

# THE LAW OF THE REPUBLIC OF TAJIKISTAN

## “ON BANKS AND BANKING ACTIVITIES”

### CHAPTER 1.

#### GENERAL REGULATIONS

##### **Article 1. Concepts of a bank**

A bank in the Republic of Tajikistan is a commercial agency, created for attracting of deposits and other funds with the purpose to extend credits on conditions of recurrency, payability, maturity, as well as execution of settlements by order of the clients. (Law of 2.12.02, No 62)

A bank is a legal entity and conducts its activities in accordance with the Constitution of the Republic of Tajikistan, this Law, the Law of the Republic of Tajikistan “On the National Bank of Tajikistan”, other laws of the Republic of Tajikistan, legislative instruments of the National Bank of Tajikistan and its own charter.

The term “Bank” or any other word combinations with this term can be used in the proprietary name and for advertisement only by the institutions which have the right to carry out banking transactions in accordance with this Law.

Banks are formed on the basis of any type of property (including foreign capital attracted) in the order established by the law of the Republic of Tajikistan.

##### **Article 2. Banking**

1. Banking means execution of banking operations as well as implementation of other operations established by this article.

2. Banking operations are the following:

- a) receiving of deposits from legal entities;
- b) receiving of deposits from individuals;
- c) opening and maintenance of clients’ accounts, correspondent accounts of banks and non-banking financial institutions as well as metallic accounts of banks;
- d) cash transactions: acceptance, converting, changing, exchange, packing and custody of bank-notes and coins;
- e) remittance operations: execution of money transfer orders of legal entities and individuals;
- f) accounting operations: discount of bills of exchange and other promissory notes of legal entities and individuals;
- g) loan business: extending cash credits;
- h) financing of capital investments on the order of the owners or managers of the invested funds;
- l) fiduciary (trust) operations: management of funds, (securities) in favor and by the order of a principal;
- j) clearing operations: collection, reconciliations, sorting and confirmation of payments, as well as execution of offsets and determination of net positions of participants of the clearing;
- k) strong room operations: custody services for papers, documents and

valuables of clients including lease of safe boxes and premises;  
l) pawning: extending short-term credits on the security of deposited convertible securities and movables;  
m) issue of drafts;  
n) collection, acceptance, payment and confirmation of payment documents, opening and confirmation of commercial letters of credit;  
o) issue of payment cards;  
p) collection and forwarding of bank-notes, coins and valuables;  
q) arrangement of foreign currency exchange operations.

Only the NBT shall issue licenses to banks and other legal entities and individuals for the above mentioned operations.

The license for the above mentioned operations in the national currency shall be given to banks only after the state registration in the established order.

The license for the above mentioned operations in the foreign currency shall be given in a year, after beginning of the bank's work and if it has modern means of communication and appropriate experts.

A joint bank with participation of a foreign bank's capital and a branch of foreign bank shall be given a license for banking operations in foreign exchange in three months after its opening with the terms indicated in the item 5 of this article.

3. Banks shall have the right to execute the following operations in addition to that mentioned in the item 2 of this article when they have a license of the National Bank of Tajikistan:

a) purchase, acceptance of collateral, accounting, custody and sale of precious metals (gold, silver, platinum, platinum group metals) in bars, granules, powder, salts, coins from precious metals, as well as jewelry containing precious metals and precious stones;  
b) investment operations outside the Republic of Tajikistan ;  
c) guaranteed operations: issue of warrants, guarantees and other liabilities for third parties which stipulate monetary execution, guaranteed letters of credit (stand-by LC's);  
d) leasing of property with the ownership rights of the lesser for the property being leased for the whole period of the agreement;  
e) emission of securities of their own (stocks, bonds, bills of exchange and deposit certificates);  
f) factoring operations: acquisition of rights to claim for payment on the buyer of goods (works, services) with acceptance of the non-payment risk;  
g) forfeiting operations (forefeiting): payment of the promissory note of the buyer of goods (works, services) by way of purchase of the bill of exchange without an obligation from seller.

4. Intermediary operations at the treasury bills market shall be executed by banks when they have a license from the NBT.

5. Types of activities listed in the items 3 and 4 of this article can be executed by different types of non-banking financial organizations which are created by banks in accordance with the Regulations of the National Bank of Tajikistan. These norms shall be applied to non-banking financial organizations created by non-banking institutions as well.

### **Article 3. Deposits**

Deposits - funds deposited in a bank by individuals and legal entities which can be withdrawn from an account on the first demand or when the deposits are due, with or without interest or can be paid to the third party by a draft or a payment order.

### **Article 4. The banking system of the Republic of Tajikistan**

and legislative regulation of the banking activity

The banking system of the Republic of Tajikistan comprises:

1. The National Bank of Tajikistan as a central bank of the country, and its tasks, principles, legal status and authorities are determined by the Law of the Republic of Tajikistan "On the National Bank of Tajikistan". The regulations of this Law shall be applied to the National Bank of Tajikistan only in cases directly indicated in this Law;

2. All other banks which can be founded in the following forms:

a) state bank -the Government of the Republic of Tajikistan is the only owner of the bank's statutory fund.

b) non-state bank - its statutory fund belongs to legal entities and individuals. A part of shares of a bank can belong to the Government of the Republic of Tajikistan in the person of the Ministry of Finance of the Republic of Tajikistan;

c) a bank with participation of foreign capital - a part of its shares is owned and managed by:

- non-residents of the Republic of Tajikistan;

- legal entities - residents of the Republic of Tajikistan if more than 50 % of their shares (deposits of shareholders) are owned and managed by non-residents of the Republic of Tajikistan or analogous to them legal entities - residents of the Republic of Tajikistan;

- residents of the Republic of Tajikistan, who are the managers (agents) of the funds of non-residents of the Republic of Tajikistan or legal entities indicated in the point "b" of the item.

7. Interstate bank - is a bank founded and acting on the basis of an international agreement, and the owners of its statutory fund are the Government of the Republic of Tajikistan and government (governments) of a state (states) which signed the agreement.

### **Article 5. The Ban on non-authorized activity**

Individuals and legal entities which do not have an appropriate license of the National Bank of Tajikistan, except the cases

stipulated in the item 2 of the Article, shall not have the right to:

- a) accept deposits or execute other banking transactions as main or additional activity;
- b) carry out an audit of banking activities as main or additional activity;
- c) use the word “bank” or its derivatives (expression) in its name, documents, advertisements which create an impression that it accepts deposits, conducts other banking transactions or carries out an audit of banking activities. This ban shall not apply to the National Bank of Tajikistan, branches and representations of banks, international financial institutions.

Possible exceptions in prohibition to accept deposits by those not having a license of the National Bank of Tajikistan shall be determined by normative instruments of the National Bank of Tajikistan and shall include cases of acceptance of deposits :

- a) deposits of the National Bank of Tajikistan, banks, as well as non-banking financial institutions which have a license of the National Bank of Tajikistan for extending credits;
- b) deposits as an amount being paid in connection with the actual deal of sale of purchase of property , on execution of some works and rendering services (as mortgage or an amount which should be returned in case if the deal does not take place);
- c) as a loan on conditions of reimbursement of the amount not exceeding the initial amount.

Banking transactions carried out without a license of the National Bank of Tajikistan shall not be considered valid.

#### **Article 6. Bank unions and associations ( law # 62 as of 2.12.02)**

Banks can establish unions and associations which do not have a purpose of deriving profit, for defense and representation of interests of its members, coordination of their activity, development of interregional and international contacts, satisfaction of scientific, informational and professional interests, elaboration or recommendations on carrying out banking activities and solving of other joint tasks of credit institutions. Bank unions and associations are prohibited to carry out banking transactions.

Bank unions and associations shall be founded and registered in the order established by the legislation of the Republic of Tajikistan for non-commercial institutions.

Bank unions and associations shall notify the National Bank of Tajikistan of its foundation within one month after the registration. ( Law as of 2.12.02 Number 62)

An association ( union) of banks may not be used to limit competition in banking system, to manipulate the rates of reward, the terms of credits being offered and other banking services (Law # 62 as of 2.12.02)

#### **Article 7. The ban for advertisement not corresponding to the facts**

Banks shall be prohibited to advertise their activity which does not correspond to the facts and misleads on the day of publication or announcement.

The National Bank shall have the right to demand from a bank to make

amendments in the advertisement which is not correspondent to the reality, to cancel or publish ( through TV, radio and other media) the refutation.

In case of non-fulfillment of this demand in the time determined by the National Bank of Tajikistan it shall have the right to announce on TV and radio or to publish information on disparity of reality of the information given in the advertisement. Expenditures on that shall be covered at the expense of a bank or non-banking financial institution which issued an advertisement not corresponding to the reality.

Legal entities and individuals without a license of the National Bank of Tajikistan for carrying out banking transactions shall be prohibited to advertise the services which fall under the category of banking transactions.

## **CHAPTER II. FOUNDATION OF BANKS**

### **Article 8. Business legal structure of banks**

Banks (with the exception of state banks) shall be founded in the form of closely held corporations without a right to issue share warrants.

Transformation of a bank to a public corporation shall be assumed on condition of its uninterrupted break-even functioning during one calendar year from the moment of receipt of the licenses of the National Bank of Tajikistan for banking transactions and following the normatives and other obligatory norms and limits established by the National Bank of Tajikistan.

Shareholders of a bank that shall be its constitutors cannot have any additional privileges or bear any additional obligations in comparison with other shareholders after the transformation of the bank to a public joint-stock company.

The management bodies of a joint-stock bank shall be:

- Board of Shareholders;
- Bank's Board elected by the General Board of Shareholders;
- Bank's Board that shall be formed and approved in the order established by the General Board of the Shareholders.

The National Bank of Tajikistan shall establish unified standards that comply with the international normatives for financial reports and principles of accounting both for all banks of the Republic of Tajikistan and foreign banks, non-banking financial institutions and all inspection bodies.

The National Bank of Tajikistan shall provide for strict execution of the established standard.

### **Article 9. Charter documents of a bank**

A bank shall be founded on the basis of a charter agreement and shall act in accordance with its charter.

The charter agreement on foundation of a bank, in addition to the information stipulated by the acting legislation, must keep the following in an obligatory order:

- a) information on constitutors including the full name and location of each of them, as well as the information on their state registration (for legal entities), the name, citizenship, place of residence and data of the

documents identifying the person (for individuals);  
b) information on quantity, categories and face value of the shares.

#### **Article 10. The name of a bank**

A bank shall have its name (full official and abbreviation) in the state language and in a foreign language bank shall have a seal with its name.

The name of a bank should contain the information indicating the character of the activities of this legal entity by using the words “bank” or “non-banking financial institution”, as well as an indication of its organizational-legislative form.

The National Bank of Tajikistan, while considering applications for registration of a bank, must prohibit use of a name if the suggested name already exists in the State Register of banks and other non-banking financial institutions.

#### **Article 11. Relations between a bank and the state**

A Bank shall not be responsible for State obligations. The State shall not be responsible for bank’s obligations with the exception of cases when the State has undertaken these obligations.

A Bank is not responsible for the obligations of the National Bank of Tajikistan. The National Bank of Tajikistan is not responsible for the obligations of a Bank with the exception of cases when the National Bank of Tajikistan itself has undertaken such obligations.

Executive bodies and local authorities of the republic shall not have rights to interfere with banks’ activities.

On the basis of a special agreement a bank can execute separate instructions of the Government of the Republic of Tajikistan and local authorities, carry out transactions with the funds of the republican and local budgets and settlements with them, provide the earmarked use of the budget funds allocated for execution of the republican and local programs. An appropriate agreement shall contain mutual obligations of the sides and envisage their responsibility, conditions and forms of control over the use of the budget funds.

A bank cannot be obliged to carry out activities which are not foreseen by its charter documents with the exception of cases stipulated by the law.

#### **Article 12. Charter of a bank**

A Bank has its charter approved in the order stipulated by the law.

The charter of a bank shall contain:

- 1) the name (full official), as well as all other names established by this Law;
- 2) indication of the organizational and legal structure;
- 3) information on the location (postal address of the management bodies and isolated subdivisions);
- 4) a list of banking operations and deals in accordance with the Article 2 of this Law;
- 5) information on the size of the statutory fund;
- 6) information on the administration structure including executive and internal control bodies,

as well as the procedure of their foundation and their authorities;  
7) other information stipulated by the laws of the republic for the charters of legal entities of the indicated organizational and legal forms;  
Banks can freely conduct the activity similar by functions and earmarking with any of the authorities listed in the Article 2 of this Law. A bank shall be obligated to register all changes and additions in the charter in the National Bank of Tajikistan.  
The National Bank of Tajikistan shall take the decision on registration of changes and additions in the charter of the bank during one month from the date of presentation of the legalized documents.

### **Article 13. Statutory fund of a bank**

Statutory fund (capital) of a bank shall be made up from the amount of installments of its shareholders and sales of bank shares in the national and foreign currency. (Law # 62 as of 2.12.02)  
Part 2 was excluded. (Law # 62 as of 2.12.02)  
The minimal size of the statutory fund of a bank and of the part formed in foreign currency shall be determined by the Board of the National Bank of Tajikistan. (Law # 62 as of 2.12.02)  
The decision of the National Bank of Tajikistan on change of the minimum size of the statutory fund shall come into force not earlier than in 90 days after the day of its approval.

For newly registered banks the National Bank of Tajikistan shall apply the norm for the minimum size of a statutory fund which is active at the date of presentation of the documents for registration and receipt of a license.

Attracted funds cannot be used for forming of a statutory fund of a bank. Republican budget funds and state non-budget funds, clear funds and other objects of property, which are under the jurisdiction of the republican state authorities, cannot be used for forming of a statutory fund of a bank.

While acquiring controlling block of shares of a bank directly or through an agent by one or several legal entities or individuals, or any group, acting in accordance with a special agreement or a contract, or having monitoring position, it shall be necessary to notify the National Bank of Tajikistan if the result of such an acquisition will be control over the vote shares totally exceeding by 5 % the number of all actually issued vote shares of the bank. If such an acquisition shall make more than 20 % of all vote shares, then a person, performing the deal should get a written permission of the National Bank of Tajikistan beforehand.

The National Bank of Tajikistan shall inform the applicant in written of its decision - refusal of consent not later than in 30 days from the moment of receipt of application. The refusal must be reasonable. In case if the National Bank does not inform of its decision within the indicated time, the deal on purchase of bank's shares shall be considered as approved. The National Bank of Tajikistan shall have the right to refuse to give permission for a deal on purchase of more than 20 % of the bank's shares if , in its opinion, financial resources of the buyers are not sufficient or if they do not have a continual source of replenishment; in

case of antimonopoly rules and in other cases stipulated by the law.

**Article 14. Constitutors and shareholders of a bank**

Constitutors and shareholders of a bank can be legal entities and individuals - residents and non-residents of the Republic of Tajikistan (taking into account restrictions set forth in this Law).

The State can be a founder and a shareholder of a bank only on behalf of the Government of the Republic of Tajikistan. State enterprises and institutions cannot be founders or shareholders of a bank if more than 50% of their statutory funds belong to the Government. (Law # 62 as of 2.12.02)

**Article 15. Peculiarities of foundation of bank subsidiaries (law # 62 as of 2.12.02)**

A branch of a bank shall be an independent legal entity, and the controlling block of shares belongs to the bank that shall be a founder (parental bank).

A parental bank can be banks non-residents of the Republic of Tajikistan that shall have a definite rating in one of the main agencies. A list of the main rating agencies and requested minimum rating shall be determined by the National Bank of Tajikistan.

A non-resident bank of the Republic of Tajikistan shall have the right to apply to the National Bank of Tajikistan for a permission to open a branch by a representation of the bank after a year of work in the territory of the Republic of Tajikistan.

A resident bank of the Republic of Tajikistan is entitled with permission of the National Bank of the Republic of Tajikistan to open bank subsidiaries as well as on the Republic of Tajikistan territory as well as in the outside.

Bank subsidiaries are opened on the territory of the Republic of Tajikistan in the order established by the National Bank, the Law and other laws of the Republic of Tajikistan.

A bank subsidiary is not entitled to establish another bank subsidiary. (Law # 62 as of 2.12.02)

**CHAPTER III THE ORDER OF OPENING BANKS, REGISTRATION AND LICENSING OF BANKING TRANSACTIONS**

**Article 16. Opening of banks, state registration and Issue of licenses for carrying out banking operations**

A legal entity or an individual shall have the right to apply to the National Bank of Tajikistan for issue of a permission to open a bank. (Law # 62 as of 2.12.02).

The application shall be submitted in the state language and shall contain the address of an applicant.

Banks shall be subject to state registration in the National Bank of Tajikistan that be registered in the Book of State Registration of banks and non-banking financial institutions. The registration fee 0,5% from the amount of the announced statutory fund shall be collected from banks and non-banking financial institutions.

A license for carrying out banking operations shall be given to a bank

after its state registration in the order established by this Law. Banks shall have the right to carry out banking operations from the moment of receipt of a license.

#### **Article 17. Licensing of banking operations**

Banks shall have the right to carry out banking operations only on the basis of a license given by the National Bank of the Republic of Tajikistan in the order established by this Law. Licenses issued by the National Bank of Tajikistan shall be recorded in the register of the issued licenses for banking transactions.

The register of the licenses issued for banks and non-banking financial institutions shall be subject to publication in the official edition of the National Bank of Tajikistan at least once a year, and changes and additions to the register - in one month from the date of their entry.

The license shall indicate banking operations that can be carried out by a bank as well as currency that can be used for carrying out banking operations.

Carrying out banking operations by a legal entity without a license shall entail exaction of the total amount of proceeds from these transactions and exaction of a fine which is a double amount of proceeds that shall be transferred to the republican budget.

The exaction shall be executed in an undisputable order at the demand of an appropriate agency authorized by the law and the National Bank of Tajikistan.

The National Bank of Tajikistan shall have the right to demand liquidation of a legal entity that is carrying out banking operations without a license in the order established by the law.

Citizens carrying out illegal banking operations shall bear responsibility in the order established by the Law.

Banks and non-banking financial institutions shall carry out professional activity at the securities' market in accordance with the license of the National Bank of Tajikistan.

#### **Article 18. Necessary documents for state registration of a bank and receipt of a license for banking operations**

The following documents shall be submitted for the state registration of a bank and receipt of a license for carrying out banking operations:

- an application for state registration of a bank and issue of a license for carrying out banking operations;
- a charter agreement;
- a charter;
- a protocol of the Board of Constitutors on adoption of charter and approval of candidates for appointment of heads of executive bodies and a chief accountant;
- copies of state registration certificates of constitutors that are legal entities, auditors' resolution on authenticity of their financial reports as well as the state tax agencies' confirmation of fulfillment of liabilities to the republican and local budgets for the last 3 years;

- revenue declaration of the constitutors - individuals, certified by the state tax agencies, confirming sources of funds deposited into the statutory fund of a bank;
- applications of the nominees to positions of the executive officer and the post of a chief accountant of a bank filled in by the nominees in the established order, as well as copies of their passports and education diplomas;
- the business plan of a newly established bank disclosing the strategy of its activity, directions and scales of its activity, financial outlooks (budget, balance of claims and liabilities, income statements for the first 3 (operational) years, marketing plan (formation of clientele of the bank), plan of hiring labor resources, control of internal audits;
- a report on preparatory measures held by the constitutors in accordance with the submitted business plan;
- a notarized or otherwise legalized document confirming authority of an applicant to submit the application on behalf of the constitutors.

### **Article 19. The Requirements for executives of a bank**

The Chairman of a bank and his deputies, the head of the accounting department (chief accountant) and his deputies, the head and a chief accountant of the bank branch shall be the executives of a bank. Officials, as well as candidates recommended to be appointed or elected to leading positions shall comply with the minimum requirements established by the items 3, 4 and 5 of this article. Compliance with the indicated requirements shall be determined by a qualification commission of the National Bank of Tajikistan.

A person shall be acknowledged not meeting the requirements of the post or cannot be appointed to the post of the Chairman of the Board if the person:

- a) shall not have higher economic education;
- b) has not canceled or expunged previous convictions;
- c) shall not have enough knowledge in banking and economic legislation;
- d) used to be an executive in a legal entity which became bankrupt or either in a bank or a non-banking financial institution which was deprived of a license for opening a bank because of non-fulfillment of legislation requirements and other anti-law actions;

The item (a) of the section 3 of this article shall not be applied to persons who do not have more than 10 years' experience as an official in a bank or non-banking financial institution.

Other executives of the bank appointed (elected) to posts must have higher or secondary special education appropriate for the type of work in addition to the requirements indicated in the items (b) and (c) and (d) of the section 3 of this article.

The Chairman of a bank and his deputies, head of the accounting department (chief accountant) and his deputies, the head and the chief accountant of the branch shall be appointed (elected) to posts by consent of the National Bank of Tajikistan and shall have an appropriate experience in the banking system:

The Chairman and the head of the accounting department (chief accountant)- no less than 3 years,

The Deputy Chairman and the deputy chief accountant-no less than 2 years,  
The Head and the Chief Accountant of the bank's branch – no less than 3 years, and their deputies – no less than 2 years.  
Separate persons can be appointed to the position of the acting executive indicated in the section one of this article for the period no more than 3 months.  
Executives and the staff of a bank or an organization created with their participation cannot be appointed to the position of Chairman of the Board of the Bank.  
Executives of banks, their branches, branches of foreign banks that function on the territory of the Republic of Tajikistan must be citizens of Tajikistan.  
The requirements envisaged by this Article shall be obligatory to follow by all banks and non-banking financial organizations during the whole period of their functioning.

**Article 20. The procedure of the state registration of a bank and Issue**

of the license for carrying out banking operations  
The National Bank of Tajikistan shall give a written confirmation to the bank's constitutors upon presentation of documents listed in the Article 18 of this Law.  
The National Bank of Tajikistan must take a decision on the state registration of a bank and issue of a license for carrying out banking operations or on refusal no later than in 6 months after submission of all properly formed documents.  
After taking a decision on the state registration of a bank and issue of a license for carrying out banking operations the National Bank shall notify the founders of a bank in 3 days by a proposal to pay 100 % of the announced statutory fund in three month's period and shall issue a certificate on the state registration of a bank.  
Non-payment or an incomplete payment of a statutory fund in the established time shall be a reason for cancellation of a decision on the state registration of a bank.  
For payment of a statutory fund, the National Bank of Tajikistan shall open a correspondent account for a registered bank or if it is necessary for a non-banking financial institution and the information about the account shall be indicated in the notification of the National Bank of Tajikistan on state registration of a bank and issue of a license for carrying out banking operations.  
Upon presentation of the documents confirming payment of 100 % of the announced statutory fund the National Bank of Tajikistan shall issue a license for carrying out banking operations within 3 days.  
A bank shall be obliged to notify the National Bank of Tajikistan of all changes in the personnel at the official level within two days after the date of implementation of such a decision.  
Appointment of a new executive or a chief accountant must meet the requirements of the Article 19 of this Law. The National Bank of Tajikistan shall give its consent for the mentioned appointments or provide a motivated refusal within one month in accordance with the

Article 21 of this Law.

Appointments for vacant positions of officials shall be made within three months.

**Article 21. The Grounds and procedures for refusal of state registration of a bank and Issue of a license for carrying out banking operations**

The refusal of state registration of a bank and issue of a license for carrying out banking operations shall be admitted only in the following cases:

a) disparity in qualification requirements to the candidates to the posts of bank's officials.

Disparity in qualification requirements means:

- absence of an appropriate higher education as well as experience in governing a department or any other subdivision of a bank related to carrying out banking operations, or experience in governing of such a subdivision in accordance with the requirements of the article 19 of this Law;
- meeting the requirements of the item (b) of the section 3 of the Article 19 of this Law;
- administrative infringements in trade and finance within one year which were fixed by a legal resolution of an agency authorized to consider administrative infringements;
- availability of abrogation of labor contracts during last two years on the initiative of the administration on grounds envisaged by the Article 46 of the Labor Code of the Republic of Tajikistan with the exception of items 1,8,9,10.

b) unsatisfactory financial standing of bank's founders or non-fulfillment of obligations taken by them to the republican and local budgets for the last 3 years;

c) disparity of documents, in the form as well as in contents, handed in for the state registration of a bank and getting a license with the requirements of the National Bank of the Tajikistan.

A decision on refusal in state registration and issue of a license shall be advised to the founders of a bank in written and must be motivated.

Refusal in the state registration and issue of a license, non-taking an appropriate decision by the National Bank of Tajikistan in the prescribed time can be appealed in the High Economic Court of the Republic of Tajikistan.

**Article 22. State registration of a bank with a foreign capital and a branch of a foreign bank and Issue of a license for carrying out banking operations**

For state registration of a bank with a foreign capital and a branch of a foreign bank and receipt of a license for carrying out banking operations, in addition to the documents indicated in the Article 18 of this Law, the following properly drawn up documents shall be presented additionally:

- decision of a foreign legal entity on participation in foundation of a bank on the territory of the Republic of Tajikistan or on opening of a bank's branch;
- a document confirming the registration of a legal entity and the balance

for the last 3 years approved by an auditors' decision;  
- a written approval of an appropriate inspection agency of the country of its location for participation in foundation of a bank on the territory of the Republic of Tajikistan or for opening of a bank's branch in cases when such an approval is requested according to the legislation of the country of its location.

A foreign individual shall present a confirmation from a first-class foreign bank of solvency of the individual (in accordance with the international practice).

**Article 23. Additional requirements to foundation and activities of banks with foreign investments and foreign bank branches**

The size (quota) of a foreign capital in the banking system of the Republic of Tajikistan shall be fixed by the Resolution of the Government of the Republic of Tajikistan which will be agreed on with the National Bank of Tajikistan. The indicated quota shall be calculated as a ratio of the total capital, belonging to non-residents in the statutory funds of banks with a foreign capital, and the capital of foreign bank branches to the total joint statutory fund of the banks registered on the territory of the Republic of Tajikistan.

The National Bank of Tajikistan shall cease issue of licenses for carrying out banking operations to banks with a foreign capital, foreign bank branches upon reach of the fixed quota.

A bank shall be obliged to get a prior approval of the National Bank of Tajikistan for increase of its statutory fund at the expense of non-residents, for alienation (including sale) of its own stocks (shares) in favor of non-residents, and participants of the bank - residents - shall get the approval of the National Bank of Tajikistan for alienation of belonging to them stocks (shares) of the bank in favor of non-residents. The indicated deals involving alienation of stocks (shares) to non-residents made without the approval of the National Bank of Tajikistan shall be considered invalid with the exception of cases stipulated in the section 5 of this article.

The National Bank of Tajikistan shall have the right to prohibit increase of statutory fund of a bank at the expense of the funds of non-residents and to alienate the stocks (shares) in favor of non-residents if this action results in an excess of the quota of a foreign capital in the banking system of the Republic of Tajikistan.

An announcement for intention to increase the statutory fund of a bank at the expense of the funds of non-residents and alienation of stocks (shares) in favor of non-residents shall be considered by the National Bank of Tajikistan within 2 months from the day of presentation of the announcement. The result of the consideration shall be either an approval for carrying out of such an operation or a motivated written refusal. In case if the National Bank of Tajikistan does not inform of the decision taken within the prescribed time, the indicated operation will be considered as approved.

The National Bank of Tajikistan shall have the right, on agreement with the Government of the Republic of Tajikistan, to set up limits in carrying out banking operations for banks with a foreign capital and foreign bank branches if in foreign states limits in foundation and functioning of banks

are applied to banks with investments from Tajikistan and Tajikistan bank branches.

The National Bank of Tajikistan shall have the right to set up, in the order established by the Law of the Republic "On the National Bank of Tajikistan", additional requirements to banks with foreign capital and foreign bank branches concerning compulsory requirements, procedure of reporting, approval of the executives and a list of banking operations, as well as the minimum amount of a statutory fund of newly registered banks with foreign capital and the minimum amount of the capital of newly registered foreign bank branches.

#### **Article 24. Foundation of bank branches and representation**

A bank branch shall be a subdivision of a bank, which is not a legal entity, located outside the bank, carries out banking operations on behalf of the bank and acting within the limits of authorities given to the branch by the bank.

Bank's branch shall have a unified with the bank statutory fund, balance and a name that fully coincides with the bank's name.

A bank shall be obliged to get consent of the National Bank of Tajikistan for opening, merger and closure of its branch.

The issue of giving consent for opening, merger and closure of bank's branch must be considered by the National Bank of Tajikistan in 3 months.

The following documents shall be attached to the application for opening of a branch:

- regulations for bank branches which shall include a list of banking operations which the branch shall be authorized to carry out; information about the nominees for the posts of the executive and the chief accountant of a bank branch in accordance with the requirements of the Article 19 of this Law.

Approval of the local representative and executive bodies shall not be needed for foundation of a bank, a branch or a representation on the territory of the Republic of Tajikistan.

Refusal to give consent to open a bank branch shall be given for any of the following reasons:

a) disparity of candidates to the positions of the first leader and the chief accountant of a branch

to minimum requirements, established by items 2-4 of the article 19 of this Law;

b) disparity of premises and equipment of a branch with the requirements of the National Bank of Tajikistan;

c) non-observance of prudential standards set up by the National Bank of Tajikistan by a bank;

d) infringement of the acting legislation and normative instruments of the National Bank of Tajikistan;

e) presentation of an unclear or an unconvincing business plan (economic and legal basis) on necessity

of foundation of a branch;

Representation of a bank - a subdivision of a bank, which is not a legal entity, located outside the bank, acting on behalf and by order of the bank and not carrying out any banking transactions on behalf and by

order of the bank.

The following documents should be attached to the application for opening a representation of a non-resident bank:

- a) promotional documents of a bank-applicant;
- b) a decision of an appropriate agency of a bank-applicant on opening of a representation on the territory of the Republic of Tajikistan;
- c) a written confirmation of a banking supervision agency of a corresponding State that the bank-applicant has an valid license for carrying out banking operations;
- d) an annual report of the bank-applicant (including consolidated balance and income statement) for the last financial year;
- e) a written notification of a banking supervision agency of a corresponding State that it does not object to opening a representation of a bank-applicant on the territory of the Republic of Tajikistan, or an announcement of a banking supervision agency or an authoritative legal office of a corresponding state that such a permission is not required by the legislation of the State of a bank-applicant;
- f) information on the proposed number of the representation's staff and its executive.

**Article 25. Measures applied by the national bank of Tajikistan to banks in cases of infringement of laws of the Republic of Tajikistan and**

**normative instruments of the national bank of Tajikistan**

For infringement of the laws of the republic, normative instruments, instructions and set-up compulsory normatives of the National Bank of Tajikistan, non-presentation of information, presentation of an incomplete or not authentic information as well as actions that creating a real threat to the depositors' and creditors' interests, the National Bank of Tajikistan shall have the right to undertake measures established by the Law of the Republic of Tajikistan "On the National Bank of Tajikistan" as supervisory measures.

**Article 26. Grounds for cancellation of a license for carrying out banking operations**

NBT can cancel a license for carrying out banking operations in cases of:

- discovery of untrue information on which the issue of a license depended;
- delay in carrying out banking operations foreseen by the license for more than one year from the date of issue of the license;
- discovery of inauthentic reporting data;
- carrying out banking transactions (including one time) not envisaged by the license of the National Bank of Tajikistan;
- failure to perform the requirements of the Republican Laws that regulate banking activities as well as normative instruments of the National Bank of Tajikistan if measures foreseen by the Law of the Republic of Tajikistan "On the National Bank of Tajikistan" were applied

to the bank several times within a year;

- unsatisfactory financial standing of a bank or non-banking financial institution, non-performance of its obligations toward its depositors and creditors that is the basis for application of sanctions envisaged by the Article 48 of the Law of the Republic of Tajikistan “On the National Bank of Tajikistan” to a bank.

Cancellation of a license for carrying out banking operations on grounds other than those envisaged by this Law shall not be allowed.

An announcement concerning cancellation of a license for carrying out banking operations shall be issued by the National Bank of Tajikistan in an official publication of the National Bank of Tajikistan within a week from the date of taking an appropriate decision.

### **Article 27. Voluntary reorganization of a bank**

Voluntary reorganization of a bank ( merger, division, detachment, transformation) can be carried out according to a decision of the general assembly of shareholders and with consent of the National Bank of Tajikistan.

The bank being reorganized is obliged during one month since getting a permission of the National Bank for conducting reorganization to inform about the coming changes all its depositors, clients, borrowers and other stakeholders by direct informing and publication of a relevant announcement.

The state registration or re-registering of the bank created as a result of the reorganization is implemented in line with the acting legislation of the Republic of Tajikistan.

The order of voluntary registration of the bank, including the order of applying with a petition on getting a consent of the National Bank for implementation of the voluntary reorganization and the period of its consideration is established in line with the requirements of the legislation of the Republic of Tajikistan. (Law # 62 as of 2.12.02)

### **Article 27 (1) Basis for rejection of issuing the permission for voluntary reorganization of a bank**

A refusal to issue a permission of the National Bank for voluntary reorganization of a bank is implemented based on any of the following:

- 1) Lack of appropriate decisions of the highest body of the bank being reorganized
- 2) Violation of interests of depositors and creditors as a result of the proposed reorganization
- 3) violation as a result of the proposed reorganization of economic normative and other obligatory norms
- 4) violation as a result of the proposed reorganization, of requirements of antimonopoly legislation.

(Law # 62 as of 2.12.02)

### **Article 27 (2) Voluntary and compulsory liquidation of a bank**

A bank based on decision of its highest body is entitled to apply to the National Bank with a petition to give an agreement for its voluntary liquidation.

The petition is to have a list of activities with dates and phases of

preparation of the bank for cessation of its activity, approved by the highest body of the bank, the balance report, witnessing the adequacy of bank funds for doing calculations for its obligations and other necessary data defined by the National Bank.

When receiving an agreement of the National bank for voluntary liquidation the bank establishes a liquidation committee to which all authority is given for management of property and business of the bank. After getting an agreement for voluntary liquidation the bank is to publish information about it in official prints,

In case funds are insufficient to meet requirements of all creditors or the voluntary liquidation is impossible the bank is subject to compulsory liquidation.

The order of liquidation, the peculiarities of activities of a liquidation committee of banks being liquidated on voluntary basis are defined by the Law, other laws of the Republic of Tajikistan and legal acts of the National Bank.

A compulsory liquidation of banks is implemented based on the court decision and on line with requirements of the Republic of Tajikistan. (Law # 62 as of 2.12.02)

#### **CHAPTER IV. REGULATION OF ACTIVITIES OF BANKS AND PROTECTION OF DEPOSITORS' INTERESTS**

##### **Article 28. Methods of regulation of activities of banks and protection of depositors' interests**

In order to provide financial stability of banks, protection of their depositors' interests, and to sustain stability of the monetary system of the Republic of Tajikistan the National Bank of Tajikistan within its competence shall carry out regulatory activities of banks by the way of :

- a) establishment of prudential normatives and other limit requirements, including reserve requirements, loan loss provisions and dead assets;
- b) issue of compulsory instructions and other normative instruments for banks;
- c) controlling of banks' activities;
- d) issue of recommendations on improving of financial standing of banks;
- e) undertaking influence measures to banks;
- f) imposing sanctions on banks.

With the purpose of the social protection of the citizens, timely return of deposits banks are obliged to create an insurance fund. The procedure of forming and the size of this fund shall be determined by the National Bank of Tajikistan.

##### **Article 29. Prudential normatives and other compulsory norms and limits**

Prudential normatives set by the National Bank of Tajikistan requiring obligatory adherence by banks shall include:

- a) minimum amount of statutory fund of a bank;
- b) limited size of the non-cash part of the statutory fund that shall not

- exceed 20% of the statutory fund of a bank;
- c) maximum risk for one borrower or a group of borrowers;
- d) liquidity ratio;
- e) capital adequacy ratio;
- f) size of the foreign exchange, interest and other risks;
- g) ratio of use of the own funds of banks for acquisition of shares (stocks) of other legal entities;
- h) maximum size of credits, guarantees and warranties extended by banks to their shareholders.

The National Bank of Tajikistan shall have the right to set up additional prudential normatives that are used in the international banking practice and identify responsibility of banks for infringement of prudential regulations.

Normative values and methods of calculation of prudential regulations, procedure of calculation and limits of foreign exchange exposure, classification of credits and loan loss provisions, method of observance and methods of calculations, forms of reporting and time of presentation shall be set up by the National Bank of Tajikistan.

### **Article 30. The procedure of setting up a reserve fund and loan loss provisions**

In order to cover losses caused by carrying out banking activities, banks shall be obliged to form a reserve fund from the profit of banks after to payment of taxes.

The minimum size of the reserve fund shall be set up by the National Bank of the Tajikistan.

In order to provide a sufficient level of reliability of its activities in accordance with the type and scale of operations, banks must classify extended credits and other assets setting aside those which are bad debts and create loan loss provisions following conditions and procedures set up by the National Bank of Tajikistan.

The order of classification of credits and the size of provisioning for every type of classified credits shall be set up by the National Bank of Tajikistan.

### **Article 31. Inspection of activities of banks**

Inspection of activities of banks shall be carried out by the National Bank of Tajikistan within the limits set up by the Law.

Banks shall be obliged to assist with issues and tasks indicated in the request of the National Bank of Tajikistan and provide a chance of interrogation of any officials and employees and access to any sources of information necessary for fulfillment of inspection.

The National Bank employees shall be prohibited from disclosing or transferring to other persons information received in the course of inspection.

Persons carrying out the inspection shall be responsible for disclosing information received in the course of inspection the activities of banks as this information is a matter of banks' confidentiality.

Tax bodies can check banks in part of full and timely payment of taxes from the banking activities that shall be due. (Law # 62 as of 2.12.02)

All other ministries and agencies of the Republic of Tajikistan and their

departments (divisions) can not check banks' activities. Their relationships with banks shall be executed in the order established by the article 32 of this Law.

### **Article 32. Bank confidentiality**

1. Bank confidentiality shall extend to information on:

- availability of funds and their owners;
- numbers of accounts of depositors, clients and correspondents;
- on balances of these accounts and flow of funds on the accounts and accounts of a bank itself;
- banking operations on the instruction of a client or in his favor;
- information that the client wants to keep in secret;
- availability of funds, their owners and the cost of the clients' property which is in the safe boxes, boards and premises of a bank.

Banks shall guarantee not disclose banking secrets.

Officials, staff of banks and others that have access to banks' confidential information because of their office duties bear criminal responsibility for disclosure with the exception of cases envisaged in the items 4-8 of this Article.

Confidential banking information can be disclosed only to the owner of the account (property) or to a third person with a written consent from the owner of the account (property) given at his presence in the bank, as well as to persons indicated in the items 5-8 of this Article .

References on confidential information of banks shall be given to:

a) inquiry and preliminary investigation agencies pursuing cases on the basis of the resolution of inquiring person, investigator, that shall be approved by the General Prosecutor , Prosecutor of a region, city or district respectively;

b) to courts: for criminal, civil and administrative infringements cases (if a client is on the side of the case) being processed based on the court's decision;

c) tax services: on issues of tax payments by individuals and legal entities being inspected on the basis of the letter of the head of the tax agency and upon presentation of a copy of an instruction of a tax agency for checking;

Information on balances and flows of funds through the accounts of an individual and information on the type and cost of his property being safe kept in safe deposit boxes and bank premises , as well as the information that represents bank confidentiality shall be given to:

a) representatives of an individual on the basis of a legalized warrant;

b) inquiry and preliminary investigation agencies:

- on initiated and being processed criminal cases when the non-monetary assets and property of an individual located on accounts or lodged with bank , a levy can be applied or the property can be confiscated.

c) courts

- for the cases being processed by them on basis of the definition by a court in cases when funds and other property of an individual lodged on accounts or with a bank, the levy can be applied or the property may be confiscated

d) tax services concerning matters indicated in the item (c) of the section

5 of this Article.

Information concerning availability of accounts of an individual and balances of these accounts, information on availability, type and cost of his property safe kept in safe deposit boxes and bank premises in case of death of the owner shall be given to:

- a) persons indicated by the owner of an account (property) in the testament;
- b) courts and notaries pursuing inheritance cases;
- c) foreign consulates for pending inheritance cases.

Banks are entitled to create their own security service with the purpose to provide safety of bank's property and bank's confidentiality and in agreement with appropriate executive agencies acquire necessary technical facilities, weapons and other equipment. (Law # 62 as of 2.12.02)

Part 9 is excluded . (Law 62 as of 2.12.02)

### **Article 33. Seizure and exaction of monetary assets and other valuables kept in a bank**

Monetary assets and other valuables of legal entities and individuals in accounts deposited or safe kept in a bank, can be seized only by court, as well as on resolution of preliminary investigation agencies if a prosecutor's sanction is available.

At seizure of funds in accounts and deposits a bank immediately, upon receipt of decision on seizure, shall stop expenditure transactions on this account (deposit) within the seized funds.

Monetary assets and valuables of individuals and legal entities in accounts and deposits or safe kept in a bank, can be exacted only on the basis of executive documents and documents equal to these in accordance with the legislation of the Republic of Tajikistan.

A bank, the National Bank of Tajikistan shall not be responsible for damage caused in the result of illegal seizure or exaction of funds and other valuables of their clients. Losses shall be recovered by the agency that has taken a decision on seizure. (Law # 62 as of 2.12.02)

Confiscation of funds and other valuables can be made only on the basis of a verdict of the court which has come into force.

### **Article 34. Interest rates on credits, deposits and commission fees on bank's transactions**

Interest rates on credits, deposits and commission fees on transactions and services shall be set up by a bank on agreement with clients.

A bank shall not have a right to change in a unilateral way interest rates on credits, deposits, commission fees and terms of these agreements with clients, except the cases envisaged by an agreement with a client.

### **Article 35. Relations between banks and their clients**

Relations between banks and their clients shall be carried out on the basis of an agreement I fotherwise not provided by the legislation of the Republic of Tajikistan. (Law # 62 as of 2.12.02)

Depositors of a bank can be citizens of the Republic of Tajikistan, foreigners and persons, which do not have citizenship. They shall be

free in the choice of a bank for depositing of their funds and can have deposits in one or several banks, manage their deposits, get dividends on them, make non-cash transactions in accordance with the agreement.

The agreement shall indicate interest rates on credits and deposits, cost of bank's services and terms of their execution, including terms of processing of pay documents, property responsibility of the parties for infringement of the agreement, including responsibility for infringement of obligations on terms of payments, and the order of abrogation and other important terms of the agreement.

Clients of a bank are entitled to open bank accounts as in one as well as in several banks, if otherwise not provided by the legislation of the Republic of Tajikistan. (Law # 62 as of 2.12.02)

The order of opening, keeping and closure of clients' accounts in the national currency and foreign exchange accounts by a bank shall be established by the National Bank of Tajikistan

Bank transactions are conducted openly and can not be a subject of a bank secret. This regulation is not applied for conditions of conducting a specific transaction as requested by the client.

When conducting bank transactions the bank is obliged under request of the client to provide the risk of possible losses, a license for doing bank transactions and information on accounting balance, report of profits and losses and auditor's opinion for the previous year and also monthly accounting balances for the current year. (Law # 62 as of 2.12.02)

### **Article 36. Carrying out settlements by a bank**

A bank shall carry out settlements according to the rules, forms and standards, set up by the National Bank of Tajikistan, and in case of absence of rules of carrying out separate types of settlements - on an agreement between each other; while carrying out international settlements - in the order established by the rules accepted in the international banking practice.

A bank shall be obliged to carry out a transfer of clients' funds and enter the funds in an account no later than the next operational day after receipt of an appropriate pay document if otherwise is not stipulated by the republican law, agreement of pay document. (Law # 62 as of 2.12.02)

In case of untimely or incorrect entry in an account or writing off of an account of the client the bank, the National Bank of Tajikistan shall pay interest for the amount of these funds at the refinancing rate of the National Bank of Tajikistan per each day.

### **Article 37. Antimonopoly rules**

Banks shall be prohibited to conclude agreements and carry out agreed actions aimed at monopolization of banking services and limiting of competitiveness in banking.

No bank shall have a right to demand as a condition extending credits or rendering other services to a client so that the client is bound to make use of other bank's or other institution's services. The only exception of this ban shall be that a bank can request the client to maintain a

minimum level of an account balance in this bank as an element of guarantee of the cost of credit or a service rendered (or being rendered). Acquisition of stocks (shares) of banks and conclusion of agreements which envisage carrying out control over the banks (or a group of banks) activities shall not contradict to antimonopoly rules.

Observance of antimonopoly rules in the sphere of banking services shall be controlled by a state agency on antimonopoly policy together with the National Bank of Tajikistan. (Law # 62 as of 2.12.02)

Banks shall be prohibited to deal directly with production, trade or intermediary activities with the exception of cases and sizes indicated in the item 7 of the article 45 of the Law of the Republic of Tajikistan "On the National Bank of Tajikistan".

#### **Article 38. Provision of repayability of credits**

Credits extended by a bank can be secured by pledge of real and personal estate, including state and other securities, bank guarantees and other ways envisaged by republican laws or an agreement. (Law # 62 as of 2.12.02)

In case of infringement of obligations by a borrower, according to the agreement a bank has the right to exact extended credits and interests accrued ahead of schedule, if it is envisaged by the agreement, as well as exact the pledged assets in the order established by the republican law. (Law # 62 as of 2.12.02)

#### **Article 39. Announcement of debtors as insolvent (bankrupt) and discharge of a debt**

In respect to the borrower that did not fulfill the obligations of a credit agreement, the bank-creditor shall have the right to:

- not extend new credits;
- exact funds from any accounts of the borrower (in case if it is envisaged by the credit agreement);
- apply to the court with an application on declaration of an insolvent borrower a bankrupt in accordance with the legislation of the Republic of Tajikistan.

#### **Article 40. Obligations of banks on providing safety of the deposits of the population**

The Government of the Republic of Tajikistan shall guarantee safety of cash and other valuables of individuals, which are entrusted to the departments of the Savings Bank of the Republic of Tajikistan, giving out on the first demand of the depositors. The State shall not be responsible for the obligations of other banks.

Other banks with this purpose create an insurance fund or insure deposits of the population in the order and on terms established in the Republic of Tajikistan.

### **CHAPTER VII. ACCOUNTING AND BANKING SUPERVISION**

#### **Article 41. Accounting rules in banks**

Methodology and rules of accounting in banks, list, forms and terms of accounting and other reports as well as responsibility for infringements

of them shall be set up by the National Bank of Tajikistan.

The banks shall be obliged to submit to the National Bank of Tajikistan at its request any information on its funds, including funds deposited outside the Republic of Tajikistan; accepted deposits and extended credits, banking transactions and other information, including bank's confidentiality.

The National Bank employees shall be prohibited to disclose or transfer the information received in the course of carrying out rights set up by section 2 of this article to third parties.

All principles of accounting and banks' charts of accounts, as well as their financial reports shall be established by the National Bank of Tajikistan in accordance with the international standards of accounting .

#### **Article 42. Audit of a bank**

Bank's activities shall be subject to annual audit by a firm (an auditor) which has, in accordance with the legislation of the Republic, a license for carrying out such audits. (Law # 62 as of 2.12.02)

The National Bank of Tajikistan shall be the only agency on the territory of the Republic of Tajikistan which has the right to issue licenses for audit of banks. Auditing is conducted in line with the Law and other laws of the Republic of Tajikistan. (Law # 62 as of 2.12.02)

Audit of a bank shall be carried out from the point of view of:

- identification of authentic standing of the capital and financial standing of a bank;
- timely, full and exact reflection of banking transactions in accounting and reports;
- conformity of executed banking transactions with the requirements of the Law and normative instruments of the National Bank of Tajikistan;
- conformity of executed banking transactions with the general forms of their execution, and conformity of the order of execution of banking transactions with the internal banking rules. An auditors' firm (an auditor) shall expand the results of audit and conclusions in the report to the board and council of a bank. The report shall contain information on the trustworthiness of bank's financial reports, carrying out of compulsory normatives, established by the National Bank of Tajikistan, internal control standing and other provisions determined by the republican legislation and the charter. (Law # 62 as of 2.12.02)

Auditors' firm (an auditor) must submit to the National Bank of Tajikistan, at its request, a copy of the report and information on the audit carried out.

Ministries, other executive agencies of the Republic of Tajikistan can not carry out an audit or inspection of the financial-economic activity of a bank. Internal audit of a bank shall be carried out by a special bank's service and an auditing commission.

#### **Article 43. Submission and publication of reports**

Banks shall submit to the National Bank of Tajikistan in the end of a financial year but no later than the established time:

- a financial report approved by the auditors;
- information on their activities and operations in the past year.

Banks shall publish annual reports including annual balance and profit

and loss statement in accordance with the forms and in time established by the National Bank of Tajikistan after the approval of the information by an auditor's firm (an auditor) and approval of the annual balance and profit and loss statement by the annual Board of bank's shareholders.

## **CHAPTER VIII. NON-BANKING FINANCIAL INSTITUTIONS**

**(Law # 62 as of 2.12.02)**

### **Article 44. Non-banking financial institutions**

Non-banking financial institutions - legal entities that are not banks and can conduct separate banking operations on the basis of a license of the National Bank of Tajikistan, render financial services to individuals and enterprises. However, the services rendered by them shall not include involving in commercial, insurance or industrial activities either directly or indirectly, in no scales.

Statute, the order of creation, list of banking transactions and grounds for getting an approval for this, possible restriction on their activities shall be set up by the normative regulations of the National Bank of Tajikistan in accordance with the Law of the Republic of Tajikistan "On the National Bank of Tajikistan".

### **Article 45. Responsibility for infringements of this law.**

In case of carrying out banking operations by banks without an appropriate license of the National Bank of Tajikistan, the profit of these transactions shall be exacted in an indisputable order in accordance with the law.

Audit of the bank's activities carried out by an auditors' firm (an auditor) which does not have a license of the National Bank of Tajikistan shall be considered not valid and the profit from this kind of activity shall be subject to exaction in the order established by the legislation.

In accordance with the republican legislation banks shall be responsible for advertisement not conforming with the reality; as well as legal entities are responsible for advertisement of rendered services, which are considered banking transactions, without having a license of the National Bank of Tajikistan for carrying out banking transactions.

The bank is responsible in line with the Law and other laws for misleading individuals and legal entities by not providing information or providing untrue or incomplete information. (Law # 62 as of 2.12.02)

### **Article 46. Responsibilities of the employees of banks**

Bank employees are to ensure safety of assets and valuables that belong to a bank as well as assets and valuables of legal entities and individuals accepted by a bank.

In case of a serious infringement by an official, which led to material losses, or that influenced financial standing of a bank, the bank's executive shall be responsible as well in the order and amounts set by the legislation of the Republic of Tajikistan.

### **Article 47. Consideration of disputes (Law # 62 as of 2.12.02)**

The national Bank of Tajikistan and other persons are entitled to appeal against the actions of the National Bank of Tajikistan in the area of

regulation of banking activity at the Supreme Economic court of the Republic of Tajikistan.

The bank is entitled to apply to the National Bank of Tajikistan with request and applications with regards to actions or inactivity of the National Bank in reply to what the NBT is to answer in monthly period concerning the substance of the issues addressed.

Disputes between banks and their clients (legal entities and individuals) are permitted in the order provided for the laws of the Republic of Tajikistan. (law #62 as of 2.12.02)

*May 23, 1998*