

ON BANKS AND BANKING ACTIVITY IN THE REPUBLIC OF KAZAKHSTAN
Law of the Republic of Kazakhstan dated August 31, 1995 N 2444

Reference. The heading is given in a revision, the preamble is excluded, upon the text the words "By Decree", "Of decree", "Decree" are changed by words "By law", "Of law", "Law" - by Law of RK of March 2, 2001 N 162 (see article 2).

Upon the whole text the word "(of interest)" is excluded - by law of RK of July 8, 2005 N 69.

Section I. Reasons and conditions of creation and activity of banks

Chapter 1. General provisions

Article 1. Bank, its status and location

1. Bank is the legal entity, being commercial organization that in accordance with this Law shall be entitled to fulfill banking activity.

2. The official status of bank shall be determined by state registration of legal entity as a bank in the bodies of justice (registering bodies) (hereinafter referred to as the bodies of justice) and availability of the license of authorized body on regulation and control of financial market and financial organizations (hereinafter referred to as the authorized body) for the execution of banking operations.

3. Neither legal entity, not having the official status of bank, may not be named as *bank* nor characterize itself as occupying by banking activity.

4. The bank location shall be the location (postal address) of its Board.

Reference. Paragraph is in edition of the Law of RK of July 11, 1997 N 154. The modifications are made by the Laws of RK of July 16, 1999 N 436; of March 2, 2001 N 162 (see article 2); Law of the Republic of Kazakhstan of July 10, 2003 N 483 (coming into force from January 1, 2004).

Article 2. Investment (deposit)

Investment (deposit) is money, transmitted by one person (depositor) to another person - bank, including the National bank of the Republic of Kazakhstan (hereinafter referred to as the National bank) under the conditions of its return in nominal terms irrespective of the fact whether they must be returned upon first request or within any term, in full or partially, with preliminarily agreed increase or without such increase directly to depositor or transmitted upon its discretion to third parties.

Reference. Article 2 is in edition of the Law of RK of July 11, 1997 N154. The modifications are made by the Laws of RK of March 2, 2001 N 162 (see article 2); Law OF THE Republic OF Kazakhstan OF July 10, 2003 N 483 (coming into force from January 1, 2004).

Article 3. Banking system of the Republic of Kazakhstan

1. Republic of Kazakhstan has two-level banking system.

2. National Bank is central bank of the state and represents by itself the upper (first) level of banking system.

The tasks, principles of activity, legal status and authorities of the National Bank shall be determined by the Law of the Republic of Kazakhstan *On the National Bank of the Republic of Kazakhstan*.

The National Bank shall fulfill regulation and supervision on separate issues of banking activity within its competence and promotes creation of

general conditions for the functioning of banks and organization, fulfilling separate types of banking operations.

Regulating and supervision functions of the National Bank in relation to banks and organization, fulfilling separate types of banking operations are directed to support of stability of money and crediting system of the Republic of Kazakhstan, protection of interests of bank's creditors, their depositors and clients.

3. All other banks represent the lower (second) level of banking system except for the Development Bank of Kazakhstan, having special legal status, determined by legislative act of the Republic of Kazakhstan.

4. *(excluded - N 162 of 2.03.01)*

5. Bank with foreign share is the bank of second level, more than tierce of disposed shares of which are in possession, ownership and/or management of:

a) non-residents of the republic of Kazakhstan;

b) legal entities - residents of the Republic of Kazakhstan, more than tierce of disposed shares or market shares in authorized capital stocks of which are in possession, ownership and/or management of non-residents of the Republic of Kazakhstan or similar to them legal entities - residents of the republic of Kazakhstan;

c) residents of the Republic of Kazakhstan, being the managers of funds (empowered persons) of non-residents of the Republic of Kazakhstan or legal entities, specified in subparagraph b) of this paragraph.

6. The intergovernmental bank is the bank, established and acting on the basis of international contract (agreement), the founders of which are the Government of the Republic of Kazakhstan (or authorized by it state body) and government (governments) of state (states), signed this contract (agreement).

Reference. Article 3 is modified by the Laws of RK of July 11, 1997 N 154; of March 2, 2001 N 162 (see article 2); of April 25, 2001 N 179; of July 10, 2003 N 483 (coming into force from January 1, 2004); of July 8, 2005 N 72 (procedure of consummation see article 2).

Article 4. Legal regulation of banking activity

Banking activity shall be regulated by Constitution and legislation of the Republic of Kazakhstan, international treaties (agreements), concluded by Republic of Kazakhstan, and normative legal acts of the authorized body and National Bank, issued on the basis of and for the execution of legislation acts and decrees of the President of the republic of Kazakhstan on issues, related to their competence.

Reference. Article 4 is modified by the Law of RK of July 11, 1997 N 154; of July 10, 2003 N 483 (coming into force from January 1, 2004).

Article 5. Organization, fulfilling separate types of banking operations

Organization, fulfilling separate types of banking operations is the legal entity that is not a bank, which on the basis of license of authorized body and (or) National Bank shall be entitled to execute separate types of banking operations, stipulated by this Law.

Reference. Article 5 is modified by the Law of RK of July 11, 1997; of July 10, 2003 N 483 (coming into force from January 1, 2004).

Article 6. Prohibition for non-authorized activity

1. Neither person, not having respective license of authorized body and (or) National Bank, shall not have the right:

a) to fulfill banking operations as main or additional activity;

b) to fulfill audit of banking activity as main or additional activity;

c) to use in its name, documents, announcements and advertisements the word "bank" or derivative from it word (expression), creating impression that

it executes banking operations or carries out audit of banking activity. His prohibition does not spread to the National bank, branches, and representatives offices of banks, international financial organization.

2. Banking operations, fulfilled without license of authorized body and (or) National Bank, are invalid, except for activity (operations), carried out by state body, and Development Bank of Kazakhstan within the authorities, specified by legislative acts of the republic of Kazakhstan.

Reference. Article 6 is modified by Laws of RK of July 11, 1997 N 154; of March 2, 2001 N 162 (see article 2); of July 10, 2003 N 483 (coming into force from January 1, 2004); of July 8, 2005 N 69.

Article 7. Separation of responsibilities of banks and state. Independence of banks

1. Banks shall not be responsible upon the liability of the state, and the state shall not be responsible upon their liabilities, except for cases, specified in clause 2 of this article, and cases, when banks or state undertake such responsibility.

2. State guarantees safety of deposits, accepted by intergovernmental banks - residents of the Republic of Kazakhstan, and shall be responsible upon their liability pro rata the share of the Government of the republic of Kazakhstan (or authorized by it state body) in the authorized capital stock of such banks.

3. The interference in any form of state bodies and their officials to the activity of banks is prohibited, except for cases, directly stipulated by legislation of the republic of Kazakhstan.

In purposes of protection of the interests of bank's creditors and ensuring stability of banking system of Republic the authorized body shall be entitled upon coordination with the Government of the republic of Kazakhstan in accordance with requirements of acting banking legislation to make decisions of compulsory limitation of rights and responsibilities of shareholders of banks, having negative amount of capital, through application to them of established by legislation sanctions.

Reference. Paragraph 3 is amended by part two by the Law of RK of December 7, 1996 N 50. The modifications are made by the Laws of RK of July 11, 1997 N 154; of March 2, 2001 N 162 (see article 2); of July 10, 2003 N 483 (coming into force from January 1, 2004).

Article 8. Activity, prohibited and limited for banks

1. It is prohibited for banks to fulfill operations and transactions as entrepreneurship activity, not related to banking activity or not stipulated by paragraph 4 of the article 30 of this Law, and purchase of market shares in authorized capital stocks or shares of legal entities, except for cases, stipulated by paragraph 2 and 3 of this article.

2. Prohibition, established by paragraph 1 of this article does not extend for the following cases:

a) purchase of shares of banks, accumulative pension funds, organizations, fulfilling investment management of pension assets, investment funds, insurance organizations, organizations - leasing-givers, and joint-stock companies, the shares of which are included to the list of the highest category of stock exchange, fulfilling activity on the territory of the republic of Kazakhstan (in the amount of not more than fifteen percent of total number of disposed shares of one emitter);

a-1) (excluded)

b) purchase by banks of shares or market shares in authorized capital stocks of legal entities, being the part of financial market infrastructure and (or) fulfilling automation of the activity of banks and organization, executing separate types of banking operations;

c) purchase by banks of shares of joint-stock companies, fulfilling professional activity in the equity market;

d) purchase by banks of shares or market shares in authorized capital stocks of legal entities in the cases, when accepted as pledge shares or market shares in authorized capital stocks of these organizations are being transferred to the ownership of banks in accordance with civil legislation of the republic of Kazakhstan (value of shares, purchased by bank through transfer of accepted before as pledge shares to the ownership of bank, must not exceed twenty-five percent of own capital of the bank, at the same time the term of their realization must be not more than one year);

e) activity on management of assets and businesses of insolvent debtors in procedures of bankruptcy.

e-1) execution of transactions with bonds of legal entities, whose securities are included to the list of the highest category of stock exchange, fulfilling their activity on the territory of the Republic of Kazakhstan, bonds of international financial organizations, list of which is specified by authorized body.

Value of purchased by bank shares or market shares of the bank in authorized capital stock one legal entity must not exceed ten percent of authorized capital, except for case, specified in subparagraph d) of this paragraph.

3. Besides activity and participation in authorized capital stock of legal entities, specified in paragraph 2 of this article, banks shall be entitled to occupy the following types of activity:

a) realization of special software, used for automation of the activity of banks and organizations, fulfilling separate types of banking operations;

b) realization of special literature on issues of banking activity on any types of mediums;

c) realization of own property;

d) realization in order, stipulated by this Law and other existing legislation, of pledged by debtors property;

e) rendering of consulting services on issues, connected with financial activity;

f) representation of interests of third persons on issues, connected with banking activity, holders of infrastructure, and mortgage and other ensured bonds;

g) organization of trainings on raising the level of specialists in the sphere of banking and financial activity;

h) realization of insurance policies (conclusion of insurance contracts) on behalf of insurance organizations - residents of the republic of Kazakhstan.

Reference. Article 8 is in edition of the Law of RK of July 11, 1997 N 154. The modifications are made by the Laws of RK of July 16, 1999 N 436; of December 18, 2000 N 128; of May 16, 2003 N 416; of June 3, 2003 N 427; of July 10, 2003 N 483 (coming into force from January 1, 2004); of April 21, 2005 N 46; of July 8, 2005 N 72 (procedure of consummation see article 2).

Article 9. Prohibition of advertisement, contrary to fact

1. It is prohibited for banks to give the advertisement of their activity, contrary to fact for the date of its publishing.

2. Authorized body shall be entitled to demand from a bank of changing the advertisement, contrary to fact, its termination or publication of its refutation.

In a case of non-fulfillment of such demand in a specified by authorized body term the authorized body shall be entitled to publish information of discrepancy to the reality of data, containing in advertisement, or define them more exactly at the expense of bank that published such advertisement.

3. The advertisement of rendered services, subject to category of banking operations <*>, is prohibited for legal entities, not having license of authorized body and (or) National Bank for the execution of banking operations.

Reference. Article 9 with alterations by the Laws of the Republic of Kazakhstan of July 10, 2003 N 483 (coming into force from January 1, 2004); of July 8, 2005 N 72 (procedure of consummation see article 2).

Article 10. Associations (alliances) of banks

1. For the coordination of their activity, protection and presentation of common interests, execution of joint projects and solution of other general tasks, banks shall be entitled to establish in accordance with acting legislation associations and alliances of banks.

2. Associations (alliances) of banks shall be commercial organizations.

3. Associations (alliances) of banks may not be used in the purposes of competition limitation in the banking system, manipulation of fee rates, terms of rendering credits and other banking services.

Reference. Article 10 is modified by the Law of RK of July 11, 1997 N 154.

Article 10-1. Consortiums and other unions with the participation of banks

In the purposes of realization of joint projects on credits granting and solution of other tasks, the banks shall be entitled to establish consortiums on the basis of the contract of joint activity and take part in the activity of other consortiums, associations.

Reference. Supplemented with the article 10-1 by the Law of RK of July 16, 1999 N 436.

Article 11. Affiliated banks, branches, representation offices and cash departments (saving-banks) of banks

1. Banks shall be entitled to open their affiliated banks, branches and representation offices as on the territory of the Republic of Kazakhstan, and outside.

Opening of branches of foreign banks in the Republic of Kazakhstan is prohibited.

The opening procedure of banks branches with foreign share in the Republic of Kazakhstan shall be specified by authorized body.

2. Affiliated bank shall be the bank of second level, more than fifty percent of disposed shares of which belong to parent bank.

The affiliated bank shall not be entitled to establish another affiliated bank.

The affiliated banks shall be independent legal entities and shall be established upon the procedure, stipulated by articles 12-28 of this Law.

3. Branches, representation offices, and cash departments (saving banks) of banks shall be established, closed under procedure, specified by article 29 of this Law.

4. Representation offices of banks-non-residents of the Republic of Kazakhstan shall be opened on the territory of the Republic of Kazakhstan upon the consent of authorized body.

Representation offices of bank-resident of the Republic of Kazakhstan shall be opened outside the Republic of Kazakhstan upon the consent of authorized body.

Reference. Article 11 is modified by the Laws of RK of July 11, 1997 N 154; of June 29, 1998 N 236; of July 16, 1999 N 436; of March 2, 2001 N 162 (see article 2); of July 10, 2003 N 483 (coming into force from January 1, 2004); of July 8, 2005 N 72 (procedure of consummation see article 2).

Article 11-1. Affiliated organizations of banks

1. The affiliated organization of bank shall be legal entity, in which the bank directly (immediately) or indirectly (through the participation in authorized capital stocks of other legal entities) owns, or has the ability to vote, more than fifty percent of voting shares (market shares) or in

accordance with concluded between them contract (or otherwise) bank has the ability to determine decisions, taken by this legal entity.

2. Bank, in purposes of execution of authorities, provided to him by article 8 of this Law, may establish or have affiliated organization only in the availability of authorized body permission.

Procedure and peculiarities of permission issue shall be determined by normative legal acts of authorized body.

3. Application for the receipt of permission must be supplemented by following documents:

1) constituent documents of affiliated organization, protocols of charter approval;

2) information of leading employees of affiliated organizations;

3) organizational structure of affiliated organization;

4) information of the type or types of affiliated organization activity with the submission of business-plan;

5) conclusion of auditing organization of the execution of legal entity audit and financial statement, certified by auditing organization;

6) other information or documents, relevant for decision-making of permission issue, stipulated by normative legal acts of authorized body.

4. Reasons for denial of permission issue shall be as follows:

non-submission of documents, relevant for the receipt of permission;

non-conformity of leading employees of affiliated organization (or candidates, recommended for appointment or election for the positions of leading employees) with requirements of subparagraphs a) and c) of paragraph 3 of the article 20 of this Law;

non-observance by bank as a result of assumed availability of affiliated organization of prudential standards on consolidated base and other compulsory for observance by banks norms and limits, specified by authorized body;

predicted worsening of financial state of bank and (or) damaging bank depositors' interests due to the activity of affiliated organization or planned by bank investments.

5. Authorized body shall be obliged to issue permission or deny issue if permission within three months after application filing.

In a case of denial of permission issue the authorized body shall be obliged to notify applicant of denial reasons in a written form.

6. Affiliated organization of the bank shall be obliged to inform authorized body of all alterations and amendments, made to constituent documents.

7. In a case of receipt of authorized body permission the bank shall be obliged within three months to execute alienation of belonging to him shares (market shares) of affiliated organization to persons, not connected by specific relations with this bank, or refuse the ability to determine decisions, taken by affiliated body, and submit the authorized body with confirming documents.

Reference. Supplemented with the article 11-1 by the Law of RK of March 2, 2001 N 162 (see article 2); of July 10, 2003 N 483 (coming into force from January 1, 2004).

Chapter 2. Establishment of bank and execution of banking activity <*>

Reference. Heading in a new edition by the Law of the Republic of Kazakhstan of July 10, 2003 N 483 (coming into force from January 1, 2004). The alterations are made of July 8, 2005 N 72 (procedure of consummation see article 2).

Article 12. Organizational and legal form of banks

Reference. Article 12 is modified by the Laws of RK of July 11, 1997 N 154; of July 10, 1998 N 282; of July 16, 1999 N 436; of March 2, 2001 N 162 (see article 2); of May 16, 2003 N 416; the article is excluded by the Law of

the Republic of Kazakhstan of July 10, 2003 N 483 (coming into force from January 1, 2004).

Article 13. Permission of authorized body for the opening of bank

1. Issue procedure and denial reasons of permission issue for the opening of bank shall be determined by banking legislation.

2. Permission for bank opening shall have the legal effect prior to the decision-making by authorized body of the issue of license for the execution of banking operations.

Issued permission for bank opening may be withdrawn by authorized body.

3. Permission for bank opening shall be subject to return by bank to authorized body in a case of issue to the bank of the license for execution of banking operation or in a case of court judgment of termination of bank activity, and in a case of withdrawal of permission for the reasons, stipulated by paragraph 2 of the article 49 of this Law.

4. The bank shall be entitled to voluntarily return issued to it permission for bank opening and re-register under stipulated by legislation procedure.

Reference. Article 13 is in edition of the Law of RK of July 11, 1997 N 154; with the alterations by the Law of the Republic of Kazakhstan of July 10, 2003 N 483 (coming into force from January 1, 2004).

Article 14. Constituent documents of the bank

1. The bank shall be established under procedure, determined by civil legislation of the republic of Kazakhstan for legal entities taking into account details, stipulated by banking legislation.

2. Constituent agreement of bank establishment must, besides the information, stipulated by acting legislation, contain without fail the following:

information of founders, including full name and location of every of them, and data of their state registration (for legal entities), name, citizenship, place of residence, and data of documents, certifying the identity (for individuals);

information of the quantity, categories and value of shares floatation.

3. Bank charter must, besides the information, stipulated by acting legislation, contain without fail the following:

full and contracted name of the bank;

information of the types and procedure of the use of funds (reserve capital) of the bank;

procedure of decision-making by bank bodies.

Reference. Article 14 is modified by the Laws of RK of July 11, 1997 N 154; of July 16, 1999 N 436; of May 16, 2003 N 416.

Article 15. Organizational and legal form and name of bank

1. Banks shall be established in the form of joint-stock companies.

1-1. Bank shall use as its name the name that is specified in its charter.

The name of the bank must contain the word *bank* or derivative from it word.

2. It is prohibited for all banks, except for the National Bank, to use in its name the words *national*, *central*, in full or contracted form in any language.

3. It is prohibited for all banks to use in its name the word *state* in full or contracted form in any language.

4. It is not allowed to use as name the symbols, identical or similar to degree of its displacement to the name of banks, established before, including the banks-non-residents of the Republic of Kazakhstan, except for affiliated banks.

Affiliated banks shall be obliged to use in their names the affiliated banks names.

Reference. Article 15 is modified by the Laws of RK of July 11, 1997 N 154; of July 16, 1999 N 436; of March 2, 2001 N 162 (see article 2); of July 10, 2003 N 483 (coming into force from January 1, 2004).

Article 16. Authorized and own capital stock of the bank

1. The authorized capital stock of the bank shall be formed in the national currency of the republic of Kazakhstan at the expense of shares sale.

2. Banks shares during floatation must be paid exclusively by money.

3. Legal entities shall purchase bank shares during their floatation within owned capital, calculated in accordance with the requirements of normative legal acts of authorized body, deducting assets, based to shares, and market shares in authorized capital stock of other entities.

Founders and participants of the bank - the individuals shall be entitled to deposit money to authorized capital stock, pay for bank shares, taking into account requirements, stipulated by ax legislation in relation to submission of declaration of income and property.

4. *(excluded - N 72 of 08.07.2005)*

5. Its shareholders must pay the authorized capital stock of newly established bank at fifty percent by the moment of its registration, and completely - within one calendar year from the date of its registration.

6. *(excluded - N 162 of 02.03.2001)*

7. The authorized capital stock (hereinafter referred to as the capital) of the bank shall be the value of bank assets, deducting the sum of its commitments, where the value of assets shall be calculated through deduction from initial bank assets value of the sum of relevant reserves (provisions) on issued loans and other assets. The method of capital calculation, value of bank assets, amount of reserves (provisions) on issued loans and other assets shall be determined by authorized body.

If the sum of bank commitments exceeds the value of its assets, the bank capital shall be negative.

8. In a case of establishment within three subsequent calendar months of the negative value of capital at the bank the authorized body shall be entitled upon the coordination with the Government of the Republic of Kazakhstan to make decision of compulsory redemption of stock of its shareholders and immediately realize them to new investors at the price of purchase, under conditions, guaranteeing bank capital increase and its successful performance, taking into account undertaken by investor commitments.

Compulsory redemption by authorized body of stock of the bank shall be fulfilled at the price, determined, based on the value of its factual capital for the date of decision-making by it of compulsory redemption of stock (share of shareholders) of the bank in the purposes of their subsequent realization to new investor. The authorized body shall immediately execute the realization of purchased bank shares at the price of their purchase. The rights and liabilities of holders of all compulsorily purchased shares of the bank shall be transferred to a new investor.

In a case of commencement of the term of commitments fulfillment, upon which the claims may be put to bank, but which are not put prior to decision-making of compulsory redemption of bank shares, such requirements shall be deemed as cancelled, except for claims on deposits of individuals and legal entities.

Authorized body shall specify the procedure of compulsory redemption of bank stock and their obligatory subsequent sale to investors.

Reference. Article 16 is modified by the Laws of RK December 7, 1996 N 50; of July 11, 1997 N 154; of July 10, 1998 N 282; of July 16, 1999 N 436; of March 2, 2001 N 162 (see article 2); of May 16, 2003 N 416; of July 10, 2003 N 483 (coming into force from January 1, 2004); of July 8, 2005 N 72 (procedure of consummation see article 2).

Article 17. Founders and shareholders of the bank

1. The founders and shareholders of the bank may be legal entities and individuals - residents and non-residents of the Republic of Kazakhstan (taking into account limitations, specified by paragraphs 5 and 6 of this article and by article 18 of this Law).

2. State may be the founder or shareholder of the bank only in the person of the Government, and shareholders of Development Bank of Kazakhstan may be also local executive bodies of oblasts, Astana and Almaty cities. State entities and organizations, more than fifty percent of market shares in authorized capital stocks or disposed shares of which belong to the state, may not be the founders and shareholders of the bank.

3. *(excluded - N 162 of 2.03.2001)*

4. In the purposes of protection of bank creditors interests and provision the stability of Republican banking system the authorized body shall be entitled upon the coordination with the Government of the Republic of Kazakhstan, in case of availability at the bank within three subsequent calendar months of the negative value of capital, to execute compulsory redemption of bank stock under condition of their obligatory subsequent immediate realization at the price of purchase to a new investor, guaranteeing relevant improvement of bank financial state.

5. Legal entities, registered in offshore zones or having affiliated persons, registered in offshore zones, or individuals, being participants (founders, shareholders) of legal entities, registered in offshore zones, the list of which is specified by authorized body, can not directly or indirectly own and (or) use, and (or) dispose managing shares of bank-residents of the Republic of Kazakhstan.

The specified limitation does not spread to banks, having individual credit rating not lower than rating A of one of rating agencies, the list of which shall be specified by authorized body.

6. Legal entities - non-residents of the Republic of Kazakhstan, including banks, may have ten and more percent of voting shares of the bank-resident of the Republic of Kazakhstan provided for the availability by them of the minimal required rating of the one of main rating agencies, the list of which shall be specified by authorized body.

7. Persons, directly or indirectly holding bank shares or affecting the taking by bank shareholder decisions, shall be obliged upon the requirement of authorized body to submit constituent documents and other information, relevant for the determination of principal participants of the bank and their financial state.

Reference. Paragraphs 3 and 4 are modified by Decree of the President of RK, valid as Law, of January 27, 1996 N 2830.

Article 17 is supplemented by new paragraph 4, the paragraph 4 shall be deemed as paragraph 5 - by the Law of RK of December 7, 1996 N 50.

The alterations are made by the Laws of RK of July 11, 1997 N 154; of June 29, 1998 N 236; of July 10, 1998 N 282; of July 16, 1999 N 436; of March 2, 2001 N 162 (see article 2); of April 25, 2001 N 179; of July 10, 2003 N 483 (coming into force from January 1, 2004); of July 8, 2005 N 72 (procedure of consummation see article 2).

Article 17-1. Affiliated persons of banks

1. The person shall be deemed as affiliated person of the bank, if:
it is principal participant of the bank;
bank is principal participant of this person;
principal participant of this person is principal participant of the bank.

2. Neither person, independently or jointly with other person (persons), may not be principal participant without consent of authorized body. The procedure of consent granting for the obtaining of the status of principal participant shall be determined by normative legal acts of authorized body.

For the receipt of consent the person, wishing to become principal participant of the bank, must submit the authorized body with the application for the obtaining of status of the principal participant of the bank with the enclosure of following document and information:

copies of decisions of the applicant supreme body of the obtaining of principal participant status of this bank;

information of the terms and procedure of bank shares purchase, including:

description of sources and sums of money, used for purchase, with the enclosure of confirming documents copies;

information of the applicant's representative that is entrusted to represent applicants' interests;

list of legal entities, in which it is the principal participant;

besides, for individual:

brief information of an applicant, including data of labor activity, and of previous convictions availability, of bringing to administrative account for the commission of infringements, connected with banking activity, upon the form, stipulated by normative legal acts of authorized body;

for legal entity:

constituent documents, brief information applicant's principal participants;

brief information of applicant's leading employees, including data of education, labor activity, and of previous convictions availability, of bringing to administrative account for the commission of infringements, connected with banking activity, upon the form, stipulated by normative legal acts of authorized body;

annual financial statements for the last two financial years, certified by auditing organization, and financial statements for the last quarter prior to decision-making of consent granting for the obtaining of the status of principal participant;

financial prognoses of the consequences of obtaining of the principal participant status, including assumed applicant's balance of payments after obtaining, plans and offerings of the applicant, if available, on sale of bank assets, merger of bank with another legal entity or considerable modifications to the activity or management of bank (including business-plan or organizational structure).

3. Principal participant of the bank shall be the individual or legal entity-resident or non-resident of the Republic of Kazakhstan that owns directly or indirectly ten or more percent of disposed (deducting preferred and purchased by society) shares of the bank or has the ability:

to vote directly or indirectly by ten or more percent of bank shares;

to affect the taken by bank decisions by virtue of contract or otherwise

4. Persons, jointly being principal participant of the bank, shall be deemed the persons, in total owning or having ability to directly or indirectly vote by ten or more percent of bank shares, and:

1) jointly affecting bank decisions by virtue of contract between them or otherwise;

2) being separately or mutually principal participants of each other;

3) one of them is the official or representative of another person;

4) one of them granted a loan to another for purchase of bank shares;

5) they are close relatives.

5. The reasons of denial of consent granting for obtaining of principal participant status of the bank shall be as follows:

non-observance of requirements of subparagraphs b), c) of paragraph 2 and subparagraphs a), c) of paragraph 3 of the article 20 of this Law (in relation to individual or leading employees of the applicant-legal entity);

unstable financial state of the applicant;

non-submission of required by authorized body documents;

violation as a result of obtaining by the applicant of principal participant status of the bank of requirements of antimonopoly law;

cases, when one of the parties in transaction on obtaining of the status of principal participant of the bank is the person (its affiliated person), registered in offshore zone, or individual, being the participant (founder,

shareholder) of legal entities, registered in offshore zones, the list of which shall be specified by authorized body;

cases, when the applicant is the foreign bank, not subject to supervision on consolidated basis in the country of its location;

non-observance by an applicant of other requirements, specified by this Law to founders and shareholders of banks.

6. The factors of unstable financial state of an applicant shall be one of the following:

legal entity-applicant is created less than within two years prior to filing application;

applicants' commitments exceed its assets;

losses on results of two last financial years;

amount of applicant's commitments presents considerable risk for the financial state of the bank;

availability of unsettled, and (or) related over bank settlement, applicant's debt toward the bank;

for other reasons, evidencing the availability of damaging bank and (or) its depositors.

7. In a case of non-receipt by person of the consent for the status of principal participant the authorized body shall be entitled to apply to this person punitive measures, stipulated by article 47-1 of this Law.

8. Bank holding shall be the legal entity-resident or non-resident of the republic of Kazakhstan that owns directly or indirectly twenty-five or more percent of disposed (deducting preference shares and purchased by society shares) bank shares or has the ability to:

vote directly or indirectly by twenty-five or more percent of bank shares;

determine decisions, taken by bank by virtues of contract or otherwise.

Obtaining of the status of bank holding shall be fulfilled under procedure, determined for the principal participant of the bank.

9. Persons, jointly being bank holding, shall be persons, totally owning or having the ability directly or indirectly vote by twenty-five or more percent of bank shares, and:

1) jointly affecting bank decisions by virtue of contract between them or otherwise;

2) being separately or mutually principal participants of each other;

3) one of them is the official or representative of another person;

4) one of them granted a loan to another for purchase of bank shares;

5) they are close relatives.

10. Banking group consist of bank and organizations, in which bank is participant. <*>

Reference. Supplemented by article 17-1 by the Law of RK of March 2, 2001 N 162 (see article 2); with the alterations by the Laws of the Republic of Kazakhstan; of July 10, 2003 N 483 (coming into force from January 1, 2004); of July 8, 2005 N 72 (procedure of consummation see article 2).

Article 18. Peculiarities of affiliated banks establishment by banks-non-residents of the Republic of Kazakhstan

1. The parent bank in relation to affiliated bank may be banks-non-residents of the Republic of Kazakhstan, having certain rating of one of main rating agencies. Authorized body shall specify the list of main rating agencies and minimal required rating.

2. *(The paragraph is excluded by the Law of the Republic of Kazakhstan of July 10, 2003 N 483 (coming into force from January 1, 2004)).*

Reference. Article 18 is modified by the Laws of RK of July 11, 1997 N 154; of July 16, 1999 N 436; of July 10, 2003 N 483 (coming into force from January 1, 2004).

Article 19. Application of permission issue for the opening of the bank

1. Legal entity or individual shall be entitled to apply to authorized body the application of permission issue for bank opening.

2. The application shall be submitted in Kazakh and Russian languages and must contain the applicant's address.

3. The application of permission issue for bank opening must be enclosed with the following documents:

a) constituent documents of newly establishing bank: constituent agreement, charter, minutes of charter approval and appointment (election) of bank bodies;

b) information of founders (upon the list, determined by authorized body), financial statement of founders - legal entities for the last two reporting dates, statement of auditing organization (auditor) of the financial state of founders;

c) in a case if one or more founders are not the residents of the Republic of Kazakhstan: written notification of state or supervision body of respective state of the fact that it permits the purchase of the shares of the bank - resident of the Republic of Kazakhstan, or statement of state or supervision body of respective state of the fact that such permission upon the legislation of state-founder is not required;

d) in a case of reorganization to the bank of organization, fulfilling separate types of banking operations:

constituent agreement, charter, financial statement for the last accounting date;

statement of auditing organization (auditor) of the financial state of the organization, fulfilling separate types of banking operations;

e) information of the persons, proposed for appointment (election) for positions of leading employees of banks, in accordance with the requirements, specified by this Law;

f) detailed organizational structure of newly establishing bank;

g) provisions of the internal audit office of newly establishing bank;

h) provisions of credit committee of newly establishing bank;

i) business-plan of newly establishing bank, showing the strategy of activity, directions and scopes of activity, financial perspectives)budget, balance of payments, account of income and losses for the first three financial (operational) years, marketing plan (formation of bank customers), plan of labor resources attraction;

j) report of conducted by founders preparation arrangements according to submitted business-plan;

k) notarized or otherwise certified document, confirming applicant's authorities for the filling of application on behalf of founders.

Documents, stipulated by subparagraphs f), g), h) of this paragraph, must be approved by authorized body of the bank.

4. Statement of auditing organization auditor) shall be deemed as valid under condition of submission of documents, certifying that it:

is independent from the founders of checked banks and their officials;

is authorized for the execution of banking activity audit in accordance with the license of authorized body or competent authority of the state, resident of which it is;

5. The authorized body shall be entitled to request additional information or documents, relevant for decision-making of permission issue for bank opening.

6. Application of permission issue for bank opening may be withdrew by the applicant at any moment of its examination by authorized body.

Reference. Article 19 is modified by the Laws of RK of July 11, 1997 N 154; of March 2, 2001 N 162 (see article 2); of July 10, 2003 N 483 (coming into force from January 1, 2004); of July 8, 2005 N 72 (procedure of consummation see article 2).

Article 20. Requirements to leading employees of the bank, organization, fulfilling separate types of banking operations

1. The leading employees of the bank, organization, fulfilling separate types of banking operations, shall be the chairman and members of board of

directors, chairman and Board members, other directors of the bank, organization, fulfilling separate types of banking operations, executing coordination and (or) control over the activity of structural divisions of the bank, organization, fulfilling separate types of banking operations and having the right of signing documents, on the basis of which banking operations are being conducted, chief accountant of the bank, organization, fulfilling separate types of banking operations and its deputies, first director and chief accountant of bank branch, organization, fulfilling separate types of banking operations.

2. Leading employees of the bank, organization, fulfilling separate types of banking operations, and candidates, recommended for the appointment or election to positions of leading employees, must meet minimal requirements, specified by this article. Leading employees of the bank, organization, fulfilling separate types of banking operations, shall be appointed, elected for the position upon the consent of authorized body. Qualification committee of the authorized body shall examine conformance to specified requirements.

Authorized body shall be entitled to revise issued consent for the appointment (election) of leading employee of the bank, organization, fulfilling separate types of banking operations, for the following reasons:

a) discovery of non-authentic data, on the basis of which the consent was issued;

b) availability of data of bringing to managerial responsibility twice a year or more for the commission of violations, connected with banking activity;

c) removal from fulfillment of official duties for reasons, stipulated by subparagraph e) of paragraph 2 of the article 47 of this Law;

d) finding of non-conformance to requirements, stipulated by paragraph 3 of this article.

3. Below specified persons shall not be deemed as appropriate to work status or may not be appointed for the position of leading employee of the bank, organization, fulfilling separate types of banking operations:

a) a person, having unsettled or denied under stipulated by law procedure convictions;

b) a person, not mastering enough knowledge of banking legislation;

c) a person that was before the chairman of the board of directors, first director (chairman of board), deputy director, chief accountant of the bank, organization, fulfilling separate types of banking operations or another legal entity within the period not more than within one year prior to decision-making of compulsory liquidation or compulsory redemption of stock, or conservation of bank, organization, fulfilling separate types of banking operations or another legal entity, declared bankrupt under stipulated procedure. The specified requirement shall be applied within five years after the date of decision-making of compulsory liquidation or compulsory redemption of stock, or conservation of bank, organization, fulfilling separate types of banking operations or another legal entity, declared bankrupt under stipulated procedure.

4. Mandatory condition for the appointment to the position of chairman or members of the board of director, chairman of Board of bank, organization, fulfilling separate types of banking operations and its deputy, and director of the bank, organization, fulfilling separate types of banking operations, having the right to sign documents on behalf of the bank, organization, fulfilling separate types of banking operations, or execute alienation of bank assets, organization, fulfilling separate types of banking operations, on their behalf, shall be the availability of higher education. Chief accountant of the bank, organization, fulfilling separate types of banking operations, first director and chief accountant of the branch must have higher education or appropriate to work profile specialized secondary education.

5. The Chairman of the Board of the bank, organization, fulfilling separate types of banking operations and its deputies, chief accountant of the bank, organization, fulfilling separate types of banking operations, and its deputies, first director and chief accountant of the bank branch, organization, fulfilling separate types of banking operations, as a rule,

must have work experience in banking system: chairman and chief accountant - not less than three years, deputy chairman of the Board and deputy chief accountant - not less than two years, first director and chief accountant of the bank branch, organization, fulfilling separate types of banking operations - not less than one year.

Leading employees cannot execute their duties prior to the receipt of consent of authorized body more than three months.

In spite of factual execution of official duties by person, whose candidate presented for the coordination for the position of leading employee of the bank, organization, fulfilling separate types of banking operations, in a case of denial of authorized body of consent issue for its appointment, election, the specified employee shall be subject to removal from occupied position not less than within 30 days from the moment of receipt by the bank of authorized body decision. Re-presentation for coordination shall be allowed not earlier than within three months from the moment of decision-making of denial of consent issue. For coordination period the candidates of employee of the bank, organization, fulfilling separate types of banking operations, in accordance with the requirements of this article, persons, newly hired for work, shall execute duties under terminal labor contract.

6. Requirements, stipulated by this article, shall be obligatory for observance by banks, organizations, fulfilling separate types of banking operations, within the whole period of their validity.

7. The coordination procedure of candidates of leading employees of banks, and list and coordination procedure of leading employees of organizations, fulfilling separate types of banking operations, shall be specified by normative legal acts of authorized body.

Reference. Article 20 is modified by the Laws of RK of July 11, 1997 N 154; of December 8, 1997 N 200 and of June 29, 1998 N 236; of July 16, 1999 N 436; of March 2, 2001 N 162 (see article 2); Law of the Republic of Kazakhstan of July 10, 2003 N 483 (coming into force from January 1, 2004).

Article 21. Additional requirements to the establishment and activity of the bank with the participation of non-residents of the Republic of Kazakhstan

1. Legal entity or individual - non-resident of the Republic of Kazakhstan, being the founder of the bank, besides documents, specified in article 19 of this Law, shall be obliged to attach to the application of permission issue for bank opening information of holding shares of other banks and market shares in authorized capital stock of other financial organizations written notification of authorized body (for banks-non-residents - banking supervision authority) of appropriate state of the fact that this person is allowed to purchase shares of bank-resident of the Republic of Kazakhstan or application of authorized body (for bank-non-residents - banking supervision authority) of appropriate state of the fact that such permission upon legislation of the state of specified founder is not required.

1-1. In the purposes of control execution over the observance by participants (founders, shareholders) of the bank of requirements, specified in this article, the authorized body shall be entitled to demand submission of constituent documents and financial statement by legal entities, affiliated to bank persons, and request relevant data from state bodies.

2. Legal entity - non-resident, applying for the obtaining of the status of principal participant or bank holding, besides the documents, specified in article 19 and paragraph 1 of this article, shall be obliged to submit following documents:

a) decision of the appropriate body of legal entity - founder of its participation in bank-resident of the republic of Kazakhstan;

b) duly completed annual statements of legal entity (including consolidated balance and statement of income and losses) for the last three financial (operational) years, certified by auditing organization (auditor), meeting requirements of paragraph 4 of the article 19 of this Law;

c) other documents of the issue of establishment and activity of the bank with participation of non-residents of the republic of Kazakhstan, relevant for the determination a principal participants of the bank and bank holding, stipulated by normative legal acts of authorized body.

3. Bank-non-resident of the Republic of Kazakhstan, being the founder or participant of the bank, besides the documents, specified in article 19 and paragraphs 1-2 a this article, shall be obliged to submit following documents:

a) written confirmation of banking supervision authority of respective state of the fact that bank has appropriate license for the fulfillment of banking activity;

b) written confirmation of banking supervision authority of respective state of the fact that the bank is subject to supervision on consolidated basis.

4. The authorized body shall be entitled to request information of financial state of the banks and financial organizations, in authorized capital stock of which the legal entity or individual - non-resident participated, or share of which the legal entity or individual - non-resident holds, being bank founder. In a case of unsatisfactory financial state of specified banks or financial organizations the authorized body shall be entitled to deny to this legal entity or individual - non-resident the purchase of shares of the bank-resident.

5. Individuals - non-residents of the Republic of Kazakhstan, holding or intending to purchase ten or more percent of bank shares, submit appropriate notification of authorized body of its state of the fact that this purchase of share of bank-residents of the Republic of Kazakhstan does not conflict with legislation of the appropriate state.

Reference. Article 21 is in edition of the Law of RK of July 11, 1997 N 154; with alterations, made by the Laws of RK of June 29, 1998 N 236; of July 16, 1999 N 436; of March 2, 2001 N 162 (see article 2); of July 10, 2003 N 483 (coming into force from January 1, 2004); of July 8, 2005 N 72 (procedure of consummation see article 2).

Article 22. Additional requirements to the establishment and activity of the banks with foreign participation

1. During establishment and execution of activity if the banks with foreign participation on the territory of the Republic of Kazakhstan the following requirements must be observed:

a) authorized capital stock with foreign participation may not exceed fifty percent of combined authorized capital stock of all banks of the Republic of Kazakhstan, except for cases, permitted by authorized body;

b) not less than one member of Board of the bank with foreign participation must be the citizen of the Republic of Kazakhstan and submit documents, certifying experience of managing work not less than within three years, acting on the territory of the Republic of Kazakhstan, and of knowledge of banking and economic legislation of the Republic of Kazakhstan;

c) bank with foreign participation shall be obliged to dispose to internal assets the funds in the amount and under procedure, stipulated by authorized body;

d) not less than seventy percent of all employees of the bank with foreign participation must be the citizens of the Republic of Kazakhstan.

Authorized body shall stipulate the list of internal assets.

2. The authorized body shall be entitled to submit banks with foreign participation with additional requirements regarding to structure of their bodies, list of executed banking operations, prudential standards, other compulsory to observance norms and limits and procedure of accounting.

Reference. Subparagraph "a" of the paragraph 1 is supplemented by Decree of the President of RK, having the force of the law, of January 27, 1996 N 2830. The alterations are made by the Laws of RK of July 11, 1997 N 154; of July 16, 1999 N 436; of March 2, 2001 N 162 (see article 2); of May 16, 2003 N 416.

Article 23. Procedure of consideration of an application of permission issue for bank opening

1. Application of permission issue for bank opening must be considered by authorized body within three months from the date of submission by an applicant of the last additional information or document, requested by authorized body, but not more than within six months from the date of application acceptance.

2. The authorized body shall notice an applicant in a written form of taken decision. The notification shall be directed to the address, specified in application of permission issue for bank opening.

3. The authorized body shall execute account of issue permissions for bank opening.

Reference. Article 23 is modified by the Laws of RK of July 11, 1997 N 154; of July 10, 2003 N 483 (coming into force from January 1, 2004).

Article 24. Denial of permission issue for bank opening

1. Denial of permission issue for bank opening shall be executed for any of the following reasons:

a) non-conformance of constituent documents to acting legislation;
b) non-conformance of the name of the bank to requirements of paragraphs 2-4 of the article 15 of this Law;

c) non-compliance of the amount, composition and structure of the authorized capital stock of the bank with the requirements of the article 16 of this Law;

d) instability of financial state of bank founders;

e) non-observance of limitations, specified by the article 17 of this Law;

f) non-conformance of candidates for leading positions of the bank to minimal requirements, stipulated by paragraphs 3-5 of the article 10 of this Law;

g) non-conformance of constituent documents of the bank with foreign participation to norms, specified by paragraph 1 of the article 22 of this law;

h) business-plan of establishing bank and other submitted by applicant documents do not show that:

upon termination of first three financial (operational) years the activity of the bank will be profitable;

bank is intended to observe requirements to risk limitation and establish due structure of management;

bank has the organizational structure, conforming to the plans of its activity;

bank has accounting and control structure, conforming to the plans of its activity.

2. The authorized body shall be obliged to notify in a written form the applicant of denial reasons.

3. Permission issue for bank opening in a case of non-observance of conditions of articles 18-22 of this Law shall not be allowed.

Reference. Article 24 is modified by the Law of RK of July 11, 1997 N 154; of July 10, 2003 N 483 (coming into force from January 1, 2004).

Article 25. State registration of the bank

State registration of the bank shall be fulfilled by bodies of justice on the basis of authorized body permission for bank opening and information, confirming coordination of its constituent documents with authorized body.

Founders shall be obliged to apply to the bodies of justice for state registration of bank within one month from the date of authorized body permission for bank opening.

After state registration of the bank in the bodies of justice the bank shall be obliged to submit within fourteen calendar days the authorized body with notarized copies of constituent agreement and charter with the marking and seal of registered body of justice, and certificates of state registration of bank.

Reference. Article 25 is modified by the Laws of RK of July 11, 1997 N 154; of July 16, 1999 N 436; of March 2, 2001 N 162 (see article 2); of July 10, 2003 N 483 (coming into force from January 1, 2004).

Article 26. Licensing of banking operations

1. Licenses for execution of banking, and other specified by this Law operations shall be issued by authorized body or National Bank within their competence and under procedure, specified by authorized body, National Bank, in accordance with requirements of this Law.

National Bank or authorized body shall be entitled during license issue to specify names of permitted to execution by banks operations in accordance with the legislation of the Republic of Kazakhstan.

The fee, amount and procedure of payment of which shall be determined by legislation of the Republic of Kazakhstan, is levied on license issue.

2. For the receipt of license for the execution of banking operations within one year from the date of state registration an applicant must:

a) fulfill all organizational and technical arrangements, including preparation of premises and equipment, conforming to requirements of normative legal acts of authorized body or National Bank, and hire personnel of appropriate qualification.

b) pay authorized capital stock.

2-1. For the receipt of license for the execution of additional banking operations the existing bank must provide the fulfillment of:

1) prudential standards and other compulsory to observance norms and limits within three subsequent months, previous to applying for the receipt of license for the execution of banking operations;

2) requirements, specified by authorized body in relation to the availability of risks management and internal control systems.

3. Simultaneously with the application of license issue for the execution of banking operations the licensee shall be obliged to submit documents, confirming the fulfillment of paragraph 2 of this article.

4. Application of license issue for the execution of banking operations must be considered by the authorized body or National Bank within one month from the date of its acceptance.

5. License for the execution of banking operations in national and (or) foreign currency shall be issued *in perpetuity*.

6. License for the execution of banking operations shall not be subject to transfer to third parties.

7. All types of banking operations may be executed only in the availability of direct instruction in the license for the right of their execution.

8. Decision of license granting for the execution of banking operations shall be published in official editions of authorized body or National Bank.

9. Duly certified copy of the license for the execution of banking operations shall be subject to disposal in place, available for viewing by bank customers.

Reference. Article 26 is modified by the Laws of RK of July 11, 1997 N 154; of July 16, 1999 N 436; of March 2, 2001 N 162 (see article 2); of May 16, 2003 N 416; of July 10, 2003 N 483 (coming into force from January 1, 2004).

Article 27. Denial reasons of license issue for the execution of banking operations

Denial of license issue for the execution of banking operations shall be fulfilled in a case:

a) of non-observance of any of requirements, specified by paragraphs 2 and 2-1 of the article 26 of this Law;

b) if the bank within one year from the date of its registration did not apply for the receipt of license. <*>

Reference. Article 27 with the modifications by the Law of the Republic of Kazakhstan of July 10, 2003 N 483 (coming into force from January 1, 2004).

Article 28. Alterations and amendments to constituent documents of the bank

1. Alterations and amendments, made to constituent documents of the bank, including requiring re-registration in the judicial bodies, shall be subject to compulsory preliminarily coordination with authorized body.

2. Issue of consent issue for alterations and amendments to constituent documents of the bank must be considered by authorized body within one month.

2-1. After state registration of alterations and amendments, made to constituent documents, including requiring re-registration in the judicial bodies, bank within fourteen calendar days shall be obliged to submit to authorized body the notarized copy of alterations and amendments to constituent documents with marking and seal of registered judicial body.

3. Conditions, reasons and procedure of voluntary reorganization of bank to organization, fulfilling separate types of banking operations, shall be determined by normative legal acts of authorized body.

Reference. Article 28 is modified by the Laws of RK of July 11, 1997 N 154; of July 16, 1999 N 436; of March 2, 2001 N 162 (see article 2); of July 10, 2003 N 483 (coming into force from January 1, 2004).

Article 29. Creation, closing of branches, representative offices and cash departments (saving-banks) of the bank

1. The branch of the bank is bank division, which is not a legal entity, located outside bank location, fulfilling banking operations on behalf of the bank and acting within the authorities, granted to him by bank.

The branch of the bank shall have single with bank balance, and name, completely collateral with the name of the bank.

2, The bank shall be obliged to obtain consent of authorized body for its branch opening under procedure and in accordance with the requirements, specified by normative legal acts of authorized body.

Authorized body must consider the issue of consent issue for the opening of bank branch within three months.

3. The application of consent issue for the opening of bank branch must be attached by the following documents:

1) decision of the management body of the bank of branch opening;

2) provision of the branch of the bank, certified by the bank and including list of banking operations that the ranch is authorized to execute, in three copies;

3) information of candidates for the positions of first director and chief accountant of bank branch, completed in accordance with requirements of paragraph 3 of the article 19 and paragraphs 3-5 of the article 20 of this law.

4. For the creation of bank, branch or representative offices of the bank on the territory of the Republic of Kazakhstan the consent of local representative and executive bodies is not required.

5. Denial of consent issue for branch opening shall be executed for any of following reasons:

a) non-conformance of candidates for the positions of first director and chief accountant of the branch of the bank to minimal requirements, specified by paragraph 3 of the article 19 and paragraphs 3-5 of the article 20 of this Law.

b) non-conformance of premises and equipment of the branch of the bank to normative requirements of the authorized body;

c) non-observance by the bank of prudential standards and (or) other compulsory to observance norms and limits, specified by authorized body;

d) violation of existing legislation and normative legal acts of the authorized body.

5-1. In a case of alterations and amendments to the provisions of the branch of the bank, the bank must within fourteen calendar days from the date of taking the respective decision notify the authorized body of this fact.

6. The representative office of the bank shall be the division of the bank, which is not a legal entity, situated outside bank location, acting on behalf and upon the instructions of bank and not fulfilling banking operations.

6-1. Bank-resident of the Republic of Kazakhstan shall be entitled to apply to authorized body the application of consent issue for the opening of representative office of the bank outside the Republic of Kazakhstan under condition of its stable financial state, observance by it of prudential standards and other obligatory to observance norms and limits within three subsequent months, previous to the filing of application of the opening of representative office.

The application of consent issue for the opening of representative office of the bank-resident of the Republic of Kazakhstan must be attached with the following documents:

1) decision of the management body of the bank, authorized for decision-making of the opening of representative office of the bank;

2) provision of representative office, certified by the bank, in three copies;

3) information of first director of representative office according to requirements of normative legal acts of the authorized body.

Authorized body must consider issue of consent granting for the opening by bank-resident of the Republic of Kazakhstan of representative office within three months.

Denial of consent issue for the opening by bank-resident of the Republic of Kazakhstan of representative office shall be executed for one of the following reasons:

1) in a case of unstable financial state of the bank;

2) non-fulfillment by bank of prudential standards and other compulsory to observance norms and limits within six subsequent months, previous to filing of application of consent granting for the opening of representative office;

3) availability of acting in relation to bank restricted measures of influence and sanctions, stipulated by this Law;

4) non-submission of one of documents, stipulated by this paragraph.

7. The application of consent issue for the opening of representative office of bank-non-resident of the Republic of Kazakhstan must be attached with the following documents:

a) constituent documents of bank-applicant;

b) decision of the appropriate body of bank-applicant of the opening of representative office on the territory of the Republic of Kazakhstan;

c) written confirmation of bank supervision authority of respective state of the fact that the bank-applicant has the acting license for the execution of banking activity;

d) duly completed annual statement of bank-applicant (including consolidated balance and statement of income and losses) for the last financial (operational) year, certified by auditing organization, meeting requirements of paragraph of the article 19 of this Law;

e) written notification of bank supervision authority of respective state of the fact that it does not object against the opening of representative office of the bank-applicant or authoritative legal service of respective state of the fact that such permission upon the legislation of the state of bank-applicant is not required;

f) information of assumed number of employees of representative office and its director.

Authorized body must consider issue of consent granting for the opening by bank-non-resident of the Republic of Kazakhstan of representative office within three months.

Denial of consent issue for the opening by bank-non-resident of the Republic of Kazakhstan of representative office shall be executed in a case of non-submission by it of any of documents, stipulated by this paragraph.

7-1. Cash department (saving-bank) of the bank shall be the territorially detached bank division, created on the basis of consent of the authorized body, which is not a legal entity, not having the status of branch or representative office, fulfilling separate types of banking operations on the territory of the Republic of Kazakhstan.

8. Closing of branches and representative bodies of banks shall be executed under procedure, specified by acting legislation.

Opening and closing of cash departments (saving-banks) shall be executed in accordance with existing banking legislation.

Alterations to information of accounting registration during closing of bank branch shall be submitted to judicial bodies after preliminary coordination with authorized body.

After accounting registration of branch and representative office in judicial bodies the bank within fourteen days shall be obliged to submit the authorized body with the notarized copy of provision of branch or representative office with marking or seal of registered judicial body.

Reference. Article 29 is modified by the Laws of RK of July 11, 1997 N 154; of July 16, 1999 N 436; of March 2, 2001 N 162 (see article 2); of July 10, 2003 N 483 (coming into force from January 1, 2004).

Chapter 3.

(Chapter heading is excluded by the Law of RK of July 8, 2005 N 72 (procedure of consummation see article 2)).

Article 30. Banking activity

1. The banking activity shall be execution of banking operations, and execution of other stipulated by this article, operations by banks and organizations, fulfilling separate types of banking operations.

2. Banking operations include:

- a) acceptance of deposits, opening and conducting of bank accounts of legal entities;
- b) acceptance of deposits, opening and conducting of bank accounts of individuals;
- c) opening and conducting of correspondent accounts of banks and organizations, fulfilling separate types of banking operations;
- c-1) opening and conducting of metallic accounts of individuals and legal entities, on which the physical number of affined precious metals, belonging to this person, has the influence;
- d) cash operations: services on acceptance of bank notes and coins in the purposes of their exchange, re-calculation, sorting, package, storage, and following issue;
- e) transferring operations: execution of instructions of legal entities and individuals on money transmittance;
- f) accounting operations: account (discount) of the bills of exchange and other promissory notes of legal entities and individuals;
- g) borrowed operations: granting of credits in money terms under conditions of payment, urgency and re-currency;
- h) execution of accounts on instruction of individuals and legal entities, including bank-correspondents, upon their bank accounts;
- i) bank trust: management of money, chose in action on real-estate loans and affined precious metals in the interests and upon instruction of truster;
- j) interbank clearing: collection, revise, sorting, and confirmation of payments, and execution of their mutual accounting and determination of clear positions of clearing participants - banks and organizations, fulfilling separate types of banking operations;

- k) safe operations: services on care of securities, issued in documentary form, documents and valuables of customers, including leasing of safe boxes, cupboards, and premises;
- l) pawn operations: granting of short-term credits on the security of deposited convertible securities and other movables;
- m) issue of charge cards;
- n) cashing of bank notes, coins and valuables;
- o) organization of exchange operations with foreign currency;
- p) acceptance for collection of payment documents (except for bills of exchange);
- q) issue of cheque-books;
- r) *(the paragraph is excluded by the Law of the Republic of Kazakhstan of July 10, 2003 N 483 (coming into force from January 1, 2004))*;
- s) opening (posing) and confirmation of the letter of credit and execution of obligation on it;
- t) issue of banking guarantees, stipulating execution in money terms;
- u) issue of bank guarantees and other obligations for third parties, stipulating execution in money terms.

2-1. Banking operations do not include activity on granting of micro credits to legal entities, registered as micro crediting organizations under procedure, determined by legislation of the Republic of Kazakhstan.

2-2. Banking operations, listed in paragraph 2 of this article, may be executed through electronic method under procedure, stipulated by the National Bank.

2-3. The licenses to banks and organizations, fulfilling separate types of banking operations, for the execution of operations, stipulated by paragraph 2 of this article, except for cases, stipulated by this article, shall be issued by authorized body.

For the issue of license to banks and credit partnerships for the execution of operations, stipulated by subparagraphs k), l), n), o), p), organizations, fulfilling separate types of banking operations, for the execution of operation, stipulated by subparagraph p) of the paragraph 2 of this article, the additional conclusion of the National bank is required.

Licenses to organizations, fulfilling separate types of banking operations, except for credit partnerships, for the execution of operations, stipulated by subparagraphs k), l), n), o), and legal entities, the exclusive type of activity of which is the organization of exchange operations with foreign currency, for the execution of operation, stipulated by subparagraph p) of the paragraph 2 of this article, shall be issued by the National Bank.

3. Banks and organizations, fulfilling separate types of banking operations, besides listed in paragraph 2 of this article, shall be entitled to fulfill in a case of availability of authorized body license the following operations:

- a) purchase, acceptance for pledge, accounting, storage, and sale of affinated precious metals (gold, silver, platinum, metals of platinum group) in bars, coins from precious metals;
- b) purchase, acceptance for pledge, accounting, storage, and sale of jewelry products, containing precious metals and precious stones;
- c) operations with the bills of exchange: acceptance of bills for collection; rendering of services on payment of bills by payer, and payment of addressed bill, accept of bills in procedure of mediation;
- d) *(excluded - N 162 of 2.03.2001)*;
- d-1) *(excluded - N 162 of 02.03.2001)*;
- e) execution of leasing activity;
- f) issue of own securities (except for shares);
- g) factoring operations: purchase of the rights of payment demand from purchaser of commodity (works, services) with taking of the non-payment risk;
- h) forfeiting operations (forfeiting): payment of promissory notes of purchaser of commodity (works, services) through purchase of the bill of exchange without return on seller.

4. Banks shall be entitled to fulfill following types of professional activity inequity market:

- a) brokerage house - with state securities of the Republic of Kazakhstan and countries, having minimal required rating of one of rating agencies or without such upon the decision of the National Bank of the Republic of Kazakhstan, derivative securities, base assets of which is the foreign currency and (or) bonds, permitted to purchase by banks of second level in stipulated procedure;
- b) dealer house - with state securities of the Republic of Kazakhstan and countries, having minimal required rating of one of rating agencies or without such upon the decision of the National Bank of the Republic of Kazakhstan, derivative securities, base assets of which is the foreign currency and (or) bonds, permitted to purchase by banks of second level in stipulated procedure, other securities in cases, specified by paragraph 2 of the article 8 of this Law;
- b-1) investment portfolio management;
- c) custody house;
- d) *(the subparagraph is excluded by the Law of the Republic of Kazakhstan of July 10, 2003 N 483 (coming into force from January 1, 2004)).*

The authorized body shall issue the license for the execution by banks of one or several combined from above stated types of professional activity in the equity market.

The list of rating agencies and minimal required rating shall be specified by the National Bank of the Republic of Kazakhstan.

5. Normative legal acts of the authorized body or the National Bank may specify additional requirements for banks and organizations, fulfilling separate types of activity, connected with the receipt by them or licenses for separate types of activity, and for banks and organizations, fulfilling separate types of activity, holding shares or market shares in authorized capital stocks of organization in accordance with this Law.

6. Bank operations, stipulated by subparagraph b) of the paragraph 2 of this article shall be executed only by banks, being participants of the system of compulsory collective guaranteeing (insurance) of deposits of individuals, and the National mail operator.

Reference. Article 30 is modified by the Laws of RK of July 11, 1997 N 154; of June 29, 1998 N 236; of July 10, 1998 N 282; of July 16, 1999 N 436; of March 2, 2001 N 162 (see article 2); of March 28, 2003 N 399; of May 8, 2003 N 411; of May 16, 2003 N 416; of June 3, 2003 N 427; by the Law of the Republic of Kazakhstan of July 9, 2003 N 482; Law of the Republic of Kazakhstan of July 10, 2003 N 483 (coming into force from January 1, 2004); of July 7, 2004 N 577; of July 8, 2005 N 69; of July 8, 2005 N 72 (procedure of consummation see article 2).

Article 31. General requirements to operations, executed by banks

1. Banks shall be entitled to fulfill banking activity only in the availability of rules, determining general terms of operations execution, and internal rules.

2. Rules of general terms of operations execution must be approved by the board of directors of the bank and contain following data and procedures:

- a) limit sums and deadlines of accepted deposits and granted credits;
- b) limit value of fee rates on deposits and credits;
- c) terms of fee payment on deposits and credits;
- d) requirements to accepted by bank ensuring;
- e) rates and tariffs for the execution of banking operations;
- f) rights and liabilities of the bank and its customer, their responsibility;
- g) other terms, requirements and limitations that the board of directors of the bank deems relevant for the inclusion to general terms of operations execution.

3. Internal rights of the bank must determine as follows:

- a) structure, tasks, functions and authorities of bank divisions;
- b) structure, tasks, functions and authorities of internal audit service, credit committee and other constantly acting bodies;

- c) rights and liabilities of structural divisions directors;
- d) authorities of bank officials and employees during execution of transactions by them on its behalf and at its expense.

Reference. Article 31 is modified by the Laws of RK of July 11, 1997 N 154; of July 16, 1999 N 436; of May 16, 2003 N 416.

Article 32. Bank responsibility on disclosure of general terms of operations execution

1. General terms of operations execution shall be open information and may not be the subject of commercial and banking secret.

This norm does not spread to the terms of execution of certain operation that relates in accordance with this Law to banking secret or is related by bank in accordance with acting legislation to the category of commercial secret.

2. Banks shall be obliged upon first customer's demand submit the Rules of general terms of operations execution.

3. Banks shall not be entitled to deny customer of submission of possible risks information, connected with operation execution.

Reference. Article 32 is modified by the Law of RK of July 11, 1997 N 154.

Article 33. Contractual character of relations between bank and customers

1. Relations between banks, and between banks and their customers shall be fulfilled on the basis of contracts, if otherwise is not stipulated by legislation of the Republic of Kazakhstan.

2. Bank customers shall be entitled to open bank accounts in other banks with the notification of bank-creditor, if otherwise is not stipulated by legislation of the Republic of Kazakhstan.

Reference. Article 33 is modified by the Law of RK of July 11, 1997 N 154.

Article 34. Loan operation

1. The loan operation shall be the provision of money by bank or organization, fulfilling separate types of banking operations, to other persons under conditions of urgency, return, and repayment.

1-1. Compulsory condition of contract conclusion of loan provision shall be the availability of written consent of borrower for the provision by bank, organization, fulfilling separate types of banking operations, information of it and concluded transaction (loan operation) to the database of loan offices, and the information, connected with the execution by parties of their obligations.

2. Loan operations of the bank shall be executed in accordance with its Rules of internal credit policy, approved by board of directors of the bank.

3. The body, fulfilling internal credit policy, shall be the credit committee of the bank.

4. Rules of internal credit policy shall be developed in the purposes of risk reduction during execution of loan operations and shall determine:

- a) terms of credit granting to legal entities and individuals;
- b) terms of credit granting to officials and employees of the bank;
- c) organizational structure, functions and authorities of credit committee;
- d) responsibility of credit committee members;
- e) credit limits;
- f) procedure of credit contracts approval;

5. Norms, specified by paragraphs 2-4 of this article spread to bank operations on guarantees and bails issue.

Reference. Article 34 is modified by the Laws of RK of July 11, 1997 N 154; of July 16, 1999 N 436; of March 2, 2001 N 162 (see article 2); of May 16, 2003 N 416; of July 6, 2004 N 572.

Article 35. Ensuring of credits re-currency

1. Credits re-currency may be ensured by forfeit, pledge, guarantee, bail, and by other means, stipulated by legislation or contract.

2. Under condition of high competitiveness and reliability of a customer the bank shall be entitled to make decision of credit granting without ensuring (blank credit).

Bank shall not be entitled to grant one borrower blank credit or accept unsecured conditional obligation for total amount, exceeding average annual value of assets of this borrower, deducting value of borrowed funds, received by this borrower from banks and organizations, fulfilling separate types of banking operations, The average annual value of borrower's assets shall be calculated for the period from the beginning of account year to the date of this credit receipt.

3. In cases, stipulated by pledge contract, and legislative acts, bank shall be entitled to independently realize pledged property in compulsory extrajudicial procedure through execution of auction.

4. Norms, specified by paragraphs 1-3 of this article, spread to the ensuring of bank operations on guarantees and bails issue.

Reference. Article 35 is modified by the Law of RK of July 16, 1999 N 436; of July 10, 2003 N 483 (coming into force from January 1, 2004).

Article 36. Measures, applied in relation to borrower's insolvency

Bank - creditor shall be entitled in relation to borrower, not fulfilling its obligations under credit contract:

not to grant new credits;

apply penalty, without borrower's consent, for money, deposited on any account of borrower (in the event that it is agreed in credit contract);

apply writ to the court of acknowledgement of insolvent borrower as bankrupt in accordance with legislation of the Republic of Kazakhstan.

Reference. Article 36 is modified by the Law of RK of July 11, 1997 N 154 and of June 29, 1998 N 236.

Article 37. Statute of claim limitation and limitation of action

The statute of claim limitation and limitation of action do not spread to bank requirements to borrowers on undue execution of credit contracts.

Reference. Article 37 is in edition of the Law of RK of July 11, 1997 N 154.

Article 38. Fulfillment of payments and money transmittance

1. Banks shall execute payments and money transmittance on the territory of the Republic of Kazakhstan under procedure, specified by legislation.

2. In a case of undue fulfillment of payments and money transmittance the bank shall bear the responsibility in accordance with legislation of the Republic of Kazakhstan and contract, concluded with customer (depositor).

3. International payments and money transmittance shall be fulfilled by banks in the forms, by means and under procedure, applied in international banking practice and not conflicting with acting legislation of the Republic of Kazakhstan.

4. Bank shall be entitled to withdraw money from customers (depositors) accounts without their consent in a case of availability of documents, confirming the falsification of payment documents, and in a case of ascertainment of the fact of their enrollment fallacy.

Reference. Article 38 is modified by the Laws of RK of July 11, 1997 N 154; of July 16, 1999 N 436.

Article 39. Rates and tariffs

Banks shall independently specify fee and commission rates, and tariffs for the rendering of bank services.

Reference. Article 39 is modified by the Laws of RK of July 11, 1997 N 154.

Article 40. Prohibition for the provision of benefit terms to persons, connected with bank by special relations

1. It is prohibited for banks to provide benefit terms to persons, connected with bank by special relations.

2. Provision of benefit terms shall mean:

entry to transaction with a person, connected with bank by special relations or in its interests, to which upon its nature, purpose, peculiarities and risk, the bank would not enter with customers that are not persons, connected with it by special relations;

levy of fee and payment for the execution of banking operation or acceptance of ensuring lower than it is required from other customers.

Bank cannot grant loans without ensuring (blank loans) to persons, connected with it by special relations.

3. Persons, connected with bank by special relations, shall be:

a) any official or leading employee of this bank, and their spouses and close relatives;

b) individual or legal entity, being principal participant of this bank, or official of the principal participant of the bank, and their spouses and close relatives;

c) a legal entity, in which persons, specified in subparagraphs a) and b) of this paragraph are principal participants;

d) a legal entity, in relation to which this bank is the principal participant, official of this legal entity, their spouses and close relatives.

3-1. Bank cannot enter to transaction with any person in the purposes of granting to it of the ability:

to pay commitment toward the person, connected with bank by special relations;

purchase any property from the person, connected with bank by special relations;

purchase securities, emitted by person, connected with bank by special relations.

4. Principal participant of legal entity shall be direct or indirect owner of more than ten percent of shares (participants deposits) with the right of voice of this legal entity, except for cases, when such owner is the state.

5. Person, connected by special relations, with one of the group of interconnected legal entities, shall be the person, connected by special relations with each of them.

6. Two and more legal entities shall be the group of interconnected legal entities, if even one of them is principal participant of another.

7. Transaction with person, connected with the bank by special relations, may be executed only upon decision of the board of directors of the bank, taking into account requirements of paragraph 1 of this article. Refusal of the chose in action in relation to assets, granted (disposed) to persons (at persons), connected with bank by special relations, shall be fulfilled with following notification of stockholders meeting.

The leading employee of the bank must not participate in the consideration and decision-making on any transaction between bank and:

itself;

any of its close relatives;

any legal entity, in which it or any of its close relatives is the official or principal participant.

Decision of the board of director on any transaction between bank and person, connected with bank by special relations, may be accepted only after consideration by the board of directors of all its terms.

8. Bank shall be obliged to submit the authorized body with the information of all transactions with persons, connected by special relations with it on forms, stipulated by normative legal acts of authorized body.

Reference. Article 40 is modified by the laws of RK of July 11, 1997 N 154; of July 16, 1999 N 436; of March 2, 2001 N 162 (see article 2); of May 16, 2003 N 416; of July 10, 2003 N 483 (coming into force from January 1, 2004).

Chapter 4. Regulation of banks activity and protection of depositors' interests

Article 41. Measures, applied to banks and their officials. Methods of banking regulation

In the purposes of ensuring financial stability of the bank, protection of their depositors' interests, and support of stability of money and crediting system of the Republic of Kazakhstan the authorized body shall execute regulation of banks activity, including through:

- establishment of prudential standards and other obligatory to observance by banks norms and limits, provisions against doubt and hopeless assets;
- issue of obligatory for observance by banks normative legal acts;
- inspection (check) of banks activity;
- issue of recommendations on improvement of financial state of the banks;
- application to banks of restricted influence measures;
- recovery of sanctions from banks or their officials.

Banking activity regulation shall be fulfilled as in relation to certain bank, and on consolidates basis, i.e. in relation to banking group. Authorized body shall specify the rules of consolidated supervision

Reference. Article 41 is modified by the Laws of RK of July 11, 1997 N 154; of July 16, 1999 N 436; of March 2, 2001 N 162 (see article 2); of July 10, 2003 N 483 (coming into force from January 1, 2004); of July 8, 2005 N 69.

Article 42. Prudential standards and other obligatory for observance norms and limits

1. Prudential standards, specified by authorized body for their obligatory observance by banks, include

- minimal value of bank capital;
- coefficient of adequacy of owned capital;
- maximal value of risk for one borrower;
- liquidity ratio;
- limits of open currency position.

Prudential standards, specified by authorized body for their obligatory observance by bank groups, include:

- minimal value of authorized capital stock;
- coefficient of adequacy of owned capital;
- maximal value of risk for one borrower.

The authorized body shall be entitled to specify additional prudential standards and other compulsory for observance norms and limits, used in international banking practice.

The authorized body in accordance with banking legislation shall take measures on bringing to account of banks and (or) bank holdings or their officials for the violation by bank of prudential standards and (or) other compulsory for observance norms and limits.

2. In purposes of issue solution of compliance of bank financial state with qualifying standards the authorized body shall be entitled to determine the amount of bank capital for the certain date.

3. Normative values and methods of calculation of prudential standards and other compulsory for observance of norms and limits of capital amount of the bank and bank group for certain date, procedure of calculation and limits of open currency position, method of their observance and calculation method, forms of respective accounting and terms of its submission shall be specified by authorized body.

4. In a case of violation by bank of adequacy coefficients of own capital, specified by normative legal acts of authorized body, bank shall send to the authorized body recapitalization plan. The plan shall be submitted within one month from the date of violation of adequacy coefficient of own capital with detailed description of arrangements and terms on violations removal.

5. Banking holdings must take measures, stipulated by normative legal acts of authorized body, on support of adequacy coefficients of own capital of bank group.

Reference. Article 42 is modified by new paragraph 2, paragraph 2 shall be deemed as paragraph 3, paragraph 3 is modified by the Law of RK of December 7, 1996 N 50. The alterations are made by the Laws of RK of July 11, 1997 N 154; of July 16, 1999 N 436; of March 2, 2001 N 162 (see article 2); of July 10, 2003 N 483 (coming into force from January 1, 2004); of July 8, 2005 N 69.

Article 43. Reserve capital and provisions (reserves) against doubt and hopeless assets

1. In the purposes of cover of losses, connected with the execution of banking activity, the banks shall be obliged to form reserve capital. Reserve capital shall be created at the expense of net profit of banks prior to payment of dividends on common shares. Authorized body shall specify minimal value of bank reserve capital.

2. In the purposes of ensuring due level of control and reliability of its activity in accordance with the character and scale of executed operations the banks shall be obliged to fulfill classification of granted credits and other assets, separating doubt and hopeless claims and creating against them provisions (reserves) under procedure and conditions, specified by authorized body in accordance with the legislation of the Republic of Kazakhstan.

Reference. Article 43 is modified by the Law of RK of July 11, 1997 N 154; of December 8, 1997 N 200 and of June 29, 1998 N 236; of July 10, 1998 N 282; of July 16, 1999 N 436.

Article 44. Inspection (check) of banks activity

1. Inspection of banks activity shall be executed by authorized body independently or with the attraction of other organizations.

During inspection of banks activity the authorized body shall be entitled to check the activity of affiliated persons of banks exclusively in the purposes of determination of degree and character of their influence on banks activity in accordance with normative legal acts of authorized body.

2. Banks, and their affiliated persons shall be obliged to render the inspecting body assistance on issues, specified in the building of authorized body for check, and provide the availability of inquiry of any officials and employees, and access to any sources, relevant for the execution of information check.

3. It is prohibited for the employees of authorized body to disclose or transfer to third parties data, received in the course of inspection of banks activity.

4. Persons, executing inspection, shall be responsible for the disclosure of data, received in the course of bank activity check and composing banking or commercial secret.

Reference. Article 44 is modified by the Law of RK of March 2, 2001 N 162 (see article 2); of July 10, 2003 N 483 (coming into force from January 1, 2004).

Article 45. Recommendations on improvement of bank financial state

In cases of worsening of the financial state of bank the authorized body shall be entitled to put a question toward its shareholders of the necessity of financial improvement, change of administration or bank reorganization, including recommendations issue:

- of deposits acceptance limitation;
- of authorized capital stock increase;
- of termination of dividends payment and provisions increase;
- of expenses reduction through closing of separate branches and representative offices, and through termination or limitations of additional employees hire;
- of constant or temporary dismissal from position of any of officials or employees of the bank;
- of suspension or limitation of some types of banking operations with increased risk degree.

Reference. Article 45 is modified by the Law of RK of July 11, 1997 N 154; of July 10, 2003 N 483 (coming into force from January 1, 2004).

Article 46. Restricted measures of influence

1. In cases of discovery by authorized body of violations of prudential standards and other obligatory for observance norms and limits, violations of normative legal acts of authorized body, discovery of wrong acts or inactivity of officials and employees of the banks that may threaten with its financial safety and stability, and interests of its depositors, customers and correspondents, the authorized body shall be entitled to apply to bank one of the following restricted measures of influence:

- a) require letter-commitment;
- b) draw up written agreement with the bank;
- c) express notification;
- d) give compulsory for execution written order;

2. Letter-commitment of the banks must contain the fact of acknowledgement of available drawbacks and guarantee of bank administration on their removal in strictly determined terms with the specification of the list of planned arrangements.

3. Written agreement is the agreement between bank and authorized body of the necessity of immediate removal of discovered drawbacks and of approval of primary measures in connection with this.

4. Written order is the instruction for bank to application of compulsory to execution of corrective measures, directed to removal of discovered drawbacks in specified term.

Appeal of written order of authorized body in court shall not suspend its validity.

5. Banks shall be obliged to notify authorized body of the execution of letter-commitment, written agreement or written order in term, specified in this documents.

6. Written notification is the notice of authorized body of the availability of application to bank of sanctions, stipulated by article 47 of this Law, in the event that available drawbacks are not removed in specified by authorized body term.

7. Procedure of application of restricted measures of influence shall be specified by normative legal acts of authorized body.

8. Measures, submitted in this article, may be also applied in relation to affiliated persons of bank, if the authorized body finds that violations,

wrong actions or inactivity of these persons, their officials or employees worsened financial state of the bank.

9. National Bank in a case of violation disclosure of requirements of legislation of the Republic of Kazakhstan on issues, regulation of which its competence include, shall be entitled to apply to the bank or organization, fulfilling separate types of banking operations, influencing measures, specified in subparagraphs a), c), d) of paragraph 1 of this article.

Reference. Article 46 if modified by paragraph 7 by Decree of the President of RK, having the force of the law, of January 27, 1996 N 2830. The alterations are made by the Law of RK of July 11, 1997 N 154; of March 2, 2001 N 162 (see article 2); of July 10, 2003 N 483 (coming into force from January 1, 2004); of July 8, 2005 N 69.

Article 47. Sanctions

1. Authorized body shall be entitled to apply sanctions to bank irrespective of applied to it before influence measures.

2. The authorized body shall be entitled to apply following measures as sanctions:

a) amercement and levy of penalty for reasons, specified by legislative acts of the Republic of Kazakhstan;

b) suspension or withdrawal of license for the execution of all or separate banking operations for reasons, specified by article 48 of this Law;

c) bank conservation for reasons and under procedure, specified by article 62-37 of this Law;

d) withdrawal of permission for bank opening for reasons, specified by article 49 of this Law;

e) in a case of factual absence of bank capital and in the availability of reasons, stipulated by subparagraph d) of article 48 of this Law, decision-making on coordination with the Government of the Republic of Kazakhstan of compulsory redemption of stock (market shares) of bank at determined by authorized body price, coming from value of factual bank capital for the date of acceptance by authorized body of decision of compulsory redemption of stock under conditions of their obligatory subsequent immediate realization to new investor at purchase price with simultaneous concession (transfer) of all rights and obligations of bank and its shareholders.

f) removal from execution of official responsibilities of persons, specified in article 20 of this Law prior to consideration of this issue by respective body of the bank on the basis of enough data for acknowledgement of actions of specified leading employee (employees) of the bank as non-complying with the requirements of acting legislation;

g) requirement for the organization on compulsory collective guaranteeing (insurance) of investment s (deposits) of exclusion of bank from the system of compulsory collective guaranteeing (insurance) of investment s (deposits);

h) in a case of reduction of adequacy coefficients values of owned capital of the bank and (or) bank group to the level of less than fifty percent of standards, specified by requirements of normative legal acts of authorized body, bank shall be obliged to reorganize to credit partnership under procedure, specified by article 60 of this Law and normative legal acts of authorized body.

In a case of refusal of bank from the right, expressed in indention one of this subparagraph or denial of permission issue for bank reorganization to credit partnership for reasons, specified in article 61 of this Law, the authorized body shall be entitled to make decision of contract conclusion with bank shareholders of bank shares transfer for asset management to authorized body with following alienation of bank shares in accordance with paragraph 3 of article 47-1 of this Law to new investor (investors) under condition of observance by it (them) of requirements of this Law.

In a case of refusal of shareholders from transfer of shares for asset management the authorized body shall be entitled to go to the law with the claim of compulsion of contract conclusion.

3. In a case of application by authorized body of sanction, stipulated by subparagraph f) of paragraph 2 of this article, the decisions of discharge of employees, dismissed from positions, shall be taken by bodies, appointed or elected them for respective positions.

4. *(The paragraph is excluded by the Law of the Republic of Kazakhstan of of July 10, 2003 N 483 (coming into force from January 1, 2004)).*

5. Decision of withdrawal of license (licenses) of the bank for the execution of banking operations shall come into force from the date of its acceptance.

6. After withdrawal of license (licenses) of the bank for the execution of banking operations the authorized body shall appoint temporary administration (temporary administrator) of the bank, to which the authorities of all of its management bodies are being transferred.

The authorities of earlier existed management bodies of the bank shall be suspended.

6-1. Irrespective of applied before influence measures the National Bank shall be entitled to apply sanctions to the bank or organization, fulfilling separate types of banking operations. The National Bank shall be entitled to apply as sanctions the measures, specified in subparagraph b) of paragraph 2 of this article, to organization, fulfilling separate types of banking operations, the license of which belongs to the National Bank.

7. The authorized body after withdrawal of license for the execution of banking operations within ten working days shall go to the law with the petition of compulsory termination of activity (liquidation) of bank in specified by legislation procedure.

Information of taken decision of license withdrawal shall be published by authorized body in two periodicals, distributed on whole territory of the Republic of Kazakhstan.

8. Only bank shareholders shall be entitled to appeal the decision of license withdrawal for the execution of banking operations. The sworn decision may be appealed judicially in 10-days term.

Reference. Article 47 is supplemented by paragraph 3 by Decree of the President of RK, having the force of the law, of January 27, 1996 N 2830. Paragraph 2 is supplemented by "e" by the Law of RK of December 7, 1996 N 50. The alterations are made by the Law of RK of July 11, 1997 N 154; of March 2, 2001 N 162 (see article 2); of July 10, 2003 N 483 (coming into force from January 1, 2004); of July 8, 2005 N 69.

Article 47-1. Compulsory measures, applied in relation to affiliated persons of bank

1. Authorized body shall be entitled to apply compulsory measures to principal participants of the bank and bank holdings in cases:

non-receipt of authorized body permission for the obtaining of status of principal participant and bank holding;

occurrence after obtaining of the status of principal participant of the bank and banking holding of circumstances, specified in paragraph 5 of the article 17-1 of this Law;

non-fulfillment of written orders of authorized body in accordance with article 46 of this Law.

The authorized body shall be also entitled to apply to banking holdings compulsory measures for their actions or inactivity, led to non-fulfillment of requirements of paragraph 5 of the article 42 of this Law.

2. In a case of availability of cases, stipulated by paragraph 1 of this article, the authorized body shall be entitled to:

demand from principal participant the reduction of share of its direct of indirect ownership in bank to the level of less than ten percent of voting shares or refusal from direct or indirect participation in bank activity management, including execution of the vote;

demand from bank holding reduction of the reduction of share of its direct of indirect ownership in bank to the level of less than twenty percent of voting shares or refusal from direct or indirect participation in bank

activity management, including execution of the vote, and suspend execution of operations (direct or indirect), compromising bank, between it and bank;

demand from bank in relation to organization, in which bank or bank holding is the participant, to suspend execution of operations (direct or indirect), compromising bank, between it and bank.

3. In a case of non-fulfillment by principal participant of the bank and bank holding of requirements, stipulated by paragraph 2 of this article, and paragraph 6 of article 57 of this Law, within the period, specified by authorized body, the authorized body shall be entitled to take decision of contract conclusion with bank shareholders of transfer of shares of principal participant and (or) bank holding for asset management to authorized body for the period of up to three months with the right of authorized body as trusting manager to participate in bank management, and during removal of reasons for transfer for asset management, to execute alienation of shares of these persons through realization of these shares in organized equity market, at the same time received from sale of share money shall be transferred to persons, whose shares were transferred for asset management to authorized body.

In a case of refusal of shareholders from transfer of shares for asset management the authorized body shall be entitled to go to law with the claim of compulsion of contract conclusion.

4. Procedure of compulsory measures application shall be determined by normative legal acts of authorized body.

Reference. It is supplemented by article 47-1 by the Law of RK of March 2, 2001 N 162 (see article 2); of July 10, 2003 N 483 (coming into force from January 1, 2004).

Article 48. reasons for suspension or withdrawal of licenses for the execution of all or separate types of banking operations

1. Suspension or withdrawal of licenses for the execution of all or separate banking operations shall be fulfilled for any of following reasons:

a) non-observance in the process of bank activity of requirements of article 20, subparagraph b) of paragraph 1 of the article 22, paragraphs 2 and 6 of article 26 of this Law;

b) fulfillment of banking operations with systematic (three or more times within twelve subsequent calendar months) violations of acting legislation norms;

c) systematic (three or more times within twelve subsequent calendar months) undue fulfillment of contractual obligations on payment and transfer operations;

d) systematic (three or more times within twelve subsequent calendar months) violation of prudential standards and (or) other compulsory for observance norms and limits;

e) non-observance of responsibility on disclosure of general terms of banking operations execution, specified by article 32 of this Law;

f) violation of prohibition, specified by article 40 of this Law, for the provision of benefit terms to persons, connected with bank by special relation;

g) non-submission of authorized body and (or) National Bank or submission with knowingly invalid statement and data;

h) systematic (three or more times within twelve subsequent calendar months) violation of normative legal acts or non-fulfillment of written orders of authorized body or National Bank;

i) fulfillment of activity, prohibited or limited for banks in accordance with the terms of article 8 of this Law;

j) fulfillment of operations, out of its legal capacity, specified by this Law, bank charter and license (licenses) for the execution of banking operations;

k-1) non-fulfillment by bank, organization, fulfilling separate types of banking operations, in accordance with issued by it license of activity within twenty subsequent calendar months from the date of its issue;

k) decision-making by court of termination of bank activity;

1-1) decision-making by court of voluntary termination of its activity through reorganization or liquidation;

1) non-submission or submission of invalid information of affiliated with bank persons, and other required by authorized body information that served as obstacle for the fulfillment by authorized body of supervision over bank activity, including on consolidated basis;

m) repeated (two or more times in the course of inspection) prevention by bank of the execution of inspection, caused non-availability of its execution in specified terms;

n) intentional non-removal by bank of violations, specified in statement of auditing organization of executed audit, in terms, specified in paragraph 6 of the article 57 of this Law.

1-1) License for the acceptance of deposits, opening and conducting of bank accounts of individuals shall be withdrew from bank that is not a participant of the system of compulsory collective guaranteeing (insurance) of individuals' deposits/

2. National Bank or authorized body shall suspend or withdraw licenses for the execution of all or separate banking operations depending on violation character.

Reference. Subparagraph "h" of paragraph 1 is supplemented by words by Decree of the President of RK, having the force of the Law, of January 27, 1996 N 2830. Article 48 is modified by the Laws of RK of July 11, 1997 N 154; of December 8, 1997 N 200; of July 16, 1999 N 436; of March 2, 2001 N 162 (see article 2); of July 10, 2003 N 483 (coming into force from January 1, 2004); of July 8, 2005 N 69.

Article 48-1. Transfer of documents and property of the bank

1. Bank, the licenses of which are withdrew for the execution of all banking operations, shall not be entitled to fulfill banking or other activity, shall be obliged to terminate all operations on available bank accounts, except for the cases, connected with current expenses for bank maintenance and enrollment of incoming to bank money.

2. Procedure of bank work, appointment of its temporary administration (temporary administrator), and authorities of temporary administration (temporary administrator) shall be determined by normative legal acts of the authorized body.

3. Temporary administration (temporary administrator) of the bank shall execute its activity within the period prior to appointment by the authorized body of liquidation committee of the bank.

Control over the activity of temporary administration (temporary administrator) of the bank prior to appointment of liquidation committee of the bank shall be fulfilled by the authorized body.

4. Report of temporary administration (temporary administrator) of the bank shall be submitted to the authorized body and court that made decision of bank liquidation.

5. *(The paragraph is excluded by the Law of the Republic of Kazakhstan of July 10, 2003 N 483 (coming into force from January 1, 2004)).*

6. Temporary administration (temporary administrator) of the bank shall put down its authorities and transfer documents and property of the bank to the chairman of liquidation committee of the bank within not more than 10 days.

7. Acceptance-transfer of documents and property of the bank from temporary administration to the chairman of liquidation committee shall be drew up by act that shall be completed in four copies and approved by the authorized body. One copy of approved act shall be directed to court for the junction to case materials.

8. For the period of its activity temporary administration (temporary administrator) of the bank shall not be entitled to fulfill expense operations, except for cases, stipulated by paragraph 1 of this article, and modify terms of before concluded by bank contracts.

9. The financing by authorized body of expenses on compulsory reorganization and liquidation of banks shall be prohibited, except for cases

of authorized body employees' remuneration of labor, included to the content of temporary administration (temporary administrator) of the bank and liquidation committee, and for the reimbursement of costs on publishing in official prints of the Ministry of justice of the Republic of Kazakhstan of information on made by court decision of compulsory liquidation of bank in the event of non-availability of bank property or if its cost is not enough for the reimbursement of these costs.

Reference. The article 48-1 is supplemented by the Law of RK of July 11, 1997 N 154. The alterations are made by the Law of RK of March 2, 2001 N 162 (see article 2); of July 10, 2003 N 483 (coming into force from January 1, 2004); of July 7, 2004 N 577.

Article 49. Reasons and procedure of withdrawal of permission for bank opening

1. The authorized body shall be entitled to withdraw issued permission for bank opening in cases:

- a) decision-making by bank of voluntary termination of its activity through reorganization or liquidation;
- b) decision-making by court of termination of bank activity;
- c) identification in the activity of legal entity, registered as bank, of violations, stipulated by paragraph 2 of this article.

2. Withdrawal of permission for bank opening, issued to legal entity, shall be executed by the authorized body for any of following reasons:

- a) discovery within one year from the date of state registration of legal entity as bank of inauthenticity of data, on the basis of which the permission was issued;
 - a-1) violation of terms, stipulated by article 25 of this Law;
 - b) non-receipt of license for the execution of banking operations within one year from the date of state registration of legal entity as bank;
 - c) non-payment of authorized capital stock within one year from the date of state registration of legal entity as bank;
 - d) violation of activity conditions, stipulated by banking legislation for the legal entity, registered as bank.

3. *(The paragraph is excluded by the Law of the Republic of Kazakhstan of July 10, 2003 N 483 (coming into force from January 1, 2004)).*

4. Decision of the authorized body of withdrawal of permission for bank opening shall be the reason for re-registration or termination of legal entity activity.

Reference. Article 49 is in edition of the Law of RK of July 11, 1997 N 154; of May 16, 2003 N 416; with alterations by the Law of the Republic of Kazakhstan of July 10, 2003 N 483 (coming into force from January 1, 2004).

Article 50. Bank secrecy

1. Bank secrecy shall include information of availability, owners, numbers of bank accounts of depositors, customers, and correspondents of bank, of the balance and flow of money on these accounts and accounts of the bank itself, of bank operations (except for general terms of bank operations execution), and information of availability, owners, character and cost of customers' property, kept in safe boxes, boards and premises of the bank.

Bank secrecy does not include information of credits, issued by bank, being in the process of liquidation.

2. Banks guarantee secrecy on operations and deposits of its depositors, customers, and correspondents, and secrecy of property, kept in safe boxes, boards, and premises of the bank.

3. Officials, employees of the bank, and other persons that by virtue of execution of their official duties received access to information, composing bank secrecy, for their disclosure shall bear criminal responsibility, except for cases, stipulated by paragraphs 4-8 of this article.

4. Bank secrecy may be disclosed only to the holder of account (property), any third person on the basis of written consent of the holder of

account (property), given at the moment of its personal presence in bank, to loan office on granted loans in accordance with legislative acts of the Republic of Kazakhstan, and to persons, specified in paragraphs 5-8 of this article, for reasons and within the frames, stipulated by this article.

Compulsory notification by banks of tax authorities of bank accounts opening to legal entity or individual, fulfilling entrepreneurship activity without formation of legal entity, submission of customs authorities with the information on export and (or) import operations of customers for the execution of export and import currency control in accordance with currency legislation, and submission of data on balance of money of bank accounts of individuals by liquidation committee of the bank, liquidated under compulsory procedure, organization on joint guaranteeing (insurance) of investments (deposits) and bank-agents for the execution of arrangements, connected with return of money to depositors, shall not be the disclosure of bank secrecy.

5. Certificates of availability and numbers of bank accounts shall be issued to bank, in relation to which account (-s) holder is the borrower, guarantor, warrantor, or pawner, on the basis of written request, signed by the chairman of Board of the bank, or by the person, substituting him, under conditions of submission of document, confirming credit receipt.

6. Certificates of availability and numbers of bank accounts of a legal entity, and current accounts of an individual, fulfilling entrepreneurship activity without formation of legal entity, of balance and flow of money on such accounts shall be issued to:

a) bodies of inquiry and preliminary investigation: on produced by them criminal cases with the sanction of public prosecutor;

b) courts: on produced by them cases on the basis of determination of court;

c) public prosecutor: on the basis of decree of examination execution, within its competence, upon considered by it material;

d) customs authorities on export and (or) import operations of customers with the sanction of public prosecutor;

e) tax authorities: on issues, connected with taxation of examined person, and in relation to inactive legal entity;

e-1) bodies of executive production: on produced by them cases of executive production on the basis of written request, signed by first director or officer of the court, sealed by the stamp of executive production body and sanctioned by public prosecutor.

7. Certificates of availability and numbers of bank accounts of an individual, of balance and flow of money on such accounts, and available data of the character and cost of its property, kept in safe boxes, boards, and premises of the bank, shall be issued to:

a) representatives of individual: on the basis of notarized letter of attorney;

b) bodies of inquiry and preliminary investigation: on produced by them criminal cases in the events, when money and other property of individual, being on accounts or kept in bank, may be seized, charged or the property may be expropriated on the basis of written consent, signed by first director or investigator, sealed by the stamp of the body of inquiry and preliminary investigation and sanctioned by public prosecutor;

c) courts: on produced by them cases on the basis of determination, decree, decision, verdict of court in cases, when money and other property of individual, being on accounts or kept in bank, may be seized, charged or the property may be expropriated;

d) public prosecutor: on the basis of decree of examination execution, within its competence, upon considered by it material.

7-1. Certificates of money flow on bank accounts, stipulated by paragraphs 6 and 7 of this article. Shall be submitted in the form of abstract from customer's personal account of money flow on its bank accounts. Information that must be included to abstract from customer's personal account of money flow on its bank accounts, shall be determined by normative legal act of the National Bank of the Republic of Kazakhstan.

8. Certificates of availability and numbers of bank accounts of an individual, of balance of money on them, and available data of the character

and cost of its property, kept in safe boxes, boards, and premises of the bank in the event of holder's death, shall be issued to:

a) persons, specified by account (property) holder in testamentary disposition;

b) courts and notaries: on produced by them probate cases on the basis of determination, decree of the court or written notary's request, sealed by its stamp. Written notary's request must be attached by the copy of death certificate of account holder;

c) foreign consular offices: on produced by them probate cases.

9. *Paragraph 9 is excluded by the Law of RK of June 29, 1998 N 236.*

Reference. The words in paragraph 5 are excluded by the Law of RK of September 27, 1996 N 37. Article 50 if modified by the Laws of RK of July 11, 1997 N 154 and of June 29, 1998 N 236; of March 29, 2000 N 42; of July 10, 2003 N 483 (coming into force from January 1, 2004); of July 6, 2004 N 572; of December 13, 2004 N 11 (coming into force from January 1, 2005); of July 8, 2005 N 69.

Article 51. Seizure and charge of money and property, being in bank

1. Money and other property of legal entity or individual, being in bank, may be seized only on the basis of decrees of the bodies of inquiry and preliminary investigation, and decrees of executive production bodies, sanctioned by public prosecutor, and decrees, decisions, and verdicts of courts. During seizure for the ensuring of plaintiff's claims the sum of seized money, must not exceed the sum of claim and rate of state due and expenses, connected with the execution of decisions, verdicts and decrees of the court.

All expense operations on bank (except for correspondent) accounts of legal entity in specified by legislative acts of the Republic of Kazakhstan cases may be suspended upon the decisions of tax and (or) customs authorities, signed by first director, certified by the seal of tax and (or) customs authorities, sanctioned by public prosecutor, and the charge may be applied only for the reasons, stipulated by legislative acts of the Republic of Kazakhstan.

2. Confiscation of money and other property of legal entity and individual, being in bank, except for pension assets of accumulative pension funds, may be executed only on the basis of consummated court decision (verdict).

Reference. Article 51 is modified by the Laws of RK of July 11, 1997 N 154; of March 29, 2000 N 42; of August 9, 2002 N 346.

Article 52. System of joint guaranteeing (insurance) of deposits

In the purposes of protection of investors' (depositors') interests the organization, fulfilling compulsory joint guaranteeing (insurance) of investments (deposits) shall be established.

The authorized body shall specify legal status, procedure of creation, regulation and termination of organization activity on compulsory joint guaranteeing (insurance) of investments (deposits).

Procedure of compulsory joint guaranteeing (insurance) of investments (deposits), and interrelations of organization on compulsory joint guaranteeing (insurance) of investments (deposits) with banks shall be specified by normative legal acts of the authorized body.

Banks participate in the system of compulsory joint guaranteeing (insurance) of investments (deposits) through execution of compulsory deductions in the amount and under procedure, specified by the authorized body.

Reference. Article 52 is modified by the Laws of RK of July 11, 1997 N 154; of March 29, 2000 N 42; of March 2, 2001 N 162 (see article 2); of July 10, 2003 N 483 (coming into force from January 1, 2004).

Article 53. Financial (operational) year of the bank

Financial (operational) year of the bank shall be commenced from January 1 and terminated on December 31. In the event that bank registration is fulfilled after January 1, then the first financial (operational) year shall be commenced from the date of state registration of the bank and terminated on December 31 of the same year.

Article 54. Accounting and reporting in banks

1. List and forms, complying with international standards, and terms and procedure of financial statements submission, including financial statements on consolidated basis, shall be specified by the National Bank upon coordination with the authorized body.

Banks shall execute accounting of operations and events in accordance with the legislation of the Republic of Kazakhstan of bookkeeping and financial accounting.

1-1. List, forms and procedure of statements submission, including statements on consolidated basis (except for financial and statistical accounting) shall be specified by the authorized body.

2. Banks shall be obliged to submit upon request of the authorized body and (or) National Bank, directed within their competence, any information of their funds, including and being outside the Republic of Kazakhstan, amounts of accepted deposits and granted credits, produced and being produced banking operations and other information, including data, composing bank secrecy.

2-1. Banks shall be obliged to submit any requested by authorized body information on direct or indirect participation in authorized capital stocks of legal entities, in which banks are principal participants, under procedure, specified by the authorized body.

3. Employees of the authorized body and (or) National Bank for the disclosure or transfer to third parties of information, received in the course of realization of rights, specified by paragraphs 2 and 2-1 of this article, shall bear the responsibility under procedure, stipulated by legislative acts of the Republic of Kazakhstan.

Reference. Article 54 is modified by the Laws of RK of July 11, 1997 N 154; of July 16, 1999 N 436; of March 2, 2001 N 162 (see article 2); of May 16, 2003 N 416; of July 10, 2003 N 483 (coming into force from January 1, 2004); of June 11, 2004 N 562.

Article 54-1. Accounting of bank's affiliated persons

1. Principal participant of the bank, being legal entity, must annually submit the authorized body with the financial statements within ninety days upon the termination of financial year.

2. Principal participant of the bank, being individual, must within ninety days upon the termination of financial year, submit the authorized body with the statements, including information of income and property, and information, including data, but not limited by the following:

1) of execution by it together with other persons of influence on made by bank decision by virtue of contract between them or otherwise, including containing description of authorities delegation, determining the opportunity of such influence;

2) of taken by it positions in organizations with the specification of belonging to it market shares in the authorized capital stocks (shares) of organizations;

3) of purchase by it of belonging to it market shares in the authorized capital stocks (shares) of organizations at the expense of received loans;

4) of close relatives, spouse and close relatives of spouse.

Submission procedure and forms of accounting shall be specified by normative legal acts of the authorized body.

3. Bank holding must submit the authorized body with the:

1) quarterly consolidated financial statements and explanatory note to it within five days, following the accounting quarter;

2) consolidated and non-consolidated annual financial statements and explanatory note to it, not certified by auditor, within ninety days upon termination of financial year.

4. Explanatory note to annual financial statements of principal participant of the bank, being legal entity, and explanatory notes to quarterly and annual financial statements of bank holding must include the following information, including, but not limited to:

1) description of the types of activity of principal participant (bank holding);

2) name of every organization, in which principal participant (bank holding) is the participant (shareholder), amount of market share in its authorized capital stock (amount of belonging shares), description of the type or types of activity, financial statements of organizations, in which principal participant (bank holding) is principal participant (principal shareholder);

3) name of every organization; being principal participant (shareholder) of principal participant of the bank (bank holding), amount of its market share in the authorized capital stock (amount of belonging to it shares), description of the type or types of activity, and financial statements of this organization. <*>

Reference. Article 54-1 is in edition of the Law of RK of July 8, 2005 N 72 (procedure of consummation see article 2).

Article 55. Publication of main factors of bank activity

Banks shall publish annual statement, including annual balance and statement of income and expense, upon forms and in terms, specified by the National Bank upon coordination with the authorized body, after confirmation by auditing organization (auditor), complying with the requirements of paragraph 4 of the article 19 of this Law, of the authenticity of submitted in them data and approval of annual balance and statement of income and expenses by the annual stockholders' meeting of the bank.

Banks shall quarterly publish balance, statement of income and expenses upon forms and in terms, specified by the National Bank upon coordination with the authorized body, without their audit confirmation.

Reference. Article 55 is modified by the Laws of RK of July 11, 1997 N 154; of July 16, 1999 N 436; of July 10, 2003 N 483 (coming into force from January 1, 2004); of June 11, 2004 N 562.

Article 56. Documents accounting and custody

1. Banks shall be obliged to provide strict accounting and custody of documents, used in bookkeeping during drawing up o accounts.

2. List of main documents, subject to custody, and terms of their maintenance shall be specified by the authorized body. <*>

Reference. Article 56 is modified by the Law of the Republic of Kazakhstan of July 10, 2003 N 483 (coming into force from January 1, 2004).

Chapter 6. Audit of banks and their affiliated persons

Reference. Chapter's heading is in edition of the Law of RK of March 2, 2001 N 162 (see article 2).

Article 57. Audit of banks and their affiliated persons

1. Audit of bookkeeping and accounting, initial documents and other information of bank activity may be executed by auditing organization (auditor), entitled for the execution of audit in accordance with the

legislation of auditing activity and complying with requirements of paragraph 4 of the article 19 of this Law.

1-1. Execution of audit upon results of financial year shall be obligatory for banks, bank holdings and organizations, in which bank and (or) bank holding is principal participant, copies of statement, of which the recommendations of auditing organization must be submitted by banks, bank holdings and organizations, in which bank and (or) bank holding is principal participant, or by auditing organization to the authorized body within thirty days from the date of receipt of these documents or their submission banks, bank holdings and organizations, in which bank and (or) bank holding is principal participant.

Consolidated annual financial statements of the banks and bank holding must be certified by auditing organization, entitled for the execution of banks audit.

2. Licenses for the execution of banking activity audit shall be issues by the authorized body.

3. Banks audit shall executed in the purposes of identification of: timeliness, completeness, and accuracy of reflection of executed banking operations in accounting and statements;

compliance of executed banking operations with the requirements of this Law, acting legislation and normative legal acts of the authorized body and National Bank;

compliance of executed banking operations with general conditions of their execution, and conformance of procedure of banking operations execution to internal rules of the bank.

4. The auditing organization (auditor) shall express audit results and its conclusions in statement, submitted to the board of directors and Board of the bank.

Report of auditing organization (auditor) of financial state of the bank or organization, fulfilling separate types of banking operations, shall be executed in the form of separate document and does not compose commercial secret.

Requirements to the procedure of report execution of auditing organization (auditor) shall be determined by normative legal acts of the authorized body.

5. Auditing organization (auditor) shall be obliged to submit the authorized body upon its demand with the copy of fulfilled audit conclusion.

6. In a case of non-removal by bank, bank holding, and organization, in which bank and (or) bank holding is principal participant, of violations that affect the financial state of the bank and bank group, specified in the statement of auditing organization of executed audit, within three months from the date of receipt by bank, bank holding and organizations, in which bank and (or) bank holding is principal participant, of this statement, the authorized body prior to removal of violations shall be entitled to apply:

in relation to bank sanctions, stipulated by subparagraph g) of paragraph 2 of the article 47 of this Law;

in relation to bank holding, and organization, in which bank and (or) bank holding is principal participant, measures, stipulated by paragraph 2 of the article 47-1 of this Law;

in a case of violations removal within one year from the date of receipt of such statement the authorized body shall be entitled:

in relation to bank - to withdraw bank license on the basis of subparagraph n) of the paragraph 1 of the article 48 of this Law;

in relation to bank holding - to apply measures, stipulated by paragraph 3 of the article 47-1 of this Law.

Reference. Article 57 is modified by the Laws of RK of July 11, 1997 N 154 and of June 29, 1998 N 236; of March 2, 2001 N 162 (see article 2); of July 10, 2003 N 483 (coming into force from January 1, 2004).

Article 58. Licensing of auditing activity, connected with the examination of banking activity

1. Any legal entity or individual, entitled to fulfill auditing activity in accordance with the legislation of the Republic of Kazakhstan, shall be entitled to apply to the authorized body with the application of license issue for the execution of banking activity audit.

2. Procedure and terms of licenses issue for the execution of banking activity audit, suspension of their validity and withdrawal, requirements, made to an applicant, shall be determined by normative legal acts of the authorized body taking into account requirements, specified by this Law.

3. *(The paragraph is excluded by the Law of the Republic of Kazakhstan of July 10, 2003 N 483 (coming into force from January 1, 2004)).*

Reference. Article 58 is modified by the Laws of RK of July 11, 1997 N 154; of March 2, 2001 N 162 (see article 2); by the Law of the Republic of Kazakhstan of July 10, 2003 N 483 (coming into force from January 1, 2004).

Article 59. Invalidation of the statement of execution of banking activity audit of auditing organization (auditor). Reasons for withdrawal, suspension of the license for the execution of banking activity audit

1. The statement of auditing organization (auditor) of executed examination shall be deemed as invalid in cases, if:

a) auditing organization (auditor) is direct or indirect participant of examined bank or its founder;

b) auditor or any leading or executing examination employee of auditing organization has close relative or close relative of spouse - leading employee of examined bank;

c) auditing organization (auditor) has money obligations toward examined bank;

d) auditing organization (auditor) has no license of the authorized body for the execution of banking activity audit;

e) statement does not comply with specified by authorized body standards or requirements to the procedure of results drawing up of banking activity audit, and in other cases, stipulated by acting legislation.

2. License for the execution of bank audit shall be withdrew, suspended by the authorized body for any of following reasons:

a) invalidation by the authorized body of the statements of auditing organization (auditor) of executed examinations for two or more times;

b) disclosure or transfer to third parties (except for the authorized body) of information received in the course of audit and composing subject of banking or commercial secret;

c) non-submission upon request of the authorized body of the statement copies of the results of executed audit (auditing confirmation);

d) issue by auditing organization (audit) of knowingly inauthentic statement (confirmation) on issues, related to auditing activity;

e) absence in auditing organization of auditor, having acting license of the authorized body for the execution of banking activity audit;

f) availability of decision of license withdrawal for the execution of auditing activity;

g) identification within one year from the date of license issue for the execution of banking activity audit of information inauthenticity, on the basis of which it was issue.

Reference. Article 59 is modified by the Laws of RK of July 11, 1997 N 154 and of June 29, 1998 N 236; of March 2, 2001 N 162 (see article 2); of July 10, 2003 N 483 (coming into force from January 1, 2004).

Section II. Terms of modification of the legal status and peculiarities of banks activity termination

Chapter 7. Voluntary reorganization of banks

Reference. The name of section and chapter is in edition of the Law of RK of July 11, 1997 N 154.

Article 60. General conditions of voluntary reorganization of banks

1. Voluntary reorganization (merger, joining, separation, detachment, transformation) of banks may be fulfilled upon the decision of stockholders meeting with the consent of the authorized body.

2. Reason for the submission of application for the receipt of permission for the execution of voluntary reorganization of the bank shall be the availability of permission of stockholders meeting of this bank.

3. The following documents must be attached to the application of receipt of the authorized body permission for the execution of voluntary reorganization of bank:

- a) decision of supreme body of the bank of its voluntary reorganization;
- b) documents, describing assumed conditions, forms, procedure and terms of voluntary reorganization of bank;
- c) financial prediction of consequences of voluntary reorganization, including balance of payments of bank after its voluntary reorganization and/or legal entities, forming as a result of voluntary reorganization of bank;

4. Application of permission receipt for the execution of voluntary reorganization of bank must be considered by the authorized body within two months from the date of its acceptance.

5. Reorganized bank within two weeks from the date of receipt of the authorized body permission for the execution of reorganization shall be obliged to inform of forthcoming changes all its depositors, customers, correspondents and borrowers through direct notification and publication of the appropriate announcement in not less than two republican newspapers.

6. State registration or re-registration of being formed as a result of reorganization of legal entities shall be executed in accordance with acting legislation.

Reference. Article 60 is modified by the Law of RK of July 11, 1997 N 154; of July 10, 2003 N 483 (coming into force from January 1, 2004).

Article 61. Denial of permission issue for voluntary reorganization of bank

Denial of the authorized body permission issue for voluntary reorganization of bank shall be executed for any of following reasons:

- a) absence of respective decisions of supreme bodies of reorganized bodies;
- b) violation as a result of assumed reorganization of depositors interests;
- c) violation as a result of assumed reorganization of prudential standards and other compulsory for the observance norms and limits;
- d) violation as a result of assumed reorganization of requirements of antimonopoly legislation.

Reference. Article 61 is modified by the Law of RK of July 11, 1997 N 154; of July 10, 2003 N 483 (coming into force from January 1, 2004).

Chapter 8. Bank conservation

Article 62. Conception of bank conservation

1. Bank conservation represents compulsory execution upon the decision of the authorized body of the complex of administrative, legal, financial, organizational and technical, and other arrangements and procedures in relation to bank in the purposes of improvement of financial state and quality of work.

2. Bank may be subject to conservation for any of following reasons:

- a) systematic (within three subsequent months) non-fulfillment of adequacy coefficient of own capital;
- b) for reasons, stipulated in article 48 of this Law.

3. The establishment of conservation reason contemplates the appointment by the authorized body for unlimited (up to one year) term of temporary administration on bank management or temporary director of the bank.

4. Bank conservation shall be fulfilled at the expense of funds of the bank itself.

5. Decision of the authorized body of conservation execution may be appealed by bank shareholders within ten days judicially, the appeal of specified decision shall not suspend bank conservation.

Reference. Subparagraph "b" of paragraph 2 is in edition of Decree of the President of RK, having the force of the Law, of January 27, 1996 N 2830. The alterations are made by the Law of RK of July 11, 1997 N 154; of July 10, 2003 N 483 (coming into force from January 1, 2004).

Article 63. Temporary administration on bank management (temporary bank director)

1. Temporary administration (temporary bank director) shall be appointed by the authorized body among its employees or persons that are not its employees, complying with minimal requirements, specified by paragraphs 3-5 of the article 20 of this Law.

2. Rights and liabilities, and terms of reimbursement of labor of director and members of temporary administration (temporary bank director) shall be specified by separate contract, concluded between the authorized body and temporary administration (temporary bank director).

3. Temporary administration (temporary bank director) in its activity shall be regulated by this Law, normative legal acts of the authorized body and other legislation of the Republic of Kazakhstan.

4. The authorized body shall be entitled at any time take the place of temporary administration (temporary bank director).

5. For the damage, caused to bank, the director and members of temporary administration (temporary bank director) shall bear the responsibility, specified by acting legislation. It is not allowed to assign the responsibility on director and members of temporary administration (temporary bank director) for the damage that may be related to the category of standard production risk.

Reference. Article 63 is modified by the Law of RK of July 11, 1997 N 154; of July 10, 2003 N 483 (coming into force from January 1, 2004).

Article 64. Decree of bank conservation execution

1. Decision of the authorized body of the execution of bank conservation must contain:

- a) name of the bank and its location;
- b) reason of the decision of bank conservation;
- c) commencement of validity and conservation term;
- d) list of imposed on bank activity restrictions;
- e) personnel composition of temporary administration or surname, name and patronymic of temporary director;

- f) order to leading employees of the bank, being in conservation regime, of preparation of its work report, income statement, information of availability and amounts of property and submission of these documents to temporary administration (temporary bank director);

- g) recommendation to temporary administration (temporary bank director).

2. Decision of bank conservation execution shall be published by the authorized body in two periodic prints, distributed on whole territory of the Republic of Kazakhstan.

Reference. Article 64 is modified by the Law of RK of July 11, 1997 N 154; of July 10, 2003 N 483 (coming into force from January 1, 2004).

Article 65. Peculiarities of bank management for the period of conservation. Authorities of temporary administration on bank management (temporary bank director)

1. From the commencement of conservation validity and for its term:
 - a) the rights of bank shareholders on its management shall be suspended;
 - b) the authorities of bank bodies and its leading employees shall be suspended;
 - c) all authorities on bank management shall be transferred to temporary administration (temporary bank director);
 - d) all transactions, executed on behalf of and at the expense of bank unknown to and without written consent of temporary administration (temporary bank director), shall be deemed as invalid.
2. Temporary administration (temporary bank director) shall be entitled:
 - a) to independently make decisions on all issues of bank activity taking into account requirements of the article 66 of this Law;
 - b) if necessary to completely or partially suspend for the period of conservation of bank liabilities on accepted deposits;
 - c) if necessary to terminate concluded by bank contracts, stipulating investment of funds to the bank or make under unilateral procedure alterations and amendments to them, including rates, tariffs, and validity periods;
 - d) sign any contracts and documents on behalf of the bank;
 - e) make plaintiff's claims on behalf of and in the interests of bank;
 - f) issue orders, including orders of dismissal, demotion, or temporary suspension from position, distribution of liabilities between employees of the bank.

Reference. Article 65 is modified by the Law of RK of March 2, 2001 N 162 (see article 2).

Article 66. Control over the activity of temporary administration on bank management (temporary bank director)

1. Within the period of bank conservation control over the activity of temporary administration (temporary bank director) shall be fulfilled by the authorized body that shall be entitled:
 - a) to give recommendations to temporary administration (temporary bank director) of main directions of arrangements for the period of bank conservation (propose plan of main arrangements);
 - b) to give compulsory for execution by temporary administration (temporary bank director) written instructions;
 - c) to require submission by temporary administration (temporary bank director) of any information of its activity and bank activity;
 - d) listen to report of temporary administration (temporary bank director) of executed work;
 - e) extend conservation period;

2. Detailed regulation of the activity of temporary administration (temporary bank director) and principles of its relations with third parties shall be determined by normative legal acts of the authorized body.

Reference. Article 66 is modified by the Law of RK of July 11, 1997 N 154; of July 10, 2003 N 483 (coming into force from January 1, 2004).

Article 67. Termination of conservation

1. Bank conservation shall be terminated for the following reasons:
 - a) expiry of specified by decision of the authorized body of conservation period;
 - b) decision-making by the authorized body of pre-term termination of conservation.
2. Termination of bank conservation (including pre-term as well) in connection with the improvement of its financial state and quality of work leads to the cancellation of all restrictions in relation this bank,

specified by the authorized body or temporary administration (temporary bank director). At the same time alterations and amendments, made within conservation period to constituent documents, management bodies and composition of bank employees, remain valid.

3. If bank conservation does not lead to improvement of financial state and quality of work, the authorized body shall be entitled to withdraw issued license for the execution of bank operations for reasons, stipulated by bank legislation.

Reference. Article 67 is modified by the Laws of RK of July 11, 1997 N 154; of March 2, 2001 N 162 (see article 2); of July 10, 2003 N 483 (coming into force from January 1, 2004).

Chapter 9. Liquidation and compulsory reorganization of banks

Reference. Chapter 9 is in edition of the Law of RK of July 11, 1997 N 154.

Article 68. Types and reasons of banks liquidation

1. Bank may be liquidated:

a) upon decision of shareholders in the availability of the authorized body permission (voluntary liquidation);

b) upon court decision in cases, stipulated by legislative acts of the Republic of Kazakhstan (compulsory liquidation);

c) *(excluded - N 162 of 2.03.01);*

2. Termination of banks activity, including for the reason of bankruptcy, shall be fulfilled in accordance with legislative acts of the Republic of Kazakhstan taking into account requirement of this Law.

Reference. Article 68 is modified by the Law of RK of March 2, 2001 N 162 (see article 2); of July 10, 2003 N 483 (coming into force from January 1, 2004).

Article 68-1. Creditors committee of voluntarily or compulsorily liquidated banks

1. In the purposes of provision of creditors' interests and decision-making with their participation in procedures of voluntary and compulsory liquidation of banks the creditors committee shall be established.

The authorized body on provision of liquidation committee of the bank shall approve the composition of creditors committee of voluntarily or compulsorily liquidated bank.

2. Peculiarities of formation and activity of creditors committee shall be specified by normative legal acts of the authorized body.

Reference. Supplemented by article 68-1 by the Law of RK of March 2, 2001 N 162 (see article 2); with alterations by the Law of the Republic of Kazakhstan of July 10, 2003 N 483 (coming into force from January 1, 2004).

Article 69. Voluntary liquidation

1. Bank on the basis of decision of stockholders meeting shall be entitled to apply to the authorized body with the application of permission issue for its voluntary liquidation.

The application must be attached by the list of arrangements of terms and stages of bank preparation to termination of its activity, approved by stockholders meeting, balance statement, certifying the adequacy of bank funds for the fulfillment of payments upon its obligations, list of candidates to the members of liquidation committee, including divisions, created in branches or representative offices, and other relevant information. List of relevant information shall be specified by normative legal acts of the authorized body.

2. Application of permission receipt for voluntary bank liquidation must be considered by the authorized body within two months from the date of receipt of duly completed documents.

In the case of denial of permission issue for voluntary bank liquidation the authorized body shall issue of this the motivated decision, of which the banks shall be informed.

3. *(The Paragraph is excluded by the Law of the Republic of Kazakhstan of July 10, 2003 N 483 (coming into force from January 1, 2004)).*

4. During receipt of permission for voluntary liquidation the bank shall create liquidation committee taking into account branches and representative offices of the bank, which receive the authorities on bank property and affairs management.

Peculiarities of liquidation committee activity of voluntarily liquidated banks shall be determined by normative legal acts of the authorized body.

4-1. The authorized body shall fulfill Control over the activity of liquidation committee of voluntarily liquidated banks.

5. After receipt of permission for voluntary liquidation the bank shall be obliged to publish information of it in official prints of central judicial body.

6. Liquidation committee shall be obliged within seven days after approval of liquidation committee and report of bank liquidation to submit them to the Ministry of justice and authorized body.

During termination of bank liquidation the liquidation committee shall be obliged under specified procedure to deposit documents to archive and notify of this the authorized body.

7. In a case of funds inadequacy for claims settlement of all creditors, the bank shall be subject to compulsory liquidation for the reason of bankruptcy.

7-1. In connection with non-availability of termination of voluntary liquidation process, the authorized body shall be entitled to go to the law with the application of compulsory termination of the activity (liquidation) of bank.

Reference. Article 69 is modified by the Laws of RK of July 16, 1999 N 436; of March 2, 2001 N 162 (see article 2); of July 10, 2003 N 483 (coming into force from January 1, 2004).

Article 70. Types of compulsory banks liquidation

Compulsory bank liquidation shall be executed by court in connection with:

- a) bank bankruptcy;
- b) withdrawal of bank license for the execution of banking operations for reasons, stipulated by bank legislation;
- c) application (claim) of authorized state bodies, legal entities or individuals of bank activity termination for other reasons, stipulated by legislative acts.

Reference. Article 70 is modified by the Law of RK of March 2, 2001 N 162 (see article 2).

Article 71. Declaration of bank bankrupt

1. Insolvency and failure of bank shall be identified by conclusion of the authorized body, submitted to court, composed taking into account method of calculation of prudential standards (and other compulsory for observance norms and limits), value of bank capital.

2. Bank may be declared as bankrupt only upon court decision under specified procedure. Extrajudicial procedure of insolvent bank liquidation upon decision of its creditors and bank itself shall not be allowed.

3. Availability of conclusion of world agreement by parties on the case of bank bankruptcy shall be excluded.

4. Decision of bank bankruptcy declaration and its compulsory liquidation the court shall direct to the authorized body. <*>

Reference. Article 4 is modified by the Law of the Republic of Kazakhstan of July 10, 2003 N 483 (coming into force from January 1, 2004).

Article 72. Bank liquidation for other reasons

1. Compulsory bank liquidation in cases, when the case is initiated by court upon petition (claim) of the authorized state body, legal entities or individuals (in non-availability of decision of bank licenses withdrawal for the execution of banking operations) shall be executed in accordance with this Law.

2. Decision of compulsory bank liquidation shall be directed by court to the authorized body.

From the date of decision-making by court of compulsory bank liquidation on the case, initiated for the reason, stipulated by subparagraph c) of article 70 of this Law, bank licenses for the execution of banking operations shall be withdrew.

Reference. Article 72 is modified by the Law of RK of March 2, 2001 N 162 (see article 2); of July 10, 2003 N 483 (coming into force from January 1, 2004).

Article 73. Terms and procedure of compulsory liquidation execution

1. From the date of initiation by court of the case of compulsory bank liquidation:

1) the founders (participants), bank authorities shall not be entitled to dispose bank property;

2) execution of earlier taken court decisions in relation to liquidate bank shall be suspended;

3) creditors requirements to bank may be stated only in liquidation productions, except for requirements, connected with current expenses for bank maintenance;

4) it is not allowed to levy money from bank accounts of bank upon demands of creditors, tax authorities, including subject to settlement under indisputable (non-acceptance) procedure, and charge on bank property;

5) it is prohibited for bank officials to alienate belonging to them bank shares.

1-1. Banks liquidation for the reason of bankruptcy shall be executed in accordance with this Law, and legislation of the Republic of Kazakhstan.

2. All costs, connected with bank liquidation, shall be executed only at the expense of funds of this bank, except for cases, stipulated by paragraph 9 of the article 48-1 of this Law.

3. Bank assessment shall be fulfilled by liquidation committee in accordance with acting legislation.

4. Interim liquidation balance and register of creditors requirements of liquidated bank shall be approved by the authorized body.

5. Realization of liquidated bank property shall be executed by liquidation committee of the bank under procedure, stipulated by legislation of the Republic of Kazakhstan.

6. Control over the activity of liquidation committee of the bank, including liquidates for the reason of bankruptcy, shall be fulfilled by the authorized body.

6-1. The court that made decision of bank liquidation, shall be entitled to request from the authorized body any information, connected with the activity of liquidation committee of the bank.

7. Liquidation committee shall submit court with the coordinated with the authorized body report of liquidation and liquidation balance.

Court shall approve report of liquidation and liquidation balance and issue decision of liquidation production termination.

Liquidation committee shall direct copy of court decision to judicial body, fulfilling state registration of legal entities, and to the authorized body.

During termination of bank liquidation the liquidation committee shall be obliged under specified procedure to deposit documents to archive and notify of this the authorized body.

Reference. Article 73 is modified by the Law of RK of July 16, 1999 N 436; of March 2, 2001 N 162 (see article 2); of July 10, 2003 N 483 (coming into force from January 1, 2004).

Article 74. Liquidation committee of compulsorily liquidated bank

1. After decision-making of bank liquidation, including for the reason of bankruptcy, court shall initiate liquidation production and lay the responsibility on creation of liquidation committee of the bank on the authorized body taking into account its branches and representative offices.

Liquidation committee of the bank shall take measures for termination of bank affairs and provision of settlement with its creditors.

Procedure of liquidation committees appointment of compulsorily liquidated banks, requirements, stated to the chairman and members of liquidation committee, and procedure of liquidation execution and requirements to work of liquidation committees shall be determined by normative legal acts of the authorized body.

Monthly amount of fee, paid to chairman, members of liquidation committees of the bank and other attracted employees, must not exceed for each of them the amount of tenfold minimal salary, specified by the law of republican budget for the respective financial year.

2. *(excluded - N 162 of 2.03.01)*

3. *(The paragraph is excluded by the Law of the Republic of Kazakhstan of July 10, 2003 N 483 (coming into force from January 1, 2004)).*

Reference. Article 74 is modified by the Law of RK of March 2, 2001 N 162 (see article 2); by the Law of the Republic of Kazakhstan of July 10, 2003 N 483 (coming into force from January 1, 2004).

Article 74-1. Peculiarities of formation of liquidation committee, bankrupt estate during bank liquidation

1. Liquidation, bankrupt estate of the bank shall be formed under procedure, determined by acting legislation taking into account peculiarities, specified by this Law.

1-1. Liquidation bankrupt estate of the bank shall not include the pawn property, being subsequent ensuring on mortgage bonds: rights of demand under contract of mortgage housing loan (including mortgage certificates), and state securities of the Republic of Kazakhstan in cases, when right of ownership for specified securities appeared by their holders or was transferred to them under transaction or for other reasons, stipulated by legislative acts of the Republic of Kazakhstan. Liquidation committee shall transfer the specified property to the representative of mortgage bonds holders for the settlement with creditors-holders of mortgage bonds in accordance with legislation of the Republic of Kazakhstan of equity market.

2. During formation of liquidation bankrupt estate it shall not include securities, belonging to third parties and entrusted for custody and accounting, and pension assets of accumulative pension funds, assets of investment funds, entrusted to bank for accounting and custody or disposed to its financial instruments. Pension assets, assets of investment fund shall be transferred to another bank upon application of accumulative pension fund, stock investment fund or managing company of unit investment fund.

Reference. Article 74-1 is with alterations, made by the laws of RK of June 29, 1998 N 236; of June 3, 2003 N 427; of July 7, 2004 N 577.

Article 74-2. Queue of claims settlement of liquidated bank creditors

1. Claims of liquidated bank creditors, including in connection with its bankruptcy, shall be settled under procedure, stipulated by this article.

2. Costs, connected with liquidation production, including on the provision of the activity of bank liquidation committee, and expenses, resulting from the necessity of provision of main functions of liquidated bank, shall be executed out of turn and constantly.

Creditors claims, acknowledged under specified procedure, must be settled in following queue:

a) first of all the claims of citizens, toward which the liquidated bank bears the responsibility for causing hazard to life and health through capitalization of respective periodical payments;

b) secondly, the settlements on remuneration of labor with persons, working under labor contract, and on payment of fees under author contracts;

c) thirdly, the claims of individuals shall be settled on deposits and money transfer, future claims of organization on compulsory collective guaranteeing (insurance) of investments (deposits), on execution of obligations on repayment of compensation in the amount according to calculation, submitted by compulsorily liquidated bank, and claims on deposits, fulfilled at the expense of pension assets of accumulative pension funds;

d) fourthly, the settlements with non-commercial organization, occupying exclusively with charitable activity, organizations of Great Patriotic War veterans and organizations of persons, equal to them, Voluntary society of invalids of the Republic of Kazakhstan, Kazakh society of the blind, Kazakh society of the deaf, and production organizations, being the property of these legal entities and created at the expense of their funds, other organization of invalids upon available their funds on bank accounts and placed on deposit, shall be fulfilled;

e) fifthly, the settlements with insurance organizations on available their funds on bank accounts, opened in liquidated bank shall be fulfilled;

f) sixthly, the claims of creditors on obligations, ensured by pledge of liquidated bank property, shall be settled;

g) seventhly, the liabilities on taxes, charges, and other compulsory payments to budget, and on return of credits, issued from republican budget, shall be cleared;

h) eighthly, the claims of legal entities on available by them funds on bank accounts, opened on liquidated bank shall be settled;

i) ninthly, the settlements with banks on interbank credits and with legal entities on deposit investments, not ensured by pledge of liquidated bank property, shall be fulfilled;

j) tenthly, the settlements with other creditors shall be fulfilled in accordance with legislative acts.

4. Claims of every queue shall be settled after complete claims settlement of previous queue.

Claim of creditor with its consent may be settled by means, not conflicting with legislation, including in money terms and (or) through transfer of property in matter.

In a case of creditors' claims settlement of one queue money and (or) other property of liquidated bank shall be distributed between creditors of this queue pro rata to the amounts of claims, subject to settlement.

Reference. Article 74-2 is modified by the Law of RK of March 29, 2000, N 42; of March 2, 2001 N 162 (see article 2); of July 10, 2003 N 483 (coming into force from January 1, 2004).

Article 74-3. Compulsory reorganization of bank. Rehabilitation procedures

1. Compulsory reorganization of bank shall be executed upon court decision in accordance with acting legislation, taking into account peculiarities, stipulated by this Law.

Rehabilitation procedure in relation to bank shall be executed upon court decision within the measures on compulsory reorganization of bank in

the purposes of its solvency recovery and (or) provision of the ability of execution by bank of conditions and requirements , stipulated by legislation of the Republic of Kazakhstan.

2. The court shall be entitled to solve issue of compulsory reorganization of bank or execution in relation to bank of rehabilitation procedures only on the basis of respective conclusion of the authorized body.

Obligatory conditions for the production of compulsory reorganization of bank, rehabilitation procedures shall be return by bank of all available with it deposits to interested parties within one year from the date of decision-making of compulsory reorganization.

Non-fulfillment of this condition shall lead to compulsory liquidation of bank.

2-1. In the availability of the opportunity of its solvency recovery and (or) removal of discovered drawbacks the bank shall be entitled to submit court with the application of applying in its relation of rehabilitation procedure in connection with consideration by it of the issue of compulsory reorganization of bank. The application must be attached by plan of bank rehabilitation.

One copy of application with attached documents shall be submitted to the authorized body.

2-2. The plan of bank rehabilitation shall be subject to preliminary coordination with the authorized body and shall be approved by court within ten days from the date of its submission. Alterations to the plan of bank rehabilitation shall be allowed with the consent of the authorized body on court decision.

2-3. Duration of the period of rehabilitation procedure execution in relation to bank must not exceed six months. The terms of commencement and termination of rehabilitation procedure shall be determined by court. The approved by court plan of bank rehabilitation shall be the document, compulsory for execution by bank and its officials.

2-4. The rehabilitation procedure shall be held by bank under control of the authorized body. Bank activity for the period of rehabilitation procedure shall be fulfilled in common order, taking into account requirements of his article.

3. In a case of decision-making by court of compulsory reorganization of bank (irrespective of the reasons of case initiation) its execution shall be entrusted with the approved by court special director (authorized on management) of the bank. Except for cases, stipulated by paragraphs 2-1 - 2-4 of this Article.

Special director (authorized on management) of the bank shall be obliged to monthly inform court and creditors of the bank of its activity.

4. Third person, participating in bank reorganization in connection with bank merger with other commercial organization or adjoining, shall be obliged to submit the special director (authorized on management) of the bank with relevant documents (data), reasoning its (their) financial solvency and expediency of bank reorganization.

5. Compulsory bank reorganization shall be executed under procedure, determined by court in accordance with approved by it schedule and pan of arrangements.

6. Report of special director (authorized on management) of the bank of termination of compulsory bank reorganization shall be approved by court.

7. Within five days after coming into effect of the official document, confirming executed bank reorganization within named court procedure, the organization, being bank assignee, shall be obliged to provide publishing of relevant information in two republican newspapers.

8. Costs, connected with the fulfillment of compulsory bank reorganization, shall be executed at the expense of its funds.

9. Other issues of execution of compulsory bank reorganization and execution of rehabilitation procedures in relation to it shall be determined by normative legal acts of the authorized body. <*>

Reference. Article 74-3 is modified by the Law of the Republic of Kazakhstan of July 10, 2003 N 483 (coming into force from January 1, 2004).

Article 74-4. Control authorities of the authorized body in liquidation process of banks

1. In the purposes of control execution over the activity of liquidation committees of voluntarily and compulsorily liquidated banks, including for the reason of bankruptcy, the authorized body shall be entitled:

1) to receive from liquidation committees reports of executed work, and if necessary, the additional information;

2) to specify form, terms and periodicity of submission of liquidation committees with reports and additional information;

3) execute audits of the activity of liquidation committees;

4) in a case of discovery in the activity of liquidation committees of requirements violation of legislation of the Republic of Kazakhstan, rights and lawful interests of creditors to issue compulsory for execution by liquidation committees written orders of violations removal, specify time of order execution;

5) in a case of non-fulfillment by liquidation committee in specified term of written order to go to the law or public prosecutor bodies for the protection of rights and protected by law creditors interests.

2. The authorized body shall be entitled to receive relevant information from banks, in relation to which the court considers case of compulsory termination of their activity.

3. In a case of violation by liquidation committee of legislation of the Republic of Kazakhstan the chairman of liquidation committee shall bear the responsibility in accordance with the laws of the Republic of Kazakhstan.

Reference. Article 74-4 is modified by the Law of RK of March 2, 2001 N 162 (see article 2); in new edition by the Law of the Republic of Kazakhstan of July 10, 2003 N 483 (coming into force from January 1, 2004).

Section III. Final provisions

Chapter 9-1. Responsibility for violations, connected with banking activity

Reference. Chapter 9-1 is introduced by the Law of RK of June 29, 1998 N 236; the chapter is excluded by the Law of the Republic of Kazakhstan of July 10, 2003 N 483 (coming into force from January 1, 2004).

Chapter 10. Final provisions

Article 75. Scope of this Law

1. Norms of this Law shall be applied to all banks, fulfilling their activity in accordance with legislation of the Republic of Kazakhstan, including for established under specific procedure - on the basis of separate legislative and normative acts, regulating initial stage of their organization, and to persons, being direct and indirect bank participants.

2. Legal status, procedure of establishment, licensing, regulation and termination of organizations activity, fulfilling separate types of banking operations, including the list of permitted for every of them types of banking operations, reasons of issue to them of licenses for the execution of banking operations and possible restrictions of their activity, shall be specified by this Law and other legislative acts of the Republic of Kazakhstan and normative legal acts of the authorized body and (or) National Bank within their competence.

Organizations, being divisions of state bodies shall be entitled to execute banking operations exclusively in relation to and at the expense of state budget funds, without the right of delegation of their fulfillment to third persons, in accordance with normative legal acts of the Government of the Republic of Kazakhstan, determining procedure of establishment, activity, regulation and termination of the activity of aforesaid organizations.

3. Provisions of this Law shall be applied to the National Bank only in cases, directly stipulated by this Law.

Reference. Article 75 is modified by the Law of RK of July 11, 1997 N 154; of March 2, 2001 N 162 (see article 2); of July 10, 2003 N 483 (coming into force from January 1, 2004).

Article 76. *(Article 76 is excluded by the Law of RK of June 29, 1998 N 236)*

Article 77. Appeal of the National Bank actions

Actions of the authorized body and National Bank of the Republic of Kazakhstan in the sphere of banking activity regulation may be appealed judicially. <*>

Reference. Article 77 is modified by the Law of the Republic of Kazakhstan of July 10, 2003 N 483 (coming into force from January 1, 2004).

Article 78. Coming into force of this Law

1. This Law shall come into force from the date of publishing.

2. From the date of coming into force of this Law in a case of violation discovery of formation procedure of banks authorized capital stock, committed for the period of validity of the Law of the Republic of Kazakhstan of April 14, 1993 *Of banks in the Republic of Kazakhstan*, the sanctions, stipulated by this Law shall be applied to banks.

Reference. Article 78 is modified by the Law of RK of July 11, 1997 N 154.

President of the Republic of Kazakhstan