

LAW

of the Republic of Kazakhstan

**ON BANKS AND BANKING
ACTIVITY
IN THE REPUBLIC OF
KAZAKHSTAN**

recent as of March 2, 2001

SECTION I. GROUNDS AND CONDITIONS FOR CREATION AND ACTIVITY OF BANKS

Chapter 1. GENERAL PROVISIONS

Article 1. The Bank, Its Status and Location

1. A Bank is a legal entity that is a commercial organization empowered, under this Law, to carry out banking activity.
2. The official status of a bank is determined by the state registration of a legal entity as a bank at justice authorities (registering authorities) (hereinafter – justice authorities); and holding of a license of the National Bank of the Republic of Kazakhstan (hereinafter: National Bank) to conduct banking operations.
3. No legal entity, unless it has the official status of a bank, may be named a “bank” or characterize itself as engaged in banking activity.
4. The location of a bank is deemed to be the location (or postal address) of its Board.

Article 2. Deposit

1. Deposit refers to funds transferred by one person (depositor) to another person called bank (including the National Bank) on a condition that the said amount will be returned in its original denomination with pre-arranged surplus (irrespective of whether the amount shall be returned either at first call, or in certain period of time; either in full, or in part; with or without a positive surplus, with a surplus either in monetary, or any other form; either directly to the depositor, or transferred on his behalf to any third parties).

Article 3. Banking System of the Republic of Kazakhstan

1. The Republic of Kazakhstan has a two-tiered banking system.
2. The National Bank is the central bank of the country and represents the upper (first) tier of the banking system.
The tasks, principles of activity, legal status, and powers of the National Bank are determined by the Law of the Republic of Kazakhstan “On the National Bank of the Republic of Kazakhstan”.
3. All other banks represent the lower (second) tier of the banking system.
4. A bank with foreign participation refers to a tier two bank where more than one third of stocks are possessed, owned, and/or managed by:
 - a) nonresidents of the Republic of Kazakhstan;
 - b) legal entities who are residents of the Republic of Kazakhstan, and whose stock/ participants' contributions (over 50% thereof) are possessed, owned, and/or managed by nonresidents of the Republic of Kazakhstan or any alike legal entities who are the residents of the Republic of Kazakhstan; and
 - c) residents of the Republic of Kazakhstan who are the managers of assets (agents) of nonresidents of the Republic of Kazakhstan or legal entities specified in sub-paragraph (b) of this paragraph.
6. An inter-State bank is a bank that was established and operates under the international treaty/agreement, and whose founders are the Government of the Republic of Kazakhstan (or its authorized governmental body) and the Government/s of the State/s which have signed the said treaty/agreement.

Article 4. Legal Regulation of Banking Activity

Banking activity is regulated by the Constitution and laws of the Republic of Kazakhstan, by this Law, by the acts of the President of the Republic of Kazakhstan, by international treaties/agreements entered into by the Republic of Kazakhstan as well as by the National Bank's regulations issued on the basis of and for implementation of the regulations and laws of the President of the Republic of Kazakhstan on issues under his jurisdiction.

Article 5. An institution performing certain types of banking transactions

An institution performing certain types of banking transactions refers to a non-bank legal entity that is empowered, under the National Bank's license, to conduct certain types of banking transactions as provided for by this Law.

Article 6. Prohibition of Unauthorized Activity

1. Any entity that does not hold a respective license of the National Bank may not:
 - a) execute banking transactions as a primary or secondary line of business;
 - b) audit the banking activity as a primary or secondary line of business;
 - c) use in its name, documents, announcements, or advertisements the word “bank” or a word/expression derived therefrom which might create an impression that it takes deposits, conducts other types of banking operations, or audits the banking activity. This prohibition does not apply to the National Bank, branches and representations of banks, and international financial organizations.
2. Banking operations conducted without the National Bank's licenses shall be considered invalid.

Article 7. Division of Responsibilities Between the Banks and the State. Independence of Banks

1. Banks shall not be held liable for obligations of the State, and likewise the State is not responsible for their obligations except for the instances specified in paragraph 2 of this Article as well as instances when banks or the State assume such responsibility.
2. The Government guarantees the safety of deposits taken by any inter-State banks who are resident of the Republic of Kazakhstan, and assumes responsibility on their obligations, proportionate to the level of equity participation of the Government of the Republic of Kazakhstan (or its authorized governmental body) in such banks.
3. Interference, in any form, of any governmental agencies or their officials in the activity of banks, except for instances expressly provided for by legislation of the Republic of Kazakhstan, is prohibited.

In order to protect the banks' creditors and ensure stability of the banking system of the Republic of Kazakhstan, the National Bank shall be entitled, as approved by the Government of the Republic of Kazakhstan and as required by the existing banking laws, to make decisions concerning the forced limitation of rights and

obligations of shareholders of a negatively capitalized banks, by imposing sanctions as provided by law.

Article 8. Activities Prohibited or Limited for Banks

1. Banks are prohibited to conduct any entrepreneurial-type transactions or deals that are either irrelative to banking, or not provided for by paragraph 4 Art. 30 of this Law; nor they may participate in equity of any legal entities, except for instances provided for by paragraphs 2 and 3 of this Article.
2. The prohibition established by paragraph 1 of this article does not include the following instances:
 - a) bank's participation in the equity of any banks, non-governmental accumulation funds, pension management companies, investment funds, insurance companies, leasing institutions, or legal entities that went through the listing at the stock exchange (up to fifteen per cent of total amount of outstanding stock of one single issuer);
 - b) banks' participation in the equity of any legal entities that are a part of the financial market's infrastructure and/or provide data processing services to banks and institutions performing certain types of banking activities;
 - c) banks' participation in the equity of any institutions that are professionally engaged in the securities market;
 - d) instances of banks' participation in the equity of any legal entity where collateralized shares of that entity are repossessed by the bank, under the collateral agreement, and held until they are sold by the bank;
 - e) fiduciary management by a bank of stock package and equity participations (participants' shares) in other legal entities;
 - f) management of the property and affairs of insolvent debtors in bankruptcy process;
3. In addition to activities and equity participations in legal entities listed in paragraph 2 above, of this article, banks are allowed to engage in the following types of activities:
 - a) sell the specialized software used to automate the operations of banks and institutions performing certain types of banking transactions;
 - b) sell special literature on banking matters using any type of information media;
 - c) sell its own property;
 - d) realize the pledged property of the borrowers as established by this Law and other existing laws;
 - e) provide consultative services on the matters related to financial activity;
 - f) represent other parties on the matters related to banking;
 - g) arrange upgrading training in banking and financial area;

Article 9. Prohibition of Advertising not Corresponding to Reality

1. Banks are prohibited to advertise their activities that do not correspond to reality as of publication date.
2. The National Bank may demand from a bank to modify any advertisement that does not correspond to reality, terminate it or publish refutation thereof.

In case of failure to comply with this requirement within the time period established by the National Bank, the National Bank may publicize the fact that the information contained in the advertisement is not true, or clarify such information at the expense of the bank which published such advertisement.

3. Any legal entities that do not hold the National Bank's banking license are prohibited to advertise their offered services that fall under the category of banking operations.

Article 10. Bank Associations/Unions

1. Banks may establish, under existing laws, their associations and unions in order to coordinate their activity, protect and state their common interests, implement joint projects, and resolve other common tasks.
2. Bank associations/unions shall be non-profitable organizations.
3. Bank associations/unions may not be used to restrict the competition in the banking system or manipulate the interest rates, lending terms or other banking services.

Article 10-1. Consortia and other amalgamations with banks' participation

In order to implement joint projects on lending and addressing other problems, the banks may establish consortia, under the agreement on joint activities, and participate in activities of other consortia/associations.

Article 11. Subsidiary Banks, Bank's Branches, Representative Offices and Cashier-Settlement Desks

1. Banks may open their subsidiary banks, branches, and representative offices both within the Republic of Kazakhstan, and abroad.
Opening of a foreign bank's branch in Kazakhstan shall be prohibited.
2. Subsidiary bank is a tier two bank, more than 50% of whose equity is owned by the parent bank.
Subsidiary banks may not open other subsidiary.
Subsidiary banks are independent legal entities whose creation procedures are established by Articles 12 through 28 of this Law.
3. Branches, representative offices and settlement/cashier desks (savings cash desks) of banks shall be opened and closed in conformity with Article 29 of this Law.
4. The representative offices of nonresident banks of the Republic of Kazakhstan shall be opened on the territory of the Republic of Kazakhstan with the consent of the National Bank.

Article 11-1. Bank Subsidiaries

1. "Bank subsidiary" refers to any legal entity in which the bank owns, directly or indirectly (through equity participations), or has the power to vote, 50 per cent or more of voting shares, or where the bank can, under the concluded agreement, influence the decisions made by this legal entity.
2. In order to exercise the authorities given to a bank under the Art.8 of this Law, the bank may establish or acquire a subsidiary only upon the National Bank's approval (permission).
The procedures and specifics of obtaining such permission are established by the NBRK's regulations.

3. The following documents must be enclosed with the application for permission to establish or acquire a subsidiary:
 - 1) documents on establishing a subsidiary and the minutes of approving the charter of that subsidiary;
 - 2) information about the senior management of the subsidiary;
 - 3) organizational structure of the subsidiary;
 - 4) information about the subsidiary's line/lines of business, along with the business plan;
 - 5) opinion of an auditor on a conducted audit of a legal entity as well as the financial reports certified by the auditor;
 - 6) other information and records envisioned by the NBRK's regulations and laws that are deemed necessary to make decision on granting a permission;
4. The application for permission can be declined on any of the following grounds:
 - non-submission of records required for obtaining a permission;
 - the top officials (or candidates to be nominated or elected for such positions) do not meet the requirements of subparagraphs a) and c) of paragraph 3, Article 20 of this Law;
 - the bank, as a result of its expected acquisition of subsidiaries, may fail to comply with consolidated prudential normatives and other mandatory norms and limits established by the NBRK;
 - projected deterioration of the bank's financial condition and/or inflicting damage to the interests of the bank's depositors as a result of activities the subsidiary plans to conduct or the investments the bank plans to make.
5. The National Bank should approve or deny the application for permission within 3 months of filing such application.
In case of denial, the NBRK must notify the applicant in writing of the reasons for refusing permission.
6. A bank subsidiary must inform the NBRK of all amendments and additions to the Constitutive documents.
7. Should the bank fail to obtain the NBRK's approval to establish or acquire a subsidiary, it has to sell, within a three month period, the shares of (participation in) a subsidiary it owns, to any entities that do not have special relations with the bank, *or* give up the ability to determine the decisions made by the subsidiary, and furnish relevant supporting documents to the National Bank.

Chapter 2. CREATION OF BANKS

Article 12. Forms of Business Organization of Banks

1. Banks shall be created in the form of closed-end joint-stock companies.
2. The transformation of a bank into an open-end joint-stock company shall only be permitted on condition of its uninterrupted loss-free functioning during one calendar year from the date of receiving the National Bank's licenses *for banking activities (deposit-taking and lending activities in monetary form)* and compliance during this year with the prudential normatives and other obligatory norms established by the National Bank.

3. The shareholders of a bank who are the founders thereof may not, after its transformation into an open-end joint-stock company, enjoy any additional privileges or bear any additional responsibilities different from other shareholders.

Article 13. National Bank's Permission to Open a Bank

1. Procedures for issuing a permission to open a bank and grounds for denial the application to obtain such permission shall be determined by the banking laws.
2. Permission to open a bank is legally valid until the National Bank's resolution to issue a banking license.
The National Bank can rescind its already given permission to open a bank.
3. Permission to open a bank shall be returned to the National Bank upon the issuance of a banking license or upon the court's decision to terminate the bank's operations.
4. A bank may voluntary return a permission to open a bank and get re-registered as established by law.

Article 14. Constitutive Documents of a Bank

1. Bank creation is governed by the civil law of the Republic of Kazakhstan as applied to legal entities, with due consideration of peculiarities established by the banking laws.
2. The constitutive contract on creation of a bank should necessarily include, in addition to the information required by the current laws, the following:
 - information about the founders, including the full name and location of each of them as well as the details of their State registration (if a legal entity), name, citizenship, place of residence, and the data from a document certifying his/her identity (if an individual); and
 - information about the quantity, categories, and par value of shares.
3. The charter of the bank, besides the information required by the current laws **on economic partnerships**, shall include:
 - the full and abbreviated name of the bank;
 - data on the types and procedures for use of the bank's funds (reserve capital);
 - decision-making procedure for bank's authorities, **including a list of matters for which a qualified majority of votes of the shareholders is necessary.**

Article 15. Name of a Bank

1. A bank shall use a name that was entered in its charter.
A name shall mandatory contain a word "bank" or any of its derivatives.
No bank shall have a right to name itself in any documents, announcements, or advertising other than by the name entered in its charter.
2. All banks, except the National Bank, are prohibited to use in their name the words "national" or "central", either in full, or in abbreviated form, in any language.
3. All banks are prohibited to use in their name the word "State", either in full, or in abbreviated form, in any language.
4. No bank may use as its name any designations that are identical or similar (to the extent of causing confusion) to the names of already existing banks, including the nonresident banks of the Republic of Kazakhstan, except subsidiary banks.

This restriction shall not apply to any subsidiary bank using the name of its parent bank.

Article 16. Authorized Capital and Equity of a Bank

1. The bank's authorized capital is paid in domestic currency of the Republic of Kazakhstan using the funds raised from the sale of shares or the founders' contributions.
2. The founders and shareholders of a bank shall pay for acquired shares exclusively in cash, except for the instances covered by paragraph 1 of this Article.
3. The founders and participants of a bank, who are legal entities, contribute cash to the authorized capital, pay in the bank's shares up to the amount of founders/participants' owned capital less the assets placed in stock and equity participations in other entities except for investment and pension accumulation funds."

The founders and participants of a bank, who are natural persons, may contribute to the authorized capital and pay in the bank's shares in conformity with the requirements established by the tax law, particularly, by the section thereof governing the submission of income and property declaration.

4. The initial sale of a bank's shares may be made only at a price not lower than their par value and shall be uniform for all founders/shareholders.
5. The charter fund of a newly established bank declared in its constitutive documents must be paid in by its shareholders by not less than 50% by the time it was registered, and 100% , within one calendar year from the date of its registration.
7. Owned equity of a bank (hereinafter: capital) is defined as the value of the bank's assets less its liabilities, where the value of assets is calculated by subtracting the amount of required reserves (provisions) on originated loan and other assets from the original value of the bank's assets. The methodology for calculating the bank's capital, assets, and loan/other asset loss reserves (provisions) are provided by the National Bank.

In the event when bank's liabilities exceed its assets, the capital of bank shall be considered negative.

8. If, during the three consecutive calendar months, the bank has been noted to have negative capital, the National Bank may, if and when approved by the Government of the Republic of Kazakhstan, initiate a forcible purchase of its shareholders' portion (shares) in authorized capital of a bank, and immediately sell them to a new investor at an acquisition price, provided that the bank's capital growth and normal operations will be guaranteed, given the commitments assumed by the investor.

The National Bank would forcibly buy out the bank's shares at a price determined based on the actual size of its capital as of the date of making decision on forcible purchase of shares (share of shareholders) of bank for further sale to a new investor. Immediately thereafter, the National Bank shall realize the purchased shares of the bank at a price of its acquisition. Every right and obligation of owners of all forcibly purchased shares of the bank shall be assigned to a new investor.

It is the National Bank who establishes the procedures for forcible purchase of the bank's shares for subsequent obligatory sale to investors.

Article 17. Founders and Shareholders of a Bank

1. Legal entities and individuals, both residents and non-residents of the Republic of Kazakhstan (taking into account the limitations set out in Article 18 of this Law), may become founders and shareholders of a bank.
2. The State may be the founder and shareholder of a bank only on behalf of the Government. State enterprises and organizations, more than 50% of whose authorized capital belongs to the State, may not be founders and shareholders of a bank.
3. In order to protect the creditors' interests and ensure soundness of the banking system of the Republic of Kazakhstan, the National Bank shall be entitled, with the approval of the Government of the Republic of Kazakhstan, to initiate a forcible purchase of shares (portions of shareholders) of the bank when the bank remains negatively capitalized for three consecutive calendar months, upon condition of their subsequent obligatory and immediate realization at a price of its acquisition to a new investor, who guarantees necessary improvement of financial position of the bank.
4. Legal entities that are registered in offshore zones or have affiliates registered in offshore zones who are the participants (founders) of any legal entities registered in offshore zones on the NBRK approved list, may not be, directly or indirectly, the founders or shareholders of Kazakhstani resident banks.
This restriction does not apply to banks whose individual credit rating is higher than A as rated by one of the rating agencies on the NBRK approved list.
5. Any non-resident (of the Republic of Kazakhstan) legal entity, including banks, may own ten per cent or more of the shares of a Kazakhstani resident bank provided that they have a minimum required rating as assigned by one of the primary rating agencies on the NBRK's list.
6. Any entity who owns, directly or indirectly, the shares of a bank shall submit, when asked by the National Bank, the Constitutive documents and other relevant information necessary to identify the large participants of the bank.”

Article 17-1. Bank Affiliates

1. An entity is recognized as an affiliated person of a bank, if:
 - it is a large participant of the bank;
 - the bank is a large participant of the entity; or
 - a large participant of such entity is a large participant of the bank.
2. Not a single person, acting either alone or in combination with one or more other persons, can be a large participant of a bank without the NBRK's approval. The NBRK regulations establish procedures for approval to become a large participant.

To get such approval a person that wishes to become a large participant of a bank should file an application with the NBRK for the acquisition of the large participant position, along with the documents and information:

- a copy of the resolution adopted by the highest authority of the applicant on becoming a large participant of that bank;
- information about the terms and procedures for acquisition of a bank's shares, including the following:

- description of the sources and amounts of money utilized to become a large participant, along with the copies of supporting documents;
 - information on the applicant's agent who is entrusted to represent the applicant's interests;
 - additionally, if an applicant is a natural person:
 - summary of the applicant's background including the information on his or her education, work experience as well as the record of any conviction or administrative punishment for committing infraction in banking area: all in a format envisioned by the NBRK laws and regulations;
 - if an applicant is a legal entity:
 - constitutive documents, background information about the large participants of the applicant;
 - summary of the applicant's executive officials, including the information on their education, work experience as well as the record of any conviction or administrative punishment for committing infraction in banking area: all in a format envisioned by the NBRK laws and regulations;
 - an audited annual financial statement for the last two fiscal years, as well as financial statements for the last quarter prior to passing a decision on granting a permit to acquire the large participant position;
 - financial projections of the consequences of acquiring the large participant position including the projected balance sheet of the applicant after the acquisition; plans and proposals of the applicant (if any) on how to sell the bank's assets, merge it with another legal entity or make considerable changes in its activities or management (including a business plan and organizational structure);
3. A "large participant" of a bank refers to a legal entity or individual, either resident, or non-resident of the Republic of Kazakhstan, who, directly or indirectly, owns ten per cent or more of the voting shares of a bank, or who has the ability to:
- vote, directly or indirectly, ten per cent or more of the bank's voting shares;
 - or*
 - exert influence on the decision-making process of the bank by virtue of a formal contract or otherwise.
4. The "joint large participants of a bank" refers to those persons who own, or have the power to vote, directly or indirectly, ten per cent or more of the bank's shares, and:
- 1) who jointly influence the bank's decision-making process by virtue of a formal contract between them or otherwise;
 - 2) who are alone or mutually large participants of each other;
 - 3) one of them is an official or a representative of the other person;
 - 4) one of them has issued a loan to the other to purchase the bank's shares;
 - 5) who are close relatives.
5. An application for a large participant position can be denied on any of the following grounds:
- failure to comply with the requirements of subparagraphs b), c) of paragraph 2 and subparagraphs a), c) of paragraph 3, Article 20 of this Law (with respect to an individual or top executives of an applicant who is a legal entity);
 - unstable financial condition of the applicant;
 - breach of the antimonopoly law as a result of acquiring a large participant position;

- instances where one of the parties to the deal of acquisition of a bank's large participant' position is a legal entity (its affiliate) registered in an offshore zone or an individual who is a participant (founder, shareholder) of any legal entities registered in the offshore zones on the NBRK's list;
 - instances where an applicant is a foreign bank not subject to consolidated supervision in its home country;
 - an applicant fails to meet the other requirements set forth by this Law for founders and shareholders of a bank;
6. Any of the following is an indicator of unstable financial condition of an applicant:
- an applying legal entity was founded less than two years prior to the application date;
 - the applicant's liabilities exceed its assets;
 - the last two fiscal years' performance shows loss;
 - the level of applicant's liabilities imposes a significant risk to the bank's financial condition;
 - the applicant has the past due and off balance sheet liabilities payable to a bank; and
 - other reasons fraught with potential damage to a bank and/or its depositors.
7. If the person fails to get an approval for the large participant position, the NBRK may take against such person certain enforcement measures under Article 47-1 of this Law.
8. A "bank holding company" refers to any legal entity, both resident or non-resident of the Republic of Kazakhstan, which directly or indirectly, owns twenty-five per cent or more of the voting shares of a bank, or which has the ability to:
- vote, directly or indirectly, twenty-five per cent or more of the bank's voting shares; or
 - exert influence on the decision-making process of the bank by virtue of a formal contract or otherwise..

Obtaining a bank holding company position follows the same procedures as for a large participant position.

9. The "joint bank holding company" refers to those persons who, in concert, own or have the power to vote, directly or indirectly, twenty-five per cent or more of the bank's shares, and:
- 1) who jointly influence the bank's decision-making process by virtue of a formal contract between them or otherwise;
 - 2) who are alone or mutually large participants of each other;
 - 3) one of them is an official or a representative of the other person;
 - 4) one of them has issued a loan to the other to purchase the bank's shares; and
 - 5) who are close relatives.
10. Banking group consists of a bank and organizations wherein the bank is a participant.

Article 18. Peculiarities of Creation of Subsidiary by Nonresident Banks of the Republic of Kazakhstan

1. Nonresident banks of the Republic of Kazakhstan rated accordingly by one of the prime rating agencies may be a parent for a subsidiary bank. The list of prime rating agencies and the minimum required rating shall be established by the National Bank.
2. A nonresident bank of the Republic of Kazakhstan may file, after one year's operations of that bank's representative office in Kazakhstan, an application with the National Bank for opening a subsidiary bank.

Requirements of this paragraph shall not apply to the instances where a non-resident bank acquires over fifty per cent of shares of a resident bank of the Republic of Kazakhstan.

Article 19. Application for Opening a Bank

1. A legal entity or an individual may apply to the National Bank for obtaining a permission to open a bank.
2. The application shall be filed in Kazakh or Russian languages and must include the address of the applicant.
3. The following documents shall be attached to the application to open a bank:
 - a) constitutive documents of a newly established bank: constitutive agreement, charter, minutes of the meeting on acceptance of the charter, and appointment (election) of the bank bodies;
 - b) information on the founders (against a check-list determined by the National Bank), balance sheets of the founders who are legal entities: for the last two reporting dates, an auditing firm/auditor's opinion concerning the financial condition of the founders;
 - c) in the event where one or more of the founders are not residents of the Republic of Kazakhstan: a written notification from the governmental or supervisory authority of respective country saying that it has authorized the participation in the charter fund of a resident bank of the Republic of Kazakhstan, or the statement of the governmental or supervisory authority of respective country saying that, under the legislation of the founder-country, such authorization is not required;
 - d) in the event of transformation of an institution engaged in certain types of banking activities into a bank:
 - constitutive agreement, charter, balance sheet as of the most recent reporting date;
 - opinion of an auditing firm (or auditor) concerning the financial condition of an institution engaged in certain types of banking activities;
 - e) data on nominees proposed for the managerial positions: in conformity with the requirements of this Law;
 - f) detailed organizational structure of a newly created bank;
 - g) the Statute of the Internal Audit Service of a newly created bank;
 - h) the Statute of the Credit Committee of a newly created bank;
 - i) the business plan of a newly created bank disclosing the strategy of activity, lines of business and scope of activity, financial prospects (budget,

- estimated balance sheet, profit and loss account for the first three financial (or operational) years, marketing plan (formation of the clientele of the bank), plan for attracting labor resources;
- j) report of preparatory measures carried out by the founders according to the business plan submitted; and
 - k) notarized or otherwise legally certified document confirming the powers of the applicant to file the application on behalf of the founders.
4. Auditing firm/auditor's opinion are recognized valid if it is furnished along with the supporting documents confirming that s/he is:
- independent from the founders of audited banks and their officials;
 - authorized to audit the banking activity under the license issued by the National Bank or any competent agency of a country of which s/he is a resident.
5. The National Bank may request any additional information or documentation necessary to make a decision concerning the issuance of a permit to open a bank.
6. The application for issuance of a permit to open a bank may be revoked by the applicant at any time during its consideration by the National Bank.

Article 20. Requirements for Executive Officials of a Bank

1. The following persons are considered to be executive officials of a bank: Chairman and members of the Board of Directors; President and the senior management members, and other bank managers who are in charge of coordination and/or oversight over the operations of the bank's structural units and have the right to sign any documents that serve the basis for executing the bank transactions; chief accountant of the bank and his/her deputies; chief executive officer and chief accountant of the branch of a bank.
2. Executive officials of a bank as well as the candidates nominated for appointment or election to top executive positions should meet the minimum requirements established by this Article. The conformity to the said requirements shall be ascertained by the qualification commission of the National Bank.
- The National Bank may reconsider its permission for appointment/election of an executive official, on the following grounds:
- a) the data based on which such permission was given have been found unreliable;
 - b) the appointee has a record of two or more administrative violations in banking area, during one year;
 - c) removal from office on the grounds outlined in sub-paragraph f) 2, article 47 of this Law; and
 - d) found in conflict with the requirements of paragraph 3 of this Article.
3. A person shall be deemed as not fit and proper for his/her post or may not be appointed as an executive official of a bank, if he/she:
- has outstanding criminal conviction or has not been legally exonerated;
 - is not knowledgeable enough in banking and economic legislation;
 - previously (less than one year prior to a decision on forcible liquidation of a bank or any other legal entity) served as a top manager, deputy, or a chief accountant (chief financial officer) of any bank or legal entity that was acknowledged as a bankrupt in a legally established manner. This requirement remains in effect for five years after the date of initiation of

forcible liquidation or recognizing the legal entity a bankrupt in a legally binding way.

4. Chairman and the members of the Board of Directors, President of the bank and his Deputy must all have completed higher education. Chief accountant (chief financial officer), top manager (chief executive officer) and chief accountant of a branch must all have completed higher or secondary specialized education that fits in their work profile.
5. The President of the bank and his deputies, chief accountant of the bank and his deputies, chief executive officer and chief accountant of the branch of a bank must have, as a rule, some work experience in the banking system: the President and chief accountant, at least two years; the top manager and chief accountant, at least one year.

The listed employees may not perform their duties beyond three months, pending the National Bank's approval.

Despite the actual execution of his/her duties, the nominee proposed for executive position in a bank should be dismissed within 30 days upon the receipt of the National Bank's disapproval for the appointment/election. For the period of clearance of the nominee as required by this Article, the newly employed personnel shall conduct their duties under the temporary labor contract.

6. Banks shall undeniably comply, through the entire period of their activity, with the requirements established by this Article.

Article 21. Additional Documentation Necessary for Creation and Operation of a Bank with Participation of Nonresidents of the Republic of Kazakhstan

1. A founder of a bank – either non-resident (of the Republic of Kazakhstan) legal entity, or individual – should submit, in addition to the documents listed in Article 19 of this Law accompanying his/her application for obtaining a permission to open a bank, a written notification of an authorized body (or a supervisory authority, if a non-resident bank) of respective country confirming that this entity is allowed to participate in the authorized capital of a resident bank of the Republic of Kazakhstan, or furnish a statement from that authorized body (or a supervisory authority, if a non-resident bank) confirming that such a permission is not required under the founder's legislation.
 - 1-1. In order to monitor how the bank's participants (founders, shareholders) with comply with the requirements of this Article, the National Bank may require the legal entities who are the bank affiliates to submit their constitutive documents and financial reports, as well as ask the government authorities for any necessary information.
2. Non-resident legal entity, who is a founder or a participant of a bank, applying for a large participant or bank holding company position, shall submit the following documents, in addition to those listed in Article 19 and paragraph 1 of this Article:
 - a) decision of an appropriate body of a founder (legal entity) on its participation in a resident bank of the Republic of Kazakhstan;
 - b) properly formalized annual reports of a legal entity (including consolidated balance sheet and income statement) for the last three fiscal years certified by an auditing

company (auditor) that meet the requirements established in paragraph 4, Article 19 of this Law; and

- c) other documents required by the NBRK regulations that pertain to creation and operations of a bank with non-resident participation that the NBRK deems necessary to identify the large participants of a bank and bank holding companies.
3. Non-resident bank that is either a founder, or a participant of a bank shall submit the following documents, in addition to those listed in Article 19 and paragraph 1-2 of this Article:
 - a) written confirmation from respective country's bank supervisor saying that the founder bank does hold a valid banking license;
 - b) written confirmation from respective country's bank supervisor saying that the founder bank is subject to consolidated supervision;
4. The National Bank may request information about the financial condition of any bank or financial institution in which the legal entity or a natural person, who are the founders of a bank, owns a share of equity. If the financial condition of those banks or financial institutions is found unsatisfactory, the National Bank may decline this legal entity or non-resident natural person's application to participate in the resident bank's equity.
5. Individuals who are non-residents of the RK and own ten per cent or more of the bank's voting shares shall provide an appropriate notification from the authorized agency of their home country saying that the said shareholding in the Kazakhstani resident bank does not breach the laws of the respective country.

Article 22. Additional Requirements for Creation and Operations of Banks with Foreign Participation

1. The following requirements must be complied with when opening and operating the banks with foreign participation within the Republic of Kazakhstan:
 - a) total declared authorized capital of banks with foreign participation may not exceed 50% of total declared authorized capital of all Kazakhstani banks, unless otherwise authorized by the National Bank;
 - b) at least one member of the top management of a bank with foreign participation must be a citizen of the Republic of Kazakhstan, and s/he shall provide documents verifying his/her experience of at least three years' executive work experience in a bank operational in Kazakhstan, and his/her competence in banking and economic laws of the Republic of Kazakhstan;
 - c) a bank with foreign participation shall place funds in internal assets at the amount and in the manner established by the National Bank.
The list of internal assets shall be defined by the National Bank.
 - d) at least seventy per cent of the employees of a bank with foreign participation shall be Kazakhstani residents
2. The National Bank may place additional requirements with the banks with foreign participation with respect to the membership of their bodies, list of their banking transactions, prudential normative requirements, and reporting procedures.

Article 23. Procedure for Consideration of Application for Obtaining a Permission to Open Bank

1. An application for obtaining a permission to open a bank must be considered by the National Bank within three months from the date of submission by the applicant of the last piece of additional information or document requested by the National Bank, but not more than six months from the date of receipt of the application.
2. The National Bank shall inform the applicant in writing about the decision made. The notice shall be sent to the address indicated in the application to open a bank.
3. The National Bank shall keep record of issued permissions to open a bank.

Article 24. Denial of Application for Opening a Bank

1. An application to open a bank may be denied on any of the following grounds:
 - a) constitutive documents of the bank are in conflict with the existing laws;
 - b) the name of a bank does not meet the requirements set forth in Article 15(2)-(4) of this Law;
 - c) the size, mix and structure of the bank's own equity do not meet the requirements established by Article 16 of this Law;
 - d) financial condition of the bank's founders is unstable;
 - e) restrictions established by Article 17 of this Law are not complied with;
 - f) candidates for executive positions of the bank fail to meet the minimum requirements established by Article 20(3)-(5) of this Law;
 - g) constitutive documents of the bank with foreign participation do not meet the standards established by Article 22(1) of this Law;
 - h) the business plan of a newly established bank and other documents submitted by the applicant does not indicate that:
 - after the first three fiscal (operational) years the bank will be profitable;
 - the bank intends to comply with the risk limiting requirements and develop a proper management structure;
 - the bank's organizational structure matches its planned scope of activity;
 - the bank's accounting and control systems match its planned scope of activity.
2. The National Bank shall inform the applicant in writing about the reasons for refusal.
3. Non-compliance with the provisions of Articles 18 through 22 of this Law shall ensue in denial of application for opening a bank.

Article 25. State Registration of Bank

State registration of a bank is carried out by the justice authorities on the basis of the National Bank's permission to open a bank and data supporting that the constitutive documents have been cleared with the National Bank.

The founders should apply to justice authorities for obtaining the State registration of the bank: within one month of the date of obtaining the National Bank's permission to open a bank.

Article 26. Licensing of Banking Operations

1. The National Bank is the only licensor within the Republic of Kazakhstan empowered to issue licenses for conducting operations categorized, under this Law, as banking.
Licenses to conduct banking operations shall be issued as established by the National Bank.
The fee is charged for issuance of a license: the amount and payment terms of the fee are established by the laws of the Republic of Kazakhstan.
The National Bank, when issuing a license, is entitled to clarify the names of activities the bank is authorized to conduct under the existing Kazakhstan laws.
2. In order to obtain a license to conduct banking operations within one year from the date of its State registration, the applicant must:
 - a) complete all logistics, including preparation of premises and equipment in line with the normative requirements of the National Bank, and employment of personnel of respective qualifications;
 - b) pay in the declared authorized capital.
3. Along with the application for obtaining a license to conduct banking operations, the licensee shall submit documents confirming its compliance with the requirements established in paragraph 2 of this Article.
4. The application for obtaining a license to conduct banking operations must be considered by the National Bank within one month of its receipt.
5. A license to conduct banking operations shall be issued for an unlimited period.
6. A license to conduct banking operations shall be inscribed and may not be transferred to any third parties.
7. Any type of banking operations can be undertaken only provided that they are expressly indicated in the banking license.
8. The decision on granting a license to conduct banking operations shall be published in official publications of the National Bank.
9. A properly certified copy of the license to conduct banking operations shall be placed at a conspicuous location for clients' review.

Article 27. Grounds for Refusal to Issue License to Conduct Banking Operations

A license to conduct banking operations shall be refused in the event where:

- a) the requirements established by Article 26(2) of this Law are not complied with;
- b) the bank has not applied, within one year of obtaining its State registration, for a license.

Article 28. Changes in and Additions to Constitutive Documents of a Bank

1. Any changes and additions made to the constitutive documents of a bank, including those that require re-registration with the justice authorities, must be first cleared with the National Bank.
2. The National Bank shall make its decision as to whether approve or disapprove the changes and additions to the constitutive documents of a bank within one month of receiving all required documents from the applicant.

3. Conditions, grounds and procedures for voluntary transformation of a bank into an institution conducting certain types of banking transactions shall be established by the regulations of the National Bank.

Article 29. Creation of Branches and Representative Offices of a Bank

1. A branch of a bank is a subdivision of a bank which is not a separate legal entity, and is located outside of the place where the bank is situated, and conducts banking operations on behalf of the bank and operates within the limits of powers granted by the bank.

The branch of a bank and the bank shall have in common the balance sheet and the name (the latter must be absolutely identical to the name of the bank).

2. A bank seeking to open or merge any of its branches shall obtain the consent of the National Bank.

The bank's application to open a branch should be considered by the National Bank within a three-month period (of receiving a full package of documents).

3. The following documents shall accompany the application for opening a branch of a bank:

- a) Provisions on a branch of a bank, including the list of banking operations the branch is empowered to conduct;
- b) a background information about the proposed top executive and chief accountant of the branch of the bank: in a format established by Article 19(3) and 3-5 of Article 20 of this Law.

4. Creation of a bank, branch or representative office in the Republic of Kazakhstan does not require approval from local representative or executive agencies.

5. The application for opening a bank's branch can be refused on any of the following grounds:

- a) non-compliance of candidates to top executive and chief accountant positions of the branch of the bank with the minimum requirements established by Articles 19 (3) and 20 (3)-(5) of this Law;
- b) the premises and equipment of the branch of the bank do not meet the normative requirements established by the National Bank;
- c) failure of the bank to comply with any prudential normative and/or other obligatory norms and limits established by the National Bank;
- d) violation of existing laws and regulations of the National Bank.

6. Representative office of a bank is a subdivision of a bank which: (a) is not a legal entity; (b) is located outside of the bank, (c) operates on behalf of and as authorized by the bank; and (d) does not conduct banking operations.

7. The following documents shall accompany the application for opening a representative office of a nonresident bank of the Republic of Kazakhstan:

- a) the constitutive documents of the applicant bank;
- b) the resolution of the respective organ of the applicant bank concerning the opening of a representative office within the Republic of Kazakhstan;
- c) the written confirmation from respective country's bank supervisor saying that the applicant bank does hold a valid banking license;

- d) the duly formalized annual report of the applicant bank (including the consolidated balance sheet and income statement) for the last fiscal/operational year certified by an auditing firm that meets the requirements established by Article 19(4) of this Law;
- e) a written notification from respective country's bank supervisor saying that it does not object to establishing a representative office of the applicant bank in the Republic of Kazakhstan, or the statement of the respective country's supervisor or authoritative legal service saying that, under the legislation of the applicant bank's home country, such authorization is not required; and
- f) information concerning the proposed number of personnel in the representative office and its manager.

8. The closure of branches and representative offices are governed by current laws.

Opening and closure of settlement-cashier desks (savings cashier desks) shall be governed by the existing banking laws.

Any changes to the registration records reflecting the closure of a branch shall be submitted to the justice authorities with the prior consent of the National Bank.

Chapter 3. IMPLEMENTATION of BANKING ACTIVITY

Article 30. Banking Activity

1. Banking activity refers to execution by banks of banking transactions as well as conduct of other operations established by this Article.
2. Banking operations include:
 - a) taking deposits from legal entities;
 - b) taking deposits from individuals;
 - c) opening and maintaining the correspondent accounts of banks and institutions performing certain types of banking transactions as well as the metal accounts of banks;
 - d) cash transactions: receiving, converting, changing, exchanging, packing, and keeping the banknotes and coins;
 - e) transfer transactions: completion of funds transfer orders from legal entities and individuals;
 - f) discounting transactions: discounting of bills and other debt obligations of legal entities and individuals;
 - g) borrowings: granting credits in monetary form on interest, term and repayment conditions;
 - h) settlement of banking accounts as instructed by individuals and legal entities, including correspondent banks;
 - i) fiduciary operations: managing the funds, refined precious metals and securities in the interests of and as instructed by a trustee;
 - j) clearing operations: collection, verification, sorting, and confirmation of payments and their mutual set-off (netting) and determination of the net positions of the clearing participants;

k) safekeeping operations: keeping of securities (issued in documentary form), documents, and valuables of clients, including the letting out of safe-boxes, cupboards, and premises;

l) pawnshop operations: granting short-term credits pledged by deposited marketable securities and movable property;

m) issuance of payment cards;

n) collection and remittance of banknotes, coins, and valuables;

o) organization of exchange operations with foreign currency;

p) acceptance for collection of payment documents other than bills;

q) issuance of check books;

r) clearing activity in the securities market;

s) opening (issuing) and confirming the letters of credit and accepting them;

t) issuing a banker's guarantees that have to be honored in a monetary form;

u) issuing a banker's bails (warranties) and other commitments for the third parties that have to be honored in a monetary form.

The National Bank is the only entity entitled to license the banks and other legal entities for the said operations.

A license to conduct operations provided by subparagraph (r) of this paragraph shall be granted with explicit consent of an authorized body.

3. Banks and other institutions performing certain types of banking operations, if licensed by the National Bank, have the right to conduct the following operations, in addition to those listed in paragraph 1 of this Article:

a) purchase, accept as a pledge, account for, safekeep and sell refined precious metals (gold, silver, platinum, platinum group metals) in ingots or coins;

b) purchase, accept as a pledge, account for, save and sell jewelry containing precious metals and precious stones;

c) execute bills transactions: accept bills for collection, provide for paying bills by the payer, as well as settle domiciled bills and accept bills on an agent basis;

d) leasing activities;

e) issue its own securities (**shares**, bonds, bills of exchange, and certificates of deposit);

f) factoring operations: acquisition of title to exact payment from the buyer of goods/work/services and assume the risk of default;

g) forfaiting: repayment of debt obligation of a buyer of goods/work/services by means of purchasing the bill without recourse against the seller.

4. Banks may exercise the following types of professional activity in the securities market:

a) brokerage: in government securities;

b) dealing: in government securities and other securities in the events covered by Article 8 (2) of this Law;

c) custodianship; and

d) clearing.

A license to perform one or more compatible types of the above-mentioned professional activities in the securities market, except clearing, shall be issued by the authorized body as approved by the National Bank.

5. The National Bank may establish, in its regulations, some additional requirements for banks with respect to obtaining licenses for certain types of non-banking activity as well as for banks that have equity participations in other institutions, under this Law.

Article 31. General Requirements for Operations Conducted by Banks

1. Banks may exercise banking activity only provided that both general operating procedures, and internal policies are in place.
2. The general operating procedures shall be established by the bank's Board of Directors (or in absence of such a body, by the General meeting of shareholders, if it is a closed-end joint stock company) and shall include the following information and procedures:
 - a) the maximum levels and maturities for deposits and loans;
 - b) the maximum interest rates on deposits and loans;
 - c) terms of payment of interest on deposits and loans;
 - d) requirements for security/collateral accepted by the bank;
 - e) rates and tariffs on banking transactions;
 - f) duties and rights of a bank and its customers, and their responsibility; and
 - g) other terms, requirements and limitations which the bank's Board of Directors (or in absence of such a body, by the General meeting of shareholders, if it is a closed-end joint stock company) deems necessary to include in general operating conditions.
3. The internal policies of a bank shall outline:
 - a) the organizational structure, scope of work, functions, and powers of subdivisions in a bank;
 - b) the organizational structure, scope of work, functions, and powers of the internal audit service, credit committee and other permanently operating bodies;
 - c) duties and rights of the heads of the structural units;
 - d) the powers of the bank's officials and employees when executing transactions in the bank's name and at its expense.

Article 32. Bank's Duty to Disclose its General Operating Conditions

1. General operating procedures shall be a publicly available information and may not constitute a commercial or banking secret.

This requirement does not apply to environment for conducting a particular transaction that under this Law is categorized as representing a banking secret, or is categorized by a bank as a commercial secret under the existing laws.
2. Banks shall disclose, whenever a customer asks for, its general operating conditions.
3. Banks may not refuse the customer an information on risk exposures associated with execution of a certain transaction.

Article 33. Contractual Character of Relations between Bank and Client

1. Relationship between the banks as well as between the banks and their customers shall be formalized by contracts, unless otherwise is provided for by Kazakhstani laws.
2. Clients of a bank may open accounts in other banks after having advised the lending bank, unless otherwise is provided for by Kazakhstani laws.

Article 34. Lending (Borrowing¹) Transaction

1. Lending transaction refers to cases where a bank or any other institution conducting certain types of banking activities gives money to others on a interest, term and repayment basis.
2. Lending operations of a bank are governed by its internal credit policy approved by the bank's Board of Directors (or in absence of such a body, by the General meeting of shareholders, if it is a closed-end joint stock company.)
 3. The credit committee of a bank is a body that is charged with implementation of its internal credit policy.
 4. The regulation on internal credit policy is developed in order to reduce the lending risks and shall outline the following:
 - a) conditions for granting credits to legal entities and individuals;
 - b) conditions for granting credits to officials and employees of the bank;
 - c) organizational structure, functions and powers of the credit committee;
 - d) duties of credit committee members;
 - e) lending limits; and
 - f) procedure for approval of loan agreements.
5. The norms established by paragraphs 2-4 of this Article shall apply to guarantee operations executed by banks.

Article 35. Ensuring the Collectibility of Loans

1. The repayment of credits can be ensured by a penalty, pledge, guarantee, warranty, and other avenues provided for by law or agreement.
2. If a customer is considered to be highly creditworthy and reliable, the bank may choose to extend an unsecured loan.

A bank may not extend an unsecured loan to any single borrower if such loan exceeds the average annual (annualized) amount of that borrower's assets less his/her borrowings from other banks and institutions performing certain types of banking operations. The borrower's annualized asset size is calculated as year-to-date: from the beginning of the reporting year to the date of loan origination.

3. In the instances provided for by the collateral agreement or laws, a bank may dispose, on its own, of the foreclosed property in a compulsory extrajudicial way, through the public sale/auction.
4. The norms established by paragraphs 1-3 of this Article shall apply to securing the guarantee/warranty operations undertaken by banks.

¹ Translator's note: this is the NBRK's most recent amendment of this Article: Russian word *lending* has been globally changed, throughout this text, to Russian word *borrowing* to be consistent with the Kazakhstan Civil Code language. In this text we have retained the word *lending* to ease comprehension.

Article 36. Measures Taken Against Insolvent Borrowers

1. A lending bank may take the following measures against any borrower who is defaulting on his commitments under the loan agreement:
 - extend no more new loans;
 - take an unauthorized (without the borrower's permission) recourse against money available in any accounts of the borrower (if the loan agreement stipulates so);
 - file a law suit requesting an insolvent borrower to be recognized as a bankrupt as provided for by Kazakhstani laws.

Article 37. Limitation Periods

Periods of limitation do not apply to the banks' claims and suits against borrowers for improper performance of the terms of a loan agreement.

Article 38. Effectuation of Money Transfers

1. Banks shall make payments and funds transfers within the Republic of Kazakhstan as prescribed by law.
2. In the event of improper payment or funds transfer, a bank is held liable under the applicable laws of the Republic of Kazakhstan and the contract entered into with the customer/depositor.
3. International payments and funds transfers shall be made by banks in the forms, by the means, and following the interNational Banking practices that do not conflict with the existing laws of the Republic of Kazakhstan.
4. A bank may withdraw funds from the customers/depositors' accounts without their consent whenever there are documented evidences of forged payment documents or the erroneous crediting have been established.

Article 39. Rates and Tariffs

Interest rates as well as tariffs for rendering banking services, shall be established by banks autonomously.

Article 40. Prohibition to Provide Preferential Treatment to Insiders

1. Banks shall be prohibited to provide preferential treatment to their insiders.
2. Preferential treatment means the following:
 - entering into a transaction with a bank's insider or a person who acts in the bank's interest, into which transaction, given its nature, purposes, peculiarities, and risk, the bank would never enter with the customers who are not its insiders;
 - charging interest and any other fees for banking operations, or accepting collateral at a price lower than the one normally required from other customers;

A bank may not make unsecured loans to insiders.

3. Insiders shall be defined as follows:
 - a) any official or executive official of the particular bank, and their close relatives;
 - b) any individual or legal entity who is a large participant of a particular bank, or an official of a large participant of the bank, as well as their close relatives;
 - c) any legal entity in which the persons specified in subparagraphs (a) and (b) of this paragraph are large participants;

d) any legal entity with respect to which the particular bank is a large participant, or officials of such legal entity, or their close relatives.

3-1. A bank *or its insiders* cannot enter into a deal with any party in order to give the latter an opportunity to:

- pay a liability to a bank insider;
- acquire any asset from the bank insider; and
- purchase securities issued by the bank insider.

4. A large participant of a legal entity is considered to be any entity who owns, directly or indirectly, 10% or more of voting shares (or participants' contributions) of the legal entity.

5. An insider of one entity in a group of interrelated parties is considered to be an insider of each of such group members.

6. Two or more legal entities are considered to be a group of interrelated legal entities if one of them is the large participant of the other.

7. Entering into a deal with a bank insider may take place only upon the decision of the bank's Board of Directors (or upon the decision of a general meeting of shareholders, in case of absence of such a body in a close-end joint stock company), in conformity to the requirements of paragraph 1 of this Article.

An executive official of a bank shall not be involved in the bank's consideration and decision-making process on any transaction between the bank and:

- himself;
- any of his close relatives; and
- any legal entity of which he (or any of his close relatives) is an official or a large participant.

The decision of the Board of Directors on any transaction between the bank and its insider can be made only after the Board of Directors has considered all terms and conditions of such transaction.

8. A bank must supply the NBRK with information on all transactions with its insiders: in a format required by the NBRK's regulations.

Chapter 4. REGULATION OF BANKS' ACTIVITY AND PROTECTION OF DEPOSITORS' INTERESTS

Article 41. Enforcement Measures to be Taken Against the Banks and their Officials. Bank Regulation Methodology.

In order to ensure the financial stability of banks, protect the depositors' interests and maintain the stability of the monetary and credit systems in the Republic Kazakhstan, the National Bank shall regulate the banking activity by a number of ways, including the following:

- establish prudential normative requirements and other obligatory norms and limits for banks, including the reserve and provisioning requirements on doubtful and bad debts;
- issue instructions and other regulations to be followed by banks;
- on-site inspection (examination) of the activity of banks;

- give recommendations on recovery of financial condition of banks;
- take enforcement actions against the banks; and
- impose sanctions on banks.

The banks' activity is regulated both with respect to an individual bank, and on a consolidated basis, i.e. considering the banking group as a whole. The procedures for consolidated supervision are established by the National Bank.

Article 42. Prudential Normative Requirements and Other Obligatory Norms and Limits

1. Prudential normative requirements established by the National Bank in a legally binding form **for banks** shall include the following:
 - minimum amount of the charter fund of a bank;
 - the owned capital adequacy ratio;
 - maximum risk exposure for a single borrower;
 - liquidity ratio; and
 - open foreign currency position limits.

Prudential normative requirements established by the National Bank in a legally binding form **for banking groups** shall include the following:

- minimum amount of the charter fund of a bank;
- the owned capital adequacy ratio;
- maximum risk exposure for a single borrower

The National Bank is entitled to establish additional prudential normatives and other obligatory norms and limits used in interNational Banking practice. Under the existing banking laws, the National Bank shall hold the banks and/or bank holding companies or their officials liable for non-compliance with the prudential normatives and/or other obligatory norms and limits

2. In order to verify whether the financial condition of a bank meets the established requirements, the National Bank is entitled to determine the amount of the capital of a bank as of certain date.
3. The National Bank shall establish, for banks and banking groups, the values of and calculation methodology for prudential normatives and/or other obligatory norms and limits as of certain date; provide the calculation basis for and limits of open foreign currency position; reserve requirements, their calculation basis and ways of compliance with; and the appropriate reporting forms and submission dates.²
4. In the event where a bank is found to violate the capital adequacy ratios established by the NBRK's regulations, the bank must submit to the NBRK a capital restoration plan. The plan must be submitted within one month of the date when the bank turned undercapitalized and must detail how the bank plans to restore its capital, and indicate the reasonable time frame for correction of these deficiencies.
5. Bank holding companies must take measures established by the NBRK's regulations that are aimed at maintaining the capital adequacy ratio for a banking group.

² Translator's note: this paragraph, originally present in the Banking Law as of March 2000, was eliminated (inadvertently?) from the most recent version. We deemed it prudent to preserve it for the time being.

Article 43. Reserve Capital and Provisions against Doubtful and Bad Debts

1. In order to cover losses associated with banking activity, banks shall establish a reserve capital. The reserve capital shall be formed from a bank's net profit before distribution of dividends on common shares. The minimum amount of a bank's reserve capital shall be established by the National Bank.
2. In order to ensure a proper control and safety of their activity, in conformity to the nature and scope of their operations, the banks shall classify the issued loans and other assets, allocating doubtful and loss debts, and creating provisions against them as established and provided for by the National Bank under the existing laws of the Republic of Kazakhstan.

Article 44. Inspection (Examination) of Banks' Activity

1. The National Bank inspects the banks' activity either independently, or by outsourcing.
In inspecting the bank's activities, the NBRK is entitled to examine the activities of any bank's affiliates for the sole purpose of determining the extent and nature of their influence on the bank's activities, as required by the NBRK's regulations.
2. Banks and their affiliates shall help the inspecting body with the issues on the National Bank's inspection plan, make sure that every official and employee of the bank could be questioned, and ensure access to any sources of information necessary for inspection.
3. Employees of the National Bank are prohibited to divulge or communicate to the third parties any information obtained during the inspection of a bank
4. Persons conducting the inspection are held responsible for divulgence of any information obtained during the course of inspection of the banks' activity that constitutes a banking or commercial secret.

Article 45. Recommendations on Rehabilitation of Financial Position of a Bank

In the event of worsening financial condition of a bank, the National Bank is entitled to alert the shareholders to the necessity of financial recovery, replacement of the management or reorganization of the bank, as well as recommend to:

- limit deposit taking;
- increase the charter fund;
- stop paying dividends and increase provisioning;
- cut expenses by means of closing certain branches and representative offices and stopping or limiting the hiring of additional personnel;
- remove, temporarily or permanently, from office any official or employee of the bank;
- suspend or limit certain types of high risk banking operations.

Article 46. Enforcement Measures

1. If the National Bank finds the instances of non-compliance with the prudential normatives and other obligatory norms and limits, non-adherence to the National

Bank's regulations, or determines that the bank officials or employees have committed illegal actions or demonstrated lack of action that may endanger the bank's financial soundness and safety, and imperil the interests of its depositors, clients, and correspondents, the National Bank is entitled to take against such bank one of the following enforcement measures:

- a) request a letter of commitment;
 - b) draw up a written agreement with the bank;
 - c) issue a warning; or
 - d) give a legally binding written prescription.
2. The letter of commitment of a bank must acknowledge the existing shortcomings and indicate the management's commitment to correct those deficiencies within strictly determined timeframe, and list the planned measures.
 3. The written agreement is an agreement between the bank and the National Bank calling for immediate correction of identified deficiencies and setting priority measures in this connection.
 4. A written prescription of the National Bank is an instruction to the bank to take corrective measures aimed at correcting the identified deficiencies within the established timeframe. The corrective measures shall be indicated in the written prescription and are defined as legally binding measures specified in Article 45 of this Law.
Appealing against the written prescription of the National Bank in a court shall not suspend the fulfillment of such prescription.
 5. A bank shall inform the National Bank about the fulfillment of the letter of commitment, written agreement, and written prescription within the timeframe specified in the said document.
 6. A written warning is the National Bank's notification of potential application to the bank of sanctions provided for by Article 47 of this Law, in case the existing shortcomings have not been eliminated within the timeframe established by the National Bank.
 7. Application of enforcement measures is governed by regulations of the National Bank.
 8. The measures outlined in this Article can also be applied to any affiliate of a bank, if the NBRK determines that the violations, illegal actions or non-actions by such affiliates or their officials or employees have detrimentally effected the financial condition of the bank.

Article 47. Sanctions

1. The National Bank is entitled to apply sanctions against a bank, irrespective of enforcement measures previously taken against it.
2. The National Bank may take the following measures as sanctions:
 - a) assess and exact fines on the grounds established by Kazakhstani laws;
 - b) suspend or revoke the license to conduct all or certain types of banking activities on the grounds established by Article 48 of this Law;
 - c) put the bank on conservatorship: on the grounds and following the procedures outlined in Articles 62 through 67 of this Law;
 - d) revoke the permission to open a bank on the grounds provided for by Article 49 of this Law;

- e) in the event where the bank is virtually out of its capital, and provided that the grounds listed in Article 48-1-d) of this Law are present, the decision should be made, with the consent of the Government of the Republic of Kazakhstan, as to a forced purchase of shares (shares of shareholders) of that bank at the price established by the NBRK, based on the actual amount of capital in that bank as of the date when the National Bank decided to forcibly purchase its shares, under the condition of obligatory subsequent immediate sale of these shares to a new investor at the acquisition price, with simultaneous assignment of all rights and obligations of that bank and its shareholders;
- f) temporarily remove from office the persons listed in Art.20 of this Law until after this issue has been addressed by the appropriate body within the bank, based on the evidences enough to recognize the actions of such official/officials of a bank as conflicting with the current laws;
- g) require of the organization in charge of collective mandatory deposit insurance to exclude a bank from MDIS (mandatory deposits insurance system);
- h) in the event where the capital adequacy ratios of a bank and/or of a banking group fall below 50 per cent of a normative requirements established by the National Bank's regulations, the bank should reorganize itself into a credit partnership as outlined by Art. 60 of this Law and the National Bank's regulations.

In the event where the bank waives its right described in part one of this subparagraph, or refuses to grant a permission for its transformation into a credit partnership on the grounds indicated in Art.61 of this Law, the National Bank may decide, through an agreement with the bank's shareholders, to put the bank's stock under the NBRK's trust management with subsequent alienation of the bank's stock for repossession by a new investor (investors), as established by paragraph 2, Art. 47-1 of this Law, provided that this investor (investors) comply with the provisions of this Laws.

In the event where the shareholders refuse to assign their stock to trust management, the National Bank may apply to court for forcing them to enter into such agreement.

3. The resolution on temporary or permanent removal from office is passed by the Board of Directors of the National Bank. Decisions on dismissal of any worker that has been permanently removed from his/her office are made by the authorities that appointed or elected those persons to these positions. The worker shall not get paid for the period of time from the date of decision on his/her removal from office to the date of his/her dismissal.
4. Revocation of all licenses for banking operations shall result in revocation of the National Bank's permission(s) to issue licenses for other types of activity, and in suspension of their effect until the appropriate decision is made by the issuer(s).
5. The National Bank's resolution concerning the revocation of a license (licenses) for banking operations shall become effective from the date it was made.
6. Upon the revocation of a banking license/licenses, the National Bank shall initiate conservatorship in the bank (put a temporary administrator) that will be assigned the authorities of all its management bodies.

The authorities of previous management bodies shall be suspended.

7. Upon revocation of licenses for banking operations, the National Bank shall apply, within ten working days, to court requesting the involuntary termination of a bank's activity (liquidation) as required by law.

The National Bank's resolution shall be published in two national newspapers.

8. Only bank's shareholders may appeal against the National Bank's resolution on revocation of a license (licenses) for banking operations on behalf of the bank. The said resolution can be appealed against, within 10 days, in legal form.

Art.47-1. Enforcement actions to be taken against the bank's affiliates.

1. The National Bank may take enforcement actions against large banks, whenever:
 - the National Bank denies the approval to become a large participant of a bank;
 - after acquiring a large participant position, new circumstances surface, such as those envisioned by paragraph 5, Art. 17-1 of this Law;
 - the bank fails to respond to the NBRK's written prescriptions as required by Art. 46 of this Law;In addition, the National Bank may take enforcement measures against the bank holding companies for their action or lack of action that resulted in breach of requirements of paragraphs 5, Art. 42 of this Law.
2. If circumstances envisioned by paragraph 1 of this Article are present, the NBRK may:
 - require of a large participant to reduce the level of its direct or indirect ownership of a bank to less than 10 per cent of voting shares, or to stop its direct or indirect participation in the management of the bank's operations, including cessation of its voting rights;
 - require of a bank holding company to reduce the level of its direct or indirect ownership of a bank to less than twenty five per cent of voting shares or to stop its direct or indirect participation in the management of the bank's operations, including cessation of its voting rights, and suspend any transactions (direct or indirect) between him and the bank that expose the bank to a risk;
 - require of a bank to suspend any transactions (direct or indirect) between the bank and the entity in which the bank or bank holding company is a participant if such transactions expose the bank to a risk;:
3. In the event where the large participant of a bank or a bank holding company fails to meet, within the time frame established by the National Bank, the requirements of paragraph 2 of this Article and paragraph 6 of Art. 57 of this Law, the NBRK may decide to enter into agreement with the bank shareholders to put the shares of the bank's large participant and/or bank holding company under the NBRK's trust management for a three month period, articulating the NBRK's right as a trustee to participate in the management of a bank, and if the factors for initiation of trust management have not been corrected: alienate the shares of these persons by selling them in an organized securities market so that the sale proceeds be transferred to persons whose shares have been put under the NBRK's trust management.

In the event the where shareholders refuse to put their shares under the trust management, the National Bank may apply to court for forcing them to enter into such agreement.

4. Procedures for taking enforcement measures are established by the NBRK's regulations.

Article 48. Grounds for Suspension or Revocation of Licenses for All or Certain Banking Operations

1. Licenses for all or certain types of banking operations can be suspended or revoked on any of the following grounds:
 - a) failure to comply, in the process of the bank's operations, with the requirements of Article 20, Article 22-1 (b), and Article 26 (2 and 6) of this Law;
 - b) conducting banking operations with repeated (three or more times within twelve consecutive calendar months) violations of existing legal requirements;
 - c) repeated (three or more times within twelve consecutive calendar months) improper performance of contractual obligations on payments and transfers;
 - d) repeated (three or more times within twelve consecutive calendar months) violation of prudential normative requirements and/or other obligatory norms and limits established by the National Bank; under the NBRK's regulation such violation serves the ground for forcible buyout of the bank's shares for subsequent sale;
 - e) failure to comply with the requirement to disclose the general conditions for conducting banking operations established by Article 32 of this Law;
 - f) violation of the prohibition established by Article 40 of this Law to give preferential treatment to bank insiders;
 - g) failure to submit or submission of knowingly inaccurate reports and information to the National Bank;
 - h) repeated (three or more times within twelve consecutive calendar months) non-compliance with the NBRK's regulations or written prescriptions;
 - i) the banks embarking on activities that are prohibited or restricted by Article 8 of this Law;
 - j) the banks embarking on operations beyond its jurisdiction as defined by this Law, the bank's charter and its license/s for banking operations;
 - k) where a court decides to terminate the bank's activity;
 - k-1) where the bank decides to voluntary terminate its activities through re-organization or liquidation;
 - l) failure to submit or submission of unreliable information about the bank's affiliates or any other information requested by the National Bank that prevented the National Bank from exercising its supervisory function, including the consolidated supervision;
 - m) repeated (twice or more during the course of an on-site inspection) attempts to impede the normal course of inspection that made it impossible to accomplish the inspection within the established time frame;
 - n) deliberate failure to correct the deficiencies identified in a qualified auditor's opinion, within the timeframe indicated in paragraph 6, Art.57 of this Law.

2. The National Bank will suspend or annul licenses for all or certain types of banking operations contingent upon the nature of the violation.

Article 48-1. Cession of Bank's Documents and Property

1. A bank whose license for all banking transactions was revoked may not conduct banking or any other type of activity, and shall stop all transactions on current banking accounts except for its maintenance expenses and crediting *large amounts of* funds to the bank.
2. The procedures for bank's operations, appointment of conservatorship (temporary administrator) as well as the authorities of the conservatorship (temporary administrator) are governed by the National Bank's regulations.
3. Conservator (temporary administrator) shall be in office for the limited period of time: until the court institutes proceedings in response to the National Bank's application for termination of the bank's operations.
4. Conservator (temporary administrator) shall submit its report both to the National Bank, and the court, whereto the National Bank filed its application for termination of the bank's operations.
5. Beginning from the date of instituting proceedings in response to the National Bank's application for termination of the bank's operations, a court shall appoint a special administrator (authorized administrators) to a bank who will be assigned the authority to manage the operations and property of a bank.
The National Bank officials, employees of the bank whose banking license was revoked or their close relatives can not be appointed as a special administrator (authorized administrators) in a bank whose banking license was revoked.
6. Conservator (temporary administrator) of a bank shall resign from office and cede documents and property of a bank to a special administrator (authorized administrators) within not more than a 10 day period.
7. Acceptance and cession of documents and property of a bank from its conservator (temporary administrator) to a special administrator (authorized administrators) shall be formalized in a form of deed of acceptance that should be prepared in 4 copies and approved by court. One copy of the deed of acceptance approved by court shall be forwarded to the National Bank.
8. While in office, the conservator (temporary administrator) and special administrator (authorized administrators) may neither get into expense transactions except for the cases stipulated by paragraph 1 of this Article, nor change the terms of agreements previously entered into by the bank.
9. The National Bank is prohibited from financing any expenses related to involuntary reorganization and liquidation of banks, except for payment of salary to the National Bank employees on the conservator team (temporary administrator) of a bank.

Article 49. Grounds and Procedures for Revocation of Permission to Open a Bank

1. The National Bank may revoke its permission to open a bank whenever:
 - a) the bank decided to voluntarily terminate its operations by way of reorganization or liquidation;

- b) a court decided to terminate the operations of a bank;
 - c) the legal entity registered as a bank has been found to operate with violations listed in paragraph 2 of this Article.
2. The National Bank may revoke its authorization issued to a legal entity to open a bank on any of the following grounds:
 - a) within one year from the date of state registration of a legal entity as a bank, the information that served the basis for such permission was found inaccurate;
 - b) failure to obtain license for conducting banking operations within one year from the date of registration of a legal entity as a bank;
 - c) failure to pay up the charter fund within one year after the registration of a legal entity as a bank; and
 - d) violation of operational terms provided for by banking law for any legal entity registered as a bank.
 3. It is the Board of the National Bank who shall pass the resolution on revocation of the authorization to open a bank.
 4. The resolution of the National Bank's Board on revocation of the authorization to open a bank shall serve the basis for re-registration of a legal entity or termination of its activities.

Article 50. Banking Secrecy

1. Banking Secrecy includes information about the existence, owners and the numbers of accounts of depositors, customers and correspondents of the bank as well as the balances and transactions relative to these accounts and to those of the bank itself, the operations of the bank (except for general banking operating conditions) as well as information about the existence, owners, nature and value of the customers' property kept in safe boxes, cupboards, and premises of the bank.
Loans made by a bank under liquidation are not considered as a banking secret.
2. Banks shall guarantee the secrecy of operations and deposits of their depositors, customers, and correspondents as well as the secrecy of property placed for safe keeping in boxes, cupboards and premises of any banks.
3. Any officials, employees or other persons who have accessed, through exercising their duties, the information constituting a banking secret, are held criminally liable for divulging these secrets, except for instances provided for by paragraphs 4 through 8 of this Article.
4. A banking secret may only be disclosed to: a) the owner of the account/property; b) a third party, upon the written consent of the account/property owner given when s/he was physically present in the bank; and c) persons listed in paragraphs 5 through 8 of this Article – on the grounds and to the extent specified in this Article.
The following shall not be considered as divulgence of banking secret: instances where the banks have to notify the tax authorities about any legal entities (or individuals engaged in entrepreneurial activity without establishing an organizational form of a legal entity) opening their accounts with this bank; liquidation commissions of a forcibly liquidated bank informing, for redemption purposes, the collective deposit insurance organization and agent banks about the individuals' banking account balances.
5. Statements of accounts, unless anonymous, providing verification of the accounts' existence and corresponding number, shall be released to a bank, with respect to which the owner of the account/s is a borrower, guarantor, warrantor or pledgor, in

- response to a written inquiry signed by the bank's president or his designee provided that the document supporting the loan was granted is furnished.
6. Statements of legal entity's accounts (or current accounts of an individual engaged in entrepreneurial activity without establishing an organizational form of a legal entity) providing verification of the accounts' existence, corresponding number, balances and changes therein, shall be released to:
 - a) interrogatory and preliminary investigation bodies: on criminal proceedings under their care;
 - b) courts: on proceedings under their care, based on the ruling of a court;
 - c) prosecutor: in response to an order requiring to review, within the prosecutor's competence, the materials under his/her consideration;
 - d) customs authorities: on export and/or import operations of a client; and
 - e) tax authorities: on issues related to taxation of the person being verified.
 - e-1) ***judgment execution authorities: on execution proceedings under their care, in response to a written inquiry signed by the chief executive officer or judicial performer and stamped by a judgment execution authority, or sanctioned by a prosecutor.***
 7. Statements of an individual's accounts providing verification of the accounts' existence, corresponding number, balances and changes therein, as well as the nature and value of that individual's property placed for keeping in safe boxes, cupboards, and premises of a bank shall be released to:
 - a) representatives of an individual: in response to a notarized power of attorney;
 - b) interrogatory and preliminary investigation bodies: on criminal proceedings under their care, when the individual's funds or property deposited with the bank on the accounts or for safekeeping purposes can be either attached or executed or confiscated, in response to a written inquiry signed by the chief executive officer or the investigator and stamped by interrogatory and preliminary investigation body, and sanctioned by a prosecutor;
 - c) courts: on proceedings under their care, based on the ruling of a court when the individual's funds or property deposited with the bank on the accounts or for safekeeping purposes can be either attached or executed or confiscated;
 - d) prosecutor: in response to an order requiring to review, within the prosecutor's competence, the materials under his/her consideration;
 - e) customs authorities: on export and/or import operations of a client; and;
 - f) tax authorities: on issues related to taxation of the person being verified.
 8. Statements of an individual's accounts providing verification of the accounts' existence, corresponding number, balances and changes therein, as well as the nature and value of that individual's property placed for keeping in safe boxes, cupboards, and premises of a bank shall be released, in the event of death of the owner, to:
 - a) persons, named by the owner of an account/property in his/her last will and testament;
 - b) courts and notaries: on estate cases under their consideration, in response to a written and stamped inquiry from a notary. The notary's written inquiry should go along with a copy of death certificate attesting to the account owner's death;
 - c) foreign consular institutions: on estate cases under their consideration.

9. Information containing a banking secret shall be provided to tax authorities relevant to taxation issues under the tax law of the Republic of Kazakhstan.

Article 51. Encumbering and Seizing the Funds and Property Held in a Bank

1. Neither funds, nor any other property of a legal entity or individual, held in a bank, can be encumbered other than through the orders issued by interrogatory and preliminary investigation bodies and those of bailiffs, if authorized by a prosecutor, as well as orders, sentences and decisions made by the court. The amount of money encumbered to relieve the demanded in complaint shall not exceed the sued amount plus the amount of public duties and costs associated with enforcement of the court's judgments, sentences and decisions.

All expense operations in a legal entity's banking accounts (except correspondent ones) may be suspended in instances determined by Kazakhstani laws, by decisions of the tax and customs authorities signed by chief executive officer and certified by tax or customs stamp, with mandatory notification of a prosecutor; execution can be applied only on the grounds provided for by legislation of the Republic of Kazakhstan.

2. Funds and other property of any legal entity or individual placed with a bank (except for assets of the accumulation pension funds) can only be confiscated on the basis of a court's decision (judgment) which has entered into a legal force.

Article 52. System of Mandatory Collective Insurance of Deposits

For the purpose of protecting the interests of bank's depositors, there is being established an organization in charge of mandatory collective insurance of deposits.

The National Bank establishes the legal status and procedures for creation, regulation and termination of activities of the collective deposit insurance organization.

The procedures for collective deposit insurance as well as the relationship between the collective deposit insurance organizations and the banks are governed by the **Narodny** (National?) Bank's regulations.

The banks participate in the collective deposit insurance system by means of contributing their mandatory premiums in amounts and as determined by the National Bank.

Chapter 5. RECORDS AND REPORTS

Article 53. Fiscal (Operational) Year of a Bank

The fiscal (operational) year of a bank begins on January 1 and ends on December 31. In the event the bank was registered after January 1, the first fiscal (operational) year for such bank begins on the date of its state registration and ends on December 31 of the same year.

Article 54. Records and Reports in Banks

1. The list, and the formats that meet the international standards, as well as dates for submitting the accounting, banking, and other reports, including the returns on a consolidated basis, are all established by the National Bank.
Banks shall keep record of their transactions in conformity to the established accounting standards.
The bank's accounting policy shall be established by its Board of Directors (if not available: by general meeting of shareholders in a close-end joint stock company).
2. Banks shall submit to the National Bank at its request any information about their assets, including those placed outside the Republic of Kazakhstan, the amounts of deposits accepted and credits granted, banking operations already performed and in progress, as well as any other information, including data that constitute a banking secret.
- 2-1. Banks shall provide the National Bank with any requested information about the equity participations, direct or indirect, of any legal entities where the banks are the large participants: in a format established by the National Bank.
3. The National Bank employees shall be held liable, under the existing laws, for divulgence or communication to any third party of the information that was obtained while exercising their rights established by paragraphs 2 and 2-1 of this Article.

Art. 54-1. Reporting of Bank Affiliates

A large participant of a bank shall submit to the National Bank on an annual basis its report of financial condition and activities for the ninety days following the end of a fiscal year.

A bank holding company shall submit to the National Bank its quarterly financial statements for a 45-day period following the reporting quarter, as well as the non-audited consolidated and unconsolidated annual financial statements for ninety days following the end of the fiscal year, along with the explanatory notes to such statements including , but not limited to the following:

- description of the type/types of activities the bank holding company is engaged in;
- name of each entity where the bank holding company is a participant, indicating the level (percentage) of its equity participation, as well as the description of the type/types of activities, and financial reports of the entities where the bank holding company is a large participant;
- name of each entity who is a large participant of the bank holding company, the level (percentage) of its equity participation, as well as the description of the type/types of activities, and financial reports of this entity.

Article 55. Disclosure of a Bank's Basic Performance Indicators

Banks shall publish its annual report, including an annual balance sheet and income statement, in formats and on dates established by the National Bank, after the reliability of reported data have been confirmed by the auditing firm/auditor as required by Article 19(4) of this Law, and the annual balance sheet report and income statement have been approved at the annual meeting of shareholders of the bank.

Banks shall publish, on a quarterly basis, their unaudited balance sheets and income statements, in formats and on dates established by the National Bank.

Article 56. Record Keeping and Storage of Documents

1. Banks shall ensure stringent record keeping and storage of documents used in accounting and reporting.
2. The list of basic documents to be stored as well as their storage period shall be established by the National Bank.

Chapter 6. AUDIT OF BANKS AND THEIR AFFILIATES

Article 57. Audit of banks and their affiliates

1. Accounting records, reports, source documents, and other information on a bank's activity can be audited by an auditing firm/auditor which is authorized, under the audit laws, to conduct auditing and which meets the requirements of Article 19(4) of this Law.

1-1. Auditing based on the fiscal year-end performance is mandatory for banks, bank holding companies and entities where the bank and/or the bank holding company is a large participant. The copies of the auditor's report, along with the auditor's recommendations, shall be submitted to the National Bank within thirty days of receipt of such documents or of their distribution to banks, bank holding companies and entities where the bank and/or the bank holding company is a large participant

Consolidated annual financial statements of a bank and a bank holding company shall be certified by the auditor who is entitled to conduct bank auditing.

2. The National Bank is the sole licensor in the Republic of Kazakhstan empowered to issue licenses for conducting a bank audit.
3. The bank audit intends to see if the conducted banking operations:
 - are accounted for and reported in a timely, complete and accurate manner;
 - meet the requirements of this Law and other existing laws and the NBRK regulations;
 - meet the general operating procedures and internal policies of the bank.
4. The auditing firm/auditor should summarize the audit findings and its opinion in a report to be submitted to the Board of Directors and senior management of the bank.

The bank shall submit to the National Bank the copies of the auditor's report and recommendations.

The auditing firm/auditor's opinion on the financial condition of a bank or any findings from other audited areas in the bank's activity shall be formalized in a separate document, which opinion **does not** constitute a commercial secret.

Requirements for auditor's report and opinion are established by the National Bank regulations.

5. The auditing firm/auditor shall submit a copy of the auditor's opinion to the National Bank at its request.
6. Should a bank, a bank holding company or any other entity, where the bank and/or the bank holding company are the large participants, fail to correct, within a three-month period of receipt of the qualified auditor's opinion, the identified deficiencies that adversely effect the financial condition of the bank or banking group, the National Bank may, until the deficiencies are corrected, take the following actions:
 - with respect to a bank: sanctions outlined in Art. 47-2, paragraph g) of this Law;
 - with respect to a bank holding company or an entity where the bank or the bank holding company are the large participants: actions outlined in paragraph 2 Art.47-1 of this Law;Failure to correct the deficiencies within one year of receipt of this report may result in the National Bank taking the following measures:
 - with respect to a bank: revoke its banking license as authorized by subparagraph m-2), paragraph 1, Art. 48 of this Law;
 - with respect to a bank holding company or an entity where the bank or the bank holding company are the large participants: actions outlined in paragraph 3 Art.47-1 of this Law.

Article 58. Licensing of Auditing Activity Related to Examination of Banking Operations

1. Any legal entity or individual who, under the laws of Republic of Kazakhstan, is competent to conduct audit activity, may apply to the National Bank for a license to conduct audit of banking activities.
2. The requirements for an applicant as well as the list of documents to be furnished along with the application for obtaining a license to conduct audit of banking activities are established by the National Bank.
3. License to conduct audit of banking activities is issued by the National Bank in conformity with its own regulations.

Article 59. Recognizing the Bank Audit Report and Auditing Firm/Auditor's Opinion to be Invalid. Grounds for Revocation and Suspension of a License to Conduct Audit of Banking Activities

1. The auditing firm/auditor's report or opinion is recognized to be invalid whenever:
 - a) the auditing firm/auditor is either a direct or indirect participant of the bank, or a founder thereof;
 - b) the auditor or any executive of the auditing firm or its employee in charge of current audit have a close relative, or a close relative of a spouse of an executive in that audited bank;
 - c) the auditing firm/auditor has a financial obligation to the audited bank;
 - d) the auditing firm/auditor does not hold a National Bank's license for auditing;

- e) the format of a report/opinion does not meet the National Bank's standards for formalizing the findings of the audit of banking activity; and in some other instances provided for by existing laws.
2. The National Bank may revoke or suspend the license to conduct a bank audit on any of the following grounds:
- a) two or more times, the National Bank has recognized the auditing firm/auditor's reports/opinions to be invalid;
 - b) information, representing a banking or commercial secret, that was obtained during the audit has been divulged or communicated to a third party (other than the National Bank);
 - c) failure to submit or submission to the National Bank of knowingly inaccurate reports and information about the completed audit;
 - d) submission of knowingly inaccurate opinions/confirmations on audit related matters.
 - e) the auditing firm does not have on its board an auditor who holds the National Bank's valid license to audit the banking activity;
 - f) a written decision of an authorized body canceling the auditing firm/auditor's license;
 - g) within one year of obtaining a license to audit the banking activity, the information that served the basis for issuing such license was found inaccurate.

**SECTION II.
CHANGING THE LEGAL STATUS
AND TERMINATING THE ACTIVITY OF BANKS**

Chapter 7. VOLUNTARY REORGANIZATION OF BANKS

Article 60. General Conditions for Voluntary Reorganization of Banks

1. The voluntary reorganization of a bank (merger, acquisition, break-up, spin-off, or transformation) may be effected if decided so by the general meeting of shareholders and authorized by the National Bank.
2. The decision of the general meeting of shareholders of a particular bank shall serve the basis for application to get approval for reorganization of a bank.
3. The following documents should accompany the application to get the National Bank's approval for voluntary reorganization of a bank:
 - a) decision of the supreme body of a bank on reorganization;
 - b) documents describing the proposed conditions, forms, procedures, and dates for voluntary reorganization of a bank; and
 - c) financial outlook as to the consequences of an attempted reorganization, including the estimated post-reorganization balance sheet of the bank and/or that of any legal entity formed as a result of such reorganization.
4. The application to get approval for reorganization of a bank must be considered by the National Bank within two months from the date of its receipt.

5. The bank under reorganization shall, within two weeks from the date of receipt of the National Bank's approval to carry out the reorganization, inform all its depositors, customers, correspondents, and borrowers about the forthcoming changes: both directly, and by placing an appropriate announcement in at least two national newspapers.
6. The legal entities formed as a result of such reorganization shall undergo State registration or re-registration as required by law.

Article 61. Refusal to Issue Authorization for Reorganization of Bank

1. The National Bank may refuse to approve the voluntary reorganization of a bank on any of the following grounds:
 - a) absence of appropriate decisions of the supreme bodies of a bank seeking reorganization;
 - b) the proposed reorganization will be detrimental to the depositors' interests;
 - c) the proposed reorganization will result in violation of prudential normatives and other obligatory norms and limits;
 - d) the proposed reorganization will result in non-compliance with the requirements of antimonopoly legislation.

Chapter 8. BANK CONSERVATORSHIP

Article 62. Concept of Bank Conservatorship

1. The bank conservatorship is a compulsory implementation, on the National Bank's ruling, of a number of administrative, legal, financial, organizational, technical and other measures and procedures aiming at recovery of the bank's financial condition and improving its performance.
2. A bank may be put on conservatorship on any of the following grounds:
 - a) systematic (during three consecutive months) failure to maintain the capital adequacy ratio;
 - b) the events indicated in Article 48 of this Law.
3. The introduction of conservatorship supposes that the National Bank appoints, for a limited period of time (up to one year), a temporary administration (or a temporary administrator) to manage the bank.
4. The conservatorship of a bank shall be effected at the expenses of the bank itself.
5. Within ten days, the bank shareholders may appeal in a court against the National Bank' decision on conservatorship. The appeal against the said decision shall not suspend the conservatorship of the bank.

Article 63. Temporary Administration for Managing the Bank (Temporary Administrator of the Bank)

1. Temporary administration (temporary administrator of the bank) shall be appointed by the National Bank from its staff members or outside persons who meet the minimum requirements established by Article 20(3) to (5) of this Law.
2. Rights and duties as well as the compensation package for the director and members of the temporary administration (temporary administrator of the bank)

shall be specified in an individual contract entered into by the National Bank and the temporary administration (temporary administrator of the bank).

3. The temporary administration (temporary administrator of the bank) shall abide, in its activity, by this Law, the National Bank's regulations and other laws of the Republic of Kazakhstan.
4. The National Bank is entitled to replace, at any moment, any member of the temporary administration (temporary administrator of the bank).
5. The director and members of the temporary administration (temporary administrator) are held liable, under existing laws, for any damage caused to the bank. The director or members of the temporary administration (or temporary administrator of the bank) may not be held liable for any damage identifiable as a regular business risk.

Article 64. Order on Putting a Bank on Conservatorship

1. The decision of the National Bank on putting a bank on conservatorship shall be formalized as an order of the Board of the National Bank and must contain the following:
 - a) name of the bank and its address;
 - b) rationale for conservatorship;
 - c) beginning date and duration of conservatorship;
 - d) list of activities limited for the bank;
 - e) composition of the temporary administration or surname, forename, and patronymic of the temporary administrator;
 - f) instructions for the executive officers of a bank under conservatorship as to how prepare reports, income declarations, information about the owned property and its size, and how to submit the said documents to the temporary administration (temporary administrator of the bank);
 - g) recommendations for the temporary administration (temporary administrator).
2. The National Bank shall publish its Board's order on conservatorship of a bank in at least two national newspapers.

Article 65. Specifics of Managing the Bank under Conservatorship. Powers of Temporary Administration (Temporary Bank Administrator)

1. From the initiation of conservatorship and through its end:
 - a) the bank shareholders' rights to manage the bank shall be suspended;
 - b) the powers of the bank's bodies and its executives shall be suspended;
 - c) authority to manage the bank shall be fully assigned to the temporary administration (temporary administrator); and
 - d) all transactions concluded in the name and at the expense of the bank without the knowledgeable or written consent of the temporary administration (temporary administrator) are considered to be invalid.
2. The temporary administration (temporary administrator of the bank) may:

- a) take independent decisions on all the matters related to the bank's activity, taking into account the requirements of Article 66 of this Law;
- b) suspend, if necessary, the bank's deposit liabilities, partially or in full, for the period of conservatorship;
- c) terminate, if necessary, the contracts concluded by the bank that provide for investment of the bank's assets, *or* unilaterally modify or amend them, including modifications of the rates, tariffs, and lives of contracts;
- d) sign any contracts and documents on behalf of the bank;
- e) file law suits on behalf and in the interest of the bank; and
- f) issue orders, including the orders concerning the discharge, demotion, or temporary removal from office, as well as division of responsibilities among the bank employees.

Article 66. The National Bank's Monitoring the Activity of Temporary Administration of a Bank (Temporary Administrator of a Bank)

1. Over the bank's conservatorship period, the operations of the temporary administration (temporary administrator of the bank) shall be monitored by the National Bank, which may :
 - a) give recommendations to the temporary administration (temporary administrator of the bank) on major aspects of activity during conservatorship (suggest a master work plan);
 - b) give written and legally binding instructions to the temporary administration (temporary administrator of the bank);
 - c) request the temporary administration (temporary administrator of the bank) to submit any information on its activity and the bank's operations;
 - d) hear the progress reports of the temporary administration (temporary administrator of the bank);
 - e) extend the conservatorship period;
 - f) adopt a decision on completion of conservatorship.
2. The detailed regulation of the activity of the temporary administration (temporary administrator of the bank) and the principles of its relationship with any third party are provided by the National Bank regulations.

Article 67. Termination of Conservatorship

1. The conservatorship of a bank shall be terminated on the following grounds:
 - a) expiration of the conservatorship period established by the National Bank;
 - b) the National Bank decided to terminate the conservatorship before the scheduled time.
2. The termination of conservatorship of a bank (including the pre-term one) on the grounds of its improved financial condition and performance, shall entail in lifting all limitations imposed on this bank by the National Bank or temporary administration (temporary administrator of the bank). The changes and additions to

constitutive documents, managerial bodies and staffing that were made during the conservatorship period, shall remain in force.

3. If conservatorship of a bank has not resulted in recovery of its financial position and improved performance, the National Bank may revoke the earlier issued banking license, on the grounds envisioned by the banking laws.

Chapter 9. BANK LIQUIDATION PROCEDURES

Article 68. Types and Grounds for Liquidation of Banks

1. A bank may be liquidated:
 - a) based on the decision of its shareholders with the National Bank's approval (voluntary liquidation);
 - b) based on the court's decision in the events covered by the laws of the Republic of Kazakhstan (involuntary/forcible liquidation).
2. Termination of the bank's activities, including the instances in connection to bankruptcy, is governed by the regulations of the Republic of Kazakhstan, with due consideration of this Law.

Article 68-1. Committee of Creditors of Voluntarily and Forcibly Liquidated Banks.

1. The Committee is established with the purpose of protecting the creditors' interests and making decisions with their participation in the processes of voluntary and forcible liquidations of banks.
 - The composition of the Creditors' Committee in a voluntarily liquidated bank shall be approved by the National Bank upon the receipt of proposal on membership from the bank liquidation commission.
 - The composition of the Creditors' Committee in a forcibly liquidated bank shall be approved by the court upon the receipt of proposal on membership from the bank liquidation commission.
 - Specifics of establishing the Creditors' Committee and its operations are outlined by the NBRK's regulations.

Article 69. Voluntary Liquidation of Bank

1. A bank shall have the right, based on the decision of the general meeting of its shareholders, to apply to the National Bank for approval of its voluntary liquidation.

The application should go along with the action plan, time frame and stages for the bank getting prepared for termination of its activity as approved by the general meeting of shareholders, its balance sheet indicating that the bank has enough assets to settle its liabilities, as well as any other necessary information.
2. The application for voluntary liquidation of the bank must be considered by the National Bank within two months from the date of receipt of properly formalized documents.

If the National Bank refuses to approve the voluntary liquidation of a bank, it must give reasonable grounds for such decision and notify the bank accordingly.
3. It is the Board of the National Bank who makes the decision on voluntary liquidation of a bank.

4. Upon the receipt of the National Bank's approval for voluntary liquidation, the bank shall establish the liquidation commission which shall be assigned the powers of managing the bank's property and operations.
Specifics of operations of liquidation commission in voluntarily liquidated banks are outlined in the National Bank's regulations.
- 4-1. Control over the activities of a liquidation commission in a voluntarily liquidated bank is exercised by the National Bank;
5. Upon the receipt of approval for voluntary liquidation, the bank shall publish this information in newspapers of the central justice body.
6. Within seven days after the liquidation balance sheet and the bank liquidation report have been approved, the liquidation commission shall submit these documents to the National Bank and the Ministry of Justice.
7. If the bank is short of funds to meet the claims of all its creditors, it shall be forcibly liquidated on grounds of bankruptcy.
- 7-1. Whenever the voluntary liquidation of a bank becomes impracticable, the National Bank may apply to court for a forcible liquidation of that bank

Article 70. Forcible Liquidation of Bank

The court will initiate a forcible liquidation of a bank in connection with:

- a) a bank failure;
- b) revocation of the bank's banking license on the grounds provided for by banking legislation;
- c) application/suit filed by the authorized state bodies, legal entities or individuals requesting termination of banking operations based on other grounds as provided by law.

Article 71. Declaring a Bank Bankrupt

1. Insolvency of a bank shall be determined by the National Bank in its written conclusion that is filed with the court and prepared with consideration of the methodology for calculating the prudential normatives (and other obligatory norms and limits), and the level of the bank's capital.
2. A bank can be declared bankrupt solely by the court's decision in an established manner. Extrajudicial liquidation of an insolvent bank, based on the decision of its creditors and the bank itself, shall not be allowed.
3. There is no possibility for extrajudicial settlements between the parties on bankruptcy cases.

Article 72. Bank Liquidation on Other Grounds

1. Forcible liquidation of a bank in the instances when a court institutes proceedings in response to the application/suit from the authorized state body, legal entity or individual (where the National Bank's resolution concerning the revocation of license for banking operations is not available) shall be effected as required by this Law.
2. A court sends to the National Bank its decision on forcible liquidation of a bank. Starting from the date when the court makes a decision on forcible liquidation of a bank on the grounds outlined in sub-paragraph c) Article 70 of this Law, the National Bank shall revoke the license for banking operations.

Article 73. Terms and Procedures for Forcible Liquidation

1. A person/persons appointed by a court as a special manager/authorized administrators of a bank can be included by a court in the bank's liquidation commission.

The report on the performed work prepared by the special manager/authorized administrators shall be approved by the court.

The deed of acceptance and conveyance of documents and property of a bank from the special manager/authorized administrators and to the liquidation commission shall be approved by the court.

- 1.1. Bank liquidation on the grounds of bankruptcy is governed by this Law and other laws of the Republic of Kazakhstan;
2. All the expenses associated with liquidation of a bank shall be covered by this bank.
3. The liquidation commission shall evaluate the property of the bank as required by the existing laws.
4. The National Bank shall approve the list of creditors of a forcibly liquidated bank.
5. The liquidation commission shall sell the property of a forcibly liquidated bank as determined by the NBRK's regulations.
6. Oversight of the liquidation commission's activity is carried out by the National Bank.
- 6-1. The court that appointed the bank's liquidation commission may ask the National Bank for any information related to the operations of the bank's liquidation commission.
7. The report on liquidation and the bank's liquidation balance sheet shall be prepared by the liquidation commission, approved by the court and submitted to both justice authorities, and the National Bank.

Article 74. Liquidation Commission of a Forcibly Liquidated Bank

1. When the decision on forcible liquidation of a bank is made, including the one on bankruptcy grounds, then a court shall appoint a liquidation commission, along with its chairman and members.

The liquidation commission of a bank shall take efforts to complete the affairs of a bank and settle with its creditors.

Liquidation procedures and work requirements for liquidation commissions operational in a forcibly liquidated bank are provided by the NBRK's regulations.

2. The employees of the National Bank may not participate in the activity of a liquidation commission of a bank.

Article 74-1. Peculiarities of Establishing the Bankrupt's Estate in Bank Liquidation

1. Establishment of a bankrupt's estate of a liquidated bank is governed by the existing laws with peculiarities of this Law taken into account.
2. When liquidating a custodian bank, the bankrupt's assets shall not include the securities owned by the third parties entrusted for safe keeping and accounting, as well as the assets of non-governmental accumulation pension funds, except for the own funds of non-governmental accumulation pension funds; and they shall be transferred to another bank upon the application of non-governmental accumulation pension funds.

Article 74-2. Priority of Claims of Liquidated Bank's Creditors.

1. Claims of creditors of a liquidated bank, including liquidation on bankruptcy grounds, shall be met as established by this article.
2. Expenses related to the liquidation process, including the operational expenses of the liquidation commission, as well as expenses resulting from the necessity to maintain the basic functions of a forcibly liquidated bank shall be paid on an extraordinary and continued basis.
3. Legally accepted claims of the creditors shall be met in the following order of priority:
 - a) in the first place, the claims of individuals whom a forcibly liquidated bank is liable for inflicting damage to their lives and health shall be met by means of capitalizing the appropriate time payments;
 - b) in the second place, the labor remuneration shall be settled with the employees under the labor contracts or copyright agreements;
 - c) in the third place, there shall be met the claims of individuals on deposits and money transfers, and future claims of an organization on mandatory collective insurance of deposits on honoring the commitments on pay out, up to the amount calculated by the forcibly liquidated bank, as well as the claims on deposits placed at the expense of assets of the accumulation pension funds;
 - d) in the fourth place go the settlements with non-commercial organizations engaged exclusively in charitable activity, organizations of veterans of Great Patriotic War and organizations equal to them, public associations of invalids of the Republic of Kazakhstan, the Kazakhstani society of blind people, the Kazakhstani society of deaf people and businesses which are owned by legal entities thereof, and established at their expense and other invalid organizations, up to the amount of the funds on their banking and deposit accounts;
 - d-1) in the fifth place, settlements are made with the insurance companies, up to the amount of funds available on the liquidated bank's accounts;
 - e) in the sixth place, the claims of creditors on commitments secured by the property of a forcibly liquidated bank ;
 - f) in the seventh place, shall be paid the tax arrears, outstanding dues and other statutory payments to the budget including collection of loans originated from the national budget;
 - g) in the eighth place, are paid the claims of legal entities, up to the amount of funds available on the liquidated bank's accounts;
 - h) in the ninth place, the settlements with banks shall be performed on the interbank loans, and legal entities on deposits unsecured by the property of a forcibly liquidated bank ;
 - i) in the tenth place, the other creditors shall be settled in conformity with the existing laws.
4. Next priority claims are paid only upon complete redemption of preceding priority claims.

Claims of a creditor, upon his/her written consent, can be redeemed in a number of ways that are not contradictory to laws, including the monetary form and/or via an in-kind property transfer.

When paying the claims of the same priority creditors, the monies and/or any other property of a liquidated bank shall be distributed among those creditors, proportionate to the amount of payable claims.

Article 74-3. Forcible Reorganization of a Bank. Rehabilitation Procedures

1. Forcible reorganization of a bank is enforced on the court decision, in conformity to the existing laws and with the peculiarities of this Law taken into account.
2. A court may decide to put a bank under forcible reorganization or rehabilitation, solely based on the appropriate decision of the National Bank.
The bank shall pay out all its depositors within one year of the court's decision on forcible liquidation as a prerequisite for initiation of a forcible reorganization of the bank and its rehabilitation.
Failure to meet this requirement shall result in forcible liquidation of a bank.
3. If a court judges to forcibly reorganize the bank (irrespective of the reasons for instituting proceedings), a special bank manager/authorized administrators approved by the court will be appointed to implement such reorganization.
A special manager/authorized administrators shall update, on a monthly basis, the court and the bank's creditors on his activity.
4. The third party to the bank reorganization related to merger of a bank with other commercial institution or its acquisition, shall submit to the special manager/authorized administrators the required documents (data) supporting his/their financial soundness and expediency of the reorganization of a bank.
5. Forcible reorganization of a bank shall be effected in a manner established by the court and in conformity to the approved schedule and action plan.
6. Report of a special manager/authorized administrators of a bank on the completion of the forcible reorganization of a bank shall be approved by the court.
7. Within five days of enacting the formal document confirming the completion of the bank's reorganization under the said judicial procedure, the successor entity shall publish the respective information in two national newspapers.
8. Expenses related to forcible reorganization of a bank shall be covered by the bank.

Article 74-4. The NBRK's Right to Obtain Reports and Information from Banks Under Liquidation.

1. The liquidation commission of any bank under voluntary or forcible liquidation including those liquidated on the bankruptcy grounds, shall provide the NBRK with their progress reports and any additional information, as necessary.

The NBRK determines the formats, time frames and the frequency of reports and other additional information to be furnished by the liquidation commission.

2. The National Bank may obtain any necessary information from any bank with respect to which a court has initiated the case on forcible termination of its activity.
A special manager/authorized administrators of a bank shall provide, as agreed with the court, any data and documents on the bank.

**Chapter 9-1. RESPONSIBILITY FOR VIOLATIONS
RELATED TO BANKING ACTIVITY**

Article 74-5. General Provisions

1. Banks and their officials found guilty of violating the banking laws are held liable under the existing laws.
The following officials of a bank or institution performing certain types of banking activities are held answerable under the administrative code as established by the law: chief executive officer and his deputies (including those of branches), chief accountant (chief financial officer) and his deputies (including those of branches).
2. In the event where the banking activity or bank auditing is exercised without an appropriate license issued by the National Bank, the earnings from such operations (activity) shall be sequestered to the national budget as established by law.
3. The fines (penalties) shall be assessed on banks (officials of a bank) and exacted either by the National Bank, or by a court, in response to the application from the interested parties, with the peculiarities of this Law taken into account.
4. In the event the banks have been found to violate the foreign currency legislation, they shall be held liable under the foreign currency legislation.
5. If a bank has been penalized under this Law, its officials shall not be held liable for that same violation under administrative code.
6. The terms, grounds and procedures established for suing the banks and their officials shall apply to the institutions performing certain types of banking activities.

Article 74-6. Grounds for Assessing and Exacting Fines by the National Bank for Violation Related to Banking Activity

1. The National Bank may assess a fine on a bank and exact it for the following reasons:
 - a) systematic (two or more times within twelve consecutive calendar months) delayed submission to the National Bank or submission of information which lacks the data required by the banking law, or submission of unreliable data:
fine at 400-fold average monthly rate;
 - b) failure to correct the identified violations within the time frame indicated in the National Bank's written prescription:
fine at 450 -fold average monthly rate;
 - c) repeated (two and more times within twelve consecutive calendar months) violation of prudential normatives and/or other obligatory norms and limits established by the National Bank:
fine at 500 -fold average monthly rate;
 - d) performance of transactions and deals that are prohibited by this Law, or exceed its jurisdiction:
fine at 0.1 percent of the transaction amount, or 50 percent of the earnings on this transaction;
 - e) performance of banking transactions without appropriate recording in accounting reports:
fine at the underreported amount;
 - f) bookkeeping in conflict with the established accounting standards or methods (principles), *or* preparation of banking or other reports that resulted in misrepresentation of included therein ratios or prudential normatives and/or other obligatory norms and limits required by banking laws:
fine at 5 percent of misreported amount, or at least 500 -fold average monthly rate;
 - g) failure to follow the procedure for opening and closing of customers' accounts:
fine at 500 -fold average monthly rate;

2. The regulations of the Republic of Kazakhstan may provide for other grounds to held the banks liable.
3. Fines exacted from the banks on the above listed grounds shall be transferred to the central budget.

Article 74-7. Grounds for Assessing and Exacting Fines through the Court for Violation Related to Banking Activity

1. When a bank commits violations related to provision of banking services to its customers, creditors and borrowers, the court may assess and exact the following amounts:
 - a) failure to timely and properly execute the payment and money transfer orders, and cash withdrawals, will result in:
 - fine at 0.02 per cent of the amount indicated on the payment or money transfer order, or demanded cash amount for each business day, but not exceeding 5 percent of the indicated amount;
 - b) failure to timely and properly credit funds on the customer's banking account: beyond one operational day (exclusive of the day when funds entered the bank) will result in:
 - fine at 0.02 per cent of the untimely credited amount on the payment or money transfer order for each business day, but not exceeding 5 percent of the untimely credited amount on the payment or money transfer order;
 - c) loss of a customers' payment documents will result in:
 - fine at 50-fold average monthly rate for each lost document.

The amounts of fines indicated above in this paragraph shall apply, unless particular amounts of fines have been established contractually.

2. Fines in favor of customers, creditors and borrowers assessed on the grounds indicated in paragraph 1 of this Article, shall be exacted under judicial procedure in response to their filed application.

Article 74-8. Procedures for Legalization and Consideration by the National Bank of the Documentation on Assessing and Exacting Fines.

1. The National Bank shall prepare a deed/record (attaching all pertinent documents) of violations that have prompted actions provided for by Article 74-6 of this Law and some other regulations providing for responsibility of a bank and its officials.
2. Preparation of such deed/record of violation is entitled to the National Bank's supervision workers.
3. The supervisory function of the National Bank shall submit the deed/ record of identified violation (the deed of violation) and other pertinent materials, along with its conclusion, for consideration of the National Bank's Governor, his deputy or the Board of the National Bank.

The Governor of the National Bank or his deputy may, within their jurisdiction, bring this matter, before they or the Board of the National Bank will consider the materials on violation, to the attention of the Board of Directors of the National Bank whose decision is of an advisory nature, only.
4. The decision on penalizing a bank's official shall be made by the Governor of the National Bank or his deputy.

The decision on applying sanctions against a bank in a form of fine, shall be made by Board of the National Bank.

5. Formalization of materials on responsibility of banks and their officials as well as the procedures for consideration of those materials by the Governor of the National Bank, his deputy, or the Board of Directors, are all governed by the National Bank's regulations, with the provisions of other applicable regulations taken into account.

Article 74-9. Deed of Violation and Time Frames for its Consideration by the National Bank

1. The deed of violation shall indicate: the date and place where and when it was completed; position and a full name of a draftee of this deed; the substance of the violation; and other necessary data.
2. The deed of violation shall be signed by its draftee and by an appropriate person in a bank. Should there be any objections or comments to the deed, a respective proviso should be included in the deed, and written objections attached to it, and additional materials provided, if necessary.
3. The Governor of the National Bank, his deputy or the Board of the National Bank shall, within their jurisdiction, make decision on presented material relating to exaction of fine from a bank or its official: within 30 days of the receipt of relevant documents by the Governor of the National Bank, his deputy or the Board of the National Bank, but not later than two months after the violation was identified.
4. The National Bank shall notify in writing the bank or its administratively penalized official on the outcomes of its consideration of the materials on exaction of fine. The National Bank's decision on exaction of fine becomes effective within the time frames indicated in paragraph 5 of this Article.
5. If a bank or its administratively penalized official would dispute the decision on assessment and exaction of fine, they may appeal to a court against it, within a month period.

In the event the bank or its administratively penalized official have appealed to the court against the made decision, the execution of this resolution shall be suspended until the court considers the matter.

SECTION III. CONCLUDING PROVISIONS

Charter 10. FINAL PROVISIONS

Article 75. Area of Application of this Law

1. Requirements of this Law shall apply to every bank conducting its activity under Kazakhstani laws, including the banks that were established under special procedural format, by separate laws and regulations governing their initiation period, as well as the entities that are direct or indirect participants of the bank.
2. The status, procedure for creation, licensing, regulation and termination of activity of institutions performing certain types of banking transactions, including a list of banking operations permitted for them, and the grounds for issuing a license thereof, and possible limitations on their activity shall be established by the National Bank's regulations.
Organizations that are structural subdivisions of governmental agencies may perform bank transactions exceptionally with respect to and at the expense of the

government budget, and may not delegate the right to conduct such bank transactions to any third parties: pursuant to regulations and laws of the Kazakhstan Government that outline the procedures for establishment, operations, regulation and cessation of activities of the said organizations.

3. The provisions of this Law shall apply to the National Bank only in the instances expressly provided for by this Law.

Article 76. Responsibility for Non-Compliance with this Law

1. In the event the banking operations have been conducted without the NBRK's appropriate license, any income from such transactions shall be impounded to central budget.
2. Any audit of banking activities conducted by an auditor who does not hold the NBRK's license shall be considered invalid, and every income generated from such activity shall be impounded to central budget.
3. Any banks that place ads, as well as any legal entities that are not licensed by the National Bank for banking activities, shall be held responsible, under Kazakhstani laws, for placing ads offering services that are categorized as banking operations.

Article 77. Appealing Against the National Bank's Actions

The actions of the National Bank of the Republic of Kazakhstan related to regulation of banking activity may be appealed against in a judicial procedure.

Article 78. Enactment of this Law

1. This Law becomes effective from the date of its publication.
2. From the date this Law becomes operative, any banks found to violate the charter fund establishment procedures during the period when the Law of the Republic of Kazakhstan of April 14, 1993 "On Banks in the Republic of Kazakhstan" was in effect, shall be subject to sanctions provided for by this Law.

President of the
Republic of Kazakhstan