by the National Bank of Romania with regard to the application of the monetary, credit, currency, payment, banking prudence ensurance and banking supervision policy.

Banks shall organise their activity in accordance with the rules of a prudent and sound banking practice and with the legal requirements.

Changes in the bank's situation are subject to approval by the National Bank of Romania, under the terms established by the latter, through regulations. Registration with the Trade Registrar of the respective modifications shall be performed only after obtaining this approval.

In the statutes of banks shall not be stipulated exceptions from the principle stating that a share provides the right to a single vote.

Shares issued by a bank may be only nominative.

Art. 39 - With a view to starting its operations, 30 days from the licence granting, each bank is obliged to open a current account with the National Bank of Romania, in accordance with the regulations issued by the latter. Money transfers performed by registrations in the current account opened with the National Bank of Romania are irrevocable and unconditional.

Banks can also open other accounts with the National Bank of Romania, under the terms established by the latter.

Section II - Capital Requirements

Art. 40 - Share capital of a bank must be paid fully and in cash, upon set up.

The minimum share capital is established by the National Bank of Romania.

Upon set up, the capital participation shall be deposited into an account bearing an interest at sight or at term, opened with a bank, Romanian legal person or a branch of a foreign bank licensed to operate on the Romanian territory. The capital account shall be blocked until the registration of the bank with the Trade Registrar.

Banks shall permanently maintain a minimum level of their share capital in cash, in accordance with the regulations issued by the National Bank of Romania.

Branches of foreign banks shall permanently maintain an initial capital at the level provided for in the rules of the National Bank of Romania as a minimum share capital of banks, Romanian legal persons.

Art. 41 - Banks may increase their share capital, both by subscription of new cash participation made in accordance with the laws in force, or by using the following sources:

a) issue or participation premiums and other capital related premiums, fully cashed after paying and covering the unredeemed expenses incurred for such operations, as well as reserves built based on such premiums;

b) dividends obtained from the net profit due to shareholders after payment of the dividend tax, in accordance with the law;

c) reserves obtained from exchange rate influences related to the appreciation of the foreign exchange deposits representing share capital in foreign exchange;

d) reserves formed based on the net profit, existing in the balance, according to the latest balance sheet.

e) favourable differences from patrimony re-evaluation shall be included in the reserves and used for the increase of the share capital.

Art. 42 - Any modification of the share capital of a bank shall be subject to the approval of the National Bank of Romania.

Art. 43 - Banks shall assign 20% of their gross profit for the formation of a reserve fund until the fund constituted in this way equals the share capital, then maximum 10 % until the fund becomes twice the value of the share capital. After reaching this level, the assignment of amounts for the reserve fund shall be made from the net profit.

Banks shall assign from their gross profit amounts meant for the formation of the general reserve for the credit risk within the limits of 2% of the granted credits balance.

Section III - Prudential Requirements

Art. 44 - When granting credits, banks shall make sure that the credit applicants be reliable as regards the credit reimbursement on maturity. For this purpose, banks shall require the credit applicants to secure their credits under the terms established by their credit granting norms.

Art. 45 - Banks shall observe the following prudential requirements in the event these are provided for in the regulations of the National Bank of Romania:

a) minimum solvency level, determined as a ratio between the level of their own funds and the total of the assets and elements outside the balance, weighted in keeping with their risk degree;

b) minimum exposure to an unique debtor, expressed in percentages, as a ratio between the total exposure value and the level of the bank's own funds;

c) maximum aggregate exposure, expressed in percentages, as a ratio between the total value of the large exposures and the level of the own funds;

d) minimum liquidity level, determined by the maturity of the bank's receivable and liabilities;

e) classification of the granted credits and related unpaid interests and formation of specific risk provisions;

f) currency position, expressed in percentages according to the own funds level;

g) administration of the bank's resources and investments;

h) expansion of the bank's branches and secondary premises.

Art. 46 - Banks Romanian legal persons may open branches and other secondary premises (agencies and others alike) on the Romanian territory, under the terms provided for by the rules of the National Bank of Romania.

The provisions of paragraph 1 are applicable, accordingly, to foreign banks branches.

Banks Romanian legal persons may open representative offices and branches or establish subsidiaries abroad, only with the prior approval of the National Bank of Romania, according to the rules issued by the latter.

Art. 47 - A bank may not make profit allocations for dividends if, following these allocations, the bank solvency shall have a level below the one provided for by the regulations of the National Bank of Romania.

Art. 48 - The total value of the long term investments of a bank in securities issued by a commercial company which is not engaged in one or more of the financial activities mentioned at art. 8 of this law, may not exceed:

a) 20% of the share capital of the respective company and

b) 10% of the bank's own funds.

The total value of the bank's long term investments in securities issued by such commercial companies may not exceed 50% of the bank's own funds.

Art. 49 - The total value of a bank's investments in securities, placed in its own name and account, may not exceed 100% of the bank's own funds, except for those placed in government bonds.

Art. 50 - Credits granted to persons who have special relations with the bank or to the bank staff, including their families, shall be allowed only under the terms established by the regulations issued by the National Bank of Romania.

Section IV - Significant Shareholders

Art. 51 - All persons who intend to acquire a participation of at least 5% of the bank's capital share or of the voting rights, shall obtain the previous approval of the National Bank of Romania, in accordance with the regulations issued by the latter.

Art. 52 - All significant shareholders who intend to increase their participation so as his share of the share capital reach or exceed levels representing multiples of 5%, shall obtain the previous approval of the National Bank of Romania.

Section V - Forbidden Transactions

Art. 53 - Banks may not perform the following transactions:

a) engage in personal or real estate transactions. Are excepted from this rule that kind of transactions which are necessary for carrying out the activities and for the use of the employees, as well as the transactions with personal and real estate acquired as a result of the execution of the bank's claims.

Personal and real estate acquired as a result of the forceful execution of claims, other than those necessary for carrying out the activities and for the use of the employees are to be sold by the bank within a year from the date they were acquired. In the case of real estate the deadline may be prolonged with the approval of the National Bank of Romania;

b) acquisition of own shares or their pledging against the bank's debts. From this rule is excepted the redemption of own shares with a view to decreasing the share capital, which is subject to a prior approval of the National Bank of Romania;

c) granting credits or providing other services to the clients, conditioned by selling or buying the bank's shares;

d) granting credits guaranteed with the shares issued by the banks;

e) accepting deposits, securities or other valuables when the bank is under cessation of payments;

f) engaging in the acceptance of deposits, if most of the deposits belong to the bank's employees. From this rule are excepted the

operations of the investment funds and other financial operations based on mutuality principle.

Section VI - Contract Documents, Registers and Records

Art. 54 - Each bank shall make and keep at its headquarters documents and records in Romanian, consisting in the following:

a) Contract of Association and Statutes, as well as all additional documents made for their amendment;

b) Shareholders' register, according to the law;

c) Minutes and Decisions of the Shareholders' General Assembly;

d) Minutes of the meetings and decisions of the Board of Directors;

e) Registers and accounting entries reflecting clearly and correctly the situation of the bank activity, the explanation of its transactions and financial situation, so as to allow the National Bank of Romania to determine whether the bank has observed the provisions of this law;

f) own regulations regarding the activity carrying out, as well as all amendments thereof;

g) other records required in accordance with this law or with the provisions of the regulations issued by the National Bank of Romania.

The documents provided for at letters a) and g) shall be submitted to the National bank of Romania and the documents representing the daily registration of the entries for each bank' client, characteristics of its transactions with that client or in his account and the balance owed to the client or by the client, are kept at the bank's headquarters or at the secondary premises.

Art. 55 - Each bank shall make and keep at its headquarters or at its secondary premises a copy of the adequate credit documentation and of all information related to its business relations with its clients and with other persons that the National Bank of Romania can provide for in its regulations and which shall be placed at the disposal of the authorised staff of the National Bank of Romania, upon request.

Art. 56 - All credit and guarantee operations performed by the banks shall be registered in the contracting documents so as to clearly reflect all terms and conditions related to the respective transactions. These documents shall be kept by the banks and placed at the disposal of the authorised staff of the National Bank of Romania, upon request.

Banking credit contracts as well as real and personal guarantees, built up with a view to guaranteeing the banking credit, are executory deeds.

From the date the credit contract is invested with executory force, interests shall be further calculated and recorded in the bank's

documents, outside the balance sheet, together with the respective credits.

Section VII - Accounts, Financial Statements and their Control

Art. 57 - Banks shall permanently keep accounts in compliance with the provisions of Accountancy Law and the specific regulations issued for its implementation and shall draw up adequate financial statements with a view to accurately reflect their financial operations and situation. The bank's accounts and financial statements shall also reflect the financial operations and condition of the bank branches, subsidiaries and secondary premises, on an individual and, as the case may be, on consolidated basis.

Art. 58 - The National Bank of Romania establishes the rules for the bank's balance sheet and book keeping, which must be previously approved by the Ministry of Finance.

Banks are bound to submit to the National Bank of Romania their financial statements consisting of elements of their balance sheet as well as other data required by the National Bank of Romania, at the terms and under the forms established through regulations.

Art. 59 - The bank's balance sheet shall not be accepted as having legal force by the competent authorities unless they are checked and signed by the bank auditors.

Art. 60 - The provisions of Art. 58 and Art. 59 also apply to branches of foreign banks; in such cases, the competencies of the auditors shall be fulfilled by qualified accountants, certified accountants who graduated high education institutions or audit companies authorised to perform this activity on the territory of Romania.

Foreign bank's branches draw up a balance sheet which includes both their activity and the activity of the subordinated secondary premises.

Art. 61 - Each bank shall appoint an independent auditor. Auditor to a bank may be appointed only an audit companies authorised under the law to perform this activity in Romania.

Independent auditors:

a) shall assist the bank in keeping the accounts in conformity with the accounting legislation in force in Romania and with the regulations issued by the National Bank of Romania;

b) shall draw up an annual report, together with their expert opinion, which shall indicate whether the financial statements accurately reflect the bank's condition;

c) shall check whether the practice and procedures of the internal audit and of the auditors are adequate and, in the event they

are found not to be correct, that shall make recommendation to the bank to remedy them;

d) shall inform the National Bank of Romania about any embezzlement done by an administrator or employee, which might result in significant losses for the bank.

Art. 62 - Each banks shall publish the balance sheet after its approval by the shareholders' General Assembly, together with the opinion of the independent auditors on these matters, under the form and terms established by the National Bank of Romania and the Ministry of Finance.

Chapter X - Fund Transfers

Art. 63 - Fund transfers are organised as part of the banking activity, with the purpose of finalising settlements and preventing the non-payment risk. Each bank is accountable for the legality and discipline of the fund transfers between its branches.

Licence for the legal fund transfer systems and the legal persons who are entitled to make inter-bank fund transfers shall be granted by the National Bank of Romania.

The representative means of payment and the fund transfer circuits are previously approved, for each bank, by the National Bank of Romania, with a view to protecting the consumers of such services and to encouraging efficient non-cash payments.

Art. 64 - With a view to strengthening the non-cash payment discipline and to reducing the banking activity costs, the National Bank of Romania may authorise, upon request, a legal person to act as inter-bank clearing house.

No collective arrangement for mutual compensations and inter-bank settlements performance in Romania may function without the prior authorisation of the National Bank of Romania.

Art. 65 - Besides settlements, the legal persons mentioned at Art. 64 may receive, upon request, the authorisation of the National Bank of Romania, to perform other fund administration services on a term of maximum one working day, as well as any other services which might contribute to the achievement of the purpose provided for in their incorporation documents and in their activity norms.

Chapter XI - Prudential Supervision of Banks

Art. 66 - The National Bank of Romania supervises the activity of the banks which are Romanian legal persons and of the branches of foreign banks based on banking prudence reports submitted in accordance with this law and with the regulations issued by the

National Bank of Romania for its application, as well as by inspections made:

- at headquarters of banks and of their secondary premises in Romania and abroad;
- at headquarters of foreign banks' branches and of their secondary premises.

Art. 67 - Inspections at bank's headquarters are made by employees of the National Bank of Romania, especially empowered for this purpose, or by independent auditors appointed by the National Bank of Romania.

In the case of subsidiaries and branches of foreign banks, the inspection teams may also include representatives of the supervising authorities from the country of origin of the foreign bank.

For the prudential supervision of Romanian banks which function abroad, the National Bank of Romania shall cooperate with the banking supervising authorities in the respective country.

Information regarding the foreign banks which operate in Romania may be supplied to the banking supervising authorities in the country of origin, only on a mutual basis.

Art. 68 - Banks are obliged to allow the employees of the National Bank of Romania and the independent auditors appointed according to Art.67 , who perform the inspection to examine their records, accounts and operations and to supply all documents and information related to the bank's internal control administration and operations, as they may request them.

Chapter XII - Remedy Measures and Sanctions

Art. 69 - *In the event that the National Bank of Romania finds that a bank and/or any of its administrators, executive managers or auditors are guilty of:*

a) infringement of one of the provisions of this law or of the regulations or orders issued by the National Bank of Romania for the application of this law;

b) infringement of any of the conditions or restrictions stipulated in the licence granted to the bank;

c) performance of fictitious and ungrounded operations;

d) failure to report, delayed reporting or reporting erroneous data concerning banking prudence indicators or other indicators provided for in the rules of the National bank of Romania;

e) non-observance of the measures established by the inspection acts or pursuant to them;

f) endangering the bank's credibility and viability by the inadequate administration of the funds entrusted to them.

The National Bank of Romania may apply the following sanctions:

- a) written warning to the bank;
- b) limitation of the bank's operations;
- c) fine applied to the bank amounting to between 0.1 - 1% of the share capital or to the administrators, executive managers and auditors, amounting to between 1 - 6 average bank salaries in the preceding month. The collected fines become revenue for the State budget;
- d) withdrawal of the approval granted to the bank's managers;
- e) withdrawal of the bank's licence.

Art. 70 - After the establishment of facts, the National Bank of Romania may take the following measures:

- a) conclude a written agreement with the bank's Board of Directors, which should include a remedy measures program;
- b) oblige the faulty bank to take measures for the remedy of the consequences of the found infringements;
- c) set up special supervising and administration measures, in accordance with the provisions of Chapter XIII .

Art. 71 - Establishment of the facts described in this chapter, which represent infringements of the banking discipline, shall be made by the employees of the National Bank of Romania specially empowered for this purpose by the persons mentioned at paragraph 2.

The documents implementing the measures and sanctions provided for in this chapter shall be issued by the governor or the vice-governors, in the cases provided for in the regulations issued by the National Bank of Romania to that effect.

Art. 72 - The application of the sanctions provided for at Art. 69 shall be prescribed within 2 years from the deed perpetration.

The application of the sanctions does not imply an exemption from civil, administrative or penal responsibility, as the case may be.

Art. 73 - The exercise of the voting right by the significant shareholders who did not obtain the approval of the National Bank of Romania in accordance with Section IV of Chapter IX shall be suspended.

The National Bank of Romania shall order the significant shareholders mentioned at paragraph 1 to sell, within three months, their shares held above the participation approved by the National Bank of Romania. After the expiration of this term, if the shares have not been sold, the National Bank of Romania shall order the bank to cancel the respective shares, to issue new shares bearing the same number and to sell them following that the price obtained from the sale be registered at the disposal of the initial acquirer, after the deduction of the expenses incurred by the sale.

Art. 74 - The infringement, by the natural persons, of the provisions of Section 3, Chapter I is considered an offence and shall be punished by imprisonment, between one month and two years, or fine.

Chapter XIII - Measures for Implementing Special Supervision and Special Administration of Banks

Art. 75 - The National Bank of Romania, in its capacity of bank prudential supervising authority, may decide to take measures to implement bank special supervision and special administration.

Section I-Measures for Implementing Special Supervision of Banks

Art. 76 - The Board of Directors of the National Bank of Romania may decide to take measures of implementing bank special supervision and special administration in the event of breach of law or of the prudential regulations issued by the National Bank of Romania, established pursuant to the performance of the bank supervising and/or review of the bank reports, as well as in the event of finding a bank's precarious financial situation. Special supervision shall be ensured through a commission set up for this purpose, consisting of 5 - 7 experts of the National Bank of Romania, of which one shall fulfil the function of president and another one the function of vice-president.

Art. 77 - The competencies of this Commission shall be established by the Board of Directors of the National Bank of Romania and shall mainly refer to:

- a) monitoring the way the bank management acts for establishing and implementing the measures necessary to remedy the deficiencies mentioned in the checking report drafted by the inspectors of the National Bank of Romania;
- b) endorsing the decisions of the bank's statutory bodies referring to the financial situation and the observance of the prudential regulations, as well as imposing the suspension or cancellation of such decisions;
- c) modification of the bank's own regulations;
- d) limitation and/or suspension of some banking activities and operations, for a given period of time;
- e) any other measures deemed necessary to remedy the bank's situation.

The special supervision commission does not substitute the bank management.

During the special supervision period the shareholders' General Assembly, the Board of Directors and the bank management may not

take measures contrary to the ones enforced by the special supervision commission.

The members of the special supervision commission have access to all bank's documents and registers and are obliged to maintain the banking secrecy.

Art . 78 - The special supervision commission shall submit periodical reports to the Board of Directors of the National Bank of Romania regarding the bank's situation.

In keeping with the conclusions resulted from these reports, the Board of Directors of the National Bank of Romania shall decide on the continuation of the special supervision, without exceeding 120 days from the establishment of the special supervision measure.

In the event that serious deficiencies are still found in the bank's activity, the Board of Directors of the National Bank of Romania may decide, on a case by case basis, to take special administration measures.

Section 2 - Special Administration Measures

Art. 79 - The bank's special administration measures may be ordered in the event that the National Bank of Romania finds or is notified about the following situations:

- a) the special supervision measures were not successful for a period of up to 120 days;
- b) there are certain data leading to the conclusion that the bank shall become insolvent during the following 90 days.

The value of the bank's assets and liabilities shall be calculated in conformity with the evaluation procedures provided for in the regulations of the National Bank of Romania.

In order to determine the value of a bank's assets and liabilities at a later date, the revenues and expenses anticipated for the bank shall be taken into consideration.

Art. 80 - The special administration activity is performed by a special administrator, established by the Board of Directors of the National Bank of Romania. The special administrator may also be a specialised legal person, incorporated according to the law.

Art. 81 - The special administrator shall integrally take over the competencies of the Board of Directors of the bank subject to the special administration regime.

For the duration of the special administration period, the shareholders' voting right as regards the appointment and revoking of administrators and right to receive dividends, the activity of the Board of Directors and of the auditors as well as the right of the administrators and auditors to receive salaries shall be suspended.

The special administrator immediately informs the bank's departments and secondary premises about the adoption of such measures.

The special administrator manages the bank establishing the best conditions for assets preservation and debts payment, in the interest of the depositors and of other creditors.

A notification regarding the establishment of the special administration measure shall be published in the "Monitorul Oficial al Romaniei" and in several national scale newspapers.

Art. 82 - Within 45 days from his appointment, the special administrator shall submit a written report to the Board of Directors of the National Bank of Romania regarding the bank's financial situation and the possibility to recover its situation with regard to its financial security and shall enclose documents referring to the evaluation of the bank's assets and liabilities, assets recovery situation, cost of assets preservation and debt liquidation situation.

Within 15 days from the receipt of the special administrator's report, the Board of Directors of the National Bank of Romania shall decide on the extension of the special administrator's activity for a limited period of time or shall withdraw his licence and shall notify the competent court to start the bank's liquidation proceedings.

The special administrator whose activity was extended shall periodically submit reports referring to the bank's financial situation.

In the event that the Board of Directors of the National Bank of Romania finds, based on the notification of the special administrator, that the bank is financially recovered and meets the prudential supervising requirements established by law and by the regulations of the National Bank of Romania, the special administration measures shall be ceased and the bank shall resume its activity under the control of its statutory bodies.

Chapter XIV - Dispute

Art. 83 - The documents issued for the application of this law may be disputed, within 15 days from their presentation to the Board of Directors of the National Bank of Romania, who may pass a decision, within 30 days.

The decisions of the Board of Directors may be appealed to the Supreme Court of Justice, within 15 days from its notification.

Chapter XV - Transitory Provisions

Art. 84 - Banks and branches of foreign banks which are licensed at the coming into force of this law, is deemed as holding a licence issued in accordance with the provisions of this law.

Art. 85 - Licensing applications not solved until the coming into force of this law and which are not in accordance with its provisions may be withdrawn and may be submitted again by the applicants, in accordance with the provisions of this law.

Art. 86 - As regards banks, Romanian legal persons and foreign banks branches whose organisation, administration, financial situation and operations are not in accordance with the requirements of this law or with the regulations passed for its application, the National Bank of Romania establishes, by regulations or orders, the period of time for their getting in line with the provisions of this law.

Chapter XVI- Final Provisions

Art. 87 - All licences issued and the ones in force shall be mentioned by the National Bank of Romania in a bank register, which shall be permanently accessible to the public.

Art. 88 - Banks may set up a professional association meant to represent their collective interests in their relations with the public authorities, to promote cooperation, to supply information to the members of the association and the public and to organise services of common interest. The bank's professional association shall cooperate with the National Bank of Romania.

Separately, or in the framework of the professional associations, banks will have the possibility to set up their own executors whose activity will be strictly connected to the enforcement of the writ of execution belonging to banks.

The statute of these executors will be approved through an order passed by the minister of justice.

Art. 89 - Through Government Decision and with the endorsement of the National Bank of Romania, banks may be permitted to finance small and medium-sized enterprises, restructuring, modernisation and privatisation of commercial companies as well as exports support and stimulation, infrastructure development and other works of public interest.

The amounts necessary to finance the activities mentioned at paragraph 1 may be ensured from public funds and by the respective banks through credit agreements concluded with Romanian or foreign financial institutions as well as resources obtained from the domestic or international capital market, which may be guaranteed by the Romanian State through the Ministry of Finance.

Banks carrying out financing activities according to the provisions of the above paragraphs are exempt, depending on the nature of the respective activities, from the payment of profit tax as well as from the distribution of dividends, the payment of dividends

and of the dividends tax, the respective amounts being used to increase their reserve fund.

Art. 90 - Institutions, other than banks licensed by law to carry out banking activities, are subject to authorisation, prudential supervision and regulations of the National Bank of Romania.

According to the provisions of the above paragraph, the legislation regarding the Savings Bank (Casa de Economii =i Consemna\iuni) and the legislation regarding the credit cooperatives shall be adapted accordingly.

Art. 91 - All regulations and orders issued by the National Bank of Romania for the implementation of this law shall be published in the "Monitorul Oficial al Rom`niei", Part I.

Art. 92 - This law enters into force within 30 days from the date of its publication in the "Monitorul Oficial al Rom`niei".

The law shall be completed with the provisions of the legislation applicable to commercial companies, to the extent that these do not infringe upon the provisions of this law.

Art. 93 - The National Bank of Romania shall issue regulations and orders for the implementation of this law within 180 days from the date of its coming into force.

Art. 94 - The following shall be abrogated on the date this law enters into force: Law No. 33/1991 regarding banking activity, published in the "Monitorul Oficial al Rom`niei", Part I, No. 70 of April 3, 1991; Law No. 36/1997 for the approval of Government Ordinance No. 40/1996 regarding modification and completion of regulations regarding bank's share capital increase, published in the "Monitorul Oficial al Rom`niei" Part I, No. 54 of April 1, 1997, art. 35, paragraph 3 of Law No. 52/1994 regarding securities and stock exchange, published in the "Monitorul Oficial al Rom`niei" Part I, No. 210 of August 11, 1994 and any other contrary provisions.

Exception from the provisions of the preceding paragraph are the current regulations of the National Bank of Romania, which shall remain in force until the adoption of the new regulations.

This Law was adopted by the Chamber of Deputies and the Senate in the joint meeting of 19 February 1998, observing the provisions of Article 71, paragraph (1) and Article 76, paragraph (2) of the Constitution of Romania.

Bucharest, 5 March 1998

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