

# **BANKING LAW**

## **I. GENERAL PROVISIONS**

### **Article 1**

This Law shall set forth the founding, operations, supervision, and termination of operations of banks and of branches of foreign banks in the Republic of Macedonia, as well as the opening and operations of branches of banks from European Union member states.

### **Article 2**

For the purpose of this Law, the terms given below shall denote the following:

1. "Bank" shall denote a legal entity, licensed by the Governor of the National Bank of the Republic of Macedonia, established in accordance with the provisions of this Law, the principal activity of which is to accept deposits and other repayable sources of funds from the public and to extend credits on its own behalf and for its own account.
2. "Postal Bank" shall denote a legal entity in the Republic of Macedonia established according to the provisions of this Law, with the "Macedonian Post" public enterprise or its legal successor obligatorily being one of the shareholders.
3. "Deposit" shall denote a claim on the bank in cash, with or without interest or compensation of any kind, collectable either on demand or within a certain period, depending on the agreed conditions at the time of depositing the cash.
4. "Banking activities" shall denote collecting deposits and approving credits on own behalf and for own account.
5. "Bank shareholder" shall denote legal entity or natural person who holds shares in a bank.
6. "Entity/Person" shall denote domestic and/or foreign legal entity and natural person.
7. "Connected entities" shall denote two or more entities who:
  - represent a single risk, as one of them directly or indirectly exercises participation or control over other entity, or other entities,
  - represent a single risk, although they are not control-related, because they are interconnected such that the financial problems in one of them are likely to make other entity/entities be in default.

Two natural persons shall be considered connected if one of them is a spouse or a person whom they live with in an extramarital union (illegitimately), a child or a foster child, parent or a person under guardianship of the other natural person.

8. "Persons related to a bank" shall be the following:
  - bank subsidiaries and other entities the bank has close links with,
  - shareholders with qualified holding in the bank and entities related thereto, and the responsible persons of those shareholders – legal entities,

- persons with special rights and responsibilities at the bank and persons related thereto.
9. "Close links" shall denote cases when two and/or several entities are connected by participation or control, and when two and/or several entities are controlled by the same entity.
  10. "Control" shall denote:
    - direct or indirect ownership of a majority share (in another legal entity), or
    - direct or indirect ownership of a majority of the voting rights in another legal entity, or
    - right to appoint and dismiss the majority members of the management bodies of other legal entity, directly or indirectly, including a concluded agreement with one or more shareholders of the other legal entity on yielding or associating their voting rights for the purposes of exerting mutual interests, or
    - right to exercise, directly or indirectly, a dominant influence on the management and adoption of policies and financial and business decision of other legal entity.
  11. "Bank from European Union member-state" shall be a legal entity registered and with a head office in a member state of the European Union, which was granted an authorization to perform banking activities by a competent authority of the member state and is subject to supervision of the competent authority empowered by law or other regulations in such state.
  12. "Foreign bank" shall be a legal entity registered and with a head office outside the Republic of Macedonia, which was granted an authorization to perform banking activities by a competent authority in the country, and is subject to supervision of the competent authority empowered by law or other regulations in such state.
  13. "Home country" is a European Union member-state, where a bank or other respective institution was granted an authorization and registered its head office.
  14. "Authorization" is a document in any form issued by a authority empowered by law or other regulations, assigning the right to perform banking activities.
  15. "Competent authority" is an authority empowered by law or other regulations to issue authorization and/or bank supervision or other respective institutions that perform banking activities.
  16. "Subsidiary" shall denote a legal entity controlled by another legal entity (parent entity). Each subsidiary of the subsidiary shall be considered a subsidiary of the parent entity.
  17. "Banking group" shall denote a bank or financial holding company with a head office in the Republic of Macedonia that exerts control over or have participation in one or several other banks, other non-banking financial institutions or ancillary service undertakings of the bank, where the bank or the financial holding company shall be considered a parent entity of the banking group, whereas all other group members shall be considered subordinated entities of such parent entity.
  18. "Financial holding company" shall denote non-banking financial institutions, subsidiaries of which are banks or non-banking financial institutions, holding at least 80% of the total assets of the company, with at least one subsidiary being a bank.

19. "Ancillary services undertaking of a bank" shall denote a legal entity, the prevalent activity of which is real estate management, management and maintenance of data processing system or performing related activities which, according to their nature, are considered supporting activities to the activities performed by one or several banks.
20. "Participation" shall denote direct or indirect ownership of at least 20% of the total number of shares/stakes or the voting rights of other entities.
21. "Qualified holding in a bank" shall denote direct or indirect ownership of at least 5% of the total number of shares or the issued voting shares in a bank or which makes it possible to exercise a significant influence over the management of that bank.
22. "Initial capital" shall be the minimum amount of capital stipulated by this law the shareholders are required to subscribe and pay in.
23. "Credit" shall denote placement of a certain sum of money in exchange for repayment of the amount disbursed and outstanding, including the interest and/or commission for that amount.
24. "Recommendation" shall denote an advice given to a bank by the Governor National Bank of the Republic of Macedonia in writing, aimed at more efficient performance of the tasks or providing information to the bank.
25. "Written warning" shall denote a binding recommendation provided by the Governor of the National Bank of the Republic of Macedonia for addressing the identified illegitimacies and irregularities in the operations of the bank within a certain period, accompanied by an announcement for undertaking more severe measures, unless it is observed.
26. "Person with special rights and responsibilities" shall denote a natural person who is a member of the Supervisory Board, member of the Board of Directors, member of the Auditing Committee, member of the Risk Management Committee and other managers as defined by the Statute of the bank. In the case of a foreign bank branch, a person with special rights and responsibilities is a natural person managing the branch.
27. "Independent member" is a natural person and natural persons connected thereto, who:
  - is not employed or a person without special rights and responsibilities in the bank,
  - is not a shareholder with qualified holding in the bank or does not represent a shareholder with qualified holding in the bank,
  - does not work, or has not been working in an audit company over the last three years, which at that time audited the operations of the bank,
  - has not got any financial interest or business relation with the bank in an amount exceeding Denar 3,000,000 annually, on average, over the last three years.
28. "Reputation" shall denote honesty, competence, hardworking and character that makes sure that the person will not act towards jeopardizing the safety and soundness of the bank and undermining its reputation and credibility.
29. "Own funds" shall denote funds of the bank comprising the initial capital, reserves and other items, calculated according to the methodology stipulated by the National Bank of the Republic of Macedonia Council in accordance with international standards.

30. "Measures" shall mean actions undertaken by the Governor of the National Bank of the Republic of Macedonia to eliminate irregularities, noncompliance and illegitimacies in the bank's operations.
31. "Reorganization measures" shall denote measures undertaken by a competent authority for the purposes of preserving or improving the financial position of the bank, such as recapitalization, administration, payment suspension, etc., which can affect the rights of third parties.
32. "Branch" shall denote an organizational unit of a bank, having no status of a legal entity, which directly conducts all or some of the activities performed by the bank.
33. "Representative office" shall denote a part of a bank having no status of a legal entity, which may research the financial and banking operations market, and shall not perform banking and/or other financial activities.
34. "Non-banking financial institution" shall denote a legal entity other than bank, the principal activity of which is:
- carrying one or more of the following financial activities: approving credits; currency exchange operations; issuance of e-money, if regulated by special law; issuance and administration of credit cards; financial leasing; factoring; forfeiting; issuance of guarantees and other forms of collateral; economic and financial consulting; insurance activities in line with the law; intermediation in conclusion of credit and loan contracts; securities operations in line with the law; fast money transfer; pension fund management. If the activities are regulated by a special law, the non-banking financial institutions shall perform those activities in line with a special law, or
  - acquiring participation in legal entities which carry one or more of the financial activities referred to in indents 1 and 2 of this paragraph.
35. "Non-financial institution" shall denote a legal entity which is not a bank or non-banking financial institution.
36. "Acquiring shares" shall denote subscription, payment, purchasing and inheriting shares and obtaining shares by compensation, present, pledge, court decision and other methods specified by a law.
37. "Net debtor of a bank" shall denote a natural person whose annual average liabilities to the bank exceed their average annual claims and investments in the bank and/or a natural person who is a representative or otherwise connected to a legal entity, the net exposure of the bank to which exceeds 1% of the bank's own funds.

### **Article 3**

Banking activities may be conducted only by:

- 1) bank which was granted a founding and operating license by the Governor of the National Bank of the Republic of Macedonia (hereinafter referred to as: Governor),
- 2) foreign bank which was granted a license for opening and operating a branch by the Governor of the National Bank of the Republic of Macedonia and
- 3) bank from a member state of the European Union which, according to this law, opened a branch in the Republic of Macedonia.

## **Article 4**

- (1) The word "bank" or words derived from them shall not be used in the name of a trade company, or any legal entity and their organizational units, which was not granted a license for founding and operating a bank or opening and operating a branch of a foreign bank by the Governor, or which is not a branch of a bank from a member state of the European Union.
- (2) A branch of a foreign bank and branch of a bank from European Union member-state shall use the name of the bank as in the country of registration of the bank's head office, compulsorily indicating its head office and the word "branch".
- (3) Trade company, or other legal entity and their organizational units, the name of which points to a bank, and was not granted a license for founding and operating a bank or opening and operating a branch of a foreign bank by the Governor, or which is not a branch of a bank from a member state of the European Union, may not be registered in the Trade Registry maintained in the Central Registry.

## **Article 5**

Entities which were not granted a license by the Governor and are not branches of a bank from a member state of the European Union shall not collect deposits.

## **Article 6**

- (1) The provisions of this Law shall also apply to banks founded with a special law, unless otherwise specified by that law.
- (2) The provisions of this Law shall also apply to Postal Bank.
- (3) The provisions of the Trade Company Law shall apply to the operations of banks established and having head office in the Republic of Macedonia, foreign bank branches and branches of banks from European Union member-states, unless otherwise specified by this law.
- (4) The provisions of the Law on Taking Over Joint Stock Companies shall not apply to banks in the cases when less than 50% plus 1 stock of the total number of voting shares in the bank are taken over and in the cases, stipulated by this Law, when the shares are sold by the National Bank of the Republic of Macedonia (hereinafter: the National Bank).

# **II. FINANCIAL ACTIVITIES**

## **Article 7**

- (1) The bank may perform the following activities:
  - 1) accepting deposits and other repayable sources of funds,
  - 2) lending in the country, including factoring and financing commercial transactions,
  - 3) lending abroad, including factoring and financing commercial transactions,
  - 4) issuance and administration of means of payment (payment cards, checks, traveler's checks, bills of exchange),
  - 5) issuance of e-money, if regulated by special law,

- 6) financial leasing,
  - 7) currency exchange operations,
  - 8) domestic and international payment operations, including purchase and sale of foreign currency,
  - 9) fast money transfer,
  - 10) issuance of payment guarantees, backing guarantees and other forms of collateral,
  - 11) lease of safe deposit boxes, depositories and depots,
  - 12) trade in instruments on the money market (bill of exchange, checks, deposit certificates),
  - 13) trade in foreign assets, including trade in precious metals,
  - 14) trade in securities,
  - 15) trade in financial derivatives,
  - 16) asset and securities portfolio management on order and for the account of clients,
  - 17) providing services of a custodian bank,
  - 18) purchasing and selling, underwriting and placement of securities issue,
  - 19) intermediation in sale of insurance policies,
  - 20) intermediation in concluding credit and loan agreements,
  - 21) processing and analyzing information on the legal entities' creditworthiness,
  - 22) economic and financial consulting, and
  - 23) other financial services specified by law allowed to be performed exclusively by a bank.
- (2) A bank may not directly perform operations from the area of industry, trade, or other non-financial activities.

## **Article 8**

Apart from the financial activities stipulated in Article 7 of this Law, the Postal Bank shall also perform the following activities:

- Compute and control payments through postal and telegraphic money orders in the inland payments system,
- Provide international money order, postal check, postal saving and redeem services,
- Collect securities in other countries, in compliance with the Securities Collection Act of the World Postal Association.

## **Article 9**

- (1) Republic of Macedonia holds a golden share in the Postal Bank
- (2) In case of privatization of at least 51% of the capital of the “Macedonian Post Offices” Public enterprise, Republic of Macedonia shall retain the right arising from the golden share for a period of 12 months after the privatization.
- (3) The golden share shall provide a dominant voting right to the Government of the Republic of Macedonia on the following issues:
- 1) change of ownership in the Postal Bank,
  - 2) merger, division and cessation of the operations of the Postal Bank,
  - 3) quotation of the shares of the Postal Bank on the Stock Exchange,
  - 4) assuming liabilities for the account of the Postal Bank exceeding 10% of the Postal Bank's own funds,
  - 5) establishing units of the Postal Bank abroad,
  - 6) investments abroad, and
  - 7) investment policy of the Postal Bank.

## **Article 10**

- (1) As for a deposit of natural person, the bank shall issue a document unambiguously stating that it is a deposit of a natural person indicating their personal data.
- (2) The bank shall keep records on each payment in and out of the deposit account and, at the request by the client, issue document recording all payments in and out in the requested period.

## **Article 11**

The bank shall display the copies of the Governor's decision on granting a license for founding and operating a bank, the interest rates in effect, the general terms and conditions for operating with deposits of natural persons and the type and the amount of guarantee for the deposits of natural persons, on a noticeable place in its tellers' premises.

# **III. BANK FOUNDING**

## **1. Form**

## **Article 12**

A bank shall be established as a joint stock company with a head office in the Republic of Macedonia.

## **2. Shareholders**

## **Article 13**

- (1) A bank shareholder may become domestic and foreign legal entity and natural person.
- (2) A shareholder with qualified holding in a bank may not become a person, or legal entity controlled by a person:
  - 1) sentenced to imprisonment for crime in the area of finances and banking,
  - 2) who was imposed a misdemeanor sanction i.e. ban on performing a profession, activity or duty,
  - 3) against whom a bankruptcy proceeding has been initiated,
  - 4) who does not enjoy any reputation, thus compromising the safe and sound operations of the bank, and
  - 5) who fails to comply with the provisions of this Law and the regulations adopted on the basis of this law and/or failed or has failed to implement and/or acted or has been acting contrary to the measures imposed by the Governor, that compromised or have been compromising the safety and soundness of the bank and its creditors.

## **3. Initial capital**

## **Article 14**

- (1) A bank shall be established with initial capital of Denar 310,000,000,
- (2) The initial capital under paragraph 1 of this Article and all subsequent increases in the initial capital shall be solely in the form of money and paid-in outright. The initial capital paid-in outright shall be registered in the Trade Registry as a core principal.
- (3) The bank shall maintain the value of the initial capital under paragraph 1 of this Article.
- (4) The requirement under the Trade Company Law for mandatory indication of the amount of the core principal in the memorandum shall not apply to banks.

#### **4. Preference shares**

#### **Article 15**

- (1) The total nominal amount of preference shares without voting right in a bank may not exceed 10% of the total nominal amount of the bank's total shares.
- (2) The provision of the Trade Company Law shall not apply to banks in instances when the preference shares without voting right vest a voting right.

#### **5. Founding and operating license**

#### **Article 16**

The Governor shall issue a license for founding and operating a bank.

#### **Article 17**

- (1) Persons who intend to found a bank shall submit an application to the National Bank for issuing a license for founding and operating a bank. The application for issuing a license shall comprise the following documents, data and information:
  - 1) draft articles of incorporation,
  - 2) strategic and operational plan of the bank including projection of the financial statements for the following five years,
  - 3) draft name of the bank,
  - 4) amount of the initial capital and statement that it will be paid in,
  - 5) sources of funds for payment of the initial capital,
  - 6) certificate from competent institution for regular payment of the public duties,
  - 7) identity of the persons who intend to found a bank and the number of shares held by each of them,
  - 8) evidence for the financial standing of the persons who intend to found a bank,
  - 9) identity, education, experience and professional background of the nominated members of the Supervisory Board and the Board of Directors,
  - 10) organizational structure of the bank,
  - 11) internal control and risk management systems,
  - 12) financial activities performed by the bank,
  - 13) evidences related to Article 13 of this Law, and
  - 14) information system and technical equipment of the bank.
- (2) The legal entities that intend to obtain qualified holding in a bank, except for the



documents, data and information under paragraph 1 of this Article, shall also enclose the following with the application:

- 1) certificate from the registry of the head office of the legal entity,
  - 2) articles of incorporation and list of members of the management bodies of the legal entity,
  - 3) list of individuals, with direct or indirect ownership of more than 10% of the shares, i.e. stakes in the legal entity and
  - 4) list of legal entities with direct or indirect ownership of more than 10% of the shares, i.e. stakes in the legal entity, including financial statements for the last three years.
- (3) Foreign bank and/or foreign entity with participation in a foreign bank, that intend to acquire control in the bank, in addition to the documents, data and information under paragraphs 1 and 2 of this Article, shall also support the application for founding and operating license with the following:
- 1) certificate from the registry of the head office of the foreign bank and/or foreign person who has a participation in a foreign bank,
  - 2) proof that the foreign bank is authorized to collect deposits and other repayable sources of funds in the country of registration of the bank's head office,
  - 3) opinion of the competent authorities in the country in which the head office of the foreign bank is registered related to the acquiring control in the bank, and
  - 4) evidence that the competent authority of the foreign bank exercises adequate supervision on consolidated basis, at least in a method and volume specified by this law.
- (4) In addition to those stated under paragraphs 1, 2 and 3 of this Article, the Governor may require additional documents, data and information and conduct an interview with the nominated members of the Board of Directors and the Supervisory Board and with the individuals intending to acquire qualified holding in the bank.
- (5) The type and the method of communicating the documents, data and information under 1, 2 and 3 of this Article and the method and procedure for their evaluation shall be prescribed in detail by the National Bank Council.

## **Article 18**

- (1) The Governor shall adopt a decision on issuing a temporary license or rejecting the application under Article 17 of this law within 90 days after the date of submitting the application. The 90-day period shall not include the periods set by the Governor for completing the submitted application and the period from submitting a request by the Governor to competent domestic and foreign authorities and institutions for obtaining documents, data and information required for the decision making on the application, with the period from the date of submitting the application to the date of the decision making by the Governor, not exceeding 180 days.
- (2) The Governor shall reject the application under Article 17 of this Law if:
  - 1) the application does not contain the complete documentation,
  - 2) the application contains incorrect, or false data,

- 3) according to Article 13 of this Law, the person referred to in Article 17 of this Law may not be shareholder,
  - 4) the available data and information indicate that as a result of the legal or financial standing, i.e. the method of its operating, or the nature of the activities of the person referred to in Article 17 of this Law, and or persons connected thereto, indicate high-risk tendency, which may compromise the safety, soundness and the reputation of the bank, i.e. its operations in accordance with the regulations,
  - 5) the financial and the economic standing of the person under Article 17 of this Law does not correspond with the value of the shares they intend to acquire,
  - 6) the initial capital is lower than that stipulated in Article 14 paragraphs 1 of this Law,
  - 7) there is a reasonable ground to doubt the legitimacy of the origin of the funds, the reputation, or the true identity of the persons under Article 17 of this Law and /or persons connected thereto,
  - 8) the submitted documents, data and information under Article 17 paragraphs 1, 2, 3 and 4 of this Law indicate that the bank will not operate in safe, sound manner and in line with the regulations, i.e. will not be managed in a manner that would provide safety of the entrusted funds,
  - 9) close links might hinder the performance of efficient supervision,
  - 10) the members nominated to the Supervisory Board and the Board of Directors fail to fulfill the criteria required for their appointment,
  - 11) considers that the acquisition of shares by the person under Article 17 of this Law brings about undesired development of the financial system, or
  - 12) failure to fulfill other requirements for granting a founding and operating license,
- (3) In the decision making, defined by paragraph 1 of this Article, the Governor shall decide on whether the bank will be organized and capable to operate in accordance with the regulations, the set supervisory standards and transparency and safety principles, whether the bank meets the corporate governance and risk management standards, assess the qualification, experience and the reputation of the nominated members of the Supervisory Board, the Board of Directors and persons referred to in Article 17 of this law, the feasibility of the strategic and operational plan and the financial statements projection.
  - (4) Should the Governor reject the application due to the existence of the grounds referred to in paragraph 2, item 7 of this Article, they shall forthwith inform the Anti-Money Laundering and Combating the Financing of Terrorism Directorate thereon.
  - (5) The National Bank Council shall set the method of determining connected persons.

### **Article 19**

The temporary license shall include the requirements to be met by the bank in order to obtain a founding and operating license, as follows:

- 1) payment of the initial capital,
- 2) development of a statute,
- 3) list of nominees with special rights and responsibilities, other than for the members of the Supervisory Board and the Board of Directors, including information on their identity, education, experience and professional background,
- 4) employment plan including the qualification structure and training of the bank's staff,
- 5) leasing or purchasing business premises and equipment and establishing an operation system,
- 6) development of bank's written operating policies and procedures, and
- 7) engagement of an audit company.

## **Article 20**

- (1) The bank shall meet the requirements specified under Article 19 of this Law within 180 days upon the issuance of the temporary license, and shall submit written evidence to the National Bank.
- (2) The Governor shall, on the basis of the assessment of the bank's compliance with the requirements indicated in the temporary license, decide with a Decision on issuing a license for founding and operating a bank or rejecting the application under Article 17 of this Law within 60 days after the date of submission of the written evidence under paragraph 1 of this Article. The 60-day period shall not include the periods set by the Governor for completing the evidence and the period from submitting a request by the Governor to competent domestic and foreign authorities and institutions for obtaining documents and information required for the decision making, with the period from the date of submitting the evidence to the date of the decision making by the Governor, not exceeding 90 days.
- (3) In the decision making under paragraph 2 of this Article, the Governor shall decide on whether the bank will be organized and capable to operate according to the regulations, the set supervisory standards and transparency and safety principles, whether the bank meets the corporate governance and risk management standards, assess the qualification, experience and reputation of the nominated members of the Supervisory Board, Board of Directors and the persons under Article 17 of this law and the feasibility of the strategic and operational plan and the projection of the financial statements.
- (4) In the decision making under paragraph 2 of this Article, the Governor shall decide on whether the bank still fulfills the requirements underlying the issuance of the temporary license, by requiring new evidence, documents and information.
- (5) The decision on granting a founding and operating license under paragraph 2 of this Article shall contain:
  - 1) name and head office of the bank,
  - 2) name, surname and address of natural persons, i.e. name and head office of legal entities that subscribed and paid-in shares, including the nominal amount and the number of subscribed and paid-in shares,
  - 3) amount of the bank's initial capital,
  - 4) financial activities the bank may perform, and
  - 5) consent on the bank's status.
- (6) Any change in the light of paragraph 5 of this Article shall be an integral part of the decision.

- (7) The bank shall not perform financial activities that are not indicated in the decision under paragraph 5 of this Article.

### **Article 21**

- (1) Statute of a bank shall be adopted within 30 days from the date of receiving the decision on issuing a founding and operating license referred to in Article 20 paragraph 2 of this Law.
- (2) The bank shall start operating within 90 days after the adoption of the decision on issuing a founding and operating license referred to in Article 20 paragraph 2 of this law.

## **6. License for status changes**

### **Article 22**

- (1) The bank shall submit an application to the National Bank for obtaining a license for status changes.
- (2) The National Bank Council shall determine the documentation, procedure and the criteria for obtaining a license for status changes of a bank.
- (3) The Governor shall adopt a decision on issuing a license or rejecting the application under paragraph 1 of this Article within 90 days after the date of submission of the application. The 90-day period shall not include the periods set by the Governor for completing the submitted application and the period from submitting a request by the Governor to competent domestic and foreign authorities and institutions for obtaining documents and information required for the decision making on the application, with the period from the date of submitting the application to the date of the decision making by the Governor, not exceeding 180 days.
- (4) Only banks founded and with head office in the Republic of Macedonia may make status changes of merger, acquisition and division.
- (5) The provisions of the Trade Company Law that refer to reporting to creditors shall not apply to the procedure for status change in a bank.

### **Article 23**

The bank shall make a decision on status changes within 45 days from the date of obtaining the decision on issuing a license under Article 22 paragraph 3 of this Law.

## **7. Registering in the Trade Registry**

### **Article 24**

- (1) The bank shall acquire a status of legal entity by registering in the Trade Registry maintained with the Central Registry.
- (2) An application for registering in the Trade Registry shall be filed within 15 days from the date of adopting the statute referred to in Article 21 paragraph 1 of this Law.
- (3) The following shall be enclosed with the application for registering in the Trade Registry:

- 1) bank Statute,
  - 2) Decision on issuing a license for founding and operating a bank,
  - 3) evidence that the funds for the initial capital have been paid in on an interim account with the institution responsible for conducting payment operations, i.e. evidence that the foreign person has paid-in the foreign assets on a special account with the National Bank, and
  - 4) other documents as specified by the regulations governing the registration in the registry.
- (4) In the case of increasing the initial capital, the bank shall submit a revised text of the statute to the Central Registry, within 8 days after the adoption of a decision on amending the statute by the bank's General Meeting of Shareholders.
- (5) The units of the bank shall also be registered in the Trade Registry as defined by the regulations governing the registration in the Trade Registry.

#### **Article 25**

The bank shall file an application for registering a status change in the Trade Registry within 15 days from the date of adopting the decision of Article 23 of this law.

#### **Article 26**

The bank shall submit a copy of the decision on registration along with the documentation submitted for registering in the Central Registry to the National Bank within 15 days after the registration of the incorporation or the status change of the bank in the Trade Registry.

### **8. Publishing**

#### **Article 27**

The National Bank shall publish the following at its web site:

- 1) a list of banks compulsorily containing the name and head office of the bank and data on shareholders with qualified holding, members of the bank's Supervisory Board and Board of Directors,
- 2) list of branches of banks from member states of the European Union compulsorily containing name and head office of the branch and of the bank that opened it and data on persons with special rights and responsibilities in the branch, and
- 3) list of branches of foreign banks compulsorily containing name and head office of the branch and of the bank that opened it and data on the persons with special rights and responsibilities in the branch.

## **IV. BRANCHES OF BANKS FROM EUROPEAN UNION MEMBER STATES**

## **1. Right of performing financial activities**

### **Article 28**

- (1) Bank from European Union member-state may, through its branch in the Republic of Macedonia, perform the financial activities listed under Article 7 of this law, authorized to perform in the home country.
- (2) The provisions of this and other law and bylaws adopted on the basis of such laws shall apply to the operations of the bank under paragraph 1 of this Article through its branch in the Republic of Macedonia, referring to the following:
  - 1) implementation of the monetary policy measures,
  - 2) obligation for submitting reports on the branch to the National Bank required for conducting monetary policy, monitoring the liquidity and on the branch's activities for statistical purposes,
  - 3) obligation for submitting and disclosing the annual financial statements under paragraphs 1 and 3 of Article 110 of this Law,
  - 4) banking secrecy,
  - 5) prevention of money laundering and financing terrorism, and
  - 6) consumer protection.
- (3) In the legal operations on the territory of the Republic of Macedonia, the branch of a bank from the European Union member-state shall act on behalf and for the account of the bank from the European Union member-state, shall be entitled to acquire rights and assume liabilities and shall be entitled to be treated at courts and other authorities of the Republic of Macedonia under the terms that apply to banks incorporated under this law.
- (4) The bank from the European Union member-state shall be held liable with all its property regarding the liabilities of its branch arisen in the Republic of Macedonia.

### **Article 29**

The deposits of the branch of a bank from European Union member-state shall be included in the deposit guarantee scheme of the home country.

## **2. Commencement of operations**

### **Article 30**

- (1) A bank from European Union member-state may start operating in the Republic of Macedonia through a branch after the expiration of 2 months after the date the National Bank receives a notification from the competent authority of the home country that includes the following:
  - 1) plan of activities of the branch which, inter alia, contains information on banking and

other financial activities which will be performed and on the organizational structure of the branch,

- 2) data on persons with special rights and responsibilities in the branch,
  - 3) address of the branch where one could get the documentation for the branch,
  - 4) amount of own funds of the bank and bank's capital adequacy ratio,
  - 5) comprehensive description of the deposit guarantee scheme in the home country unambiguously showing that the deposits of the branch in the Republic of Macedonia are guaranteed, and
  - 6) financial activities the bank is authorized to perform.
- (2) Within a period of 2 months after receiving the notification under paragraph 1 of this Article, the National Bank may set terms under which the bank from European Union member-state may perform financial activities in the Republic of Macedonia through a branch, and shall notify the bank and the competent authority of the home country thereon.
- (3) After receiving the notification under paragraph 2 of this Article or, if the National Bank fails to submit such notification, after the expiration of the period under paragraph 1 of this Article, the bank from European Union member-state may register the branch in the Trade Registry as specified by the provisions of the Trade Company Law that concerns the procedure for registering foreign company subsidiary. After being registered in the Trade Registry, the branch of the bank from European Union member-state may start performing the assigned financial activities.
- (4) The bank from European Union member-state shall notify the National Bank on each intention to change the data indicated in the notification under paragraph 1 items 1, 2, 3, 5 and 6 of this Article, at least one month prior to the change.

### **Article 31**

All branches of a same bank from European Union member-state in the Republic of Macedonia shall be considered one branch.

### **Article 32**

The bank from European Union member-state shall maintain all financial statements and other documentation for its operations in the Republic of Macedonia, in Macedonian and shall keep them centralized in its first opened branch in the Republic of Macedonia.

## **3. Supervision**

### **Article 33**

- (1) The competent authority of the home country or its authorized persons may conduct on-site supervision of branch of the bank originating from that member state, and notify the National Bank thereon in advance.

- (2) In the supervision referred to in paragraph 1 of this Article the competent authority of the home country or its authorized persons shall have the responsibilities of the National Bank stated under Article 116 and 117 of this law.
- (3) On request of the competent authority of the home country, the National Bank shall take part in or conduct on-site supervision of the branch of the bank from such country in the Republic of Macedonia.

#### **Article 34**

As an exception to provisions of Article 33 of this law, the National Bank shall perform supervision of branch of bank from European Union member-state opened in the Republic of Macedonia as specified by Articles 116 and 117 of this law in order to determine whether the branch observes the provisions of Article 28 paragraph 2 of this law and undertakes measures in conformity with this law.

#### **Article 35**

The competent authority of the home country and the National Bank shall cooperate and exchange information for the purposes of efficient supervision and monitoring of the operations of the bank from European Union member-state which opened a branch in the Republic of Macedonia.

### **4. Measures against bank and branch of a bank from European Union member-state**

#### **Article 36**

- (1) If the bank from a European Union member-state, through its branch in the Republic of Macedonia, acts contrary to Article 28 paragraph 2 of this law, the Governor of the National Bank shall adopt a decision requiring from the bank to address the illegitimacies within a specified period.
- (2) If the bank from a European Union member-state acts contrary to the decision under paragraph 1 of this Article, the National Bank shall inform the competent authority of the home country which is to undertake measures against the bank and notify the National Bank on the type of undertaken measures.
- (3) If after receiving the notification under paragraph 2 of this Article the competent authority of the home country fails to undertake measures against the bank or, in spite of the undertaken measures, the bank from the European Union member-state still fails to address the illegitimacies, the Governor shall adopt a decision undertaking measures for preventing the illegitimacies or prohibit the bank from performing financial activities through the branch in the Republic of Macedonia.
- (4) Before undertaking the measures listed under paragraph 3 of this Article, the National Bank shall notify the competent authority of the home country on the type of measures and the reasons for undertaking such measures.
- (5) As an exception to paragraphs 2 and 4 of this Article, and in order to protect the interests of the depositors, the National Bank may, without previously notifying the competent authority of the home country, undertake measures against the bank from the European



Union member-state for preventing the illegitimacies or prohibiting the performance of financial activities in the Republic of Macedonia.

- (6) The National Bank shall, as soon as possible, notify the competent authority of the home country on the case stated under paragraph 5 of this Article.
- (7) If the National Bank considers that reorganization measures should be undertaken against a branch as a part of a bank from the European Union member-state, it shall notify the competent authority of the home country thereon.

## **5. Reorganization measures**

### **Article 37**

- (1) An excerpt of the decision shall be published in the Official Gazette of the European Union and in at least two daily newspapers in the Republic of Macedonia in the event of reorganization of a bank from the European Union member-state, including its branch in the Republic of Macedonia.
- (2) The reorganization measures shall become effective in the Republic of Macedonia once they become effective in the home country.
- (3) The reorganization measures in the Republic of Macedonia shall apply in conformity with the regulations and procedures applicable in the home country, other than in the cases stated under Article 41 of this law.

### **Article 38**

- (1) The competent authority of the home country shall notify the National Bank on the intention to undertake reorganization measures prior to the adoption of the decision on undertaking bank reorganization measures, and unless possible, immediately after the adoption of the decision.
- (2) Provisions of Article 42 of this law, shall respectively apply to the notification, recognition and reporting of claims.

## **6. Bankruptcy and liquidation**

### **Article 39**

- (1) The competent authority of the home country shall be the exclusively authorized to make decision on opening a bankruptcy or liquidation procedure against a bank, including its branches in the Republic of Macedonia.
- (2) The decision on opening bankruptcy or liquidation procedure made by the competent authorities of the home country shall become effective in the Republic of Macedonia on the date it becomes effective in the home country.
- (3) The bankruptcy or liquidation procedure shall be conducted as defined by the regulations of the home country, except for the cases under Article 43 of this law.

#### **Article 40**

- (1) The competent authority of the home country shall notify the National Bank on the intention to make a decision on opening bankruptcy or liquidation procedure prior to the adoption of the decision on opening bankruptcy or liquidation procedure against a bank, including its branches in the Republic of Macedonia, or unless possible, immediately after the adoption of the decision.
- (2) An excerpt of the decision under paragraph 1 of this Article shall be published in the Official Gazette of the European Union and in at least two daily newspapers in the Republic of Macedonia.

#### **Article 41**

- (1) The persons assigned to conduct the bankruptcy or liquidation procedure may undertake activities in the Republic of Macedonia on the basis of the decision on their appointment (designation) issued by the competent authority of the home country and Macedonian translation of such decision verified by a notary in the Republic of Macedonia.
- (2) Persons under paragraph 1 of this Article may, in the Republic of Macedonia, perform all activities they are authorized to perform by the regulations of the home country.

#### **Article 42**

- (1) Provided that the regulations in the home country require compulsory reporting of claims for the purposes of their recognition, the persons in charge of conducting the bankruptcy or liquidation procedure shall notify, immediately after the beginning of the procedure, each recognized creditor having a head office or residence in the Republic of Macedonia.
- (2) Creditors having head office or residence in the Republic of Macedonia shall have the same rights and treatment in the bankruptcy or liquidation procedure as the creditors with head office or residence in the home country.

#### **Article 43**

The regulations of the state of registration of the rights of objects shall accordingly apply to the right of objects registered in the Registry or other centralized registry system at the moment of opening the bankruptcy or liquidation procedure.

#### **Article 44**

Provided that the competent authority of the home country revoke the license of the bank for performing financial activities, the National Bank shall prohibit the branch of such bank in the Republic of Macedonia to perform activities.

### **7. Membership in professional associations**

#### **Article 45**

Banks from European Union member-states that have branches in the Republic of Macedonia may be members of the professional associations in the Republic of Macedonia enjoying rights and obligations that apply to the banks from the Republic of Macedonia.

## **V. FOREIGN BANK BRANCHES**

### **1. Right of performing financial activities**

#### **Article 46**

(1) Foreign bank may, through its branch in the Republic of Macedonia, perform the financial activities listed under Article 7 of this law, authorized to perform in the country of its head office.

(2) The branch of a foreign bank shall abide by the laws of the Republic of Macedonia.

(3) In the legal operations on the territory of the Republic of Macedonia, the foreign bank branch shall act on behalf of and for the account of the bank, shall be entitled to acquire rights and assume liabilities and be treated at courts and other bodies of the Republic of Macedonia under the terms that apply to banks incorporated under this law.

(4) Foreign bank with a branch in the Republic of Macedonia shall be held liable with all its property regarding the liabilities of its branch incurred in the Republic of Macedonia.

(5) Foreign bank branch shall place funds in the Republic of Macedonia in the amount of at least 20% of the collected deposits of residents in the Republic of Macedonia. The deposit referred to in Article 48 paragraph 2 of this law shall not be included in the amount of funds placed in the Republic of Macedonia.

(6) The funds of the branch may be used for repayment of liabilities of the foreign banks incurred outside the Republic of Macedonia, only after settling the liabilities arising from the operations of the branch in the Republic of Macedonia.

(7) All branches of a same foreign bank opened in the Republic of Macedonia shall be deemed as a single branch for purposes of asset maintenance requirement, as specified by Article 48 paragraph 2 of this law.

(8) At least two persons, having acquired prior consent by the Governor, shall manage the bank's branch, and at least one of them shall have to be fluent in Macedonian language and its Cyrillic alphabet, and have permanent residence in the Republic of Macedonia. Persons managing the branch shall have to meet the requirements for a member of the Management Board stipulated by this Law.

### **2. Opening a foreign bank branch**

#### **Article 47**

(1) Foreign bank may open a branch in the Republic of Macedonia upon previously obtained license for opening and operating a branch by the Governor.

(2) Regarding the obtaining of license to open and operate a branch, the foreign bank shall submit a application to the National Bank, enclosing the following:

- 1) authorization of a competent authority of the country of registration of the foreign bank's head office, indicating the financial activities the bank is authorized to perform,
- 2) authorization of the supervisory authority of the country of registration of the head office of the foreign bank for opening a branch in the Republic of Macedonia or a statement indicating no objection to the opening of a branch in the Republic of Macedonia,
- 3) bank's Articles of Association or other appropriate act as specified by the regulations of the country of registration of the head office of the parent bank,
- 4) list of shareholders of the foreign bank holding over 5% of the bank's shares,
- 5) data on the members of the foreign bank's management and supervisory bodies and on identity, professional experience and qualifications (education) of the persons nominated to manage the branch,
- 6) audited audit reports on the foreign bank for the last three years,
- 7) data on the anti-money laundering system of the foreign bank,
- 8) evidence that the foreign bank was assigned at least BBB rating according to the rating of Standard & Poor's, Fitch IBCA or Thompson Bank Watch or Baa2 according to the Moody's rating,
- 9) branch's plan of activities including banking and other financial activities that are to be performed by the branch,
- 10) evidence that the funds have been paid-in on the National Bank account, and
- 11) evidence that the supervisory body of the country of registration of the head office of the foreign bank exercises adequate supervision on consolidated basis, at least in a method and volume specified by this law.

(3) The Governor shall adopt a decision on issuing a license for opening and operating a branch of a foreign bank or on rejecting the application under paragraph 2 of this Article within at least 30 days from the day of submitting the documentation.

(4) The Governor shall reject the application under paragraph 2 of this Article in the cases referred to in Article 18 paragraph 2 items 1, 2 and 3 and paragraph 3 and Article 92 of this Law.

(5) The Governor shall also reject the application under paragraph 2 of this Article if considered that due to the regulations in the country of registration of the head office of the foreign bank or due to the method of enforcing such regulations, there is no possibility of efficient cooperation and exchange of information between the National Bank and the supervisory authority of the country of registration of the head office of the foreign bank or that the conduct of supervision, as required by this law, will be impeded.

(6) The foreign bank shall give written notice to the National bank immediately on any change in the data enclosed in the application referred to in paragraph 2 of this Article.

(7) The foreign bank may additionally open another branch in the Republic of Macedonia only if it submits a written notice to the National Bank and to the Trade Registry maintained at the Central Registry, of the competent authority of the country of registration of the foreign bank, that there are no impediments for opening a branch.

## **2. Branch's assets**

### **Article 48**

(1) The foreign bank branch shall hold monetary assets in the amount of at least Denar 120,000,000. The funds will be paid in by the foreign bank to a special account of the National Bank prior to the issuance of the license for opening and operating the branch. Once the branch is registered in the

Trade Registry, the funds shall be transferred to one or more deposit account of the branch at banks having a main office in the Republic of Macedonia.

(2) The foreign bank shall keep the deposit under paragraph 1 of this Article at the level of at least 5% of the total deposits of the branch in the Republic of Macedonia, but not below Denar 120,000,000, depending on which is the higher. The total deposits shall not include the deposits of the foreign bank that opened the branch.

(3) The deposit under paragraph 2 of this Article shall be treated as own funds of a branch and shall not be subject to encumbrance and interest calculation by the foreign bank that opened the branch.

(4) The foreign bank may withdraw a portion of the deposit only if the amount is higher than the one referred to in paragraph 2 of this Article, upon prior approval by the Governor.

### **3. Accounting records**

#### **Article 49**

Foreign bank shall keep the accounting records, financial statements and other documentation for the branch's operations in the Republic of Macedonia, in Macedonian.

### **4. Revocation of opening and operating license**

#### **Article 50**

(1) The Governor shall revoke the license for opening and operating a branch of a foreign bank in the following cases:

- 1) the competent authority revoked the authorization for the provision of banking services of the foreign bank that opened a branch, or bankruptcy or liquidation procedure has been instituted against the foreign bank that opened the branch,
- 2) the foreign bank makes a decision to cease the operations of the branch,
- 3) the branch ceases meeting its liabilities deriving from the insurance deposits,
- 4) the foreign bank branch ceases meeting the requirements and criteria underlying the issuance of the license,
- 5) the deposit drops below the amount as set by Article 48 paragraph 2 of this law, or
- 6) in the cases referred to in Article 154 paragraph 1 items 1, 4, 7, 9, 11, 12 and 14 of this Law.

(2) The provisions of this Law concerning the bank liquidation and bankruptcy and the provisions of the Bankruptcy Law regulating the bankruptcy proceedings with foreign element shall respectively apply in the case of revocation of the license for opening and operating a foreign bank branch.

(3) The deposit under Article 48 paragraph 2 of this law may be transferred from the deposit accounts only for payment to the foreign bank branch's creditors in the case of initiated bankruptcy or liquidation procedures against the branch.

### **5. Notifications and cooperation**

#### **Article 51**

(1) The persons who manage the foreign bank branch and the foreign bank shall notify the National

Bank forthwith, if a procedure for imposing measures by a competent authority has been instituted against the foreign bank or any of its subsidiaries or branches.

(2) The Governor shall notify the competent authority of the country of registration of the head office of the foreign bank on the revocation of the license for opening and operating a foreign bank branch, and if possible, prior to the adoption of the decision on revoking the opening and operating license. The notification shall also include the legal consequences from the revocation of the opening and operating license.

(3) The foreign bank shall give written notification to the National Bank at least one month prior to the date of adoption of the decision on cessation of the branch's operations in the Republic of Macedonia.

## **Article 52**

The competent authorities of the country of registration of the head office of the foreign bank that opened a branch in the Republic of Macedonia and the National Bank shall cooperate and exchange information for the purpose of efficient supervision and monitoring the operations of the foreign bank and its branch in the Republic of Macedonia.

## **6. Application of the provisions of this law**

### **Article 53**

(1) The provisions of this law concerning the supervisory standards, the Board of Directors, reports, accounting and audit, banking secret, supervision, inspection and measures, other than measures for recapitalization and administration, bank bankruptcy, bank liquidation and penalty provisions shall respectively apply to a foreign bank branch.

(2) The National Bank Council may specify in detail the application of the provisions of paragraph 1 of this Article to foreign bank branch.

## **7. Deposit insurance**

### **Article 54**

The deposits in the foreign bank branch shall be insured in the Deposit Insurance Funds of the Republic of Macedonia under the same terms as deposits of the banks having its main office in the Republic of Macedonia.

## **8. Membership in professional associations**

### **Article 55**

Foreign banks having branches in the Republic of Macedonia may be members of professional associations in the Republic of Macedonia, having equal rights and obligations as the banks having a head office in the Republic of Macedonia.

## **VI. BRANCHES OF BANKS FROM THE REPUBLIC OF MACEDONIA IN FOREIGN**

## **COUNTRIES**

### **Article 56**

- (1) A bank having its head office in the Republic of Macedonia, which intends to open a branch abroad, shall obtain an authorization from the National Bank.
- (2) The branch of banks having their head office in the Republic of Macedonia may only provide such banking and other financial services, assigned to the bank by the Governor.
- (3) The bank shall submit an application to the National Bank for obtaining a branch abroad, including the following information:
- 1) the country in which it intends to open a branch,
  - 2) a plan of activities, including, amongst other things, the activities to be performed by the branch and the structural organization of the branch,
  - 3) the address of the branch, and
  - 4) the identity of the persons nominated to manage the branch.
- (4) The management of the branch shall be entrusted to at least two persons who meet the requirements of Article 17 of this law that apply to members of the Board of Directors of a bank having a head office in the Republic of Macedonia.
- (5) The Governor shall reject the application under paragraph 3 of this Article if there are reasons that may adversely affect the financial standing of the bank or if considered that, based on the regulations of the country the branch is intended to be opened and the method of enforcing such regulations, there will not be an adequate cooperation and exchange of information between the National Bank and the supervisory authority of the country the branch is intended to be opened and that the conduct of supervision, as required by this law, will be impeded.
- (6) The bank shall notify the Governor on any change in the information specified in paragraph 3 of this Article at least one month before the changes are made.

## **VII. APPROVALS AND NOTIFICATIONS OF THE NATIONAL BANK**

### **1. Approvals for a bank**

#### **Article 57**

- (1) The bank shall file an application and obtain a prior approval from the Governor for the following:
- 1) amendment to the bank's Statute,
  - 2) commencement of the performance of activities stated under Article 7 paragraph 1 items 5, 8, 9, 13, 14, 15, 16, 17, 18 and 23 of this Law,
  - 3) appointment of Supervisory Board members,
  - 4) appointment of members of the Board of Directors,
  - 5) founding a subsidiary, branch, bank's representative office abroad or acquiring equity holdings in a bank,
  - 6) establishing or acquiring equity holdings, directly or indirectly, in a non-banking financial institution or non-financial institution worth more than 10% of the bank's own funds,

- 7) opening a representative office of a foreign bank,
- 8) change in the name and address of the bank, and
- 9) termination of the bank's operations in the case referred to in Article 168, paragraph 1, item 1 of this Law.

(2) The National Bank Council shall determine the type of documentation for obtaining the approval under paragraph 1 items 1, 2, 5, 6, 7 and 8 of this Article and the method of its submission, and the requirements and the procedure for issuing the approval under paragraph 1 items 1, 2, 5, 6, 7 and 8 of this Article.

(3) The provisions of Articles 17, paragraphs 4 and 5, Article 118 paragraph 2, items 1, 2, 4, 9 and 10, Articles 83, 88 and 92 of this Law shall respectively apply to paragraph 1 items 3 and 4 of this Article.

(4) The Governor shall adopt a decision on issuing an approval or rejecting the application for issuing an approval under paragraph 1, items 1, 6, 7 and 8 of this Article within 30 days after the date of submission of the application. The 30-day period shall not include the periods set by the Governor for completing the submitted application and the period from submitting a request by the Governor to competent domestic and foreign bodies and institutions for obtaining documents and information required for the decision making on the application, with the period from the date of submitting the application to the date of the decision making by the Governor, not exceeding 60 days.

(5) The Governor shall adopt a decision on issuing an approval or rejecting the application for issuing an approval under paragraph 1, items 2, 3, 4, 5 and 9 of this Article within 60 days after the date of submission of the application. The 60-day period shall not include the periods set by the Governor for completing the submitted application and the period from submitting a request by the Governor to competent domestic and foreign bodies and institutions for obtaining documents and information required for the decision making on the application, with the period from the date of submitting the application to the date of the decision making by the Governor, not exceeding 120 days.

## **Article 58**

- (1) Own funds exceeding Denar 560,000,000 shall be required for conducting the activities under Article 7 paragraph 1 items 3, 13, 14, 15, 16, 17 and 18 of this law, except for domestic trade in securities.
- (2) The Governor may issue an approval for conducting the activities under Article 57 paragraph 1 item 2 of this Law based on a previously issued license, approval or opinion of a competent authority, i.e. institution, provided that the license, approval or the opinion are required by other law.

## **2. Approvals of shareholders**

### **Article 59**

- (1) Any person who intends to acquire, directly or indirectly, gradually or immediately, shares in the total cumulative nominal amount of and over 5%, 10%, 20%, 33%, 50% or 75% of the total number of shares, i.e. the total number of issued bank's voting shares, irrespective of



whether it has acquired the shares alone or together with other connected persons, directly or indirectly, shall submit an application to the National Bank for obtaining a prior approval.

- (2) As an exception to paragraph 1 of this Article, any person who, on the basis of a decision of a competent authority as defined by law, acquired, gradually or immediately, shares in the total cumulative nominal amount of and over 5%, 10%, 20%, 33%, 50% or 75% of the total number of shares in a bank, i.e. the total number of issued bank's voting shares, irrespective of whether it has acquired the shares alone or together with other connected persons, directly or indirectly, shall submit an application to the National Bank for obtaining an approval for such change within 10 days after the effectiveness of the Decision.
- (3) In the cases of paragraph 1 of this Article, the banks, the brokerage houses and the Stock Exchange shall not execute a purchase order, i.e. transaction in bank's shares for which no approval of the Governor has been presented.
- (4) The transaction for acquiring such shares shall be executed within 180 days after the date of obtaining the approval of the Governor. After the expiration of this period, a procedure shall be initiated for obtaining a new approval.
- (5) The provisions of Article 17 paragraph 1 items 5, 6, 7, 8 and 13, paragraphs 2, 3, 4 and 5 and Article 18, paragraph 3 of this Law shall respectively apply to the documents and the information enclosed with the application referred to in paragraphs 1 and 2 of this Article and the procedure for their assessment.
- (6) The Governor shall reject the application referred to in paragraphs 1 and 2 of this Article provided that:
  - 1) the application does not contain the complete documentation,
  - 2) the application contains incorrect or false data,
  - 3) the person is not eligible to be a shareholder according to Article 13 of this Law,
  - 4) the available data and information indicate that as a result of the legal and financial position, i.e. the method of operations or the nature of activities performed by such person, and/or persons connected thereto, there is a high risk tendency, thus compromising the soundness, safety and reputation of the bank, i.e. its operations in accordance with the regulations,
  - 5) the financial and the economic standing of such person does not correspond with the value of shares they intend to acquire,
  - 6) there is a reasonable ground to doubt about the legitimacy of the origin of the funds, the integrity or the true identity of such person, and/or persons connected thereto,
  - 7) close links for the purposes of this law may impede the conduct of efficient supervision, and/or
  - 8) considers that the acquisition of shares shall bring about undesired development of the financial system.
- (7) The Governor shall also reject the application referred to in paragraphs 1 and 2 of this

Article submitted by a foreign person, provided that the regulations and practices of the country of origin of the foreign person indicate that the supervisory function will be hindered and disabled.

- (8) The Governor shall adopt a decision on issuing an approval or rejecting the application under paragraphs 1 and 2 of this Article within 30 days after the date of submission of the application. The 30-day period shall not include the periods set by the Governor for completing the submitted application and the period from submitting a request by the Governor to competent domestic and foreign bodies and institutions for obtaining documents and information required for the decision making on the application, with the period from the date of submitting the application to the date of the decision making by the Governor, not exceeding 90 days.

### **Article 60**

The Governor shall immediately inform the Anti-Money Laundering and Combating the Financing of Terrorism Directorate on the decision under Article 59, paragraph 8 of this Law on rejecting the application, with respect to Article 59, paragraph 6, item 6 of this Law.

## **3. Notifications**

### **Article 61**

- (1) The bank shall notify the National Bank on:
- 1) increase in the initial capital of the bank, i.e. new issue of shares,
  - 2) change in the ownership structure of the shares,
  - 3) large exposure as defined by Article 72 paragraph 1 of this Law,
  - 4) establishing and abolishing parts of the bank in the country,
  - 5) abolishing bank's subsidiary, branch, or representative office abroad,
  - 6) replacement of a person with special rights and responsibilities, except for a replacement of a member of the Supervisory Board and the Board of Directors,
  - 7) deteriorated financial standing of the shareholders with qualified holding, provided that the bank obtained, anyhow, such information,
  - 8) acquiring equity holdings, directly or indirectly, in a non-banking financial institution or in non-financial institution, less than 10% of the bank's own funds, and
  - 9) appointment of an acting member of bank's Board of Directors from among the members of the bank's Supervisory Board.
- (2) The bank shall notify the National Bank on the activities under paragraph 1 items 1, 4, 5, 6, 7, 8 and 9 of this Article within 5 days from the date of adopting the decision on undertaking the activity, i.e. from the acquiring such information.
- (3) The bank shall submit monthly reports to the National Bank on the changes under paragraph 1 items 2 and 3 of this Article, by the tenth day in the current month for the previous month.
- (4) The bank shall submit quarterly reports to the National Bank on all large exposures.

### **Article 62**

- (1) Any shareholder with qualified holding in a bank who intends to reduce its holding, directly or indirectly, so that such holding in the total number of shares or the total number of issued

voting shares in the a bank will drop below 5%, 10%, 20%, 33%, 50% or 75%, shall notify the National Bank at least a month prior to the reduction, on the following:

- 1) the total number of shares and the total number of issued voting shares in the bank they intend to sell,
- 2) the amount by which their holding in the initial capital will reduce,
- 3) the total number of shares and total number of issued voting shares in the bank they will hold after the reduction, and
- 4) the identity of the person who will acquire their shares in the bank, if known.

(2) The shareholders shall notify the National Bank on concluded agreements on associating the voting rights arising from the shares in the bank within 5 days after the agreement is being concluded.

## **VIII. SUPERVISORY STANDARDS**

### **1. Solvency and capital adequacy**

#### **Article 63**

- (1) The bank shall dispose of an adequate level of own funds depending on the nature, the type, and the scope of financial activities and the level of risks arising from the conduct of such activities (capital adequacy).
- (2) The bank shall operate in a manner that allows it permanently to be able to settle all its liabilities (solvency).

#### **Article 64**

- (1) The capital adequacy ratio shall represent the own funds - to - risk weighted assets ratio.
- (2) Bank's own funds shall not be below the amount of the initial capital prescribed by this Law.
- (3) The National Bank Council shall define the methodology for calculating the bank's capital adequacy ratio, in accordance with the international standards.

#### **Article 65**

- (1) The bank shall maintain capital adequacy ratio, which may not be below 8%.
- (2) The Governor may prescribe a rate above the one stipulated under paragraph 1 of this Article, if necessary due to the nature, the type, and the scope of activities the bank carries out and the risks it is exposed to as a result of such activities.

### **2. Risk management**

## **Article 66**

(1) The bank shall permanently manage the risks, adequately to the nature, the type and the scope of the financial activities it performs. The bank shall specify the criteria, the manner, and the methods of risk management, as well as the capital adequacy assessment, in accordance with its risk level, by the general acts and the internal procedures. The general acts and the internal procedures shall be in compliance with the regulations, the standards, and the rules in the banking area and the methodology prescribed by the National Bank Council.

(2) The general acts and the internal procedures referred to in paragraph 1 of this Article shall include all material risks the bank is exposed to in the performance of individual and of all types of financial activities, and particularly the following types of risks:

- 1) liquidity risk,
- 2) credit risk, including country risk and counterparty risk,
- 3) interest rate risk, currency risk and other market risks,
- 4) risk of concentration of bank's exposure,
- 5) operational risk, including the information systems inadequacy risk, and
- 6) risk arising from capital investments and investments in real estate.

## **Article 67**

The bank shall maintain the exposure to certain types of risks within the limits specified by this Law.

## **Article 68**

(1) For the purposes of proper risk management, the National Bank Council, in accordance with the international standards, shall prescribe:

- 1) methodology for credit risk management and determining criteria for classification of on-balance sheet and off-balance sheet assets items by the risk degree,
- 2) methodology for currency risk and other market risks management,
- 3) methodology for liquidity risk management,
- 4) methodology for bank's IT system security, and
- 5) methodology for managing other types of risks the bank faces with.

(2) The Methodologies from paragraph 1 of this Article shall represent minimum requirements the bank has to fulfill.

## **Article 69**

(1) For the purposes of protecting from potential or current losses arising from specific risk-bearing on-balance sheet and off-balance sheet assets items, the bank shall make value correction, i.e. allocate special reserve.

(2) The value correction and the amount of the special reserve shall be determined in a manner and amount as specified by a methodology developed by the National Bank Council.

## **3. Bank exposure**

## **Article 70**

- (1) Bank's exposure to an entity and entities connected thereto shall include total on-balance sheet and off-balance sheet bank claims on such entity, investments in securities issued by such entity and capital investments in such entity.
- (2) The bank is obliged to determine the bank's net-debtors as specified by a methodology developed by the National Bank Council.

## **Article 71**

- (1) Exposure to a single entity and entities connected thereto shall not exceed 25% of the bank's own funds.
- (2) Exposure to a bank's subsidiary shall not exceed 10% of the bank's own funds.
- (3) Exposure to a shareholder with qualified holding in the bank, and entities connected thereto, shall not exceed 10% of the bank's own funds.
- (4) Exposure to a person with special rights and responsibilities, and persons connected thereto, shall not exceed 3% of the bank's own funds.
- (5) The total exposure to the entities/persons referred to in paragraphs 2, 3 and 4 of this Article shall not exceed 65% of the bank's own funds.
- (6) The credits and other forms of exposure to the entities/persons referred to in paragraphs 2, 3 and 4 of this Article exceeding Denar 1,000,000 shall be approved on the basis of a decision of the bank's Supervisory Board.
- (7) The terms for approving credits and other forms of exposure, collecting deposits and performing other financial activities for the entities/persons referred to in paragraphs 2, 3 and 4 of this Article, under the same risk level determined in accordance with the supervisory standards, shall not be more favorable than those that apply to other clients of the bank.
- (8) The National Bank Council shall closely prescribe the method of applying the provisions of this Article.

## **Article 72**

- (1) Large exposure to a entity and entities connected thereto shall be considered an exposure equal or higher than 10% of the bank's own funds.
- (2) The total amount of large exposures shall not exceed eight times of the bank's own funds.
- (3) The National Bank Council shall closely prescribe the method of applying the provisions of this Article.

## **Article 73**

The bank shall adjust the method of lending and the procedure for regulating the overdue claims to the supervisory standards prescribed by this Law and the regulations adopted on the basis of

this Law.

#### **Article 74**

- (1) The bank shall not extend a credit or engage in other form of exposure, used, directly or indirectly, for purchasing shares in that bank.
- (2) The bank shall not extend credits or engage in other form of exposure to an entity and entities connected thereto with a pledge on shares issued by that bank.
- (3) The bank shall not acquire, directly or indirectly, more than 5% of the shares of another bank or non-banking financial institution that owns more than 5% of the total bank's shares.

#### **4. Bank's own shares**

#### **Article 75**

- (1) The bank may acquire own shares by purchasing, by itself or through a person acting on its own behalf, and for the bank's account, up to 10% of the total bank's shares, but not more than the amount of the non-distributed profits.
- (2) The purchase of own shares shall be valid only if:
  - 1) a decision on acquiring own shares by purchase is adopted by the General Meeting of Shareholders specifying the manner of purchasing, the maximum number of shares that may be purchased, the period of purchase which may not exceed twelve months after the date of adoption of the decision on acquiring own shares, the minimum and the maximum equivalent which may be paid for them, and
  - 2) the nominal value of the purchased own shares including the nominal value of the own shares the bank acquired previously and owns, does not exceed 10% of the nominal value of the total bank's shares.
- (3) The bank shall sell its own shares acquired in compliance with paragraph 1 of this Article within one year after the date of their acquisition.
- (4) If the shares under paragraph 1 of this Article are not sold within the period specified in paragraph 3 of this Article, they shall be canceled immediately.
- (5) The acquisition of own shares contrary to paragraph 2 of this Article shall be considered void.

#### **Article 76**

- (1) The restrictions specified by Article 75 of this Law shall not be applied provided that the acquisition of the own shares is made:
  - 1) by force of the law, and
  - 2) on the basis of effective court decision.
- (2) The shares acquired in the cases referred to in paragraph 1 of this Article shall be sold within a year after the date of their acquisition.
- (3) In the case the acquired shares referred to in paragraph 1 of this Article are not sold within the

period specified by paragraph 2 of this Article, they shall be canceled immediately.

#### **Article 77**

The rights arising from the acquired own shares shall be frozen (adjourn), up till the moment of their sale.

### **5. Bank investments**

#### **Article 78**

- (1) The bank shall not invest in and acquire land, buildings and equipment, which are not used for performing financial activities, other than those acquired on the basis of uncollected claims.
- (2) The property of the bank in land, buildings, equipment, and equity holdings in non-financial institutions shall not exceed 60% of the bank's own funds.
- (3) The aggregate amount of the equity holdings in non-financial institutions shall not exceed 30% of the bank's own funds.
- (4) A single equity holding of a bank in a non-financial institution shall not exceed 15% of bank's own funds.
- (5) A bank shall not exercise control in a non-financial institution.
- (6) The limits stipulated under paragraphs 2, 3, 4, and 5 of this Article shall not include the property in land, buildings, and equipment acquired on the basis of uncollected claims not used by the bank for performing financial activities, and equity holdings acquired on the basis of uncollected claims.
- (7) The bank shall sell the property and the equity holdings acquired on the basis of uncollected claims within three years after being acquired, otherwise they shall be included in the limit referred to in paragraphs 2, 3, 4, and 5 of this Article.

### **6. Bank liquidity**

#### **Article 79**

The bank shall maintain the liquidity, i.e. to manage the assets and the liabilities in a manner ensuring settlement of due liabilities at all times.

#### **Article 80**

For the purposes of maintaining the liquidity, in accordance with the Methodology under Article 68 of this Law, the bank shall manage the liquidity risk, including in particular:

- 1) establishment and maintenance of an adequate maturity structure,
- 2) planning and management of inflows and outflows of funds and providing of an adequate amount of liquid assets,
- 3) tracing the sources of funds and their concentration, and
- 4) liquidity testing.

## **7. Open currency position**

### **Article 81**

The bank shall maintain an open currency position in accordance with the Methodology under Article 68 of this Law.

## **IX. BANK BODIES AND BANK MANAGEMENT**

### **Article 82**

(1) Bank bodies shall be: General Meeting of Shareholders, Supervisory Board, Risk Management Committee, Auditing Committee, Board of Directors and other bodies specified by a Statute (Credit Committee, etc.).

(2) The bank's Statute shall closely prescribe the number, composition, competencies, rights, duties, responsibilities and the manner of operating of the bank bodies, as well as the number, the term of office, the competencies, rights, responsibilities and the terms for appointing persons with special rights and responsibilities.

(3) The bank management shall be in conformity with the provisions of this Law and the best corporate governance rules prescribed by the National Bank Council in accordance with the international standards.

### **Article 83**

(1) A person with special rights and responsibilities in a bank shall have a university degree and knowledgeable in the regulations for banking and/or finance and shall have appropriate experience ensuring safe and sound bank management.

(2) A person with special rights and responsibilities may not be:

- 1) National Bank Council member,
- 2) employee of the National Bank,
- 3) person sentenced to imprisonment for crime in the area of banking and finance,
- 4) person who was imposed a security measure ban on performing a profession, activity or duty,
- 5) person without reputation, thus compromising the safe and sound bank operations,
- 6) person who fails to comply with the provisions of this Law and the regulations adopted on the basis of this law and/or failed or has failed to implement and/or acted or has been acting contrary to the measures stated by the Governor, that compromised or have been compromising the safety and soundness of the bank,
- 7) member of Supervisory Board, Risk Management Committee, Auditing Committee and Board of Directors of another bank, or employee in another bank, or
- 8) person who performed function of a person with special rights and responsibilities in a bank or another legal entity in which administration has been initiated, or against which a bankruptcy or liquidation procedure have been initiated, unless unambiguously determined on the basis of the available documentation and data that the person was not involved in any action that led to the introduction of administration, a bankruptcy or liquidation procedure or performed such function immediately prior or after the



occurrence of the reasons that led to the introduction of administration, initiation of a bankruptcy or implementation of a liquidation procedure.

(3) Any person connected to a legal entity in which the bank has a participation may not be a member of a Supervisory Board, Risk Management Committee, Auditing Committee and Board of Directors of a bank.

#### **Article 84**

In case the persons with special rights and responsibilities determine that a decision of the bank bodies violates the law or other regulation adopted on a basis of a law, or the contents of which is such that it can compromise the liquidity of the bank and its safety and soundness, they shall inform the Supervisory Board and the National Bank in writing.

#### **Article 85**

The provisions of the Trade Company Law pertaining to procurator, authorized commercial agent and salesperson shall not apply to the banks.

### **1. Bank's General Meeting of Shareholders**

#### **Article 86**

- (1) The bank's General Meeting of Shareholders shall perform the following activities:
- 1) adopts the Statute and the amendments to the bank Statute,
  - 2) adopts the bank's business policy and development plan,
  - 3) adopts the bank's financial plan,
  - 4) reviews and adopts the annual report on the bank's operations, including the written opinion thereon, prepared by the Supervisory Board,
  - 5) discusses the annual report on the operations of the Internal Audit Department including the written opinion thereon, prepared by the Supervisory Board,
  - 6) discusses the report on the Audit Committee operations,
  - 7) discusses and adopts the report of the auditing company and the written opinion thereon prepared by the Supervisory Board,
  - 8) adopts the annual account and the financial statements of the bank,
  - 9) decides on the use and allocation of the profit, or loss coverage,
  - 10) decides on new issue of shares of the bank,
  - 11) decides on status changes and cessation of the bank's operations,
  - 12) appoints and dismisses the members of the Supervisory Board and the Auditing Committee,
  - 13) elects auditing company,
  - 14) adopts the list of net debtors, and
  - 15) decides on other issues of relevance to the operations of the bank specified by the bank Statute.
- (2) The bank's General Meeting of Shareholders may not appoint a member of the bank's Supervisory Board without prior approval of the Governor.

#### **Article 87**

- (1) The General Meeting of Shareholders of a bank shall be convened at least once a year.

- (2) The annual General Meeting of Shareholders of a bank shall be held before the expiration of six months of the calendar year for the previous year.
- (3) As an exception to paragraph 2 of this Article and in instances under Article 108 paragraph 4 of this law, the bank's annual General Meeting of Shareholders for the previous year may be held before the expiration of the nine months of the calendar year.
- (4) The bank shall submit the report on the held General Meeting of Shareholders to the National Bank, including the workpapers and the adopted decisions within 15 days after the General Meeting of Shareholders.
- (5) In addition to the persons referred to in the Trade Company Law, the National Bank may also press charges for determining annulment of a decision adopted by the General Meeting of Shareholders of a bank.

## **2. Supervisory Board**

### **Article 88**

- (1) The Supervisory Board of a bank shall consist of at least 5 and maximum of 9 members.
- (2) Besides the person under Article 83 of this Law, a member of a Supervisory Board in a bank may not be an employee of the bank and net debtors of the bank. At least one fourth of bank's Supervisory Board members shall be independent members.
- (3) The term of office of the Supervisory Board members shall be four years.
- (4) The Supervisory Board members shall elect a President from amongst their ranks.
- (5) The Supervisory Board shall meet at least once a month.

### **Article 89**

- (1) The Supervisory Board shall supervise the operations of the Board of Directors, approve the policies for conducting financial activities and supervise their implementation.
- (2) The Supervisory Board shall be responsible for ensuring good practice and management and bank stability, as well as timely and accurate financial reporting to the National Bank.
- (3) The Supervisory Board shall also perform the following activities:
  - 1) approves the bank's business policy and development plan,
  - 2) appoints and dismisses members of the bank's Board of Directors,
  - 3) appoints and dismisses members of the Risk Management Committee,
  - 4) approves the bank's financial plan,
  - 5) approves the establishment and the organization of the internal control system,
  - 6) organizes the Internal Audit Department and appoints and dismisses the employees of this Department,
  - 7) approves the annual plan of the Internal Audit Department,
  - 8) approves the information security policy,
  - 9) approves the bank's risk management policies,
  - 10) approves the bank's plans and programs of activities, and general acts, other than acts adopted by the bank's General Meeting of Shareholders,

- 11) discusses the reports on the activities of the bank's Board of Directors,
- 12) discusses the reports of the Risk Management Committee,
- 13) discusses the reports of the Auditing Committee,
- 14) discusses the reports of the Compliance Officer/Department,
- 15) approves the annual account and the financial statements of the bank,
- 16) approves the list of net debtors of the bank,
- 17) approves the exposure to individual entity exceeding 10% of the bank's own funds,
- 18) approves the transactions with persons related to the bank exceeding Denar 1,000,000,
- 19) approves the acquiring equity holdings and purchase of securities higher than 5% of the bank's own funds, other than purchase of securities issued by the National Bank and the Republic of Macedonia,
- 20) approves the proposal of the Auditing Committee for appointment of auditing company and is responsible for ensuring appropriate audit,
- 21) approves the internal audit policy and procedures, supervises the appropriateness of the procedures and the efficiency of the operations of the Internal Audit Department and reviews its reports,
- 22) discusses the supervisory reports, other reports submitted by the National Bank, the Public Revenue Office and other competent bodies and proposes, i.e. undertakes measures and activities for addressing the identified shortcomings and weaknesses in the bank's operations,
- 23) approves the annual report on the bank's operations and submits written opinion thereon to the banks' General Meeting of Shareholders,
- 24) discusses the report of the auditing company and submits written opinion thereon to the General Meeting of Shareholders,
- 25) provides written opinion on the annual report of the Internal Audit Department to the General Meeting of Shareholders of the bank,
- 26) approves the bank's Code of Conduct, and
- 27) approves the Rules and Procedures for the operations of the Auditing Committee.

(4) The Supervisory Board shall make self-assessment of its operations from the aspect of the individual members and jointly at least once a year, and shall notify the General Meeting of Shareholders thereon.

(5) The bank's Supervisory Board may not appoint a member of the bank's Board of Directors without obtaining prior approval from the Governor, other than in the cases referred to in Article 92 paragraph 5 of this Law.

### **3. Risk Management Committee**

#### **Article 90**

(1) The Risk Management Committee in a bank shall consist of at least three and maximum of 9 members.

(2) The members of the Risk Management Committee shall be elected from among the persons with special rights and responsibilities employed in the bank. One of the members of the bank's Board of Directors shall be a member of the Risk Management Committee.

(3) The members of the Risk Management Committee, in addition to the requirements under Article 83 of this Law, shall have minimum three-year experience in the area of finance or banking.

(4) The Risk Management Committee shall meet at least once a week.

(5) The Risk Management Committee shall also perform the following:

- 1) permanently monitors and assesses the risk level of the bank, and identify the acceptable level of exposure to risks in order to minimize the losses as a result of the bank's risk exposure,
- 2) establishes risk management policies and monitors their implementation,
- 3) follows the regulations of the National Bank pertaining to the risk management and the bank's the compliance with such regulations,
- 4) assess the bank's risk management systems,
- 5) determines short- and long-term strategies for managing certain types of risks the bank is exposed to,
- 6) analyzes the reports on the banks' risk exposure developed by the bank's risk assessment units and proposes risk hedging strategies, measures and instruments,
- 7) monitors the efficiency of the internal control systems in the risk management,
- 8) analyzes the risk management effects on the bank's performances,
- 9) analyzes the effects of the proposed risk management strategies, as well as the proposed risk hedging strategies, measures and instruments,
- 10) informs, at least once a month, the Supervisory Board, and at least once every three months, the Auditing Committee on the changes in the bank's risk positions, the changes in the risk management strategies, the risk management effects on the bank's performances as well as the undertaken measures and instruments for hedging risks and the effects thereof, and
- 11) reviews the transactions with the persons related to the bank on a quarterly basis, and submits report to the Supervisory Board by 15th in the month following the reporting period.

(6) The Risk Management Committee shall make self-assessment of its operations from the aspect of individual members and jointly at least once a year, and shall submit it to the Supervisory Board.

#### **4. Auditing Committee**

##### **Article 91**

(1) The bank's Auditing Committee shall consist of at least five and maximum of 9 members.

(2) The majority members in the Auditing Committee shall be elected from among the members of the Supervisory Board, and the other members shall be independent members.

(3) At least one Auditing Committee member shall be an authorized auditor.

(4) An employee in the audit company referred to in Article 105 of this Law may not be a member of the Auditing Committee.

(5) The Auditing Committee members shall elect a President from amongst their ranks, responsible for the organization of the work of the Auditing Committee.

(6) The Auditing Committee members, besides the requirements under Article 83 of this law, should also be knowledgeable in:

- 1) the bank's operations, its products and services,
- 2) the risks the banks is exposed to,
- 3) the internal control systems and risk management policies of the bank, and
- 4) accounting and audit.

(7) The Auditing Committee shall meet at least once quarterly, and on request of the Supervisory Board.

(8) The Auditing Committee shall adopt operating rules and procedures approved by the bank's Supervisory Board.

(9) The Auditing Committee shall:

- 1) discuss the financial statements of the bank and make sure that the disclosed financial information on the bank operations are accurate and transparent as specified by the accounting regulations and international accounting standards,
- 2) review and make assessment of the internal control systems,
- 3) monitor the operations and assess the efficiency of the Internal Audit Department,
- 4) monitor the bank's audit process and assess the work of the audit company,
- 5) adopt the bank's accounting policies,
- 6) monitor the compliance of the bank's operations with the regulations related to the accounting standards and the financial statements,
- 7) hold meetings with the Board of Directors, the Internal Audit Department and the audit company as to the identified non-compliances with the regulations and weaknesses in the bank's operations,
- 8) discuss the reports of the Risk Management Committee,
- 9) propose an audit company, and
- 10) report to the bank's Supervisory Board on its operations at least once quarterly.

(10) The Auditing Committee shall make self-assessment of its operations from the aspect of individual members and jointly at least once a year.

(11) The Auditing Committee shall submit an annual report on its operations to the bank's Supervisory Board and General Meeting of Shareholders, containing the self-assessment under paragraph 10 of this Article.

## **5. Board of Directors**

### **Article 92**

(1) The bank's Board of Directors shall consist of at least two and maximum of 7 members.

(2) A member of a bank's Board of Directors, besides the requirements under Article 83 paragraph 1 of this law, must have a 6-year successful work experience in finance or banking or 3-year work experience as a person with special rights and responsibilities in a bank with activities corresponding to those in the bank in which they are appointed.

(3) A member of a bank's Board of Directors, besides the person under Article 83 paragraph 2 of this law, may also not be a person who is member of a management body or supervisory body of any other trade company.

(4) The members of the Board of Directors must be permanently employed with the bank and at least one of the members must be fluent in Macedonian and know its Cyrillic alphabet and have a permanent residence in the Republic of Macedonia.

(5) If the number of members of the Board of Directors of a bank drops below the one set by this law, the Supervisory Board shall, from amongst its ranks, appoint an acting member(s) of the Board

of Directors. Acting members of the Board of Directors shall be subject to entry into the Trade Registry.

(6) The member of the Board of Directors who was appointed to be an acting member of the Board of Directors, may not participate in the decision-making within the competences of the Supervisory Board within the period of carrying out this duty.

### **Article 93**

The bank's Board of Directors shall:

- 1) manage the bank,
- 2) represent the bank,
- 3) enforce the decisions of the General Meeting of Shareholders and the Supervisory Board of the bank, i.e. make sure that they are implemented,
- 4) take initiatives and give proposals for promoting the bank's operations,
- 5) appoint and dismiss the persons with special rights and responsibilities pursuant to the provisions under this Law and the bank's statute,
- 6) develop a bank's business policy and development plan,
- 7) develop a financial plan of the bank,
- 8) compile a list of net debtors,
- 9) develop a bank's information security policy,
- 10) prepare an annual report on the bank's operations and submit it to the Supervisory Board, and
- 11) develop a Code of Conduct of the bank.

### **Article 94**

(1) The bank's Board of Directors shall be responsible for:

- 1) providing working conditions for the bank in compliance with the regulations,
- 2) risk management and monitoring,
- 3) achievement and maintenance of proper level of own funds,
- 4) functioning of the internal control system in all areas of the bank operations,
- 5) smooth operating of the Internal Audit Department of the bank, i.e. make sure that the Internal Audit Department has an access to the documentation and to the employees of the bank for the purposes of smooth conduct of its activities,
- 6) smooth operating of the Officer/Department referred to in Article 99 of this Law, i.e. make sure that the Officer/Department has an access to the documentation and to the employees of the bank for the purposes of smooth conduct of its authorizations,
- 7) maintenance of commercial and other books and business documentation of the bank, compiling of financial statements and other reports in accordance with the regulations governing the accounting and accounting standards,
- 8) timely and accurate financial reporting,
- 9) regularity and accuracy of the reports submitted to the National Bank in line with the law and the regulations adopted on the basis of law, and
- 10) undertaking of measures imposed by the Governor against the bank

(2) The bank's Board of Directors shall be responsible to the Supervisory Board for its operations.

(3) The bank's Board of Directors shall report to the Supervisory Board on its operations at least once a month.

(4) The bank's Board of Directors shall immediately notify the Supervisory Board on:

- 1) deteriorated bank's liquidity or solvency,
- 2) reasonable ground for revoking the founding and operating license or on a ban on performing certain financial activity as specified by law,
- 3) reduction of the own funds below the requirement as specified by this law,
- 4) the findings of the supervision and the inspection of the National Bank, and
- 5) the findings of the Public Revenue Office and other controlling bodies.

(5) The bank's Supervisory Board shall immediately notify the National Bank on the cases referred to in paragraph 4 items 1, 2 and 3 of this Article.

(6) The bank's Supervisory Board shall immediately notify the National Bank on the findings referred to in paragraph 4 item 5 of this Article provided that they significantly affect the financial standing of the bank.

(7) A member of the Board of Directors shall immediately notify the Supervisory Board in the case they or persons connected thereto, acquire a control in other legal entity.

## **6. Internal Audit Department in the bank**

### **Article 95**

(1) The bank's Supervisory Board of the bank shall organize an Internal Audit Department, as an independent organizational unit in the bank.

(2) The organizational design, rights, responsibilities and relations with other organizational units in the bank, and the responsibilities and requirements for appointing a manager of the Internal Audit Department shall be regulated by the Supervisory Board.

(3) The Internal Audit Department shall conduct constant and full-scope audit of the legitimacy, accuracy and promptness of the bank's operations through:

- 1) assessment of the internal control systems adequacy and efficiency,
- 2) assessment of the implementation of the risk management policies,
- 3) assessment of the design of the information system,
- 4) assessment of the accuracy and reliability of the commercial books and financial statements,
- 5) verification of the accuracy, reliability and the timeliness in the reporting in accordance with the regulations,
- 6) monitoring of the compliance with the regulations, the Code of Conduct, policies and procedures,
- 7) assessment of the anti-money laundering systems, and
- 8) assessment of the services the bank obtains from its ancillary services undertakings.

(4) The Internal Audit Department shall carry out its activities in conformity with the internal audit principles and standards, the bank's Code of Conduct and the operating policy and procedures of the Department.

(5) The Internal Audit Department officers shall be employed with the bank and shall only perform the function of the Department, with at least one of them being an authorized auditor.

(6) The employees of the bank shall provide the persons, i.e. the employees in the Department referred to in paragraph 1 of this Article, an access to the available documentation and all required information.

#### **Article 96**

(1) The Internal Audit Department shall develop annual plan of activities of the department, endorsed by the Supervisory Board.

(2) The plan under paragraph 1 of this Article shall indicate the subject to audit including the description of the contents of the planned audit in certain areas and schedule of the audits during the year including the planned auditing period.

#### **Article 97**

(1) The Internal Audit Department shall prepare semi-annual and annual report on its operations and submit them to the Supervisory Board, Board of Directors and Auditing Committee of the bank.

(2) The semi-annual and annual report under paragraph 1 of this Article shall contain:

- 1) description of the conducted audits of the bank's operations,
- 2) assessment of the internal control systems adequacy and efficiency,
- 3) observations and measures proposed by the Internal Audit Department, and
- 4) assessment of the implementation of the measures proposed by the Internal Audit Department.

(3) The annual report referred to paragraph 1 of this Article shall also contain:

- 1) assessment of the achievement of the objectives set by the annual plan of activities,
- 2) assessment of the planned auditing period and the possible deviation, and
- 3) information on other conducted activities.

(4) The Supervisory Board shall submit the annual report of the Internal Audit Department to the bank's General Meeting of Shareholders and the National Bank.

#### **Article 98**

The Internal Audit Department shall immediately notify the Supervisory Board and the Board of Directors if, during the audit, it identifies:

- 1) violation of the risk management standards which is likely to deteriorate the bank's liquidity and solvency, and
- 2) that the Board of Directors violates the bank's regulations, general acts and internal procedures.

### **7. Control of the compliance of the bank's operations with the regulations**

#### **Article 99**

(1) The bank's Board of Directors shall, depending on the type, scope and complexity of activities performed by the bank, appoint a Compliance Officer or organize a Compliance Department.



(2) The officer, i.e. the department referred to in paragraph 1 of this Article shall be responsible for identification and monitoring of the risks arising from the non-compliance of the bank's operations with the regulations. Risk of non-compliance with the regulations shall include particularly, but not limited to the risk of measures imposed by the National Bank, financial losses and reputation risk as a result of the failures in the compliance of the bank's operations with the regulations.

(3) The officer, i.e. the department staff referred to in paragraph 1 of this Article shall perform solely the activities defined by paragraph 2 of this Article and shall be independent in the performance of activities within their competence.

(4) The employees with the bank shall provide to the officer i.e. the department staff referred to in paragraph 1 of this Article an access to the available documentation and render all necessary information.

(5) The officer, i.e. the manager of the department referred to in paragraph 1 of this Article shall submit monthly report to the Board of Directors and quarterly report to the Supervisory Board on its operations.

## **8. Conflict of Interest**

### **Article 100**

(1) Any person with special rights and responsibilities shall make a written statement on the existence, if any, of a conflict of their personal interest with the interest of the bank, regularly every six months.

(2) Personal interest of the persons under paragraph 1 of this Article shall also denote interests of the persons connected thereto.

(3) Conflict between the personal and the bank's interest shall exist when financial, or any other type of business or family interests of the persons under paragraphs 1 and 2 of this Article are concerned by the adoption of decisions, concluding agreements or performing other business activities.

(4) Realization of financial, business and family interest shall imply generation of monetary or other type of benefit, directly or indirectly, by the persons under paragraphs 1 and 2 of this Article.

(5) The persons under paragraph 1 of this Article shall not attend the discussion and adoption of decisions, conclude agreements, or perform other business activities if their objectivity is questionable due to the existence of a conflict between their personal interest and the interest of the bank.

(6) Statement on existence of a conflict of interests shall also be given before the meeting for discussing and adopting decisions, concluding agreements, or performing other business activity.

(7) The written statement under paragraphs 1 and 6 of this Article shall be submitted to the bank's Supervisory Board and Board of Directors, indicating the reason underlying the conflict of the personal with the bank's interest.

(8) If the person under paragraph 1 of this Article conceals the existence of a conflict of interests, the National Bank and any other person who has a legal interest may require annulment of the legal matter to the competent court in accordance with this law.

## **X. REPORTS, ACCOUNTING AND AUDITING**

### **1. Reports**

#### **Article 101**

- (1) The banks shall submit reports and data to the National Bank.
- (2) The National Bank Council shall prescribe in more details the forms, types, methodology, contents of the reports and data, and the deadlines for their submission to the National Bank.
- (3) The National Bank Council may prescribe reports and data which are to be published by the bank, as well as the manner, the form and the deadlines for their publishing.

### **2. Accounting**

#### **Article 102**

- (1) The bank shall keep its business records in a regular and updated manner. Business records and financial statements shall be compiled in accordance with the regulations on accounting and the accounting standards, unless otherwise stipulated by this Law.
- (2) The bank shall organize its operations and keep business records, as well as the business and accounting documentation, in a manner confirming that the bank operates, at any time, pursuant to the provisions of this Law.
- (3) The bank shall classify the data in its business records pursuant to the chart of accounts.
- (4) When preparing the financial statements referred to in this Article, the bank shall apply the form as defined by Article 103 of this Article.
- (5) The bank shall prepare an annual account, semi-annual and annual financial statement and consolidated financial statement.
- (6) The bank shall submit to the National Bank non-audited semi-annual and annual financial statements within 30 days following the expiry of the period it refers to.
- (7) The bank shall submit to the National Bank a monthly report on the balance and the transactions on all accounts in the banks' chart of accounts.

#### **Article 103**

- (1) The National Bank Council shall prescribe the chart of accounts for banks.
- (2) For financial reporting purposes, the Governor shall prescribe:
  - 1) the types and the contents of banks' financial statements, and the notes to those

statements, and

- 2) the Methodology for recording and valuation of the accounting items and for preparation of the financial statements.

(3) For supervision purposes, besides the statements and the methodologies under paragraph 2 of this Article, the Governor may prescribe additional accounting guidelines and data, the bank is required to submit to the National Bank.

### **3. Auditing**

#### **Article 104**

Annual financial statements and business records shall be audited and assessed by an auditing company, which shall prepare an audit report in accordance with the auditing regulations and with the provisions in this Law.

#### **Article 105**

(1) The bank shall appoint an auditing company notifying the National Bank thereon within 15 days from the appointment date.

(2) The Governor shall not accept the auditing company if it:

- 1) has less than 3 years audit experience,
- 2) is a person related to the bank,
- 3) has provided consulting services to the bank in the period of last 3 years,
- 4) has been subject to measures imposed by the Chartered Auditor Institute over the last 3 years and
- 5) has an inadequate expertise or fails to follow the professional standards.

(3) Should the Governor does not accept the auditing company, they shall notify the bank thereon within 15 days after receiving the notification referred to in paragraph 1 of this Article and shall require from the bank to appoint another auditing company.

(4) The bank shall appoint another auditing company within 45 days after receiving the notification referred to in paragraph 3 of this Article.

(5) Same auditing company may conduct up to five successive audits of the annual financial statements in one bank.

#### **Article 106**

(1) The audit shall particularly be focused on:

- 1) the balance sheet,
- 2) the income statement,
- 3) the cash flow statement,
- 4) the changes in the amount of own funds and assessment of the capital adequacy,
- 5) the level and changes in the value adjustment level and the allocated special reserve and the write-offs,
- 6) the amount of assumed potential liabilities,
- 7) the consolidation effects,
- 8) the functioning of the internal control systems and the performance of the internal audit function,

- 9) the bookkeeping,
- 10) the information security,
- 11) the accuracy and completeness of the statements submitted by the bank to the National Bank for supervision purposes,
- 12) the adequacy of the accounting policies and procedures of the bank, as well as valuation of the on-balance sheet and off-balance sheet assets and liabilities,
- 13) the compliance of the bank's operations with the regulations, and
- 14) the bank's risk management systems.

(2) The National Bank Council shall prescribe in detail the contents of the audit of the operations and the annual financial statements of the banks, in accordance with the international standards.

#### **Article 107**

(1) The auditing company shall immediately notify the Governor in writing if, during the audit, it finds out that:

- 1) bank's solvency or liquidity is compromised,
- 2) the bank is insolvent or illiquid, and
- 3) the bank operated and/or has operated contrary to the regulations.

(2) The auditing company shall immediately notify the Governor in writing if the audit of the legal entity the bank has close links with, shows that:

- 1) the entity faces liquidity or solvency problems, and
- 2) the entity operated and/or has operated contrary to the regulations

(3) The Governor shall notify the Minister of Finance about the cases referred to in paragraph 1, items 1 and 2 of this Article within three days from the day the notification was received.

#### **Article 108**

(1) The auditing company shall submit the audit report to the bank's Board of Directors, the Supervisory Board, the National Bank and the Ministry of Finance, by 30<sup>th</sup> April in the current year, for the previous calendar year.

(2) The National Bank may require from the auditing company additional explanation and data with respect to the audit report.

(3) The auditing company shall make all workpapers from the bank audit available to the National Bank on request.

(4) The Governor shall not accept the audit report if determined that it is not based on impartial facts on the financial standing of the bank, if it is not prepared as specified by Article 106 of this Law, and/or if the audit company failed to observe the prescribed standards and procedures during the audit.

(5) If the Governor does not accept the audit report, they shall inform the bank, the Ministry of Finance and the Chartered Auditor Institute thereon within 45 days after receiving the report.

(6) In the cases referred to in paragraph 4 of this Article, the Governor shall require from the bank to appoint another auditing company, which shall prepare a new report.

(7) The bank shall bear all costs arising from the appointment of another auditing company defined under paragraph 6 of this Article.

### **Article 109**

If the bank fails to observe the provisions of Article 105 of this law or if the auditing company acts contrary to Article 108, paragraph 4 of this law, the Governor shall not accept an audit report prepared by that auditing company in the following three years.

### **Article 110**

(1) The bank shall, within 8 days after the adoption of the annual report on the operations, submit to the National Bank a copy together with the audit report.

(2) A bank in which a foreign bank exercises control shall submit to the National Bank also an annual report on the operations and an audit report of the foreign bank that exercises control, within 30 days of their issuance.

(3) The bank shall make the audit report and the annual financial statements including the notes to the report public and publish a balance sheet, income statement, report on the change in the capital, cash flows report and the auditor report to the annual financial statements, in at least one daily newspaper, within 15 days after the adoption of the report by the bank's General Meeting of Shareholders.

## **XI. BANKING SECRET**

### **Article 111**

Any documents, data and information acquired through banking and other financial activities on individual entities, and transactions with individual entities and on deposits of individual entities shall be considered banking secret the bank is required to protect and keep.

### **Article 112**

(1) Persons with special rights and responsibilities, shareholders and bank employees, as well as other persons who, by rendering services to the bank, have an access to the documents, data and information referred to in Article 111 of this Law, shall keep them, and may use them only for the purposes they were obtained for, and shall not disclose them to third parties.

(2) The requirement under paragraph 1 of this Article shall not be applied to the following instances:

- 1) if the data and information disclosure is prescribed by a law, and
- 2) if the person gave a written consent to data disclosure.

(3) For the persons with special rights and responsibilities, shareholders and bank employees, the requirement under paragraph 1 of this Article shall apply to the following instances:

- 1) on written request of a competent court for conducting procedures within its competencies,
- 2) for the needs of the National Bank or another supervisory body authorized by law,
- 3) on written request of the Public Revenue Office for conducting procedures within its competencies,
- 4) if the data are disclosed to the Anti-Money Laundering and Combating the Financing of

- Terrorism Directorate, in accordance with the law,
- 5) if the data are disclosed to the Financial Police, in accordance with the law,
  - 6) on written request of the State Foreign Exchange Inspectorate for foreign exchange operations control,
  - 7) on written request of the Deposit Insurance Fund, in accordance with the law,
  - 8) if the data are disclosed for the needs of operating the National Bank Credit Registry, and
  - 9) on written request of the enforcement agents in accordance with the law.

(4) The persons who, in accordance with paragraph 3 of this Article, obtained the documents, data and information referred to in Article 111 of this Law, shall keep them, may use them only for the purpose they were obtained for, and shall not disclose them to third parties, unless in cases and procedure stipulated by this or another law.

(5) The requirement under paragraphs 1 and 4 of this Article shall continue being valid after the termination of the employment, i.e. after the termination of the ground and the status underlying the access to the data regarded as banking secret.

## **XII. BANK ASSOCIATION**

### **Article 113**

(1) With a view of exercising joint interests and promoting their operations, banks established in the Republic of Macedonia may create bank associations.

(2) The activities and tasks of the bank associations shall be regulated by the articles of incorporation.

(3) Amongst other activities, the association may:

- 1) organize additional, voluntary deposit guarantee system, in addition to the mandatory stipulated under the Law on the Deposit Insurance Fund,
- 2) organize exchange of data on the creditworthiness for the purposes of hedging credit risk, and
- 3) provide training for bank staff and issue certificates.

(4) The banks may not conclude agreements that limit the principle of free market operations and banking competition.

## **XIII. SUPERVISION, CONSOLIDATED SUPERVISION AND INSPECTION**

### **Article 114**

(1) The National Bank shall conduct supervision, consolidated supervision and inspection in a manner and procedure specified by this and/or other law.

(2) The National Bank Council shall more precisely regulate the method of conducting supervision, consolidated supervision and inspection referred to in paragraph 1 of this Article.

(3) Any entity subject to supervision, consolidated supervision and inspection by the National Bank

shall, under their security procedures, provide to the persons authorized by the National Bank an access to any premise, to the available documentation, including data kept electronically, and provide any documentation requested by the persons authorized by the National Bank.

(4) During the supervision, consolidated supervision and inspection, the authorized persons may keep and take out only copies of the bank's documents, verified by a notary, if needed.

## **1. Supervision**

### **Article 115**

(1) Through the supervision, the National Bank shall assess the safety, soundness, risk and the compliance of the bank's operations with the regulations.

(2) Supervision shall be conducted by persons authorized by the Governor.

### **Article 116**

(1) The National Bank shall perform its supervisory function by:

- 1) permanent off-site supervision of the bank's operations by gathering and analyzing the reports and data submitted by the bank,
- 2) full-scope or targeted on-site, supervision in the bank,
- 3) keeping contacts with the bank's body members and with the audit company, and
- 4) cooperating and exchanging data and information with other supervisory authorities.

(3) The National Bank shall conduct on-site supervision according to pre-specified plan and if needed.

### **Article 117**

The bank shall provide the following for the supervision purposes:

- 1) reports and information on the bank's operations,
- 2) audit report and additional information on the audit conducted in the bank and the letter sent by the audit company to the bank's Board of Directors,
- 3) extraordinary reviews for the operations, and
- 4) reports of the bank's Internal Audit Department.

## **2. Consolidated supervision**

### **Article 118**

(1) The National Bank shall conduct consolidated supervision of a banking group on the basis of the consolidated reports of the group.

(2) For the purposes of this law, the bank having a head office in the Republic of Macedonia which is a parent entity of the banking group shall be responsible for fulfilling the obligations arising from the purposes of the consolidated supervision.

(3) As an exception to paragraph 2 of this Article, in the case the parent entity of the banking group is a financial holding company with a head office in the Republic of Macedonia, for

the purposes of this law, the bank having a head office in the Republic of Macedonia which is subordinated entity to such holding company shall be responsible for fulfilling the obligations arising from the purposes of the consolidated supervision.

- (4) The bank referred to in paragraphs 2 and 3 of this Article shall be considered a bank subject to consolidated supervision.
- (5) In the case the financial holding company with a head office in the Republic of Macedonia controls two or more banks having a head office in the Republic of Macedonia which are not interconnected in terms of control and participation, the bank with highest assets shall be a bank subject to consolidated supervision. If the amount of assets of the banks is equal, the bank subject to consolidated supervision shall be the bank that first obtained a founding and operating license by the Governor.
- (6) Other legal entities of the banking group which are subordinated entities in the banking group may have a head office on and outside the territory of the Republic of Macedonia.
- (7) The members of the management bodies of the financial holding company referred to in paragraphs 3 and 5 of this Article must fulfill the requirements concerning the members of the Board of Directors specified by this law.

#### **Article 119**

- (1) The banking group shall observe and follow the provisions of this law that defines the supervisory standards and risk management.
- (2) The parent entity shall organize and ensure transparency of the banking group, thus enabling identification and monitoring of:
  - 1) the actual persons that exercise control in the group,
  - 2) the financial standing of the banking group and each individual entity in the group,
  - 3) the risk profile of the banking group and each individual entity in the group,
  - 4) the internal control system and risk management systems, and
  - 5) the interconnection between the individual entities and type of connection, including the amount of share in the capital and/or voting rights in other entities in the group.
- (3) The bank subject to consolidated supervision shall have adequate risk management, internal control and reporting and accounting systems in place, in order to identify, measure, monitor and control transactions with other entities in the banking group.

#### **Article 120**

The consolidated supervision shall refer at least to:

- 1) the amount of own funds,
- 2) the amount of large exposures,
- 3) the investments in other non-financial institutions,
- 4) the internal control system, and
- 5) the risk management.

#### **Article 121**

The National Bank Council shall specify the scope of the consolidation and the contents of the



consolidated reports referred to in Article 122 of this law and the deadlines for their submission by the bank subject to consolidated supervision.

#### **Article 122**

- (1) The bank subject to consolidated supervision shall compile and submit consolidated reports of the banking group to the National Bank.
- (2) The consolidated reports referred to in paragraph 1 of this Article shall consist of consolidated financial statements and consolidated supervisory reports.
- (3) The bank subject to consolidated supervision, when compiling the reports referred to in paragraph 1 of this Article, shall have all necessary information and data underlying the development of the consolidated reports of the banking group and shall establish a system for verifying the accuracy and reliability of the information and data provided by the entities in the group.
- (4) The parent entity in the banking group shall ensure application of uniform principles for validation and presentation of any financial statement of the subordinated entities.

#### **Article 123**

At request of the Governor, the bank subject to consolidated supervision shall also consolidate certain positions or activities within the banking group, if necessary for the purposes of full and impartial presentation of the financial position and results from the operations of the group as a whole and each bank in the group.

#### **Article 124**

- (1) Any subordinated entity in the banking group and financial holding company shall submit to the bank subject to consolidated supervision any data and information necessary for the purposes of the consolidated supervision, have proper systems in place facilitating the generation of such data and information and proper internal control systems in place for verification of the accuracy and reliability of the submitted information and data.
- (2) For the purposes of determining the scope of consolidation that is to be made by the bank subject to consolidated supervision, any subordinated entity in the banking group shall submit to the bank data on the amount of their share in the capital and/ or voting rights in other entities.
- (3) In the case the subordinated entities in the group and the financial holding company fail to submit the data and information necessary for the purposes of consolidated supervision to the bank subject to consolidated supervision, the bank shall immediately notify the National Bank thereon.

#### **Article 125**

- (1) In cases when there is no banking group, the Governor may request from the bank subordinated to other legal entity to perform full consolidation or consolidation of certain positions or activities, if necessary for full and impartial presentation of the financial position and results from the bank's operations.

(2) The Governor may request from the bank which is a parent entity of other legal entity which is not a bank or financial holding company to carry out full consolidation or consolidation of certain positions or activities of the entities of the group, irrespective of their activity, if necessary for full and impartial presentation of the financial position and results from the bank's operations.

(3) The bank referred to paragraphs 1 and 2 of this Article shall have and maintain adequate risk management, internal control and reporting and accounting systems in place, in order to identify, measure, monitor and control transactions with the parent entity, its subsidiaries and/or the bank's subsidiaries.

(4) The legal entities referred to in paragraphs 1 and 2 of this Article shall submit to the bank, referred to in paragraphs 1 and 2 of this Article, any data and information required for the purposes of consolidated supervision.

(5) The bank shall immediately notify the National Bank in case the legal entities referred to in paragraphs 1 and 2 of this Article fail to submit the required data and information under paragraph 4 of this Article.

(6) The bank shall immediately notify the National Bank of any significant transactions with the entities referred to in paragraphs 1 and 2 of this Article.

#### **Article 126**

(1) The bank subject to consolidated supervision shall immediately notify the National Bank on:

- 1) any change relevant to determining an existence of a banking group, as defined by the provisions of this law, and
- 2) any change in each legal entity or in the interconnections between the entities in the group, relevant to the purposes of consolidated supervision.

(2) For the purposes of consolidated supervision, the Governor may also require from the bank subject to consolidated supervision, financial holding company or subordinated entities to submit other data and information.

(3) The Governor may prohibit execution of transactions of the bank subject to consolidated supervision and/or the bank which is a subordinated entity in the banking group, with entities in the group or entities related thereto, if determined that such transactions are likely to seriously compromise the bank's safety and soundness.

#### **Article 127**

- (1) If a bank with a head office in the Republic of Macedonia is a member of a banking group that includes one or more entities subject to supervision of other supervisory body/bodies, the National Bank and that/those supervisory body/bodies shall develop a uniform method of consolidated supervision of the banking group.
- (2) The National Bank and other supervisory bodies shall precisely regulate the uniform method of consolidated supervision of the banking group by concluding agreements underlying the permanent exchange of data and information for the purposes of consolidated supervision.

- (3) The exchange of information between the National Bank and other supervisory bodies shall at least refer to:
- 1) identification of the banking group structure, including the actual persons that exercise control in the group,
  - 2) changes in the shareholder, management and organizational structure of the group,
  - 3) business and strategic plans of the banking group,
  - 4) financial position of the group members, particularly focusing on the capital adequacy, transactions with related entities, exposure between the entities in the group, earnings, etc.,
  - 5) corporate governance, risk management and internal control systems,
  - 6) measures undertaken against certain entities in the group,
  - 7) any other information that might considerably affect any entity in the group or the group as a whole.

### **3. Inspection**

#### **Article 128**

The National Bank may conduct an inspection of the operations of entities related to the bank, other entities in the banking group and the bank's ancillary services undertaking. If such persons are subject to inspection by other authorized body, the National Bank shall conduct the inspection in cooperation with such body.

## **XIV. SUPERVISION OF THE LEGITIMACY IN THE OPERATIONS OF NON-BANKING ENTITIES**

#### **Article 129**

- (1) In the case legal entities and natural persons perform activities violating Article 5 of this law, the Public Revenue Office shall adopt a decision on ban on performing activity and shall require their deletion from the registry.
- (2) An appeal may be filed against the decision referred to in paragraph 1 of this Article to the Minister of Finance within 8 days from the date of receiving the decision.
- (3) The appeal referred to in paragraph 2 of this Article shall not defer the enforcement of the decision.
- (4) If aware that certain entities perform activities violating Article 5 of this law, the National Bank shall inform the Ministry of Finance.

#### **Article 130**

The Public Revenue Office shall make a decision specifying a period within which the person, acting contrary to Article 4 paragraph 1 of this law shall change its name. In the case it fails to change the name within the specified period, the Public Revenue Office shall request a deletion of such words from the registry.

## **XV. MEASURES**

### **Article 131**

- (1) The Governor shall undertake measures and shall determine deadlines for their implementation in case the bank, banking group, shareholders or bank's bodies fail to adhere to the regulations governing the bank's operations or its internal procedures.
- (2) Measures undertaken by the Governor:
- 1) regular measures,
  - 2) additional measures,
  - 3) introduction of administration,
  - 4) withdrawal of an approval, and
  - 5) revocation of a license.
- (3) When choosing the measures to be undertaken, the Governor shall be guided by the following:
- 1) type and gravity of the illegitimacy and/or irregularity and their effect on the safety and soundness of the bank, its depositors and the overall banking system,
  - 2) the effect or possible effect of the measure on the bank or its depositors in order to prevent from further deterioration of the bank's position,
  - 3) whether the illegitimacy, i.e. irregularity was made on purpose and/or is recurrent, and
  - 4) willingness of the bank's bodies to eliminate the identified illegitimacies and irregularities.

#### **1. Regular measures**

### **Article 132**

- (1) The Governor shall undertake regular measures provided that the bank or the banking group fails to observe the regulations governing the bank's operations particularly, without limitation, if:
- 1) the management system, information system, internal control system and internal policies and procedures are not in compliance with the regulations or are not observed,
  - 2) the accounting policies, procedures and practice are not in conformity with the accounting regulations,
  - 3) the obligation and deadlines for submitting data, information and reports to the National Bank, and their public disclosure, have not been observed,
  - 4) there is no proper audit,
  - 5) it does not adhere or acts contrary to the supervisory standards,
  - 6) it lacks adequate level of own funds, and
  - 7) it fails to meet the anti-money laundering obligations.
- (2) In the cases listed under paragraph 1 of this Article and provided that they do not seriously compromise the safety and soundness of the bank, the Governor may undertake the following measures:
- 1) issue a recommendation to the bank specifying periods for training of the staff and persons with special rights and responsibilities or recruitment of adequate staff, changes in the bank's organizational structure, development of new policies and procedures in certain areas and development and implementation of an action plan for addressing the illegitimacies and irregularities and complying with the regulations,
  - 2) issue a written warning to the bank,
  - 3) conclude a memorandum for compliance with the regulations or for reaching the required level of own funds within a certain period with the majority members of the Supervisory

Board and/or with the members of the Board of Directors of the bank, and

- 4) give the bank additional obligation to submit extraordinary data and reports in a period, type, scope and frequency specified by the Governor.

(3) The bank shall, within 5 days from the expiration of the deadlines under paragraph 2 items 1, 2 and 3 of this Article, submit to the National Bank a report on the undertaken activities and documented evidence that it has complied with the regulations.

## **2. Additional measures**

### **Article 133**

(1) The Governor shall undertake additional measures against any bank or bank shareholder who severely violate the regulations, compromising the safety and soundness of the bank, particularly when:

- 1) the Governor finds that the cases under Article 132 paragraph 1 seriously compromise the safety and soundness of the bank,
- 2) they fail to undertake, on time, the measures under Article 132 paragraph 2 of this law,
- 3) they repeat the irregularities referred to in Article 132 paragraph 1 of this law, which have already been subject to a measure or sanction for an infraction,
- 4) the bank performs activity without obtaining a license or approval,
- 5) the bank performs activities through branch abroad without obtaining an license by the Governor,
- 6) the bank no longer meets the requirements underlying the issuance of the founding and operating license, i.e. the approval for performing financial activities,
- 7) the capital adequacy ratio and/or own funds are below the level defined by this law,
- 8) they failed to allocate the required level of special reserves, i.e. failed to make adequate correction of value of the bank assets,
- 9) they permanently or considerably violate the supervisory standards,
- 10) they frequently fail to meet the obligation for timely submission of data, information and reports to the National Bank and other institutions specified by law,
- 11) they obstruct the National Bank and the audit company to conduct supervision and consolidated supervision, i.e. audit, and
- 12) the shareholder was not granted an approval for acquiring shares.

(2) In the cases under paragraph 1 of this Article, the Governor shall adopt a decision on undertaking one or more of the following measures:

- 1) authorize persons for on-site supervision of the bank's operations,
- 2) order the bank and/or shareholder to:
  - review the internal procedures and policy,
  - reduce the operating costs,
  - reach adequate level of reserves,
  - replace a person with special rights and responsibilities,
  - conduct additional audit by the audit company, different from the audit company engaged by the bank, in a scope and under terms defined by the Governor and at the expense of the bank,
  - achieve and maintain own funds and/or capital adequacy ratio higher than the one stipulated by this law,
  - develop and implement a plan for improving the condition of the bank, provided that the bank is undercapitalized, and
  - recapitalize the bank, and
- 3) prohibit, limit and impose special terms for:
  - payment of dividend,
  - exercising the rights arising from shares,
  - payments to the members of the management bodies,
  - exposure to connected persons, unless they are backed by a pledge on securities issued or guaranteed by the Republic of Macedonia or the European Union, kept by an independent third party - depository institutions, the market value of which exceeds 125% of the credit amount at all times, or other type of exposure,
  - transactions with other entities in the banking group or persons related with the bank,
  - exposure to an entity for which, as specified by the methodology of the National Bank, correction of value is made or special reserve is allocated of at least 20%,
  - prolonging of approved credits,
  - performing all or certain financial activities,
  - opening units of a bank,
  - participation in a foreign exchange market,
  - acquiring equity holdings in other legal entities, and
  - launching new financial activities.

#### **Article 134**

(1) The Governor may authorize a person - supervisor from the National Bank who will monitor the implementation of the measures listed under Article 133 paragraph 2 of this law.

(2) The person referred to in paragraph 1 of this Article shall be entitled to verify the payment order, attend the sessions of the Supervisory Board and the Board of Directors without voting right and obtain any information and data necessary for the implementation of the measures under Article 133 paragraph 2 of this law.

#### **2.1. Bank improvement plan**

#### **Article 135**

(1) The bank shall be considered undercapitalized provided that its own funds or capital adequacy ratio are below those required by this law.

(2) If the bank is undercapitalized or owing to the operating losses it faces undercapitalization, the

Governor shall adopt a decision requiring from the bank's Supervisory Board to submit a plan for improving the condition, within 10 days.

(3) The plan referred to in paragraph 2 of this Article shall contain precisely elaborated measures and activities and period for reaching and maintaining own funds and achieving the capital adequacy ratio set in accordance with this law.

(4) The Governor shall adopt a decision on approving or rejecting the plan under paragraph 2 of this Article within 10 days after the date of receiving the plan.

(5) Should the plan under paragraph 2 of this Article also allow for increase in the initial capital, the bank shall, within 30 days after receiving the decision of the Governor on approving the plan, convene meeting of shareholders. If the General Meeting of Shareholders passes a decision on increasing the initial capital, the payment shall be made within 90 days after the date of adopting the decision.

(6) In the case the Governor rejects the plan under paragraph 2 of this Article or the General Meeting of Shareholders of the bank does not pass the decision on increasing the initial capital, the Governor shall adopt a decision on introducing an administration or revoke the founding and operating license.

### **Article 136**

(1) The bank required to submit a plan for improving the condition shall not perform the following activities without prior approval of the Governor:

- 1) launch a new financial activity,
- 2) increase the risk weighted assets by more than 5% annually,
- 3) pay dividend or make any other payment in the form of bonuses, grants, etc. to the shareholders, the persons with special rights and responsibilities and to the bank's employees, and
- 4) increase the total exposure of the bank.

(2) In addition to the restrictions listed under paragraph 1 of this Article, the Governor may also require from the bank that implements a plan for improving the condition, to undertake any of the measures under Article 132 paragraph 2 and Article 133 paragraph 2 of this law.

## **2.2. Restriction of rights arising from shares**

### **Article 137**

(1) The Governor shall determine that the shareholder who acquired shares contrary to Article 59 of this Law and shares the issued approval for which was revoked as specified by Article 153 of this law shall not bear any voting right.

(2) The Governor shall require from the shareholder who acquired shares contrary to Article 59 of this law and from the shareholder whose issued approval was revoked as specified by Article 153 of this law, to dispose of the shares within a specified period which may not exceed 180 days, other than in cases of Article 59 paragraph 2 of this law, when the Governor may determine a longer period.

(3) If the shareholder referred to in paragraph 2 of this Article fails to dispose of the shares

within the specified period, the Governor shall, within 8 days after the expiration of the specified period, determine that such shares shall not bear, in addition to the voting right, any right of payment of dividend and shall conduct a sale of the shares on behalf of the shareholder under paragraph 2 of this Article.

- (4) Provided that in the period from adoption of the decision under paragraph 3 of this Article to the sale of shares, the bank paid a dividend to the other shareholders, it shall, within 8 days after receiving the notification on acquiring the shares, pay dividend to the new shareholder.
- (5) The shareholder referred to in paragraph 2 of this law who fails to dispose of the shares within the set deadline shall not be or become a bank shareholder.

### **Article 138**

- (1) The sale of shares under Article 137 paragraph 3 of this law shall be conducted by a person authorized by the Governor, through a public Stock Exchange auction, according to the rules of an exchange authorized by the Securities and Exchange Commission.
- (2) The authorized person under paragraph 1 of this Article shall, within 8 days after the decision making for the purposes of Article 137 paragraph 3 of this Law, publish the date of holding the public stock exchange auction in the Official Gazette of the Republic of Macedonia and in at least two daily newspapers.
- (3) In the announcement of the public stock exchange, the authorized person under paragraph 1 of this Article shall set the initial price of the shares, the requirements for acquiring a shareholder status in a bank stipulated by this Law and the deadline within which documentation should be submitted to the National Bank, proving the fulfillment of the previously listed requirements.
- (4) The initial price of shares shall be:
  - 1) the average of the official daily average price of shares in the last three months prior to the decision making date under Article 137 paragraph 3 of this law, or
  - 2) book value of shares, provided that in the last three months prior to the decision making date under Article 137 paragraph 3 of this law no transactions subject to sale have been registered. In this light, transactions in shares shall not include a block transaction and non-trade transfer of shares.
- (5) If no one accepts the initial price at the public stock exchange auction, at the following public stock exchange auction the shares shall be offered at a price by 10% lower than the initial one, with the sale price being reduced by another 10% until one or more investors express willingness to purchase the offered shares.
- (6) Simultaneously with the announcement for sale of the existing shares, the Governor shall issue an order to the Central Securities Depository to register a ban on holding the shares subject to sale by their owners.
- (7) Investors who obtained a prior approval by the Governor for fulfilling the requirements for acquiring a shareholder status in a bank in accordance with the provisions of this law and who submitted to the National Bank a written statement that they would pay-in the funds within the deadline indicated in the announcement referred to in paragraph 3 of this Article may participate at the public stock exchange auction.



- (8) The Governor shall make a decision within 30 days after the submission of the application for issuing an approval referred to in paragraph 3 of this Article.
- (9) The funds risen from the sale of shares less the costs for organizing and holding the public stock exchange auction shall belong to the shareholder referred to in Article 137 paragraph 3 of this Law.
- (10) The authorized person referred to in paragraph 1 of this Article shall sign the order for selling the shares at the public stock exchange auction.
- (11) The Central Securities Depository shall abolish the ban under paragraph 6 of this Article after receiving a notification by the Governor that the public stock exchange auction is over.

### **3. Administration**

#### **Article 139**

- (1) The Governor shall pass a decision on introducing an administration and appoint members to the administration - administrators in a bank if:
  - 1) the circumstances has appeared that may seriously compromise the bank's solvency,
  - 2) the bank and/or shareholders refuse to fulfill or fail to undertake proper activities for fulfilling the additional measures imposed by the Governor, thus compromising the liquidity and solvency of the bank,
  - 3) the bank's Supervisory Board fails to submit a plan for improving the condition in the bank,
  - 4) the National Bank rejects the plan for improving the condition in the bank,
  - 5) the bank fails to implement the plan for improving the condition in the bank within the set periods,
  - 6) the bank fails to reach the required level of own funds within the period set by the plan for improving the condition in the bank, and
  - 7) the capital adequacy ratio of the bank drops below 50% of the level specified by this law.
- (2) The decision on introducing an administration in a bank shall determine the number of administrators, the authorizations of any administrator and the duration of the administration which may not be longer than one year after the date of submitting the decision to the bank subject to administration, with a possibility to be prolonged for another 6 months. The decision authorizes one of the administrators to sign the decisions.

#### **Article 140**

- (1) The administration shall consist of maximum of three administrators.
- (2) Any person, including a person employed with the National Bank, who fulfills the requirements of this law that refer to a member of a bank's Board of Directors and an independent member may be appointed as an administrator.
- (3) The administrators shall receive remuneration for their work defined by the Governor, and shall be paid by the bank subject to administration.

- (4) The administrator shall not be held liable for damages to third parties that might arise from the implementation of the administration in a bank if they have acted in accordance with their duties and authorization and committed no felony.
- (5) The Governor may restrict the bank's payment operations or exclude it from the payment operations for a certain period by adopting a decision on introducing an administration in a bank.
- (6) The decision on introducing an administration in a bank shall be published in the "Official Gazette of the Republic of Macedonia" and in at least one daily newspaper and shall be submitted to the Trade Registry for registration.

#### **Article 141**

- (1) All responsibilities of the Supervisory Board and the Board of Directors of the bank and the responsibilities of the General Meeting of Shareholders, other than the responsibility for adopting a decision on increasing the capital shall cease on the date of submitting the decision on introducing an administration to the bank, and shall be conferred to the administrators.
- (2) On the date of submitting the decision on introducing an administration to the bank, only payments on order signed by the administrators may be made from the account of a bank subject to administration and excluded from the payment operations.
- (3) On the date of submitting the decision on introducing an administration to the bank, the decisions on forced payment and other payment instruments on the burden of the account of the bank excluded from the payment operations, submitted to the National Bank shall be recorded and returned to the submitter within 3 days, with the bank being notified thereon.
- (4) On the date of submitting the decision on introducing an administration to the bank, the forced payment decisions and other payment instruments on the burden of accounts maintained by the bank subject to administration and excluded from the payment operations, submitted to the bank shall be recorded and returned to the submitter within 3 days.

#### **Article 142**

- (1) The administrators, when performing the duties specified by this law, shall have an access and control over the business premises, property, business records and other documentation of the bank and shall protect the property and the documentation of the bank.
- (2) The members of the Supervisory Board and Board of Directors and the other persons with special rights and responsibilities that performed this function by that time, shall provide the administrators an access to the entire documentation of the bank, as well as supply them with all necessary information and additional reports on the bank's operations.
- (3) If the administrators are hindered, in any way, from entering the premises of the bank, such access shall be enabled with the assistance of the Ministry of Internal Affairs.
- (4) The administrators shall be entitled to remove any person who impedes their work, and when needed, they may also request assistance from the Ministry of Internal Affairs.
- (5) The administrators shall, in their work, adhere to the laws and other regulations and observe

the written instructions and guidelines provided by the Governor.

#### **Article 143**

- (1) The administrators shall, within 21 days after the appointment determine the conditions in the bank.
- (2) After the expiration of the period under paragraph 1 of this Article, the administrators shall submit a report on the condition of the bank to the Governor, including:
  1. Bank Rehabilitation Plan, or
  2. a proposal for revoking the founding and operating license, which may include a plan for transfer of the bank's assets and liabilities to other bank.
- (3) The period for submitting the report under paragraph 2 item 1 of this Article may be even shorter, if determined by the decision under Article 139 paragraph 1 of this law.
- (4) The National Bank Council shall more precisely set the requirements and the procedure for conducting the rehabilitation plan and the plan for transfer of the bank's assets and liabilities to other bank.

#### **Article 144**

- (1) The rehabilitation plan shall include:
  - 1) assessment of the amount of own funds, the bank's solvency and liquidity position,
  - 2) assessment of the willingness of the bank's shareholders to invest additional capital for covering the bank's losses,
  - 3) method of conducting the bank rehabilitation, and
  - 4) calculation of the expenses incurred from the implementation of the administration-related activities.
- (2) The bank rehabilitation plan may be implemented through one or more of the following methods:
  - 1) by selling the bank's assets,
  - 2) by increasing the bank's own funds by issuing shares for the creditors or for new investors as specified by this law,
  - 3) by selling the shares, and
  - 4) by status changes of the bank.

#### **Article 145**

The plan for transfer of the bank's assets and liabilities to other bank shall include at least:

- 1) assessment of the amount of own funds, the bank's solvency and liquidity position,
- 2) assessment of the value of the total assets and determination of the bank's liabilities,
- 3) assessment of the bank's assets and liabilities that would be transferred to other bank, and
- 4) effects of the transfer.

#### **Article 146**

- (1) The Governor shall decide on the report referred to in Article 143 paragraph 2 of this law within 15 days from the date of receiving.
- (2) In the decision making under paragraph 1 of this Article, the Governor shall be guided by the need to protect the interests of the bank's creditors, and the feasibility of the rehabilitation plan during the administration.
- (3) Provided that the Governor approves the bank rehabilitation plan or the proposal for revoking the founding and operating license that includes a plan for transfer of the bank's assets and liabilities to other bank, they shall adopt a decision authorizing the administrators to undertake further activities for delivery of the plans.
- (4) After being approved, the administrators shall implement the bank rehabilitation plan or the plan for transfer of the bank's assets and liabilities to other bank.
- (5) Once the plan for transfer of the bank's assets and liabilities to other bank is being implemented, the Governor shall pass a decision on revoking the founding and operating license and for fulfilling the requirements for opening a bankruptcy proceeding in the bank.
- (6) Provided that the Governor rejects the bank rehabilitation plan or approves the proposal for revoking the license for founding and operating a bank, they shall adopt a decision on revoking the founding and operating license and on fulfilling the requirements for opening a bankruptcy or implementing a liquidation procedure in the bank.

#### **Article 147**

- (1) If the Governor determines, on the basis of the rehabilitation plan, that reaching of the set capital adequacy ratio requires an increase in the bank's own funds, they shall adopt a decision requiring from the administrators to convene a General Meeting of Shareholders and to propose to its shareholders to adopt a decision on covering the loss at the burden of the own funds and decision on increasing the bank's own funds
- (2) The administrators shall publish the convening of the General Meeting of Shareholders in at least three daily newspapers within 8 days after receiving the decision referred to in paragraph 1 of this Article.

#### **Article 148**

- (1) If the General Meeting of Shareholders rejects the proposal referred to in Article 147 paragraph 1 of this Law, or if the announced issue of shares in accordance with the decision adopted by the bank's General Meeting of Shareholders on the basis of the proposal referred to in Article 147 paragraph 1 of this Law fails, the Governor may adopt a decision authorizing the administrators to organize a sale of shares of the existing shareholders to investors willing to rehabilitate the bank.
- (2) The sale of shares of the existing shareholders of the bank referred to in paragraph 1 of this Article to new investors shall be conducted by a public stock exchange auction, as required by this law.
- (3) The administrators shall, within 90 days from the day of adopting the decision under paragraph 1 of this Article, announce the date of the public stock exchange auction in

the Official Gazette of the Republic of Macedonia and in at least two daily newspapers.

- (4) Within the period referred to in paragraph 3 of this Article, the administrators shall elect an auditing company to audit the financial statements of the bank and to determine the book value of the shares. The audit expenses shall be born by the bank.
- (5) In the announcement for the public stock exchange auction, the administrators shall indicate the initial price of the shares which may not be lower than 70% of the book value determined in the audited financial statements of the bank, the amount of funds needed for recapitalization and the payment deadline, the requirements for acquiring a shareholder status in a bank as set by this law and the deadline for submitting the documentation to the National Bank proving that the aforementioned requirements are met.
- (6) The order for selling the shares at public stock exchange auction shall be signed by the administrators.
- (7) Simultaneously with the announcement for selling the existing shares, the Governor shall issue an order to the Central Securities Depository to register a ban on holding the shares of the bank by their owners.
- (8) Investors who
  1. have submitted an application and obtained a prior approval by the Governor for fulfilling the requirements necessary for acquiring a shareholder status in a bank as set by the provisions of this law, and
  2. have submitted a written statement to the National Bank to pay funds for bank recapitalization within the period set by the announcement under paragraph 5 of this Article

may participate in a public stock exchange auction.

- (9) If no one accepts the initial price at the public stock exchange auction, at the following public stock exchange auction the shares shall be offered at a price by 10% lower than the initial one, with the sale price being reduced by another 10% until one or more investors express willingness to purchase the offered shares. The decrease may not be below 50% of the initial price.
- (10) The Governor shall decide on the application for issuing an approval referred to in paragraph 8 item 1 of this Article, within 30 days from the day the request is submitted.
- (11) The funds risen from the sale of shares less the costs for organizing and holding the public stock exchange auction shall belong to the shareholders of the bank.
- (12) The Central Securities Depository shall abolish the ban referred to in paragraph 7 of this Article, once the Governor informs it that the public stock exchange auction is over, that the new investors settled the assumed liabilities to the former shareholders and recapitalized the bank, if there is such a requirement.

#### **Article 149**

- (1) The administrators shall, by the 15th in the current month, submit an operations report and report on the course of implementation of the bank rehabilitation plan for the preceding month.

(2) The report under paragraph 1 of this Article shall contain an assessment of the amount of own funds and the solvent and liquidity position of the bank during the administration and calculation of the expenses incurred by the implementation of the administration.

(3) In addition to the report under paragraph 1 of this Article, the administrators shall also submit other reports in line with the needs and requests of the National Bank.

#### **Article 150**

(1) If the Governor finds that the bank rehabilitation plan has been fulfilled and that the financial position of the bank has improved and the bank reached the required amount of own funds and capital adequacy ratio set under this law, as well as that the bank is capable of settling its due liabilities, they shall order the administrators to summon the bank's General Meeting of Shareholders.

(2) At the bank's General Meeting of Shareholders, the shareholders shall nominate members of the bank's Supervisory Board and shall submit an application for obtaining a prior approval for their appointment to the National Bank. Upon obtaining prior approval by the Governor, the Supervisory Board shall submit an application to the Governor for obtaining a prior approval to appoint members of the bank's Board of Directors. On the date the members of the Board of Directors are registered in the Trade Registry, the administration and the authorizations of the administrators shall cease.

#### **Article 151**

If the Governor finds that during the administration, the financial position of the bank in terms of Article 150 paragraph 1 of this law have not improved, they shall make a decision on revoking the founding and operating license and on opening a bankruptcy proceeding or initiating liquidation procedure in the bank.

#### **Article 152**

(1) The function of the administrator shall cease:

- 1) after the expiration of the term of their appointment,
- 2) in case of their resignation,
- 3) in case of death,
- 4) in case of their dismissal, and
- 5) in case of termination of the administration.

(2) The Governor shall make a decision on dismissing a member of the administration:

- 1) if the member fails to implement the bank rehabilitation plan,
- 2) in case of lengthy severe disease that prevents them from carrying out the duties,
- 3) in case of loss of the working ability,
- 4) if the court has ruled a ban on carrying out a profession, activity or duty and
- 5) in case they are convicted of a crime.

(3) The discontented party may seek a protection by the competent court against the decision referred to in paragraph 2 of this Article.

### **4. Revocation of approvals**

### **Article 153**

The Governor shall revoke the approval for acquiring shares in a bank, the approval for appointing a member of the Supervisory Board and the Board of Directors and for performing financial activities that require special approval if:

- 1) such approval was obtained on the basis of false data,
- 2) in the period after the issuance of the approval receives a documented evidence that any of the requirements specified under Articles 13, 18, 57, 59, 83, 88 and 92 of this law are no longer fulfilled,
- 3) a member of the Supervisory Board and/or Board of Directors, individually or jointly, does not operate in line with the submitted plan of activities and fails to implement the bank's business and development policy, and
- 4) a member of the Supervisory Board and/or Board of Directors cuts across the responsibilities defined by this law.

## **5. Revocation of a founding and operating license and license for status changes**

### **Article 154**

(1) The Governor shall adopt a decision on revoking the license for founding and operating a bank or the license for status changes in the case:

- 1) such license was obtained on the basis of false data,
- 2) the bank failed to adopt a statute within 30 days upon receipt of the decision stipulated under Article 20 paragraph 5 of this Law, i.e. it failed to make a decision on status changes within 45 days from obtaining the decision referred to in Article 22 paragraph 3 of this Law,
- 3) the bank failed to submit an application for registration in the Trade Registry within the specified period,
- 4) the bank failed to commence operating within 90 days following the issuance of the founding and operating license,
- 5) the bank performs financial activities for which it did not obtain a license, i.e. consent by the Governor,
- 6) the bank fails to meet the technical, organizational, personnel and other requirements for conducting banking activities, as specified by the provisions of this law and regulations adopted on the basis of this law,
- 7) the bank performs no financial activities for more than six months,
- 8) the effective decision of a competent authority determines that the bank has been involved in money laundering and other felonies,
- 9) the terms for introducing a bankruptcy or liquidation procedure in the bank have been fulfilled, as specified by this law,
- 10) for the purposes of covering the losses, the bank's initial capital dropped below the level set in Article 14 paragraph 1 of this Law, and the bank, along with the decision on reducing failed to adopt a decision on increasing the initial capital or failed to register or pay in the initial capital within 90 days after the adoption of the decision,
- 11) the conduct of efficient supervision of the National Bank is impaired,
- 12) the bank fails to implement or acts contrary to the measures imposed by the National Bank,
- 13) the number of members of the Supervisory Board and/or Board of Directors dropped below the minimum set by the law, and the bank failed to submit an application for

- obtaining a prior approval for appointing a member of the Supervisory Board i.e. Board of Directors for a period longer than 60 days after the termination of the term,
- 14) the bank failed to obtain a consent for a member of the Board of Directors or the Supervisory Board or failed to nominate a member of the Board of Directors or Supervisory Board who fulfils the requirements under this Law for a period longer than 6 months.
- (2) The Governor shall also adopt a decision on revoking the license for founding and operating license in the cases under Article 146 paragraphs 5 and 6 and Article 151 of this Law.
- (3) From the date of adoption of the decision on revoking the founding and operating license referred to in paragraph 1 of this Article to the date of effectiveness of the court decision on introducing a bankruptcy proceeding in a bank, i.e. to the date of registering the liquidation trustees in the Trade Registry, the bank shall be excluded from the payment operations, and shall cease performing all activities, other than claim collection.

### **5.1. Notification on issuing and revoking a license**

#### **Article 155**

- (1) The National Bank shall notify the Ministry of Finance in writing on any issuance and revocation of a license for founding and operating a bank and status changes within five days after the date of adoption of the decision on issuing, i.e. revoking the license.
- (2) The notification under paragraph 1 of this Article shall contain:
- 1) name and head office of the bank,
  - 2) name of the members of the Board of Directors,
  - 3) name of natural persons, i.e. name and head office of the legal entities - shareholders of the bank holding voting shares of more than 5% of the total number of voting shares,
  - 4) financial activities performed by the bank,
  - 5) date of issuance, i.e. revocation of the license, and
  - 6) reasons for revoking the license.
- (3) The National Bank shall also notify the Ministry of Finance on each change in the data referred to in paragraph 2, items 1, 2, 3, 4 and 5 of this Article.

#### **Article 156**

The National Bank shall immediately announce the decision on issuing i.e. revoking a license for founding and operating a bank in the mass media and its web site.

## **XVI. BANKRUPTCY PROCEEDING**



## **Article 157**

- (1) The Governor shall pass a decision on fulfillment of the requirements for opening bankruptcy proceeding in a bank.
- (2) The Governor shall pass the decision under paragraph 1 of this Article in the cases listed in paragraph 4 of this Article, ex officio, upon proposal of the creditors and of the bank.
- (3) The Governor shall decide on the proposal of the creditors and of the bank, stipulated in paragraph 2 of this Article, within 15 days from the submission of the proposal.
- (4) Bankruptcy procedure shall be initiated in the following cases:
  - 1) when a bank is insolvent,
  - 2) the administrator report, or the implementation of the rehabilitation plan show that the bank is insolvent, or
  - 3) the liquidation procedure shows that the bank's assets are insufficient to pay all the claims of its creditors.
- (5) The bank is insolvent when:
  - 1) the capital adequacy ratio is below one fourth of that specified under Article 65 of this Law, or
  - 2) it is unable to settle its due liabilities uninterruptedly for more than ten days.
- (6) The provisions under paragraph 4, item 1 of this Article shall not be applied when during the administration the bank is excluded from the payment operations.
- (7) Only the Governor may file a proposal for opening bankruptcy proceeding in a bank to a competent court, in accordance with this law. The proposal for opening bankruptcy proceeding in a bank to a competent court shall be submitted on the first working day after the adoption of the decision on fulfillment of the requirements for opening bankruptcy proceeding in a bank. The proposal for opening bankruptcy proceeding in a bank shall also enclose decision of the Governor on fulfillment of the requirements for opening a bankruptcy proceeding in a bank.
- (8) The court shall adopt a decision on the proposal for opening a bankruptcy proceeding in a bank within 3 working days from the receipt of the proposal under paragraph 7 of this Article, without conducting prior procedure.
- (9) The provisions of the Bankruptcy Law shall respectively apply to the bank bankruptcy proceeding, unless otherwise set under this Law.

## **Article 158**

- (1) From the day the Governor passes the decision on fulfillment of requirements for opening a bankruptcy proceeding to the effectiveness of the court decision on opening bankruptcy proceeding in the bank, the Governor shall, in order to protect the property of the bank, adopt a decision on appointing at least one authorized officer in the bank.
- (2) The rights and duties of the authorized officer referred to in paragraph 1 of this Article shall be determined in the decision on appointment.

### **Article 159**

(1) The decision on fulfillment of the requirements for opening a bankruptcy proceeding in a bank shall be submitted to the bank which fulfilled the requirements for opening a bankruptcy proceeding, to the bank which assumed the payment of insured deposits, to the proposer referred to in Article 157 paragraph 2 of this Law, to the Deposit Insurance Fund and to the Ministry of Finance, within 3 days from the day of adoption.

(2) The National Bank shall publish the decision on fulfillment of the requirements for opening of a bankruptcy proceeding in a bank through the mass media and display it on a noticeable place in the bank.

### **Article 160**

(1) A person who fulfills the requirements referred to in the Bankruptcy Law and who, in accordance with the provisions of this Law, fulfills the requirements for member of the Board of Directors of a bank may be appointed as a bank bankruptcy trustee.

(2) If during the bankruptcy proceeding conditions are created for dismissal of the bankruptcy trustee, the court shall obtain an opinion of the Governor on the appointment of a new bankruptcy trustee. The Governor shall submit the opinion within three days from receiving the request from the court.

### **Article 161**

(1) The bankruptcy trustee shall record the balance of all claims and liabilities of the bank under bankruptcy on the day of opening the bankruptcy proceeding and submit the records to the National Bank within 10 days upon publishing of the announcement for opening a bankruptcy proceeding in the "Official Gazette of the Republic of Macedonia".

(2) The records referred to in paragraph 1 of this Article shall be inspected by the National Bank and submit them to the bankruptcy court and to the Deposit Insurance Fund, within 10 days upon the receipt.

### **Article 162**

(1) The period for reporting creditors' claims, determined by the court's decision for opening a bankruptcy proceeding in a bank, shall not exceed 20 days.

(2) If the National Bank is creditor in a bankruptcy proceeding of a bank, the National Bank shall propose one of the members of the Board of Creditors.

### **Article 163**

(1) On the day of opening the bankruptcy proceeding, the claims of natural persons on the bank under bankruptcy on the basis of a deposit up to the insured deposit amount in accordance with the Law on the Deposit Insurance Fund shall cease.

(2) Prior to refunding the creditors, the costs for the proceeding including the costs of the bank, which takes over the deposit operations of the bank under bankruptcy, shall be deducted from the bankruptcy estate.

(3) The claims of the Deposit Insurance Fund on the basis of payment of insured deposits shall be settled before the claims of all other creditors.

#### **Article 164**

Any sale of assets of the bank under bankruptcy shall be previously approved by the Board of Creditors.

#### **Article 165**

(1) The provisions of the Bankruptcy Law regulating the reorganization procedure and personal management shall not apply in a bankruptcy proceeding of a bank.

(2) The provisions of the Bankruptcy Law that regulate the refuting of legal action shall not apply to the legal actions undertaken during the administration, unless the effective court decision determines that they served for committing a felony.

#### **Article 166**

A copy of all reports of the bankruptcy trustee regarding the economic and financial position of the bank under bankruptcy and the course of the bankruptcy proceeding shall be submitted to the National Bank.

#### **Article 167**

If assets remain in the bankruptcy estate after the completion of the bankruptcy proceeding and settlement of all claims of creditors, those assets shall be divided among the shareholders of the bank.

### **XVII. LIQUIDATION PROCEDURE**

#### **Article 168**

The liquidation procedure shall be initiated in a bank when:

- 1) the shareholders pass a decision on termination of the bank's operations, and there are no conditions for bankruptcy, and
- 2) the National Bank revokes the founding and operating license of a bank, and there are no conditions for bankruptcy.

#### **Article 169**

(1) The shareholders can pass the decision referred to in Article 168 paragraph 1 item 1 of this Law, upon prior consent of the Governor.

(2) The application submitted by the shareholders to the National Bank for obtaining the consent referred to in paragraph 1 of this Article shall contain information on the following:

- 1) the reasons behind the intention of the shareholders to make a decision for termination of the bank's operations,

- 2) the level of the bank's own funds as of the last date of notification to the National Bank before passing the decision on terminating the bank's operations,
- 3) estimate of the level of assets remaining after the completion of the liquidation procedure.

(3) The Governor shall decide on the application for obtaining the consent referred to in paragraph 2 of this Article within 30 days from the date of submission of the application.

(4) The application under paragraph 2 of this Article shall underlie the decision of the Governor on determining the conditions for introducing a liquidation procedure or on refusing the application if considered that that bank's property is insufficient for settlement of the liabilities to all creditors of the bank.

#### **Article 170**

(1) The Governor shall pass a decision on determining the conditions for carrying out liquidation proceeding in a bank in the instances referred to in Article 168 of this Law.

(2) The National Bank shall submit the decision referred to in paragraph 1 of this Article to the competent court which will carry out the liquidation procedure in accordance with the provisions of Section XVI Bankruptcy Proceeding of this Law.

(3) From the date the Governor passes the decision on fulfillment of requirements for opening a liquidation procedure to the date of opening the liquidation procedure in the bank, the Governor shall, in order to protect the property of the bank, appoint at least one authorized officer in the bank.

(4) The rights and duties of the authorized officer referred to in paragraph 3 of this Article shall be determined by the decision on appointment.

### **XVIII. ANTI-MONEY LAUNDERING AND COMBATING THE FINANCING OF TERRORISM (AML/CFT)**

#### **Article 171**

(1) The banks shall act pursuant to the regulations on anti-money laundering and combating the financing of terrorism.

(2) The National Bank shall conduct supervision on AML/CFT systems in the bank.

### **XIX. SAVINGS HOUSES**

#### **Article 172**

(1) Savings houses established and operating until the day of effectiveness of this Law shall continue operating in the manner and under terms as defined by the founding and operating licenses, the provisions of this Law and the individual acts adopted by the Governor.

(2) The following provisions of Chapters I, III, parts 2, 4, 6 and 7, Chapter VII, parts 1, 2 and 3,

Chapter VIII parts 1, 2 and 3, Articles 70, 71, 72, 73 and 74, paragraphs 1 and 2, and parts 4 and 6, Chapter IX, Articles 83 and 85 and parts 6 and 8, Chapters X, XI, XII, XIII, XIV, XV parts 1, 2, 4 and 5, Chapters XVI, XVII, XVIII, XX and XXI of this law shall respectively apply to the savings houses under paragraph 2 of this Article:

(3) Upon prior license obtained from the Governor, the savings houses referred to in paragraph 1 of this Article may transform into banks and perform the following status changes: merger of savings houses for the purposes of founding a bank and acquisition of a savings house by a bank.

(4) Merger of savings houses for the purposes of founding a bank shall mean merger of two or more savings houses without any liquidation, by founding a bank which will overtake the overall assets and liabilities of the merged savings houses, in exchange for the shares of the founding bank.

(5) Acquisition of a savings house by a bank shall mean an acquisition of one or more savings houses by a bank, transferring the overall assets and the liabilities of the acquired savings house(s), without any liquidation, in exchange for shares of the acquiring bank.

(6) Transformation of a savings house into a bank shall mean reorganization of a savings house into a bank without any liquidation.

(7) The provisions of the Company Law shall respectively apply to the procedure of transformation of a savings house into a bank and in the procedure of status changes of a savings house.

(8) The National Bank Council may determine in detail the application of the provisions under paragraph 2 of this Article to savings houses.

## **XX. DECISION-MAKING, COURT PROTECTION AND SUBMISSION PROCEDURES**

### **1. Decision-making procedure**

#### **Article 173**

Provisions from the Law on General Administrative Procedure shall respectively apply in the decision-making procedure in accordance with the provisions of this Law, unless otherwise stipulated by this law.

#### **Article 174**

The decisions of the Governor passed on the basis of this Law shall not be subject to appeal and shall be final in an administrative procedure.

### **2. Court protection procedure**

#### **Article 175**

Administrative dispute can be initiated against the decisions of the Governor passed on the basis of this Law, in accordance with the Law on Administrative Disputes.

#### **Article 176**

(1) The appeal against the decisions passed on the basis of this Law shall be lodged within 30

days from the day of the receipt of the decision.

(2) The person lodging the appeal referred to in paragraph 1 of this Article may not indicate new facts and bring new evidence in the procedure to the court.

### **Article 177**

The appeal against the decisions for revoking the founding and operating license, i.e. the decisions on determining the existence of requirements for initiating bankruptcy proceeding or requirements for implementing liquidation procedure in a bank may be lodged by:

- 1) the bank,
- 2) the shareholders holding shares in an amount of at least one tenth of the amount of the initial capital specified under Article 14 paragraph 1 of this Law.

### **Article 178**

(1) The person lodging the appeal may indicate new facts and bring new evidence in the procedure to the court, if the appeal is lodged against a decision on initiating administration and revoking the founding and operating license, i.e. decision on determining the existence of requirements for initiating bankruptcy proceeding or requirements for initiating liquidation procedure in a bank.

(2) If the person lodging the appeal referred to in paragraph 1 of this Article refers to new evidence, they shall enclose them with the appeal.

(3) In the cases referred to in paragraph 1 of this Article, the National Bank, in its response to the appeal, may indicate new facts and bring new evidence.

(4) If, in its response to the appeal referred to in paragraph 1 of this Article, the National Bank refers to new evidence, it shall enclose them with the response to the appeal.

(5) After the expiry of the deadline for lodging the appeal referred to in paragraph 1 of this Article or the response to the appeal referred to in paragraph 3 of this Article, the parties shall not be entitled to indicate new facts or bring new evidence.

### **Article 179**

(1) In a procedure based on an appeal lodged against a decision of the Governor on:

- 1) introducing an administration in a bank,
- 2) non-issuance or revocation of the license for founding and operating a bank, or
- 3) determining the existence of requirements for initiating bankruptcy or liquidation procedure in a bank,

the court shall examine the legitimacy of the disputed act in accordance with the law.

(2) When the court accepts the appeal, it shall not annul the disputed act, but only ascertains its illegitimacy, and the person submitting the appeal may, through the court, initiate a procedure for claiming damages by the National Bank.

## **3. Submission procedure**

## **Article 180**

(1) The submission of the correspondence (summons, the decision, conclusions and other official acts) shall be made:

- 1) by mail,
- 2) by handing from the National Bank, and
- 3) by public announcement.

(2) The correspondence shall be submitted in an order specified under paragraph 1 of this Article.

## **XXI. PENALTY PROVISIONS**

### **1. Felonies**

#### **Article 181**

(1) Any natural person who, in their work, violated the provisions of this Law, thus contributing to the initiation of a bankruptcy proceeding in a bank and inflicting damage to the creditors of that bank, shall be sentenced from 3 to 10 years of imprisonment, i.e. if the felony is committed by a legal entity it shall be fined.

(2) When defining the sentence under paragraph 1 of this Article, special consideration shall be given to the extent of the damage, number of impaired parties and the consequences of the bankruptcy proceeding to the economic system in the country.

(3) The financial benefit obtained by the felony under paragraph 1 of this Article shall be confiscated by a court decision.

#### **Article 182**

(1) Natural person using the word bank contrary to Article 4 of this Law, thus inflicting damage to other persons, shall be sentenced from five to ten years of imprisonment, i.e. if the felony is committed by the legal entity, it shall be fined.

(2) When defining the sentence under paragraph 1 of this Article, special consideration shall be given to the extent of the damage, number of impaired entities and the consequences to the financial system in the country.

(3) The financial benefit obtained by the felony under paragraph 1 of this Article shall be confiscated by a court decision.

#### **Article 183**

(1) Any natural person accepting deposits contrary to Article 5 of this Law, thus inflicting damage to other persons, shall be sentenced with at least five years of imprisonment, and if the felony is committed by a legal entity, it shall be fined.

(2) When defining the sentence under paragraph 1 of this Article, special consideration shall be given to the extent of the damage, number of impaired entities and the consequences to the overall financial system.

(3) The financial benefit obtained by the felony under paragraph 1 of this Article shall be confiscated by a court decision.

## **1. Infractions and sanctions**

### **Article 184**

(1) The National Bank shall conduct an infraction procedure and impose sanction for the infractions specified by this law.

(2) The infraction procedure under paragraph 1 of this Article to the National Bank shall be conducted by the Committee on making decision on the infraction (hereinafter: Infraction Committee) composed by officers employed with the National Bank, appointed by the Governor.

(3) The Governor shall adopt a bylaw determining the number, the required education level and the work experience of the members of the Infraction Committee.

(4) The members of Infraction Committee shall be appointed for a term of 5 years, and entitled to reappointment.

(5) Only graduate lawyer who passed the bar exam may be elected as a President of Infraction Committee.

(6) The Infraction Committee shall set out operating rules and procedures, previously approved by the Governor.

### **Article 185**

(1) A member of the Infraction Committee shall be dismissed:

- 1) after the expiration of their term,
- 2) on their request,
- 3) if they meet the requirements for old-age retirement, in accordance with law,
- 4) if found to be permanently incapable,
- 5) if found to violate the regulations concerning the conduct of infraction procedure with effective decision,
- 6) if they failed to meet the obligations arising from the operations in the Infractions Committee,
- 7) if they failed to report an existence of conflict of interests on cases subject to decision making by the Infraction Committee.

(2) The proposal for dismissal of a member of the Infraction Committee shall be submitted to Governor.

(3) The members of the Infraction Committee shall be independent in their work and make decisions based on their knowledge and own discretion.

(4) The decision of the Infraction Committee shall be considered passed if voted for by majority members of the Infraction Committee.

### **Article 186**



- (1) The persons authorized by the Governor to conduct supervision of a bank shall offer, within their authorizations, to the perpetrator of any infraction specified by this law, an intermediation and agreement for the perpetrator of the infraction to pay the fine and other taxes or to eliminate the damages arising from the infraction.
- (2) The perpetrator of the infraction shall, within 3 days after the receipt of the offer under paragraph 1 of this Article, render a written consent for initiation of intermediation procedure.
- (3) The intermediation procedure shall be conducted to the Intermediation Committee established by the Governor.
- (4) The Governor shall adopt a bylaw specifying the number, the required education level and the work experience of the members of the Intermediation Committee.
- (5) The Intermediation Committee shall work at sessions, attended by representatives of the perpetrator of the infraction.
- (6) An agreement shall be compiled on the concluded consent on intermediation, indicating the consent of both sides.
- (7) The agreement shall specify the obligations for the perpetrator of the infraction, in particular:
  - 1) the level and the manner of paying the fine,
  - 2) the level and the manner of paying other taxes and expenses,
  - 3) the measures which are to be undertaken by the perpetrator of the infraction in order to eliminate the damages arising from the infraction.
- (8) The agreement under paragraph 6 of this Article shall enjoy a power of executive document.
- (9) The Governor shall adopt rules and procedures and expense report for the work of the Intermediation Committee. The amount and the type of expenses specified by the expense report shall be determined on the basis of the actual costs of the National Bank for facilitating the work of the Intermediation Committee.
- (10) The Intermediation Committee shall keep records on the initiated intermediation procedures and their outcome.

### **Article 187**

- (1) A bank shall be fined for infraction in the amount of Denar equivalent from Euro 15.000 to Euro 20.000 if it:
  - 1) directly performs operations from the area of industry, trade, or other non-financial activity (Article 7 paragraph 2 ),
  - 2) fails to issue a document or fails to keep records on every pay-in and -out from a deposit account (Article 10),
  - 3) fails to disclose a copy of the Governor's decision on license for founding and operating a bank, the interest rates in effect, the general terms for operating with deposits of natural persons and the type and the amount of the deposit guarantee for natural persons (Article 11),
  - 4) fails to maintain the amount of the capital (Article 14),
  - 5) the amount of preference shares in the bank exceeds the percentage prescribed in Article 15 paragraph 1 of this Law,

- 6) performs financial activities that are not listed in the decision on issuing a founding and operating license (Article 20, paragraph 5),
- 7) fails to submit an application for status changes of a bank to the National Bank or makes status changes without a license for status changes (Article 22, paragraph 1),
- 8) fails to submit a revised text of the statute to the Trade Registry within 8 days after the adoption of the decision on amending the statute (Article 24, paragraph 4),
- 9) fails to submit an application for registration of the status change in the Trade Registry within 15 days after the adoption of the decision on status changes (Article 25),
- 10) fails to submit a copy of the decision on registration to the National Bank within 15 days after the registration in the Trade Registry (Article 26),
- 11) fails to submit an application and fails to obtain an approval by the National Bank pursuant to Article 57 of this Law,
- 12) executes a purchase order i.e. transaction in shares of a bank for which no approval by the Governor has been presented (Article 59 paragraph 3),
- 13) fails to notify the National Bank on the instances and within the periods specified under Article 61 of this Law,
- 14) fails to adjust the amount of own funds, or fails to maintain the adequacy ratio according to this law and the methodology for calculating the bank's own funds (Articles 64 and 65),
- 15) fails to prescribe the risk management criteria, manner and methods and the capital adequacy assessment by the general acts and the internal procedures, or the general acts and the internal procedures do not cover the minimum risks defined by this law (Article 66),
- 16) fails to maintain the exposure to separate types of risks within the limits prescribed by this Law and bylaws (Article 67)
- 17) fails to observe or fails to fulfill the minimum supervisory standards for adequate risk management (Article 68),
- 18) fails to correct the value, i.e. fails to allocate special reserves in a manner and amount set by the National Bank Council (Article 69),
- 19) fails to maintain the exposure within the limits or fails to observe the procedure, requirements and the manner of extending credits or other forms of exposures defined by Article 70 to 74 of this law,
- 20) buys back own shares, contrary, or fails to dispose of the own shares according to Articles 75 and 76 of this law,
- 21) invests contrary to or exceeds the limits determined by Article 78 of this Law
- 22) fails to maintain the liquidity in the operations and fails to manage the liquidity risk as specified by Articles 79 and 80 of this Law,
- 23) fails to maintain open currency position as specified by the methodology of the National Bank Council (Article 81),
- 24) the bank management is not in accordance with the provisions of this law and the rules for good corporate management adopted by the National Bank Council (Article 82),
- 25) appoints a person with special rights and responsibilities in the bank who does not meet the requirements under Article 83 of this law,
- 26) fails to convene the General Meeting of Shareholders within the periods or fails to submit the adequate date as specified by Article 87 of this Law,
- 27) appoints a member of the Supervisory Board who does not meet the requirements specified by Article 88 paragraph 2 of this Law,
- 28) appoints a member of the Risk Management Committee who does not meet the requirements specified by Article 90 paragraph 3 of this Law,
- 29) appoints a member of the Auditing Committee contrary to the requirements specified by Article 91 of this Law,
- 30) appoints a member of the Board of Directors who does not meet the requirements specified by Article 92 of this Law,

- 31) the Supervisory Board, the Risk Management Committee, the Auditing Committee, the Board of Directors, the Internal Audit Department and the Compliance Officer/Department do not act or act contrary to the manner and terms specified by this law,
- 32) acts contrary to the provisions on reports, accounting and audit of Article 101 to 110 of this law,
- 33) fails to keep and protect a bank secret or fails to be disclosed as specified by Article 111 to 112 of this Law,
- 34) concludes an agreement limiting the free market principle and limiting the bank competitiveness (Article 113),
- 35) disables the National Bank when conducting supervision of the bank or consolidated supervision of the banking group or fails to fulfill the obligations arising from the supervision or consolidated supervision according to the responsibilities of the National Bank defined by this law,
- 36) fails to provide the reports, information and other data defined by Article 117 of this Law for the purposes of bank supervision,
- 37) fails to establish and maintain adequate risk management systems, internal control, reporting and accounting for the purposes of identifying, measuring, monitoring and control of the transactions with other entities in the banking group (Article 119 paragraph 3),
- 38) fails to compile, submit or submits incomplete reports on the banking group as specified by Article 122 of this law for the purposes of consolidated supervision,
- 39) fails to consolidate or fails to report or reports contrary to Article 123, 124 paragraph 3, Article 125 paragraph 5 and 6, and Article 126 paragraph 1 of this law,
- 40) fails to act or acts contrary to the measures imposed by the Governor in line with the provisions of this law.

(2) Responsible person in a bank shall also be fined in the amount of Denar equivalent of Euro 4.000 to Euro 6.000 for infractions under paragraph 1 of this Article.

(3) The infractions under paragraphs 1 and 2 of this Article shall respectively apply to savings houses and responsible persons in savings houses.

### **Article 188**

(1) Fine in the amount of Denar equivalent of Euro 10.000 to Euro 15.000 shall be charged for infraction:

- 1) made by a brokerage house or stock exchange for executing purchase order i.e. transaction in bank's shares for which no approval of the Governor has been presented (Article 59 paragraphs 3),
- 2) made by a legal entity acquiring shares in a bank contrary to Article 59 of this Law,
- 3) if a legal entity fails to notify the National Bank that it, directly or indirectly, reduced the total number of shares or the total number of issued voting shares in a bank below 5%, 10%, 20%, 33%, 50% or 75% in the bank, at least one month prior to the reduction of its holding (Article 62),
- 4) if the legal entity conclude agreement on joining the voting rights arising from the shares in the bank and fails to notify National Bank within 5 days after the conclusion of the agreement (Article 62 paragraph 2),

- 5) if an auditing company conducts an audit contrary to Article 105 paragraph 5 and Article 106, fails to submit notifications in accordance with Articles 107 and 108 and fails to make the workpapers from the audit of a bank available to the National Bank according to Article 108 of this law,
- 6) a financial holding company acts contrary to the provisions of Article 118 paragraph 7, Articles 124 and 126 paragraph 2 of this law,
- 7) if legal entity, which is a subordinated entity according to the provisions of this Law, fails to observe Articles 124 and 126 paragraph 2 of this law, and
- 8) if the legal entity referred to in Article 125 paragraphs 1 and 2 acts contrary to Article 125 paragraph 4 of this law.

(2) The responsible person in the legal entity referred to in paragraph 1 of this Article shall also be fined in the amount of Denar equivalent of Euro 3,000 to Euro 5,000 for the infractions under paragraph 1 of this Article.

### **Article 189**

(1) The person with special rights and responsibilities in the bank shall be fined in the amount of Denar equivalent of Euro 6,000 to Euro 10,000 for infractions if:

- 1) determined that a decision of the bank's body is contrary to the law, and fails to inform the Supervisory Board and the National Bank (Article 84),
- 2) fails to notify the National Bank in accordance with Article 94 paragraph 4, 5, 6, 7 and Article 98 of this law,
- 3) fails to organize an Internal Audit Department in the bank (Article 95 paragraph 1),
- 4) fails to appoint a compliance officer or establish a compliance department (Article 99),
- 5) fails to act or acts contrary to the provisions concerning conflict of interests under Article 100 of this law.

(2) The infractions under paragraph 1 of this Article shall respectively apply to responsible persons in savings houses.

### **Article 190**

A natural person shall be fined for infraction in the amount of Denar equivalent of Euro 3,000 to Euro 6,000 if they:

- 1) acquire shares in a bank contrary to the manner and terms specified under Article 59 of this law,
- 2) if a natural person fails to notify the National Bank that they, directly or indirectly, reduced the total number of shares or the total number of issued voting shares in a bank below 5%, 10%, 20%, 33%, 50% or 75% in the bank, at least one month prior to the reduction of its holding (Article 62), and
- 3) if the natural person conclude agreement on joining the voting rights arising from the shares in the bank and fails to notify National Bank within 5 days after the conclusion of the agreement (Article 62 paragraph 2),

## **Article 191**

- (1) The infractions procedure under this Law may not be conducted two years after the perpetration of the infraction.
- (2) The expiration of the period shall be terminated with each process activity of the National Bank undertaken for prosecution of the perpetrator of the infraction.
- (3) After each termination of the period of paragraph 2 of this Article, the expiration period shall start running anew, but the procedure for the infractions may neither be initiated nor conducted 4 years after the perpetration of the infraction.

## **Article 192**

The penalty provisions of this law shall also apply to foreign persons that perpetrated the act on the territory of the Republic of Macedonia and to foreign banks branches, and to the persons with special rights and responsibilities in the foreign banks branches.

## **XII. TRANSITIONAL AND CLOSING PROVISIONS**

### **Article 193**

- (1) Banks established and operating by the day this Law enters into force shall continue their operations in a manner and under the terms indicated in the founding and operating licenses and the individual acts passed by the Governor.
- (2) Banks shall comply with the provisions of this Law pertaining to the statute, the amount of the initial capital, the financial activities, and the bank bodies, within a period of eighteen months from the day this Law enters into force.
- (3) The banks shall, within 12 months before the expiry of the period under paragraph 2 of this Article, submit to the National Bank an application for issuance of approval for harmonization of the Statute, application for issuance of approval for the existing or for appointing new members of the Supervisory Board and application for an approval for harmonization of the financial activities which, as specified by this law, require prior approval.
- (4) The Governor shall revoke the founding and operating license of the banks that fail to harmonize, within the period under paragraph 2 of this Article, i.e. fail to acquire an approval for the Statute and for the members of the Supervisory Board or fail to adjust the level of the initial capital.
- (5) The members of the bank's executive body who perform this function, until this Law enters into force, shall continue performing the function of members of the bank's Board of Directors pursuant to the provisions of this Law, without an approval of the Governor only to the expiration of the period the approval for their appointment as members of the bank's executive body refer to.
- (6) The existing shareholders with qualified holding in a bank shall, for the purposes of complying with the provisions of this law concerning the acquisition of shares in a bank, submit to the National Bank an application for obtaining an approval within four months after the date of effectiveness of this Law.

#### **Article 194**

(1) The application for issuing licenses for founding and operating a bank and for issuing approvals submitted to the National Bank before the day this Law enters into force, shall be completed in accordance with the provisions of the Banking Law ("Official Gazette of the Republic of Macedonia" no. 63/2000, 103/2000, 37/2002, 51/2003 and 85/2003).

(2) By the day the decision on appointing a conservator or introducing a receivership in a bank is abolished, adopted before the day this Law enters into force, the conservator or receiver shall exercise their rights and authorizations in accordance with the decision of the National Bank and with the provisions of the Banking Law ("Official Gazette of the Republic of Macedonia" no. 63/2000, 103/2000, 37/2002, 51/2003 and 85/2003).

(3) Bankruptcy proceedings and liquidation procedures in a bank initiated before the date this Law enters into force will be completed according to the regulations valid before the date this Law enters into force.

#### **Article 195**

The provisions of Section IV - Branches of Banks from European Union Member-States shall be applied starting from the day the Republic of Macedonia becomes a full member of the European Union. By the time the Republic of Macedonia acquires full membership in the European Union, the branches of banks from European Union member-states shall be subject to the provisions of the Section V - Foreign Bank Branches.

#### **Article 196**

On the date this Law enters into force, the Banking Law ("Official Gazette of the Republic of Macedonia" no. 63/00, 103/00, 37/02, 51/03 and 85/03) shall cease being valid, other than the provisions of Article 122 pertaining to Section II - Savings Houses of the Law on Banks and Savings Houses ("Official Gazette of the Republic of Macedonia" no. 31/93, 78/93, 17/96, 37/98 and 25/2000).

#### **Article 197**

The National Bank shall adopt the bylaws arising from this Law within nine months from the date this Law enters into force, other than the bylaws related to Section V - Foreign Bank Branches, which are to be adopted within three months from the date this Law enters into force.

#### **Article 198**

This Law shall enter into force on the eighth day from the date of its publishing in the "Official Gazette of the Republic of Macedonia".