

# THE LAW OF UKRAINE ON THE NATIONAL BANK OF UKRAINE

*(as amended as of March 17, 2009)*

## **Section I. GENERAL PROVISIONS**

### **Article 1. Terms and Definitions**

The terms and definitions used herein shall have the following meaning:

"bank" shall denote a legal entity which, on the basis of the license issued by the National Bank of Ukraine, conducts activities on taking the deposits from natural persons and legal entities, keeping the accounts and providing the credits on its own terms;

"banking metals" shall denote gold, silver, platinum, platinum-group metals affined to the highest international standards, both in ingots and powder, provided with quality certificates, as well as coins made of precious metals;

"banking regulation" shall denote one of the functions of the National Bank of Ukraine consisting in establishing the system of ratios which regulate banks' activities, determine basic principles of banking, procedures of banking supervision, responsibility for the banking legislation violation;

"banking supervision" shall denote the system of control and active ordered actions of the National Bank of Ukraine aimed at ensuring the banks' and other financial and credit institutions' compliance with the laws of Ukraine and the established norms in their activities, in order to ensure stability of the banking system and protect the depositors' interests;

"currency values" shall denote the material objects determined by Ukraine's currency regulation legislation as a means of foreign exchange and financial relations;

"open market" shall denote the market where the securities purchase and sale transactions are effected between the persons, who are not the primary lenders and borrowers, provided that the proceeds from the sale of securities in such market are received by securities' holders, but not the issuers thereof. As a rule, it should be used by central banks for the purposes of sale and purchase of the short-term government securities in order to regulate the money supply. The investment of funds into the national economy increases as a result of the purchase and reduces as a result of the sale;

"currency position" shall denote the ratio between bank's claims and liabilities in foreign currency. If they are equal, the position shall be deemed closed, otherwise it shall be deemed open. An open position shall be deemed short if the amount of liabilities in the sold currency exceeds the amount of claims, and long if the amount of claims in the purchased currency exceeds the amount of liabilities;

"monetary policy" shall denote a complex of actions in the sphere of money turnover and credits aimed at regulation of economic growth, suppression of the inflation and ensuring of stability of the monetary unit of Ukraine, employment of the population and the equalization of the balance of payments;

"monetary substitute" shall denote any instruments in the form of bank notes different from the monetary unit of Ukraine, issued by a body other than the National Bank of Ukraine and manufactured in order to effect payments in the process of the economic turnover, *but currency values*;

"foreign exchange policy" shall denote the policy of regulating the foreign exchange rate by means of sale and purchase of foreign currency;

"discount foreign exchange policy" shall denote the increase or reduction of the rate of interest on credits by the National Bank of Ukraine in order to regulate the demand for and the supply of the lending capital;

"gold and foreign exchange reserve" shall denote Ukraine's reserves indicated in the balance sheet of the National Bank of Ukraine, including the assets recognized as international assets by the international community and designed for international settlements;

"insider" shall denote a legal entity or a natural person which has an access to the confidential information on the bank's activity due to job position, the share in the bank's capital, family connections and thus has an opportunity to use this position for one's own interests;

"creditor of last resort" shall, as a rule, denote the National Bank of Ukraine, to which a bank or other credit institution may apply for refinancing in case of the exhaustion of other refinancing opportunities. The National Bank of Ukraine shall be entitled, but not obliged, to grant credits for refinancing of the bank, unless this is associated with risks to the banking system;

"treasury bills" shall denote debt securities issued by the state through its authorized bodies which are distributed exclusively on a voluntary basis among the natural persons and legal entities and testify to the funds paid in by their owners to the budget and entitle them to obtain financial income or other property rights according to the terms and conditions of the securities issue;

"metal accounts" shall denote the accounts opened by authorized banks of Ukraine to register transactions with the banking metals;

"basic principles of monetary policy" shall denote a set of variable financial indicators enabling the National Bank of Ukraine to regulate the money turnover and crediting of the national economy by means of monetary instruments (means and methods), in order to ensure stability of the monetary unit of Ukraine as a monetary pre-requisite of the economic growth and maintain a high level of employment of the population;

"discount rate of the National Bank of Ukraine" shall denote the percentage commission taken by the National Bank of Ukraine for the refinancing of commercial banks by purchasing bills of exchange prior to their term of payment to be deducted from the nominal amount of the bill of exchange. The discount rate shall be the lowest among the refinancing rates and serve as a benchmark for the price of money;

"official publication of the National Bank of Ukraine" shall denote a special publication designated as official by the National Bank of Ukraine and registered

according to the established procedure, where the regulations of the National Bank of Ukraine are published, as well as informational, analytical, statistical and other materials, reviews of the state of Ukraine's banking system, foreign exchange and financial markets, etc.;

"official exchange rate" shall denote the currency rate officially set by the National Bank of Ukraine as an authorized body of the state;

"balance of payments" shall denote the ratio between the amount of pecuniary revenues obtained by the country from abroad and the amount of payments effected by it abroad during a certain period. The balance of payments shall include the settlements related to foreign trade, services, non-commercial transactions, revenues from capital investments abroad, trade in licenses, freight and service of vessels, tourism, upkeep of diplomatic and trade missions abroad, money transfers of individuals, payments to other countries under loans, etc. The balance of payments shall include the capital flow: investments and credits;

"reserve position with the International Monetary Fund (hereinafter referred to as IMF)" shall denote the claims of a member country to the IMF which are defined as a difference between the quota and IMF's holdings in the currency of the member country less the IMF holdings received by a member country in the form of the IMF loans and the balance on Account No. 2 of the IMF, which shall not exceed 0.1% of the member country's quota;

"refinancing rates of the National Bank of Ukraine" shall denote the percentage commission for credits granted to commercial banks which is established by the National Bank of Ukraine in order to influence the money turnover and crediting. The National Bank of Ukraine shall establish the discount and lombard rates;

"special drawing rights (SDR)" shall denote the international reserve asset created by the IMF in addition to the existing international reserve assets, which is a basket of five currencies, whose make-up is revised every five years. The value of the special drawing rights is determined on a daily basis;

"*financial institution*" shall denote a legal entity that exercises one or several transactions, which are allowed to be conducted by banks, with the exception of the acceptance of deposits from population;

"price stability" shall denote keeping the pricing system at a certain level by means of maintaining a stable exchange rate of the monetary unit of Ukraine;

"insolvency" shall denote:

- disability to meet the legitimate claims of creditors within one month;
- reduction of the amount of own funds to a level less than one third of the amount designated as the minimum required amount by the NBU.

## **Article 2. Legal Basis for Activities of the National Bank of Ukraine**

The National Bank of Ukraine (hereinafter referred to as the National Bank) is the central bank of Ukraine, a specific central body of the state administration, whose legal status, objectives, functions, powers and principles for organization shall be determined by the Constitution of Ukraine, this Law and other laws of Ukraine.

The management bodies and the headquarters of the National Bank shall be located in the City of Kyiv.

### **Article 3. Authorized Capital**

The National Bank shall have the authorized capital being the state property.

The authorized capital shall amount to UAH 10 million. It may be *increased* by a decision of the Council of the National Bank.

The revenues of the National Bank budget and, if necessary, the State Budget of Ukraine shall be sources of its authorized capital.

### **Article 4. Economic Independence**

The National Bank shall be an economically independent body that shall pay the expenses for the account of own revenues within the limits of the approved budget and, in cases provided for hereby, at the expense of the State Budget of Ukraine. The National Bank shall be a legal entity with separated property that is the object of the state property right and is in the full economic competence of the National Bank.

The National Bank shall not be responsible for the liabilities of the government bodies; the government bodies shall not be responsible for the liabilities of the National Bank, except for their voluntary assumption of such an obligation.

The National Bank shall not be responsible for the liabilities of other banks: other banks shall not be responsible for the liabilities of the National Bank, except for their voluntary assumption of such an obligation.

The National Bank may open its institutions, branches and representative offices in Ukraine, as well as representative offices abroad.

The National Bank, its institutions, branches and representative offices shall have a seal with the National Emblem of Ukraine and their respective names.

### **Article 5. Income and Expenses**

Obtaining the profit shall not be the objective of the National Bank's activity.

The planned income and expenses of the National Bank shall be indicated in the budget of its income and expenses. The income and expenses budget shall ensure the ability of the National Bank to exercise its functions as stipulated by the Constitution of Ukraine and hereby.

Subject to the year results the National Bank, in case of the excess of the budget income over the budget expenses approved for the current financial year, shall include the positive difference in the State Budget of Ukraine for the year following the reporting year, a part whereof in an amount of 25 per cent but not less than UAH 1 billion shall be spent every year for replenishment of the Deposit Insurance Fund, capitalization of banks and the State Mortgage Authority, whereas the excess of expenses over the income shall be compensated at the expense of the State Budget of Ukraine of the year following the reporting year.

*Formation of funds and reserves of the National Bank to cover credit risks, related to exercising its functions, shall be carried out according to the regulations approved by the Council of the National Bank of Ukraine.*

### **Article 6. Main Function**

According to the Constitution of Ukraine (254k/96-VR), the main function of the National Bank is to ensure stability of the monetary unit of Ukraine.

To carry out its main function, the National Bank shall foster stability of the banking system and, within its competence, the price stability.

#### **Article 7. Other Functions**

The National Bank shall exercise the following functions:

1. to determine and implement the monetary policy in accordance with the Basic Principles of the Monetary Policy developed by the Council of the National Bank of Ukraine;
2. to issue the national currency of Ukraine on a monopoly basis and to organize its circulation;
3. to act as a creditor of last resort for banks and to organize the refinancing system;
- 4. to establish the rules of conducting banking transactions, accounting and reporting, protection of information, funds and property of banks;**
5. to organize and to provide the methodological support to the system of monetary, crediting and banking statistical information and the statistics of the balance of payments;
- 6. to determine the system, procedure and forms of payments, including the interbank ones;**
7. to determine the areas of development of modern electronic banking technologies, to establish, coordinate and control the creation of electronic means of payment, payment systems, banking automation and banking information protection facilities;
8. to exercise banking regulation and supervision;
- 9. to keep the State Register of Banks, to license banking activities and transactions in the cases envisaged by law;**
10. to keep the official register of the identification numbers of issuers of the payment cards for the payment systems of the country;
11. to certify the auditors for audits of banks, provisional administrators and liquidators of banks;
12. to compile, analyze and forecast the balance of payments;
13. to represent Ukraine's interests in central banks of other states, international banks and other credit institutions where the cooperation takes place at the level of central banks;
14. to exercise within the competence specified by a special law the foreign exchange regulation, to establish the procedure of effecting transactions in foreign currency, to organize and exercise foreign exchange control over commercial banks and other credit institutions which are in possession of a National Bank's license for the transactions with currency values;
15. to ensure accumulation and custody of the gold and foreign exchange reserves and conduction of transactions with them and banking metals;
16. to analyze the state of monetary, financial, pricing and currency relations;

17. to organize collection and transportation of bank notes, coins and other values, to issue licenses for the right of collection and transportation of bank notes, coins and other values;
18. to implement the national policy of protection of state secrets within the system of the National Bank;
19. to take part in the training of personnel for Ukraine's banking system;
20. to determine peculiarities of Ukraine's banking system functioning in case of martial law or emergency state proclamation, to carry out mobilization preparation of the National Bank system;
21. to put forward in accordance with the procedure established by law the proposals regarding legal regulation of the issues related to exercise of the National Bank of Ukraine duties;
22. to carry out methodological support for keeping, protecting, using and disclosing the information being the banking secrecy;
23. to exercise other functions in the monetary sphere within its competence determined by law;
24. in accordance with a simplified procedure to carry out long-term refinancing of the commercial banks against collateral of the mortgage credits given by these banks to the population to invest the housing construction in an amount not less than 80 per cent of value of the mortgage credit pool given as collateral to the respective banks.

## **SECTION II. GOVERNING BODIES OF THE NATIONAL BANK**

### ***Article 8. Governing Bodies***

***The governing bodies of the National Bank shall be the Council of the National Bank of Ukraine (hereinafter - the Council of the National Bank) and the Board of the National Bank of Ukraine (hereinafter - the Board of the National Bank).***

### ***Article 9. Powers of the Council of the National Bank***

***The Council of the National Bank shall:***

- 1) develop, pursuant to the state economic program and the basic parameters for economic and social development of Ukraine, the Basic Principles of Monetary and Credit Policy by September 15 and submit them to Verkhovna Rada of Ukraine for information, exercise control over the Basic Principles of Monetary and Credit Policy implementation;***
- 2) analyze the effect of the monetary and credit policy of Ukraine on the social and economic development of the country, develop proposals on amending this policy;***
- 3) approve the Regulations of the Council of the National Bank;***
- 4) approve the budget revenues and expenditures of the National Bank and submit to the Verkhovna Rada and Cabinet of Ministers of Ukraine, by September 1 of the current year, the projected indicators of the budget balance to be included in the draft State Budget of Ukraine for the following year;***

- 5) *decide on enlarging the authorized capital of the National Bank;*
- 6) *specify the audit company for auditing the National Bank, consider the audit results and approve the balance sheet of the National Bank, publish the annual balance sheet of the National Bank in the official press;*
- 7) *approve, annually, by July 1, the report on performance of the National Bank`s budget and distribution of profit in the reporting financial year;*
- 8) *approve decisions of the Board of the National Bank on participation in international financial organizations;*
- 9) *submit recommendations for consideration by the Board of Directors of the National Bank pursuant to the Basic Principles of Monetary and Credit Policy concerning the following:*
  - *methods and forms of forecasting macroindicators for economic and social development of Ukraine, as well as monetary and credit policy;*
  - *certain monetary and regulatory measures and their effect on economic and social development of Ukraine;*
  - *the policy of exchange rate formation and foreign exchange regulation;*
  - *development of the banking system and certain normative acts on banking activity;*
  - *improvement of the banking system;*
  - *other issues which are within the jurisdiction of the Council of the National Bank;*
- 10) *submit recommendations to the Cabinet of Ministers of Ukraine on the effect of the government borrowings and taxation policy on the monetary and credit sector of Ukraine;*
- 11) *to ensure the implementation of the Basic Principles of Monetary and Credit Policy have the right to impose a revocable veto on certain decisions of the Board of the National Bank concerning the following issues:*
  - a) *diversification of the National Bank assets and their liquidity;*
  - b) *limits of the off-balance liabilities;*
  - c) *establishment of reserves and covering the financial risks;*
  - d) *procedure for income allocation to the state budget of Ukraine;*
  - e) *minimum amount of gold and foreign exchange reserves;*
  - f) *other issues under its competence.*

*The Council of the National Bank is not authorized to provide recommendations on the appointment or dismissal of the National Bank Governor and members of the Board of the National Bank, as well as to give its personal assessment of the activities of particular officials of the National Bank.*

*The Council of the National Bank shall assess the activities of the National Bank Board relative to its performance of the Basic Principles of the Monetary Policy and to other issues, the solution of which is binding for the Board of the National Bank.*

***In case of repeated non-observance or improper fulfillment by the National Bank Board of the National Bank Council decisions which are binding for the Board according to this Law, the Council of the National Bank is authorized to appeal to the Governor of the National Bank or to the Parliament of Ukraine stating its opinion.***

**Article 10. Composition and Formation of the Council of the National Bank**  
The Council of the National Bank shall consist of ***members of the Board of the National Bank appointed by the President of Ukraine and the Verkhovna Rada of Ukraine. Governor of the National Bank being appointed by the Parliament of Ukraine on the recommendation of the President of Ukraine is a member of the Council due to his/her capacity.***

A citizen of Ukraine with the higher education in economics or finance or a scientific degree in the field and experience of continuous work in legislative bodies or on managerial positions in central executive bodies of Ukraine or in a banking institution, or the scientific work experience in the field of economics or finance may be a member of the Council of the National Bank.

***The President of Ukraine shall appoint, by a relevant Decree, seven members of the Council of the National Bank.***

***The Verkhovna Rada of Ukraine shall appoint seven members of the Council of the National Bank by means of the adoption of a relevant Resolution.***

***The candidates to be approved by the Verkhovna Rada of Ukraine shall be discussed at a special open session of the relevant Committee of the Verkhovna Rada of Ukraine, which provides the Verkhovna Rada of Ukraine with its recommendations.***

The next appointment of the members of the Council of the National Bank shall take place not later than three months before the expire of the powers of the previous composition of the Council of the National Bank.

***The term in office for the members of the Council of the National Bank shall be seven years, save the Governor of the National Bank, who is appointed for the term of his/her powers in the office.***

The powers of members of the Council of the National Bank shall be terminated due to the expire thereof or in case of:

- a) member's own initiative, subject to a written request;
- b) termination of their citizenship or departure from Ukraine to a permanent place of residence;
- c) coming into effect of a court sentence resulting from commitment of a crime;
- d) death or a court's decision to declare a person dead or missing.

***In cases stated by sub-paragraphs a)-d) above of part eight of this Article, the appointment of a new member of the Council of the National Bank shall be permitted before the end of one-year period since the appointment of the member who left the Council of the National Bank.***



***Powers of the appointed Council of the National Bank shall be early terminated in case of vote of no confidence from the President of Ukraine or from the Parliament of Ukraine resulted from the performance of the Basic Principles of the Monetary Policy which appeared to fail the stability of the monetary unit of Ukraine by the overall end-year results. In such case, both the President and the Parliament should dismiss their representatives and appoint the new staff of the Council of the National Bank.***

The President of Ukraine shall dismiss the members of the Council of the National Bank appointed by him via a relevant Decree but not earlier than in one year after the date of appointment.

The Verkhovna Rada of Ukraine shall dismiss the members of the Council of the National Bank appointed by it via a relevant Resolution on the initiative of the relevant Committee of the Verkhovna Rada of Ukraine but not earlier than in one year after the date of appointment.

The powers of the Governor of the National Bank as a member of the Council of the National Bank shall be early terminated in case of his/her resignation or dismissal for other reasons specified hereby.

The members of the Council of the National Bank shall exercise their functions on a voluntary basis. The members of the Council of the National Bank shall be reimbursed for their expenses incurred in connection with their duties according to the Regulations of the Council of the National Bank.

The internal organization issues related to the activities of the Council of the National Bank, its office work procedures and other issues shall be determined by the Regulations to be approved at a session of the Council.

The Council of the National Bank shall be accommodated and its organizational/material support shall be ensured by the National Bank for the account of its budget expenses.

#### **Article 11. Working Procedures of the Council of the National Bank**

Sessions of the Council of the National Bank shall be held at least once per quarter. The extraordinary sessions of the Council of the National Bank shall be convoked by the Chairman of the Council of the National Bank upon his/her initiative or by the Council of the National Bank upon an urgent request of at least one third of its total membership, as well as ***on the demand of the Governor of the National Bank***. The members of the Council of the National Bank shall be notified of the session at least five days in advance. The Procedure of the preparation to the extraordinary session of the Council of the National Bank shall be determined by the Regulations of the Council.

The sessions of the Council of the National Bank shall be competent in case of presence of at least ***ten*** members of the Council.

The sessions of the Council of the National Bank shall be presided by the Chairman of the Council of the National Bank or, in case of his/her absence, by the Deputy Chairman according to the Regulations.

The decisions shall be taken by a simple vote of the majority of the total number of attending members of the Council of the National Bank. Each member of the Council of the National Bank shall have one vote.

Chief administrators of central government bodies, representatives of enterprises, scientists and other specialists may be invited to attend sessions of the Council of the National Bank.

***The members of the Board of the National Bank may take part in the activities of the Council of the National Bank with the right of the deliberative vote.***

## **Article 12. Chairman and Deputy Chairman of the Council of the National Bank**

***The Chairman of the Council of the National Bank shall be elected by the Council of the National Bank for a period of three years.***

The Chairman of the Council of the National Bank shall: - organize sessions of the Council of the National Bank and chair the sessions; - convene extraordinary sessions upon his/her initiative or upon an urgent request of at least one third of the total number of the members of the Council of the National Bank, as well as on demand of the Governor of the National Bank; - carry out other powers and functions according to the Regulations of the Council of the National Bank of Ukraine.

The Chairman of the Council of the National Bank shall have a deputy elected by the Council of the National Bank for a three year period.

The Deputy Chairman shall replace the Chairman in case of absence of the latter or his disability to implement his/her powers, and shall carry out his/her powers and functions according to decisions of the Council of the National Bank. The Chairman or the Deputy Chairman of the Council of the National Bank may be dismissed during the term of their powers for the following reasons:

- due to the expire of their terms of powers;
- upon his/her own initiative, subject to an application in writing;
- in case of the systematic failure to meet his/her obligations due to the health condition during four months.

In case of termination of powers of the Chairman or Deputy Chairman of the Council of the National Bank, the elections to this position shall be held according to the procedure provided for hereby.

## **Article 13. Decisions of the Council of the National Bank and the Suspensive Veto**

Materials of sessions of the Council of the National Bank shall be issued in the form of Minutes of Meetings and Decisions and signed by the chairman of the session.

***The decisions of the Council of the National Bank with regard to the General Principles of the Monetary Policy and on the issues covered by paragraphs 4-8, 11 of Article 9 hereof shall be mandatory for the Board of the National Bank.***

The recommendations of the Council of the National Bank shall be considered by the Board of the National Bank within five working days. On the basis of such

consideration, the Board of the National Bank shall be obliged to send a substantiated reply to the Council of the National Bank

The Council of the National Bank shall not be entitled to interfere in the operative activity of the Board of the National Bank

*Should the Council of the National Bank apply the suspensive veto to an individual decision of the Board, such a decision shall become effective only if confirmed by two thirds of the total number of members of the Board of the National Bank not later than within five days after the date of the veto. Should such a decision not have been confirmed by two thirds of the total number of the member of the Board of the National Bank within the specified term, it shall be considered as failed to become effective. If a decision of the Board of the National Bank has become effective prior to the application of the suspensive veto with regard thereto, such a decision shall be suspended for the period of suspensive veto consideration by the Board of the National Bank.*

The decisions of the Council of the National Bank shall be subject to publication, unless these decisions contain national, banking or service secrets under the law. Members of the Council of the National Bank shall be prohibited to disclose national, banking and service secrets they have become aware of in connection with the exercise of their powers under the Regulations.

#### **Article 14. Functions of the Board of the National Bank**

According to the Basic Principles of the Monetary Policy, the Board of the National Bank shall ensure the implementation of the monetary policy by means of relevant monetary instruments and other means of banking regulation, organize performance of other functions in accordance with Articles 6 and 7 hereof and manage the activities of the National Bank.

#### **Article 15. Powers of the Board of the National Bank**

The Board of the National Bank shall:

##### ***1. take decisions:***

- *on economic means and monetary methods required to implement the Basic Principles of the Monetary Policy according to the decisions of the Council of the National Bank taken with regard to these issues and the necessity to ensure the stability and the purchasing power of the national currency;*
- *on the emission of Ukraine's currency and the withdrawal of bank notes and coins from the circulation;*
- *on changing the interest rates of the National Bank;*
- *on diversification of the assets of the National Bank and the liquidity thereof;*
- *on limits of the off-balance liabilities of the National Bank;*
- *on formation of the reserves and covering the financial risks of the National Bank;*
- *on distribution of profits and procedure for income assignments to the State Budget of Ukraine;*

- *on the minimum amount of the gold and foreign exchange reserves of the National Bank;*
  - *on setting the limits to transactions on the open market effected by the National Bank;*
  - *on the list of securities and other values qualifying as guarantee under the credits of the National Bank;*
  - *on the conditions of acceptance of the foreign capital in Ukraine's banking system;*
  - *on establishment of economic ratios for banks;*
  - *on the amount and formation order of the mandatory reserves of banks;*
  - *on application of enforcement means to banks;*
  - *on the establishment and liquidation of enterprises and institutions of the National Bank;*
  - *on the participation in the international financial organizations;*
  - *on the purchase and sale of the property to support the activities of the National Bank.*
2. *submit the annual report of the National Bank, the draft estimate of revenues and expenses for the next year and other documents and decisions to the Council of the National Bank for approval in accordance with Article 9 hereof;*  
*at the request of the Council of the National Bank, shall submit for information the accounting, statistic and other data necessary to fulfill the tasks thereof;;*
3. determine the organizational principles and structure of the National Bank, approve the regulations on structural subdivisions and institutions of the National Bank, Charters of its enterprises, the procedure of the appointment of managers of subdivisions, enterprises and institutions;
4. shall approve the personnel arrangements of the National Bank *and the forms of labour remuneration;*
5. shall specify the procedure of granting licenses for banking transactions, as well as other licenses in cases and according to the procedure stipulated by the law;
6. shall issue standard acts of the National Bank;
7. shall approve the Regulations of the Board of the National Bank;
8. shall perform functions provided for by Articles 3, 23, 28, 60 and 64 hereof, as well as other functions ensuing from the main objective of the National Bank.

#### **Article 16. Composition of the Board of the National Bank**

The Governor of the National Bank shall be at the head of the Board of the National Bank.

The composition of the Board of the National Bank shall be approved by the Council of the National Bank subject to the submission by the Governor of the

National Bank.

Deputy Governors of the National Bank shall be members of the Board of the National Bank due to their official capacity.

**Article 17. Working Procedures of the Board of the National Bank**

The procedure of organizing and holding sessions of the Board of the National Bank shall be determined by its Regulations.

**Article 18. Appointment and Dismissal of the Governor of the National Bank**

The Governor of the National Bank shall be appointed by the Verkhovna Rada of Ukraine subject to the submission by the President of Ukraine by the majority of the constitutional membership of the Verkhovna Rada of Ukraine for the period of five years.

Should the Verkhovna Rada of Ukraine fail to appoint the candidate proposed by the President of Ukraine, the issues of managing the National Bank and the procedure of nominating a new candidate shall be regulated by the Law of Ukraine "On Temporary Discharge of Obligations of Officials Appointed by the President of Ukraine upon Consent of the Verkhovna Rada of Ukraine or by the Verkhovna Rada of Ukraine subject to the Submission by the President of Ukraine" (709/97 VR). The same candidate may not be proposed more than twice.

*The Governor of the National Bank shall be dismissed by the Verkhovna Rada of Ukraine upon request of the President of Ukraine in the following cases:*

- 1. expiry of the term in office;*
- 2. coming into effect of an accusatory court sentence resulting from the commitment of a crime;*
- 3. resignation for political or personal reasons submitted in writing to and accepted by the President of Ukraine;*
- 4. death or a court's decision to declare a person dead or missing;*
- 5. termination of the citizenship or departure from Ukraine to a permanent place of residence;*
- 6. upon request of the President of Ukraine within his / her constitutional competence.*

**Article 19. Duties and Authorities of the Governor of the National Bank**

The Governor of the National Bank:

1. shall manage the activities of the National Bank;
2. shall act on behalf of the National Bank and represent its interests without the power of attorney in relations with the governmental bodies, banks, financial and credit institutions, international organizations, other institutions and organizations;
3. shall preside at the sessions of the Board of the National Bank;
4. shall sign minutes, resolutions of the Board of the National Bank, orders and instructions, as well as agreements concluded by the National Bank;
5. shall distribute duties among Deputy Governors of the National Bank;
6. shall issue administrative acts mandatory for all officials, enterprises and institutions of the National Bank;

7. shall take decisions on other issues related to the National Bank activities, other than those falling within the exclusive competence of the Council of the National Bank and the Board of the National Bank hereunder;
8. shall be personally responsible to the Verkhovna Rada of Ukraine and the President of Ukraine for the National Bank activities.

#### **Article 20. Deputy Governors of the National Bank**

The Governor of the National Bank shall have one first deputy and *three* deputies to be appointed and dismissed by him subject to the consent of the Council of the National Bank.

#### **Article 21. Appointments and Dismissals of the Department Directors**

The Directors of departments of the National Bank shall be appointed and dismissed by the Governor of the National Bank according to the labour legislation of Ukraine.

### **SECTION III. ORGANISATIONAL BASIS AND STRUCTURE OF THE NATIONAL BANK**

#### **Article 22. Structure of the National Bank**

The structure of the National Bank shall be built on the basis of centralization with vertical subordination.

The system of the National Bank shall comprise the central office, branch offices (regional departments), clearing houses, the Bank Note Printing Works and Mint, the State Treasury of Ukraine, the Central Depository, specialized enterprises, banking educational establishments and other structural units and subdivisions required to support the National Bank activities.

Within the framework of the laws in force, the National Bank shall independently decide the issues of organizing, establishing, liquidating and re-organizing the structural subdivisions and institutions of the National Bank and its enterprises, and approve their respective charters and regulations.

For the purposes of collecting and protecting its valuables and facilities, the National Bank shall have the internal security service armed with combat guns.

#### **Article 23. Status of Branch Offices**

The branch offices (regional departments) of the National Bank shall not enjoy the legal entity status and may not issue regulatory documents, they shall act on behalf of the National Bank within the framework of the powers granted by the latter. The tasks and functions of the branch offices of the National Bank shall be determined by the Regulations approved by the Board of the National Bank.

### **SECTION IV. MONETARY POLICY**

#### **Article 24. Basic Principles of the Monetary Policy**

The Basic Principles of the monetary policy shall be founded on the basic criteria and macroeconomic indicators of the national economic development program and the Major Parameters of the Economic and Social Development of Ukraine for a period in question, including predicted indicators of gross domestic product, inflation, state budget deficit and sources of its compensation, the balance of payments and trade, all approved by the Cabinet of Ministers of Ukraine.

The National Bank shall annually inform the Verkhovna Rada of Ukraine of the major lines of the monetary and foreign exchange policy developed by the National Bank for the next year and a longer term.

#### **Article 25. Means and Methods of the Monetary Policy**

The major economic means and methods of the monetary policy shall be the regulation of money stock through:

- 1. determining and regulating the reserve requirements for commercial banks;*
2. interest policy;
3. commercial banks' refinancing;
4. management of gold and foreign exchange reserves;
- 5. transactions with securities (excluding those confirming corporate rights), in the open market, treasury notes including;*
6. regulating the capital import and export;
- 7. issue of one's own debt liabilities and operations with them.*

#### **Article 26. Reserve Requirements**

*The National Bank shall establish the scope of reserve requirements for banks.*

In doing so:

- 1. the amount of reserve requirements shall be fixed in a single size for banks as a percentage of the total amount of funds in the national and foreign currency attracted by a bank;*
2. for different types of liabilities different reserve requirements may be established;
3. the decision to increase the amount of the reserves shall come into effect no earlier than 10 days after its publication.

#### **Article 27. Interest Rates**

The National Bank shall establish the procedure for setting the discount and other interest rates for its transactions.

#### **Article 28. Management of Gold and Foreign Exchange Reserves**

The National Bank shall provide for the management of the gold and foreign exchange reserves of the state by effecting currency interventions by means of purchase and sale of currency values in foreign exchange markets in order to regulate the national currency exchange rate against foreign currencies, as well as money demand and supply in Ukraine.

#### **Article 29. Open Market Transactions**

*Open market transactions of the National Bank shall involve the purchase and sale of treasury notes and other securities (excluding those confirming corporate rights) and debt liabilities designated by the Board of the National Bank.*

#### **Article 30. Regulation of Import and Export of Capital**

The National Bank shall, in compliance with the laws of Ukraine on foreign economic activities and the system of foreign exchange regulation and control, regulate the import and export of capital.

### **Article 31. Funds of the State Budget of Ukraine**

The Cabinet of Ministers of Ukraine shall keep the funds of the State Budget of Ukraine and non-budgetary funds at the National Bank on the State Treasury accounts.

The conditions and procedures of servicing the funds of the State Budget of Ukraine shall be stipulated by the agreement between the National Bank and the State Treasury of Ukraine.

## **SECTION V. CASH CIRCULATION MANAGEMENT**

### **Article 32. Monetary Unit**

The monetary unit of Ukraine shall be the hryvnia equal to 100 kopecks.

The issue and circulation of other monetary units and the use of money substitutes as payment instruments on the territory of Ukraine shall be prohibited.

No official ratio between the hryvnia and gold or other precious metals shall be established.

### **Article 33. Powers of the National Bank relating to Cash Circulation**

In order to organize cash circulation, the National Bank shall provide:

1. manufacturing and safekeeping of bank notes and coins;
2. creation of reserve funds of bank notes and coins;
3. setting of face values, safety systems, payment features and design of bank notes and coins;
4. establishment of the procedure for replacing the damaged bank notes and coins;
5. establishment of the rules for putting into circulation, storage, transportation, withdrawal and collection of cash;
6. establishment of the procedure for cash operations of banks, other financial and credit institutions, enterprises and organizations;
7. setting of the requirements for technical safety and security measures for banking institutions' premises.

### **Article 34. Emission**

The National Bank shall have the exclusive right to put the hryvnia and small coins into circulation (emission), to provide their circulation and withdrawal.

Cash shall circulate in the form of paper bank notes and metal coins. The total amount of the issued bank notes and coins shall be specified in the accounts of the National Bank as its liabilities.

Bank notes and coins shall be direct liabilities of the National Bank and shall be backed by all its assets.

### **Article 35. Circulation of Bank Notes and Coins**

The hryvnia (bank notes and coins) as the national currency shall be the only legal tender on the territory of Ukraine; it shall be accepted by all natural persons and legal entities without any limitation all over the whole territory of Ukraine for all modes of payment, for crediting accounts, deposits, letters of credit, as well as for transfers.

### **Article 36. Hryvnia Exchange Rate**



The National Bank shall establish and publish the official exchange rate of hryvnia against foreign currencies.

In order to regulate the exchange rate of hryvnia against foreign currencies, the National Bank shall use the gold and foreign exchange reserves, purchase and sell securities, establish and change the refinancing rate and make use of other instruments of regulating the money supply in circulation.

*(the second indent of Article 36 as amended by the Laws of Ukraine  
N9835-VI dated December 26, 2008  
and N91131-VI dated March 17, 2009)*

### **Article 37. Convertibility of Hryvnia**

The conditions and the procedure of conversion (exchange) of hryvnia for a foreign currency shall be established by the National Bank in accordance with foreign exchange regulation laws of Ukraine.

The National Bank shall not restrict the rights of participants of the foreign exchange market to effect the transactions with foreign currency guaranteed to them by law.

### **Article 38. Procedure of the Replacement of Worn and Damaged Bank Notes and Coins**

Worn and damaged bank notes of Ukraine shall be accepted and exchanged free of charge for the new by the National Bank and commercial banks of Ukraine without any limitation of the amount and term of such a replacement.

The specific features and procedure of determining the validity of bank notes, as well as the procedure of exchange of worn and damaged bank notes shall be established by the National Bank.

### **Article 39. Withdrawal of Bank Notes and Coins from Circulation**

The National Bank, commercial banks of Ukraine shall be obliged to withdraw the counterfeit, faked and invalid bank notes and coins.

The procedure of withdrawing such bank notes shall be established by the National Bank and regulated by relevant regulatory acts.

The National Bank and commercial banks shall not be obliged to reimburse for the destroyed, lost, counterfeit, faked and invalid bank notes and coins.

The National Bank shall officially notify of the withdrawal of bank notes and coins of Ukraine from the circulation through the mass media.

The manufacture of counterfeit bank notes for the purposes of their issue into the circulation or their issue into the circulation shall carry the penalty according to the legislation of Ukraine.

## **SECTION VI. ORGANISATION OF SETTLEMENTS AND ACCOUNTING**

### **Article 40. Regulation of Settlements**

The National Bank shall establish rules, forms and standards of settlements of the banks, other legal entities and natural persons in the economic turnover of Ukraine by using both paper and electronic documents and cash, coordinate the

organization of settlements, issue permissions for clearing operations and settlements by means of electronic documents.

The National Bank shall ensure the execution of inter-bank settlements through its institutions, grant permissions for inter-bank settlements by means of direct correspondent relations of commercial banks and their own payment systems.

#### **Article 41. Regulation of Accounting**

The National Bank shall establish standards and rules of accounting and reporting complying with requirements of the legislation of Ukraine and mandatory for the banks and other financial and credit institutions.

### **SECTION VII. TRANSACTIONS OF THE NATIONAL BANK**

#### **Article 42. Types of National Bank's Transactions**

In order to carry out its functions, the National Bank shall effect the following transactions:

1. grant credits to commercial banks to maintain their liquidity at a rate not lower than the refinancing rate of the National Bank and in accordance with the procedure specified by the National Bank;  
*(Para.1 of the first part of Article 42 as amended by the Laws of Ukraine N9835-VI dated December 26, 2008 and N91131-VI dated March 17, 2009)*
2. grant loans to the Deposit Insurance Fund at the discount rate determined by the National Bank of Ukraine;
3. purchase and sell securities in the secondary market according to the procedure stipulated by the legislation of Ukraine;
4. open its own correspondent and metal accounts with foreign banks and keep accounts of the correspondent banks;
5. purchase and sell currency values in order to exercise monetary regulation;
6. store bank metals, as well as purchase and sell bank metals, ***precious metals and stones*** and other valuables, memorial and investment coins made of precious metals in domestic and foreign markets without quotation and licenses;
7. distribute the gold and foreign exchange reserves independently or through banks authorized by it to conduct currency transactions, perform operations with gold and foreign exchange reserves of Ukraine with the banks, whose rating according to the classification of international rating agencies meets the requirements of the banks no lower than category A;
8. accept state securities and other valuables for keeping and management;
9. issue warranties and guarantees according to the regulations approved by the Council of the National Bank;
10. keep the account of the State Treasury of Ukraine free of charge and without charging the interest;

11. carry out operations on state debt servicing, involving the placement of state securities, their repayment and dividends;
12. keep the *personal accounts* of employees of the National Bank;
13. keep the accounts of international organizations;
14. withdraw, in indisputable manner, the funds from accounts of its clients according to the legislation of Ukraine, *courts' decisions including*.

The National Bank shall also be entitled to effect other transactions required to ensure the execution of its functions.

#### **Article 43. Participation in International Organizations**

The National Bank shall be entitled to take part in the formation of capital and activities of international organizations under international treaties, to which Ukraine is a party, as well as according to agreements between the National Bank and foreign central banks.

### **SECTION VIII. ACTIVITIES OF THE NATIONAL BANK WITH REGARD TO OPERATIONS WITH CURRENCY VALUES**

#### **Article 44. Powers in the Field of the Currency Regulation**

The National Bank shall act as an authorized state entity when applying the laws of Ukraine on currency regulation and currency control.

The following issues shall fall within the competence of the National Bank in the field of the currency regulation:

1. issue of normative acts on currency transactions;
2. issue and withdrawal of licenses, control over activities over banks and other institutions that have received National Bank's license for carrying out transactions with currency values;
3. establishment of the limits of an open currency position for banks and other institutions which purchase and sale foreign currency.

#### **Article 45. Organization of the Currency Market**

The National Bank shall determine the structure of the currency market of Ukraine and organize the trade in currency values thereon according to the laws of Ukraine on the currency regulation.

#### **Article 46. Discount Monetary Policy and Currency Exchange Policy**

The National Bank shall implement the discount monetary policy and the currency exchange policy and apply the currency restrictions, if necessary.

The National Bank shall pursue the discount monetary policy by altering the discount rate of the National Bank to regulate the flow of capital and to balance the payment liabilities, as well as to adjust the exchange rate of Ukraine's monetary unit to the foreign currencies.

The National Bank shall pursue the currency exchange policy on the basis of the regulation of the exchange rate of Ukraine's monetary unit to the foreign currencies by means of the purchase and sale of the foreign currency in financial markets.

#### **Article 47. Structure of Gold and Foreign Exchange Reserves**

To ensure the internal and external stability of Ukraine's monetary unit, the

National Bank shall have the gold and foreign exchange reserves composed of the following assets:

- *monetary gold*;
- special drawing rights;
- reserve position in the IMF;
- foreign currency in the form of bank notes and coins or funds on accounts abroad;
- securities (except for shares) paid in foreign currency;
- any other internationally recognized reserve assets, provided that their reliability and liquidity are guaranteed.

**Article 48. Replenishment and Utilization of the Gold and foreign exchange reserves**

The gold and foreign exchange reserves shall be replenished by the National Bank by means of:

1. purchase of the *monetary gold* and the foreign currency;
2. obtaining from transactions with foreign currencies, banking metals and other internationally recognized reserve assets;
3. attraction of currency funds from international financial organizations, central banks of foreign states and other creditors.

The gold and foreign exchange reserve shall be used by the National Bank for the following purposes:

1. sale of currency in financial markets to pursue the monetary policy, including the exchange rate policy;
2. expenses under transactions with foreign currency, monetary metals and other internationally recognized reserve assets.

The gold and foreign exchange reserves shall not be used for granting credits and guarantees and other commitments to residents and non-residents of Ukraine.

**Article 49. Safekeeping of the Gold and Foreign Exchange Reserves**

The National Bank of Ukraine shall be the sole custodian of the national gold and foreign exchange reserves, as well as of precious metals, stones and other valuables belonging to the state.

**Article 50. Non-Sale Currency Income and Losses**

The income and losses of the National Bank related to the re-evaluation of assets and liabilities represented in the form of the banking gold and foreign currency, special drawing rights, due to changes in the foreign currencies exchange rate and the price for gold, shall be taken into consideration and set off as follows:

1. net foreign exchange income and losses shall be balanced by a corresponding amount on a special reserve account of the re-evaluation of currency reserves on the balance sheet of the National Bank;
2. said net income and losses shall not be taken into consideration, when calculating the annual income of the National Bank.

**SECTION IX. RELATIONS WITH THE PRESIDENT OF UKRAINE, THE VERKHOVNA RADA OF UKRAINE AND THE CABINET OF MINISTERS**

## **OF UKRAINE**

### **Article 51. Accountability**

The National Bank shall be accountable to the President of Ukraine and the Verkhovna Rada of Ukraine within their constitutional jurisdiction.

The accountability shall mean the following:

1. appointment to the position and discharge from the position of the Governor of the National Bank by the Verkhovna Rada of Ukraine upon submission by the President of Ukraine;
2. appointment and discharge of half of the members of the Council of the National Bank by the President of Ukraine;
3. appointment and discharge of half of the members of the Council of the National Bank by the Verkhovna Rada of Ukraine;
4. report of the Governor of the National Bank to the Verkhovna Rada of Ukraine about the National Bank's activities;
5. submission of information on the situation in the monetary and credit market of the country to the President of Ukraine and the Verkhovna Rada of Ukraine twice a year.

### **Article 52. Relations with the Cabinet of Ministers of Ukraine**

The National Bank and the Cabinet of Ministers of Ukraine shall consult each other on the issues of the monetary and credit policy, the development and implementation of the National Economic and Social Development Programme.

Upon the request of the Cabinet of Ministers of Ukraine, the National Bank shall submit information about monetary processes.

Upon the request of the National Bank, the Cabinet of Ministers of Ukraine, ministries and other central bodies of executive power shall provide the information that affects the status of the balance of payments.

The National Bank shall support the economic policy of the Cabinet of Ministers of Ukraine, unless such a policy is not detrimental to the stability of the monetary unit of Ukraine.

The Governor of the National Bank or, on his commission, one of the Deputy Governors may take part in sessions of the Cabinet of Ministers of Ukraine with the right of deliberative vote.

Members of the Cabinet of Ministers of Ukraine may take part in sessions of the Board of the National Bank with the right of deliberative vote.

### **Article 53. Guarantees of Non-Interference**

Any interference of the legislative and executive bodies or their officials in the execution of functions and powers of the Council of the National Bank or the Board of the National Bank shall be prohibited, other than within the limits stipulated by this Law.

### **Article 54. Granting Credits to the State**

It shall be prohibited to the National Bank to grant direct credits both in national, and foreign currency to financing the expenditures of the State Budget of Ukraine.

## **SECTION X. BANKING REGULATION AND BANKING SUPERVISION**

### **Article 55. Objective and Scope of the Banking Supervision**

The major objective of the banking regulation and supervision shall be to ensure the security and financial stability of the banking system, and to protect the interests of depositors and creditors

The National Bank shall exercise the permanent supervision of the compliance of activities of banks within the limits and in keeping with the procedure specified by the legislation of Ukraine.

The National Bank shall exercise permanent supervision of compliance with banking laws, normative acts issued by the National Bank, and economic standards by banks.

### **Article 56. Legal and Normative Acts of the National Bank**

The National Bank shall issue the legal and normative acts within its jurisdiction, binding for government bodies and institutions of local government, banks, enterprises and institutions regardless of the forms of ownership thereof, as well as for persons.

The legal and normative acts of the National Bank shall be issued in the form of resolutions of the Board of the National Bank, as well as instructions, statutes and regulations approved by resolutions of the Board of the National Bank. They shall not contradict the laws of Ukraine and other legislative acts of Ukraine and shall not be used retroactively unless they mitigate or cancel responsibility.

Legal and Normative Acts of the National Bank shall be subjected to the mandatory registration by the Ministry of Justice of Ukraine and enter into force in compliance with the legislation of Ukraine.

Legal and Normative Acts of the National Bank may be appealed pursuant to the procedure established by the legislation of Ukraine.

### **Article 57. Access to Information**

To exercise its functions, the National Bank shall be entitled to obtain free of charge the information from the banks and other financial and credit institutions about their activities in accordance with their licenses and explanations with regard to the obtained information and effected transactions.

For the preparation of the banking and financial statistical data, the analysis of the economic situation, the National Bank shall have the right to obtain the necessary information from government bodies and institutions of local government and of all forms of ownership.

The obtained information shall not be disclosed, except for in cases specified by the legislation of Ukraine.

### **Article 58. Economic Ratios**

In order to protect interests of depositors and creditors, and ensure the financial reliability of the banks and other financial and credit institutions, the National Bank shall establish the mandatory economic ratios according to the procedure specified by it. These norms shall ensure the control over the risks related to the capital, the liquidity, the credits to shareholders and insiders (related parties),

extension of large credits, capital investments, as well as interest and currency risk. The National Bank shall officially notify of the subsequent changes in the norms and the methods of their calculation no later than one month before they are put into effect.

#### **Article 59. Risk Provisions**

The National Bank shall determine the amounts, the procedure for formation and utilization of the reserves of banks and other credit institutions to cover possible credit associated losses, as well as reserves to cover the currency, interest and other financial risks of the banks.

Reserves for covering possible financial risks and for insurance funds of personal deposits shall be created from the income before taxation pursuant to the legislation of Ukraine.

#### **Article 60. Assessment of Professional Adequacy**

By its regulations, the National Bank shall specify the qualification requirements to the managers of executive bodies, chief accountants of banks, and shall be entitled to require dismissal of the persons that fail to meet the established qualification requirements to the said positions.

Should a bank or an employee required to be dismissed not agree with such a requirement, they may appeal to the court within two weeks. In this case, the performance of such a dismissal requirement shall be suspended till the court passes the decision.

#### **Article 61. Powers Related to the Exercise of Supervisory and Regulatory Functions**

The supervisory and regulatory functions of the National Bank specified hereby may be exercised either directly by it or through a banking supervision authority established by it.

The National Bank shall exercise its supervisory and regulatory functions by means of the following powers:

1. to carry out all the types of on-site inspection of the banks in Ukraine (except for inspections and audits of the financial and business activities), as well as the verification of the information provided by legal entities and natural persons in the course of registration of banks and licensing of banking transactions;
2. to require from banks to hold general shareholders' (partakers') meetings and to determine the issues, on which the decisions should be taken;
3. to take part in the shareholders' (partakers') meetings, sessions of the supervisory council, board and the auditing commission of a bank with the deliberative vote.

The National Bank shall set requirements to carrying out mandatory audits of banks, obtain the opinions of independent auditors on the results of activities of the banks.

#### **Article 62. Sanctions**

*Should a bank violate the banking legislation, regulations of the National Bank, effect high-risk transactions endangering its solvency and interests of depositors and creditors, the National Bank shall apply the following sanctions adequate to the committed violation:*

- 1. to impose fines on banks' managers in the amount of up to one hundred non-taxable minimum incomes of individuals;*
- 2. to impose a fine on a bank according to regulations approved by the Board of the National Bank, the amount being one per cent of the registered authorized fund at the most;*
- 3. to suspend the management (chairman of the board and chief accountant) from the management of a bank;*
- 4. to appoint the temporary administration;*
- 5. to suspend the license for certain banking transactions for a period of up to one year.*

*In case of violating the laws or other regulations, which caused considerable losses of assets or revenues or bank's insolvency, or brought about substantial damage to interests of the clients, in case of concealing any invoices, other documents or assets, the National Bank shall be entitled to revoke the license for all the banking transactions and take a decision to re-organize or liquidate the bank, and to appoint the liquidator.*

*The National Bank's decision to appoint the bank's temporary administrator or liquidator has the force of the executive document.*

#### **Article 63. Restriction of Requirements of the National Bank**

The National Bank shall not be entitled to demand from banks to effect transactions or commit other actions which are not envisaged by laws of Ukraine and regulations of the National Bank.

### **SECTION XI. EMPLOYEES OF THE NATIONAL BANK**

#### **SECTION XI. OFFICIALS OF THE NATIONAL BANK**

#### **Article 64. Status of Employees of the National Bank**

The terms of employment, dismissal, labour remuneration, provision of leaves, official duties and rights, the system of disciplinary penalties, social protection of employees of the National bank shall be defined by the Law of Ukraine "On the Public Service".

The employees of the National Bank shall be officials and maintenance personnel of the National Bank. The officials of the National Bank shall be deemed the persons directly involved in the exercise of the functions of the National Bank and occupy positions provided for by the Staffing Schedule.

*The Board of the National Bank shall determine the list of the positions of employees, labour agreements with them shall be concluded in the form of a contract.*

Officials of the National Bank shall be public servants to which the norms of the Law of Ukraine "On the Public Service" shall apply, unless otherwise provided hereby.



The issues of functioning of the public service in the National Bank and those of the classification of positions shall be resolved by the Board of the National Bank according to the laws of Ukraine.

The ranks of public servants of the National Bank, which correspond to the positions of the 1st category, shall be awarded by the President of Ukraine. Other ranks shall be awarded by the Governor of the National Bank.

The maintenance personnel of the National Bank shall be the employees, not directly engaged in performing the National Bank's functions.

Salaries of the National Bank's officials shall be established by the Board of the National Bank according to provisions of the Law of Ukraine "On the Public Service".

Wages of maintenance personnel of the National Bank shall be established by the Board of the National Bank according to the provisions of the labour remuneration legislation.

#### **Article 65. Prohibited Business**

The Governor of the National Bank, deputy governors, members of the Board of the National Bank, other officials of the National Bank included in the list of positions approved by the Board of the National Bank shall not be the people's deputies (members of the Parliament) of Ukraine, members of the Government of Ukraine, as well as be engaged in the business activities and combine jobs, except for the teaching, scientific and other creative activities.

Officials of the National Bank shall be prohibited from becoming members of managing bodies or shareholders of the commercial banks.

The Governor of the National Bank, deputy governors, members of the Board of the National Bank and other officials of the National Bank shall be prohibited from receiving loans from any credit institution, except for the National Bank.

#### **Article 66. Banking secrecy**

Officials of the National Bank shall be prohibited from disclosing the information, which constitutes the official secrecy or is of confidential nature and which has become known due to their responsibilities and this provision remains valid even in case of resignation from the National Bank except for cases provided for by the laws of Ukraine.

### **SECTION XII. ORGANISATION OF THE BANKING STATISTICS AND STATISTICS OF THE BALANCE OF PAYMENTS**

#### **Article 67. Definition of Reporting**

In order to exercise the regulatory and supervisory functions, the National Bank shall define the forms and procedures of reporting to be mandatory for all the business entities, including:

1. banks located on the territory of Ukraine (both residents and non-residents) for compiling monetary and banking statistics;
2. all business entities (residents and non-residents) for compiling statistics of the balance of payments and effecting the foreign exchange control. The information provided by banks and other business entities shall not be

disclosed, except for cases provided for by the legislation of Ukraine.

The requirements of this article shall not apply to the consolidated statistical information, which is openly published by the National Bank.

#### **Article 68. Publications**

In order to ensure the transparency in the banking business and statistics of the balance of payments, the National Bank shall:

1. publish the annual and quarterly balance sheets of the National Bank in the issues of the Verkhovna Rada of Ukraine and the Cabinet of Ministers of Ukraine;
2. issue a monthly statistical bulletin and the magazine "*National Bank of Ukraine Herald*" (*Visnyk Natsional'noho Banku Ukrainy*);
3. publish in the official mass-media the current banking information and data on the monetary and banking statistics, provided that such information does not constitute the state and banking secrecy;
4. provide for the publication the information on the monetary and banking statistics and statistics of the balance of payments pursuant to the international agreements.

The data to be published in the mass media shall be determined by the State Statistics Committee of Ukraine in accordance with the legislation of Ukraine. The National Bank shall be the owner of the consolidated information on the monetary and banking activities and specify the regime of access thereto in accordance with the legislation of Ukraine. The official banking information shall be possible to use by other bodies in their publications only upon authorization of the National Bank or with referring to its official source.

### **SECTION XIII. AUDIT OF THE NATIONAL BANK**

#### **Article 69. Internal Audit**

The National Bank of Ukraine shall control the activities of its structural units by means of the internal audit to be carried out by the auditing department of the National Bank directly subordinate to the Governor of the National Bank.

The comprehensive inspections of the economic and financial activities of structural units of the National Bank shall be carried out at least once a year.

#### **Article 70 External Audit**

The Council of the National Bank, not later than on November 1 of the reporting year, shall take a decision on the audit of the National Bank and appoint an auditing firm, which has the relevant experience, to review the annual balance sheet and issue the auditor's opinion. According to the agreement concluded with the auditing firm, the National Bank shall be obliged to provide the reports and information required to perform the audit.

The financial inspection of the National Bank concerning the movement of funds of the State Budget of Ukraine and analysis of the budget performance shall be carried out by the Accounting Chamber of Ukraine.

### **SECTION XIV. SPECIAL PROVISIONS**

#### **Article 71. Restrictions on Business**

The National Bank shall be prohibited from:

1. being a shareholder or participating member of the banks or other enterprises and institutions;
  2. effecting transactions with real estate, other than those related to supporting the activities of the National Bank and its institutions;
  3. being engaged in the trade, manufacturing, insurance and other activities, which do not relate to the functions of the National Bank
- The restrictions specified in Part one of this Article shall not apply to:

1. acquiring any rights and assets for the purposes of covering the debts of the National Bank, provided their waiver as soon as possible;
2. cases provided for by Article 42 hereof;
3. participating in the capital of other enterprises and institutions supporting the activities of the National Bank.

#### **Article 72. Taxation Procedures**

The National Bank shall pay taxes in accordance with the tax laws of Ukraine.

#### **Article 73. Prevalent and unconditional right**

The National Bank shall have prevalent and unconditional right to satisfy any mature claim related to the commercial bank refinancing that was executed in accordance with the established legislative procedure.

The prevalent and unconditional right shall be used, if stipulated by the agreement, and realized by the National Bank through writing off indisputably the indebtedness from bank accounts and selling other assets, pledged to secure the National Bank claims, and satisfying the claims at the expense of net income from the sale thereof.

#### **SECTION XV. FINAL PROVISIONS**

1. This Law shall come into effect from the date of its publication excluding parts nine and ten of Article 10 hereof which become effective since the date of the Council of the National Bank of Ukraine established completely by the President of Ukraine and the Verkhovna Rada of Ukraine.
2. The Council of the National Bank shall be established within two months upon this Law is effective. During the formation of the Council of the National Bank, its functions as regards the monetary policy shall be exercised by the Board of the National Bank.
3. The following shall be deemed invalid:

Sections II and V of the Law of Ukraine “on Banks and Banking” (News of the Verkhovna Rada of Ukraine, 1991, N.25, p.281);

Resolution of the Presidium of the Verkhovna Rada of Ukraine "On the Charter of the National Bank of Ukraine" of October 7, 1991.

President of Ukraine

L.Kuchma

City of Kyiv, May 20,1999

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