

FEDERAL LAW
NO. 40-FZ OF FEBRUARY 25, 1999
ON INSOLVENCY (BANKRUPTCY) OF CREDIT INSTITUTIONS
(with the Amendments and Additions of January 2, 2000)

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Chapter I. General Provisions

Article 1. Relations Governed by the Present Federal Law

1. The present Federal Law shall establish measures to prevent insolvency (bankruptcy) of credit institutions as well as peculiarities of grounds and procedures for declaring credit institutions insolvent (bankrupt) and their liquidation through competitive proceedings.

2. Relations associated with measures involved in the prevention of insolvency (bankruptcy) of credit institutions which are not governed by the present Federal Law shall be regulated by other federal laws and regulatory acts of the Central Bank of the Russian Federation (hereafter referred to as the Bank of Russia).

3. Relations associated with insolvency (bankruptcy) of credit institutions which have not been governed by the present Federal Law shall be governed by the present [Federal Law](#) shall be regulated by the Federal Law on Insolvency (Bankruptcy) and in cases covered by the present Federal Law, by regulatory acts of the Bank of Russia

See [Instructions](#) of the Central Bank of Russia No. 84-I of July 12, 1999 on the Procedure for the Implementation of Measures on Preventing the Insolvency (Bankruptcy) of the Credit

Institutions

Article 2. Insolvency (Bankruptcy) of a Credit Institution

1. Insolvency (bankruptcy) of a credit institution is deemed to be its inability as recognized by an Arbitration Court to satisfy in full creditors' claims with respect to monetary obligations and/or to perform its obligation to make mandatory payments (hereinafter referred to as bankruptcy).

2. A credit institution shall be deemed unable to satisfy creditors' claims with respect to monetary obligations and/or to meet an obligation to make mandatory payments if it failed to meet the corresponding obligations within one month from their due date.

Article 3. Measures on Prevention of Insolvency (Bankruptcy) of Credit Institutions

1. In keeping with the present Federal Law the following credit institutions bankruptcy prevention measures shall be implemented:

- 1) financial sanation of the credit institution;
- 2) appointment of provisional administration to manage the credit institution (hereafter referred to as the provisional administration);
- 3) reorganization of the credit institution.

2. Credit institutions bankruptcy prevention measures shall be implemented subject to availability of grounds stipulated by [Article 4](#) of the present Federal Law.

If the aforementioned grounds arise, the credit institution, its founders (participants) shall take the necessary and timely steps to achieve financial sanation and/or reorganization of the credit institution.

If the above grounds arise, the Bank of Russia shall have the right to demand that the credit institution implements measures to achieve its financial sanation and/or reorganization, as well as the former shall have the right to institute the provisional administration.

Article 4. Grounds for Performing Measures on the Prevention of Insolvency (Bankruptcy) of Credit Institutions

Unless otherwise follows from the present Federal Law the credit institutions bankruptcy prevention measures set out in [Article 3](#) of the present Federal Law shall be carried out if the credit institution:

has repeatedly failed over the last six months to meet claims of individual creditors with respect to monetary obligations and/or fails to meet its obligation to make mandatory payments within three days from their due date owing to the nonavailability of or lack of funds in correspondent accounts of the credit institution;

fails to meet claims of individual creditors with respect to monetary obligations and/or fails to meet its obligation to make mandatory payments within a period over three days from their satisfaction date and/or their discharge date due to the nonavailability of or lack of funds in correspondent accounts of the credit institution;

was not able to prevent more than 20 per cent absolute reduction with respect to its own resources (capital) compared to its maximal amount achieved over the last 12 months and at the same time violates a mandatory standard established by the Bank of Russia;

violates the standard of sufficiency of own resources (capital) as established by the Bank of Russia;

has been violating by more than 10 per cent over the last month the standard of current liquidity of the credit institution as established by the Bank of Russia.

Article 5. Procedures in the Case of Bankruptcy of Credit Institutions

1. The following procedures shall be used by the Arbitration Court when examining credit institution bankruptcy cases:

- 1) observation procedure;
- 2) competitive procedure.

2. External management and amicable agreement provided for by the [Federal Law](#) on Insolvency (Bankruptcy) shall not be applicable as regards credit institutions.

Article 6. Attestation of Heads of Provisional Administration and Arbitration Managers in Case of Credit Institution Bankruptcy

1. Head of the provisional administration must hold the certificate of the head of the provisional administration. Certificate of the head of the provisional administration shall be issued by the Bank of Russia to a person holding the arbitration manager license and who meets corresponding qualification requirements of the Bank of Russia.

2. In case of credit institution bankruptcy an arbitration manager must hold the arbitration manager license issued by the state agency of the Russian Federation for the Cases of Insolvency and Financial Sanation and meet corresponding qualification requirements of the Bank of Russia, as well as hold the certificate issued by the Bank of Russia.

The [form](#) for the license of an arbitration manager was approved by [Order](#) of the Federal Service of the Russian Federation on the Cases of Insolvency and on Financial Improvement No. 1 of January 5, 1999

3. The scope of qualification requirements of the Bank of Russia, procedure and terms for performing the attestation, including the grounds, procedure for issuing and annulling certificates shall be determined by regulatory acts of the Bank of Russia.

About procedure for issue, registration, prolongation and termination of terms of validity and annulling by the Bank of Russia of certificates of the head of provisional management body of the credit organization and the arbitration manager in case of bankruptcy of the credit organization see Regulations of the Central Bank of Russia [No. 83-P of July 21, 1999](#), [No. 79-P of July 13, 1999](#)

See the [Letter](#) of the Central Bank of Russia No. 108-T of March 25, 1999 that is binding in the course of implementing credit organization bankruptcy proceedings

Chapter II. Financial Sanation of Credit Institutions

Article 7. Measures of Financial Sanation of Credit Institutions

The following measures may be undertaken to achieve financial sanation of a credit institution:

- rendering of financial assistance to the credit institution by its founders (participants) and other persons;
- change of the structure of assets and the structure of liabilities of the credit institution;
- change of the credit institution's organizational structure;
- other measures undertaken in keeping with federal statutes.

Article 8. Rendering of Financial Assistance to a Credit Institution by its Founders (Participants) and Other Persons

1. A credit institution may receive financial assistance from its founders (participants) and

other persons in the following forms:

1) placement of cash to a deposit at the credit institution with repayment period of no less than six months and at interest rate not exceeding the refinancing interest rate (discount rate) of the Bank of Russia;

2) extension of sureties (bank guarantees) under credits for the credit institution;

3) extension of a deferral and/or installment plan on the payment;

4) transfer of the credit institution's debt with the consent of its creditors;

5) waiving of the distribution of the credit institution's profit in the form of dividends and allocating it to implement financial sanation measures of the credit institution;

6) making an additional contribution to the authorized capital of the credit institution;

7) remitting the credit institution's debt;

8) novations, as well as other forms which will help eliminate causes which necessitated the implementation of measures to achieve financial sanation of the credit institution in question.

2. Monetary resources held in bank accounts and on deposits of the credit institution may be used by its creditors to increase the authorized capital of the credit institution in the manner laid down by the Bank of Russia.

3. The credit institution in question and the person rendering the financial assistance shall take the decision as to forms and conditions of the financial assistance to be extended to the credit institution.

Article 9. Change of the Structure of Assets and the Structure of Liabilities of a Credit Institution

1. Change of the structure of assets and the structure of liabilities of a credit institution may include the following measures:

1) improvement of quality of its credit portfolio, including replacement of nonliquid assets with liquid assets;

2) harmonization of the structure of assets per their terms with terms of liabilities that secure their performance;

3) reduction of outlays of the credit institution, including those directed at servicing the credit institution's debt, and its management expenses;

4) sale of assets yielding no profits, and of assets which sale will not impair the credit institution's ability to perform banking operations;

5) other measures to change the structure of its assets.

2. Change of the structure of the credit institution's liabilities may include the following measures:

1) increasing of own resources (capital);

2) reducing of the amount and/or ratio of current and short-term liabilities in the overall liabilities structure;

3) increasing of the ratio of medium-term and long-term liabilities in the overall liabilities structure;

4) other measures to change the structure of its liabilities.

3. In keeping with the civil legislation the credit institution shall be obliged to reduce its authorized capital to the level of its net assets (ownership capital) if the amount of net assets (ownership capital) turns out to be below the credit institution's authorized capital.

Article 10. Change of the Credit Institution's Organizational Structure

Change of the credit institution's organizational structure may be achieved through:

changes in the composition and number of staff members of the credit institution;

changes in the structure, scaling down and elimination of isolated and other structural divisions of the credit institution, as well as through other ways which can eliminate the reasons which necessitated the implementation of measures to achieve financial sanation of the credit

institution.

Article 11. Request of the Sole Executive Body of the Credit Institution to Implement Measures to Prevent Bankruptcy of the Credit Institution

1. If circumstances occur which are specified in [Article 4](#) of the present Federal Law, within 10 days of their occurrence the sole executive body of the credit institution (hereafter referred to as head of the credit institution) shall be obliged to present to the board of directors (supervisory council) of the credit institution, or if its founding documents do not provide for such bodies, he shall present to the general meeting of founders (participants) of the credit institution his requests to implement measures of financial sanation of the credit institution or his request to reorganize the credit institution, provided the causes of the aforementioned circumstances can not be eliminated by executive bodies of the credit institution.

2. Request of the head of the credit institution to implement measures of financial sanation of the credit institution or his request to reorganize the credit institution shall contain recommendations on the forms, type and time framework for their implementation.

3. Management bodies of the credit institution to which in keeping with Item 1 of the present Article is forwarded the request to implement measures of financial sanation of the credit institution or the request to reorganize the credit institution are to take a decision on such a request within 10 days from the time of its dispatch and inform the Bank of Russia on their decision.

4. Head of the credit institution shall be obligated to submit to the Bank of Russia his request to implement measures to prevent bankruptcy of the credit institution if its founders (participants) refused to participate in the implementation of measures of financial sanation of the credit institution or its reorganization, or failed to take a corresponding decision within the period laid down by Item 3 of the present Article.

Article 12. Implementation of Measures of Financial Sanation of a Credit Institution as Demanded by the Bank of Russia

1. The Bank of Russia shall have the right to forward to a credit institution its demand to implement measures of its financial sanation, provided there are grounds stipulated in [Article 4](#) of the present Federal Law and [Article 75](#) of the Federal Law on the Central Bank of the Russian Federation (the Bank of Russia). The aforementioned demand of the Bank of Russia must contain the list of reasons constituting the grounds for such a demand and also recommendations concerning the forms and time frame work for the implementation of measures of financial sanation of the credit institution.

2. Having received the demand of the Bank of Russia to implement measures of financial sanation of the credit institution head of the credit institution within five days from the date of receipt of such a demand shall be obligated to submit to management bodies of the credit institution which are specified in [Item 1, Article 11](#) of the present Federal Law his request to implement measures of financial sanation of the credit institution, or his request to reorganize the credit institution.

3. From the time the demand of the Bank of Russia to implement measures of financial sanation of the credit institution was received until a permission is received from the Bank of Russia the credit institution shall have no right to take any decisions on the distribution of profits among its participants (founders), payment (announcement) of dividends, as well as to distribute profit among its founders (participants) and pay to them any dividends.

The Bank of Russia shall forward to the credit institution a permission to distribute profits among its participants (founders), to pay (to announce) dividends subject to elimination of grounds which caused the Bank of Russia's demand to implement measures of financial sanation of the credit institution.

Article 13. Plan of Measures for Financial Sanation of a Credit Institution

1. The Bank of Russia shall have the right to demand that the credit institution drafts and implements a program of its financial sanation measures.

2. A program of measures for financial sanation of the credit institution must contain the following provisions:

- assessment of financial standing of the credit institution;
- specific data on the forms and amounts of participation of the credit institution's founders (participants) and other persons in its financial sanation;
- measures to reduce the credit institution maintenance expenses;
- measures to raise additional incomes;
- measures to secure repayment of overdue accounts receivable;
- measures to change the organizational structure of the credit institution;
- the deadline for attaining the level of sufficiency of own resources (capital) and the current liability of the credit institution. The form of the program of measures for financial sanation of the credit institution are laid down by a regulatory act of the Bank of Russia.

3. A program of measures for financial sanation of the credit institution shall be submitted to the Bank of Russia within the period established by the latter.

The Bank of Russia shall supervise execution of the program of measures for financial sanation of the credit institution.

Article 14. Liability of Head of the Credit Institution

In case of failure to take measures to ensure financial sanation of the credit institution, and in case of violation of requirements laid down by [Articles 11](#) and [12](#) of the present Federal Law head of the credit institution may be held liable pursuant to federal statutes.

Article 15. Consequences of Nonfulfillment of Requirements of the Present Federal Law

Nonfulfillment of requirements stipulated by [Item 3, Article 9](#), by [Items 3 and 4](#), Article 11, by [Item 2, Article 12](#), and by [Item 3, Article 13](#) of the present Federal Law shall constitute the grounds for the Bank of Russia to take measures under supervisory procedure as established by federal statutes.

Chapter III. Provisional Administration

Article 16. Provisional Administration

1. The provisional administration is a special management body of the credit institution which is appointed by the Bank of Russia in the manner laid down by the present Federal Law and regulatory acts of the Bank of Russia.

2. The provisional administration shall operate in compliance with the present Federal Law, other federal statutes and regulatory acts of the Bank of Russia.

See [Regulations](#) of the Central Bank of Russia No. 76-P of May 14, 1999 on the Interim Management of a Credit Organization, [Regulations](#) of the Central Bank of the Russian Federation No. 87-P of August 20, 1999

3. For the period of operation of the provisional administration powers of executive bodies of the credit institution shall be either limited or suspended by the Act of the Bank of Russia appointing the provisional administration in the manner and subject to conditions laid down by the present Federal Law.

Article 17. Grounds for Appointing Provisional Administration

1. The Bank of Russia shall have the right to appoint the provisional administration if:

1) the credit institution fails to satisfy claims of individual creditors under monetary obligations and/or fails to satisfy liabilities to perform obligatory payments for over seven days or more from their satisfaction and/or performance date due to the nonavailability of or lack of cash in correspondent accounts of the credit institution;

2) the credit institution was not able to prevent more than 30 per cent absolute reduction with respect to its own resources (capital) compared to its maximal amount achieved over the last 12 months and at the same time violates a mandatory standard established by the Bank of Russia;

3) over the last month the credit institution has violated for more than 20 per cent the current liquidity standard as established by the Bank of Russia;

4) the credit institution fails to comply with the requirements of the Bank of Russia to replace head of the credit institution or to implement measures of the credit institution financial sanation or measures to reorganize the credit institution within an established period;

5) there are grounds to revoke the credit institution's license to perform banking operation in accordance with the [Federal Law](#) on Banks and Banking Activities.

2. The Act of the Bank of Russia on appointment of the provisional administration shall be published in the "Vestnik Banka Rossii" journal within 15 days after such a decision is approved.

Article 18. Period of Operation of Provisional Administration

1. The provisional administration shall be appointed by the Bank of Russia for a period not more than six months.

2. Following the withdrawal of the license to perform banking operations the Bank of Russia shall have the right to extend the mandate for the provisional administration up to the time when bodies are established which will perform reorganization or liquidation or until an arbitration manager is appointed.

The overall duration of the provisional administration may not exceed 18 months.

Article 19. Head of Provisional Administration

1. Provisional administration shall be led by head of the provisional administration who holds the certificate of head of the provisional administration.

2. Head of the provisional administration shall form the provisional administration bodies and he shall be responsible for their performance.

3. Head of the provisional administration shall act on behalf of the credit institution without letter of attorney if powers of executive bodies of the credit institution are suspended.

Article 20. Consequences of Nonfulfillment or Undue Fulfillment of Responsibilities by Head of Provisional Administration

1. Head of the provisional administration shall be held liable in keeping with federal statutes if he fails to fulfill or fulfills improperly his responsibilities.

2. If head of the provisional administration fails to fulfill or fulfills improperly his responsibilities the Bank of Russia shall have the right to:

- dismiss him from his position as the head of the provisional administration;

- ban him from acting as the head of the provisional administration; - annul the certificate of the head of the provisional administration he had been issued;

3. Decisions of the Bank of Russia set out in Item 2 of the present Article may be appealed by the person being the head of the provisional administration in an arbitration court.

4. If head of the provisional administration fails to fulfill or fulfills improperly his responsibilities thus causing damage to the credit institution it may constitute the grounds for

withdrawing the license of the arbitration manager.

If head of the provisional administration fails to fulfill or fulfills improperly his responsibilities the Bank of Russia shall have the right to file request to the state agency of the Russian Federation for the Cases of Insolvency and Financial Sanation to revoke his license of the arbitration manager.

Article 21. Functions of Provisional Administration in Case of Restriction of Powers of the Credit Institution Executive Bodies

1. If powers of the credit institution executive bodies are restricted the provisional administration shall have the following functions:

- participation in the drafting of the credit institution financial sanation measures and control over their implementation;
- control over the disposal of the credit institution's property within the limits set by the present Article;
- other functions in keeping with federal statutes.

2. When performing functions listed in Item 1 of the present Article the provisional administration shall:

- receive from the credit institution executive bodies necessary information and documents concerning operations of the credit institution;
- give its consent for the credit institution executive bodies to execute transactions specified in Item 3 of the present Article;
- file requests to the Bank of Russia to suspend powers of the credit institution executive bodies if they hinder activities of provisional administration, or if it is necessary in order to implement measures to prevent bankruptcy of the credit institution.

3. Only with the consent of the provisional administration shall the credit institution executive bodies have the right to execute those transactions that:

- involve the transfer of the credit institution's real estate to lease, rent, offering it as a contribution to the authorized capital of third persons as well as the disposal of such property in another manner;
- involve the disposal of other property of the credit institution which balance sheet value is over 1 per cent of balance sheet value of the credit institution's assets including the property involving the receipt and issue of credits and loans, issue of guarantees and sureties, assignment of claims, transfer and remittance of debts, novations, indemnity as well as the introduction of trust management;
- are concluded with interested persons as regards the credit institution who are determined in keeping with the [Federal Law](#) on Insolvency (Bankruptcy).

Article 22. Functions of Provisional Administration in Case of Suspension of Powers of the Credit Institution Executive Bodies

1. If powers of the credit institution executive bodies are suspended the provisional administration shall perform the following functions:

- to act within powers of the credit institution executive bodies;
- to draft the credit institution financial sanation measures and control over their implementation;
- to take measures to safeguard property and documentation of the credit institution;
- to identify creditors of the credit institution and amounts of their claims on monetary liabilities;
- to take steps to collect debts owned to the credit institution;
- to petition the Bank of Russia to introduce moratorium on the satisfaction of creditors of the credit institution;
- other functions in keeping with federal statutes.

2. When performing functions listed in Item 1 of the present Article the provisional

administration shall:

- receive from the credit institution executive bodies necessary information and documents concerning operations of the credit institution;
- file on behalf of the credit institution claims to courts of general jurisdiction, arbitration courts and arbitration tribunals;
- appoint the provisional administration representatives to branches of the credit institution, as well as to the management bodies of its subsidiary organizations;
- approve decisions of the board of directors (supervisory council) of the credit institution or the general meeting of its founders (participants) apart from decisions on the execution of transactions covered by Item 3 of the present Article;
- have the right to remove members of the credit institution executive bodies (dismiss them from their positions) and suspend payment of their salaries.

3. Only subject to consent of the board of directors (supervisory council) of the credit institution or the general meeting of its founders (participants) within their competence laid down by federal statutes and the founding documents of the credit institution shall the provisional administration have the right to execute those transactions that:

- involve the transfer of the credit institution's real estate to lease, rent, offering it as a contribution to the authorized capital of third persons as well as the disposal of such property in another manner;
- involving the disposal of other property of the credit institution which balance sheet value is over 5 per cent of the balance sheet value of the credit institution's assets including the property involving the receipt and issue of credits and loans, issue of guarantees and sureties, assignment of claims, transfer and remittance of debts, novations, indemnity as well as the introduction of trust management;

4. The board of directors (supervisory council) of the credit institution or the general meeting of its founders (participants) within their competence laid down by federal statutes and the founding documents of the credit institution shall have the right to expand the powers of the provisional administration in the disposal of the credit institution's property.

Article 23. Consequences of Suspension of Powers of the Credit Institution Executive Bodies for the Duration of the Provisional Administration

1. If powers of the credit institution executive bodies are suspended for the duration of the provisional administration:

- the credit institution executive bodies shall have no right to take any decisions on matters falling within their competence by virtue of federal statutes and the founding documents of the credit institution;
- decisions of other executive bodies of the credit institution shall enter into force upon approval by the provisional administration.

2. If powers of the credit institution executive bodies are suspended for the duration of the provisional administration the former shall be obliged to hand over stamps and seals of the credit institution not later than on the day the provisional administration is appointed, and also the accounting and other documents, tangibles and other assets of the credit institution shall be handed over within the period coordinated with the provisional administration.

3. Any opposition put up by members of executive bodies of the credit institution and other members of the credit institution to the provisional administration shall entail liability in accordance with federal statutes.

Article 24. Request by Head of Provisional Administration to Revoke the License to Perform Banking Operations

If grounds are discovered to revoke the credit institution's license to perform banking operations which are specified in [Article 20](#) of the Federal Law on Banks and Banking Activities the head of the provisional administration must submit to the Bank of Russia a request to revoke such license.

Article 25. Disputes Concerning Activities of Provisional Administration

1. Credit institution shall have the right to appeal against decision of the Bank of Russia to appoint the provisional administration to Arbitration Court in the manner laid down by federal statutes.

Appealing against decision of the Bank of Russia to appoint the provisional administration does not suspend activities of the provisional administration.

According to [Article 53](#) of the present Federal Law provisions of Item 2, Article 25 do not cover heads of provisional administrations who hold the certificate of the head of the provisional administration issued prior to March 1, 1999.

2. If guilty actions of the provisional administration cause any damage to the credit institution, founders (participants) of the credit institution who hold in general no less than 1 per cent of the authorized capital of the credit institution shall have the right to file a claim to the Arbitration Court against the head of the provisional administration to compensate the credit institution for the real damage.

3. Founders (participants) of the credit institution who hold in general no less than 1 per cent of the authorized capital of the credit institution shall have the right to file a claim to the Arbitration Court against the Bank of Russia to compensate the credit institution for the real damage if it was caused by unjustified institution of the provisional administration.

Article 26. Moratorium on the Satisfaction of Claims Filed by Creditors of a Credit Institution

On peculiarity of the effect of the moratorium see [Letter](#) of the Central Bank of Russia No. 317-T of November 19, 1999

1. If powers of the credit institution executive bodies are suspended and if there are grounds listed by [Subitem 1 of Item 1, Article 17](#) of the present Federal Law the Bank of Russia shall have the right to introduce moratorium on the satisfaction of claims of the credit institution's creditors (hereafter referred to as the moratorium) for no more than three months.

On the rules for the bank of russia to consider a petition to impose the mentioned moratorium see [Regulations](#) of the Bank of Russia No. 81-P of July 14, 1999

The above moratorium shall cover monetary liabilities and obligations in the performance of obligatory payments which occurred prior to the appointment of the provisional administration.

2. For the period of the moratorium:

- no forfeits (fines, penalties) and other financial (economic) sanctions for the nonfulfillment or improper fulfillment of monetary liabilities and liabilities in the performance of obligatory payments, as well as payable interest;

- recovery under documents of execution and other documents by which recovery is conducted in indisputable (not requiring acceptance) manner shall not be permitted;

- the execution of documents of execution for property recoveries shall be suspended, apart from documents of execution issued on the basis of decisions for the recovery of due wages, due payment of royalties under copyright agreements, compensation for harm to life or health and moral damages, provided such decisions have entered into legal force before the provisional administration has been instituted;

On the discharge of the execution documents relating to property collection from credit organizations whose license for the pursuance of banking transactions has been revoked see [Letter](#) of the Central Bank of the Russian Federation No. 93-T of March 15, 1999

- it is prohibited to satisfy claims of a founder (participant) of the credit institution to allocate to him a stake (contribution) in the authorized capital of the credit institution due to his withdrawal from the group of founders (participants).

To the amount of creditor claims under monetary liabilities and obligatory payments established at the time the moratorium was instituted less accrued interest as well as applied forfeits (fines, penalties) and other financial (economic) sanctions the interest shall be accrued at the Bank of Russia refinancing rate.

3. Moratorium shall not cover:

- claims of citizens to whom the credit institution is liable for harm caused to life or health;
- claims of citizens to payment of severance allowance, and labor remuneration of citizens working under a labor agreement (a contract) and to payment of royalties under copyright agreements;
- claims to payments of organizational and management expenses essential for operations of the credit institution.

[Article 27. Refusal to Execute a Contract of the Credit Institution](#)

If powers of the credit institution executive bodies are suspended, the head of the provisional administration shall have the right from the time of appointment of the provisional administration to refuse to execute a credit institution's contract in the manner stipulated by the [Federal Law](#) on Insolvency (Bankruptcy).

[Article 28. Invalidity of Credit Institution's Transactions](#)

If powers of the credit institution executive bodies are suspended a transaction concluded by the credit institution may be declared invalid by the Arbitration Court based on an application of the head of the provisional administration on the grounds laid down by the civil legislation of the Russian Federation the [Federal Law](#) on Insolvency (Bankruptcy).

[Article 29. Expenses of Provisional Administration](#)

Expenses of the provisional administration, including outlays for labor remuneration of the provisional administration members which are related to its activities shall be performed to the charge of the credit institution.

Budget of the provisional administration shall be approved by the Bank of Russia.

[Article 30. Report of Provisional Administration](#)

The provisional administration shall report to the Bank of Russia in the manner established by regulatory acts of the Bank of Russia.

[Article 31. Termination of Provisional Administration](#)

1. The Bank of Russia shall decide to terminate activities of the provisional administration:
 - if reasons were eliminated which led to its appointment;
 - when handing over the case to the arbitration manager;
 - on other grounds envisaged by the present Federal Law and regulatory acts of the Bank of Russia.
2. Regulatory acts of the Bank of Russia shall lay down the procedure for terminating activities of the provisional administration.
3. Termination of the provisional administration upon elimination of reasons which have

caused its institution shall result in the reinstatement of powers of the executive bodies of credit institution.

4. Notice on termination of the provisional administration shall be published in the "Vestnik Banka Rossii" journal.

Chapter IV. Reorganization of a Credit Institution

Article 32. Demand of the Bank of Russia to Reorganize a Credit Institution

1. The Bank of Russia shall have the right to demand that a credit institution is reorganized in cases stipulated by [Subitems 1-3 of Item 1, Article 17](#) of the present Federal Law. [Item 1, Article 12](#) of the present Federal Law sets out the manner for forwarding demand of the Bank of Russia to reorganize a credit institution.

2. A credit institution shall be reorganized in the form of merger or take-over in the procedure established by federal statutes and regulatory acts of the Bank of Russia adopted pursuant thereto.

See the [Regulations of the Central Bank of the Russia No. 12-P of December 30, 1997](#)

Article 33. Actions of a Credit Institution Having Received the Demand of the Bank of Russia to Reorganize the Credit Institution

1. Within 5 days of the receipt of the demand of the Bank of Russia to reorganize the credit institution its head shall be obligated to submit to the credit institution management bodies stipulated in [Item 1, Article 11](#) of the present Federal Law his request to reorganize the credit institution.

The credit institution management bodies stipulated in [Item 1, Article 11](#) of the present Federal Law shall be obligated within 10 days upon receipt from the Bank of Russia the reorganization demand to inform the Bank of Russia on their decision.

2. Regulatory acts of the Bank of Russia shall lay down the requirements to the stability of credit institutions being set up through merger of credit institutions.

Chapter V. Peculiarities of Bankruptcy Case Proceedings in the Arbitration Court

Article 34. Procedure for Examination of Bankruptcy Cases

Bankruptcy cases shall be examined by the Arbitration Court pursuant to rules envisaged by the [Arbitration Procedural Code](#) of the Russian Federation and the [Federal Law](#) on Insolvency (Bankruptcy) with due regard to peculiarities laid down by the present Federal Law.

Article 35. Appeals to the Arbitration Court

1. The following shall have the right to file to the Arbitration Court applications to recognize the credit institution as bankrupt:

- 1) debtor credit institution (hereafter referred to as the credit institution);
- 2) credit institution's creditor, including individual citizens who have the right of claim to the credit institution under the bank deposit contract and/or the bank account contract;
- 3) the Bank of Russia;
- 4) procurator - in cases envisaged by the [Federal Law](#) on Insolvency (Bankruptcy);
- 5) tax agency or another agency authorized by federal statute as regards cases of payment of mandatory payments to the budget and to extra-budgetary funds.

2. Persons indicated in Subitems 1, 2, 4, 5 of the present Article shall have the right to

forward to the Bank of Russia their applications to revoke the credit institution's licence to perform banking operations upon occurrence of signs of its bankruptcy as specified by [Article 2](#) of the present Federal Law, having enclosed documents to confirm monetary obligations of the credit institution and their amount, as stipulated by [Article 4](#) of the Federal Law on Insolvency (Bankruptcy).

See the sample of Application on Recognizing a Credit Institution as a Bankrupt ([Appendix No. 2](#) to Letter of the Central Bank of Russia No. 86-T of March 9, 1999)

3. Persons indicated in Subitems 1, 2, 4, 5 of Item 1 of the present Article who have submitted to the Bank of Russia an application to revoke the credit institution's licence to perform banking operations, provided the Bank of Russia does not reply within two months after the above application has been dispatched shall have the right to file an application to the Arbitration Court to declare the credit institution bankrupt.

When the Arbitration Court receives an application to declare the credit institution bankrupt the judge, prior to initiating proceedings on the bankruptcy case shall offer to the Bank of Russia to present its opinion of the Bank of Russia whether it is expedient to revoke the credit institution's licence to perform banking operations or a copy of an order of the Bank of Russia to revoke the said license. The Bank of Russia shall be obliged to forward the aforesaid documents to the Arbitration Court within one month upon receipt of the Arbitration Court request.

A copy of an order of the Bank of Russia to recall the credit institution's licence to perform banking operations submitted to the Arbitration Court within the aforementioned time period shall constitute the grounds to initiate the proceedings in the bankruptcy case.

If within one month will be received the conclusion of the Bank of Russia that it is inexpedient to revoke the credit institution's licence to perform banking operations the application to recognize it bankrupt shall be returned to the creditor.

In this case the person who has submitted to the Bank of Russia an application to revoke the credit institution's licence to perform banking operations shall have the right to file a claim to the Arbitration Court demanding the Bank of Russia to compensate for losses caused through the failure of the Bank of Russia to take decisions envisaged by the present Federal Law and falling within the competence of the Bank of Russia, to carry out measures to prevent bankruptcy of the credit institution.

[Article 36. Initiation of Bankruptcy Cases](#)

Bankruptcy cases may be initiated by the Arbitration Court only after the credit institution's licence to perform banking operations is revoked based on an application of persons specified in [Article 35](#) of the present Federal Law if the overall amount of claims to the credit institution is no less than one thousand minimal wages established by the federal statute and if such claims have not been satisfied within one month from their date of execution.

[Article 37. Persons Participating in the Bankruptcy Case](#)

1. Persons participating in the bankruptcy case shall be the persons stipulated by the present [Federal Law](#) as well as the Bank of Russia if bankruptcy proceedings are initiated upon an application filed by the Bank of Russia to recognize the credit institution bankrupt.

2. If the credit institution's licence to perform banking operations is revoked on the grounds of unsatisfactory financial standing of the credit institution, nonperformance of its obligations to depositors and creditors, and if within 45 calendar days from the time the corresponding license had been revoked the Bank of Russia has not received an arbitration court ruling on its acceptance of the application to declare the credit institution bankrupt or any other documentary confirmation of initiated bankruptcy proceedings against this credit institution, within five days the Bank of

Russia shall be obliged to file to the Arbitration Court an application to declare the credit institution bankrupt, irrespective whether it owns any funds to the Bank of Russia.

See the sample of Application on Recognizing a Credit Institution as a Bankrupt ([Appendix No. 1](#) to Letter of the Central Bank of Russia No. 86-T of March 9, 1999)

Article 38. Persons Participating in the Arbitration Procedure

In a bankruptcy case arbitration proceedings shall participate the persons stipulated by the present [Federal Law](#) as well as the Bank of Russia in case an application to declare the credit institution bankrupt was filed by the other person.

Article 39. Application to Declare the Credit Institution Bankrupt

1. Application of the credit institution to declare it bankrupt shall meet the requirements laid down by the [Federal Law](#) on Insolvency (Bankruptcy) for applications filed by debtors.

Other persons' application to declare the credit institution bankrupt who under the present Federal Law have the right to file such an application shall meet the requirements laid down by the [Federal Law](#) on Insolvency (Bankruptcy) for applications filed by creditors unless otherwise follows from the essence of legal relations.

2. A copy of the application of the credit institution to declare it bankrupt shall be forwarded to the Bank of Russia.

Copies of an application filed by persons specified in [Article 35](#) of the present Federal Law to declare the credit institution bankrupt shall be forwarded to the credit institution in question, to the Bank of Russia.

3. When filing an application to declare the credit institution bankrupt the Bank of Russia may submit to arbitration court its candidates for the arbitration manager position.

Article 40. Documents Enclosed to the Application to Declare the Credit Institution Bankrupt

In addition to documents envisaged by the [Arbitration Procedural Code](#) of the Russian Federation and the [Federal Law](#) on Insolvency (Bankruptcy) an application to recognize the credit institution bankrupt shall enclose a copy of the order of the Bank of Russia to revoke the credit institution's licence to perform banking operations as published in the "Vestnik Banka Rossii" journal or a copy of such order certified by the Bank of Russia.

Article 41. Acceptance of the Application to Declare the Credit Institution Bankrupt

Ruling of the Arbitration Court on its acceptance of the application to recognize the credit institution bankrupt shall contain the statement on the commencement of the observation proceedings and the appointment of a provisional manager.

Article 42. Refusal to Accept an Application to Declare the Credit Institution Bankrupt

An Arbitration Court judge shall refuse to accept an application to recognize a credit institution bankrupt if there is a violation of even a single condition specified in [Article 36](#) of the present Federal Law.

Article 43. Return of the Application to Declare the Credit Institution Bankrupt

An application to declare the credit institution bankrupt which does not meet the requirements of [Articles 39](#) and [40](#) of the present Federal Law shall be returned by the Arbitration

Court to a person who had filed the aforesaid application, with relevant documents enclosed to such application.

Article 44. Forwarding by the Arbitration Court of Court Rulings on Bankruptcy Cases

The Arbitration Court shall forward court rulings on bankruptcy cases within five days after they have been made to persons participating in the bankruptcy case and in the arbitration proceedings.

Article 45. Consequences of Nonfulfillment or Improper Fulfillment of Responsibilities by an Arbitration Manager

1. If an arbitration manager fails to fulfill or fulfills improperly his responsibilities the Bank of Russia shall have the right to annul his qualification certificate of the Bank of Russia in the manner laid down by regulatory acts of the Bank of Russia.

Decision of the Bank of Russia to annul the above certificate may be appealed by the arbitration manager in the Arbitration Court.

2. If an arbitration manager fails to fulfill or fulfills improperly his responsibilities thus causing damage to the credit institution it may constitute the grounds for withdrawing the license of the arbitration manager.

If an arbitration manager fails to fulfill or fulfills improperly his responsibilities the Bank of Russia shall have the right to file request to the state agency of the Russian Federation for the Cases of Insolvency and Financial Sanation to revoke his license of the arbitration manager.

Chapter VI. Peculiarities of Competitive Proceedings of a Credit Institution Recognized Bankrupt

Article 46. Account of Credit Institution in the Course of Competitive Proceedings

1. In the course of competitive proceedings the competitive proceedings manager must use only one correspondent account of the credit institution declared bankrupt which is held at an institution of the Bank of Russia. Regulatory acts of the Bank of Russia determine the procedure for opening the said account and performing settlements on such account.

According to [Regulations of the Central Bank of Russia No. 75-P of April 26, 1999](#) in order to accumulate foreign currency funds a credit organization whose license for banking operations was revoked, including the license to conduct operations in foreign currency funds, acting in the name of the chairman of the liquidation commission shall have the right to open in the Savings Bank of the Russian Federation or Vneshtorgbank of Russia or, upon approval by the Bank of Russia, in another bank a foreign currency correspondent account in the required types of foreign currencies

2. Within 10 days after the competitive proceedings manager presents to the Bank of Russia documents to confirm the right of the competitive proceedings manager to perform transactions on the correspondent account of the credit institution declared bankrupt, in the manner stipulated by regulatory acts of the Bank of Russia the balance of funds shall be transferred to the aforementioned account from correspondent accounts of the credit institution held at other credit institutions, as well as other funds of the credit institution, including its obligatory reserves deposited by the credit institution at the Bank of Russia.

Article 47. Publication of Information About Bankruptcy of a Credit

Institution

Within 15 days after the competitive proceedings manager presents to the Bank of Russia documents to confirm the right of the competitive proceedings manager to perform transactions on the correspondent account of the credit institution declared bankrupt the competitive proceedings manager shall forward for the publication in the "Vestnik Vysshego Arbitrazhnogo Suda Rossiiskoi Federatsii", "Vestnik Banka Rossii" journals, and also shall publish in the local press at the location of the credit institution to the charge of the latter a notice on the decision to declare the credit institution bankrupt and to initiate the competitive proceedings.

Article 48. Procedure for Liquidating a Credit Institution

1. The Bank of Russia shall make an entry to declare a credit institution bankrupt and on the commencement of the competitive proceedings in the Ledger of State Register of Credit Institutions.

2. Monthly the competitive proceedings manager shall submit to the Bank of Russia accounting and statistical reports of the credit institution being liquidated in accordance with the list and in the manner laid down by the Bank of Russia.

On the procedure for compiling and submitting information on the performance of liquidation proceedings in the credit organizations whose licenses for the pursuance of banking transactions have been revoked see [Direction](#) of the Central Bank of Russia No. 538-U of April 12, 1999

3. After the Register of Creditor's Claims is drafted, not later than within six months following the commencement of the competitive proceedings the competitive proceedings manager shall draw up an interim liquidation balance sheet which will contain information about the property structure of the credit institution being liquidated, the list of claims made by creditors and also results of their examination. Based on a request filed by the competitive proceedings manager the Arbitration Court may extend the period for drafting the Register of Creditor's Claims and drawing up the interim liquidation balance sheet.

An interim liquidation balance sheet and the liquidation balance sheet shall be drafted and submitted to the Bank of Russia in accordance with the regulatory acts of the Bank of Russia.

On the Procedure for Drawing Up Credit Organizations' Interim Liquidation Balance Sheet and Final Liquidation Balance Sheet, and the Procedure for Their Reconciliation by the Bank of Russia Territorial Institutions see the [Direction](#) of the Central Bank of Russia No. 85-U of December 19, 1997

4. The liquidation of the credit institution shall be deemed completed and the credit institution shall be regarded as terminated from the time the entry on the liquidation of the credit institution is made in the Ledger of State Register of Credit Institutions.

The entry on the liquidation of the credit institution made in the State Register of Credit Institutions shall be made on the basis of the ruling of the arbitration court on the completion of the competitive proceedings made in keeping with [Article 119](#) of the Federal Law on Insolvency (Bankruptcy).

5. Upon the completion of the competitive proceedings procedure and the liquidation of the credit institution the documents shall be handed over to the Archive Fund of the Russian Federation in the procedure and in accordance with the list approved by the state agency in charge of the government policy in the area of archives and by the Bank of Russia.

Article 49. Peculiarities of the Distribution of Bankruptcy Estate

To the charge of property of the credit institution making up the bankruptcy estate, first of all shall be satisfied the claims of natural persons who are creditors of the credit institution under the banking deposit contracts and the banking account contracts concluded with them, claims of individuals to whom the credit institution is liable for harm caused to life or health.

Article 50. Liability of the Credit Institution Founders (Participants) in Case of Its Bankruptcy

If a credit institution goes bankrupt through the fault of its founders (participants) who have the right to give directions mandatory for the credit institution in question, or are able to affect its activities in another manner, such founders (participants) shall bear the several and joint liability.

Chapter VII. Peculiarities of Declaring Bankrupt a Credit Institution Being Liquidated and a Missing Credit Institution

Article 51. Declaring Bankrupt a Credit Institution Being Liquidated

1. If the value of property of the credit institution being liquidated is not sufficient to satisfy claims of the credit institution's creditors such credit institution shall be liquidated in the manner stipulated by the [Federal Law](#) on Insolvency (Bankruptcy) with due regard to peculiarities laid down by the present Federal Law.

2. If the event covered by Item 1 of the present Article is discovered, the credit institution's creditors and the Bank of Russia shall have the right to file an application to declare bankrupt the credit institution being liquidated.

3. If the event covered by Item 1 of the present Article is discovered, the liquidation commission (the liquidator) of the credit institution being liquidated shall be obligated to file to the Arbitration Court an application to declare bankrupt the credit institution being liquidated.

4. The Arbitration Court shall appoint a court session to declare bankrupt the credit institution being liquidated on the basis of an application filed by persons specified in Items 2 and 3 of the present Article within one month after the Arbitration Court rules to accept the aforementioned application.

Article 52. Bankruptcy of a Missing Credit Institution

Decision of the Arbitration Court to declare bankrupt a missing credit institution shall be forwarded to the Bank of Russia which within two weeks after the receipt of such decision shall submit to the Arbitration Court a candidate for the position of the competitive proceedings manager.

Chapter VIII. Concluding Provisions

[Federal Law No. 6-FZ of January 2, 2000 amended Article 53 of this Federal Law](#)
[See the previous text of the Item](#)

Article 53. Entry into force of the present Federal Law

1. The present Federal Law shall enter into force upon its [official publication](#), apart from those provisions for which the present Federal Law lays down different dates for entry into force.

2. [Article 6](#) of this Federal Law in the part concerning the attestation of arbitration managers shall enter into force as from March 1, 1999. [Article 6](#) and [19](#) of this Federal Law in the part concerning the attestation of the heads of the temporary administrations, and also [Item 2 of Article 25](#) of this Federal Law shall enter into force as from January 1, 2000.

3. Until January 1, 2000 the certificate of the head of provisional administration may be issued by the Bank of Russia to persons who meet the requirements to a head of a credit

institution.

Provisions of [Item 2 of Article 25](#) of the present Federal Law shall not cover heads of the provisional administrations who hold certificates of the head of the provisional administration which was issued in accordance with the present Item by the Bank of Russia prior to March 1, 1999.

4. Certificates of the head of the provisional administration issued by the Bank of Russia prior to January 1, 2000 shall be valid for three years from the date the decision was taken to issue it.

5. [Article 52](#) of the present Federal Law shall enter into force as of September 1, 1999.

[Article 54. Bringing Normative Acts into Line with the Present Federal Law](#)

The government of the Russian Federation and the Bank of Russia are hereby requested to bring their normative acts into line with the present Federal Law.

President of
the Russian Federation

B.Yeltsin

Moscow, the Kremlin,
No. 40-FZ
February 25, 1999