

# **Banking Code of the Republic of Belarus**

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## **GENERAL PART**

### **SECTION I**

### **GENERAL PROVISIONS**

#### **Chapter I**

#### **Basic Provisions**

#### **Article 1. Relations Regulated by Banking Legislation**

Relations regulated by banking legislation constitute a system of economic social relations designed to mobilize and use temporarily disengaged monetary funds. Banking legislation determines principles of banking activity and legal status of subjects of bank legal relationships, regulates relations between them, and sets forth procedures for the establishment, functioning, reorganization, and liquidation of banks and non-bank credit and financial organizations.

Property relations as well as non-property relations associated therewith which arise when carrying out banking activity are also regulated by civil legislation, having regard to the specific provisions stipulated by this Code.

Relations connected with the use of securities, budgetary and foreign currency funds as well as other relations connected with the activity of banks and non-bank credit and financial organizations are regulated by special legislation unless otherwise stipulated by this Code.

#### **Article 2. Banking Legislation of the Republic of Belarus**

Banking legislation of the Republic of Belarus is a system of normative legal acts that regulate relations arising when carrying out banking activity and establish the rights, duties and liability of subjects and participants of bank legal relationships.

Banking legislation acts include:

legislative acts of the Republic of Belarus;

administrative orders of the President of the Republic of Belarus of normative character;

decisions of the Government of the Republic of Belarus;

normative legal acts of the National Bank of the Republic of Belarus (hereinafter – the “National Bank”); and

normative legal acts adopted by the National Bank jointly with the Government of the Republic of Belarus or with republic’s bodies of state administration on the basis of and in compliance with this Code and other legislative acts of the Republic of Belarus.

### **Article 3. Banking Legislation and Norms of International Law**

The Republic of Belarus recognizes the priority of generally recognized principles of international law and ensures the compliance of banking legislation therewith.

Norms of banking legislation contained in the treaties of the Republic of Belarus, entered into force, are an integral part of the banking legislation which is in force in the territory of the Republic of Belarus. They are to be applied directly, unless the treaty provides that a national normative legal act is to be adopted (issued) for the application of such norms, and have the force of a legal act whereby the consent of the Republic of Belarus to be bound by the treaty have been expressed.

### **Article 4. Fundamentals of Monetary and Credit Policy of the Republic of Belarus**

Monetary and credit policy of the Republic of Belarus is an integral part of the single state economic policy.

Fundamental Monetary and Credit Policy Guidelines of the Republic of Belarus that are annually approved by the President of the Republic of Belarus on presentation of the National Bank and the Government of the Republic of Belarus constitute the legal ground of monetary and credit policy of the Republic of Belarus.

Fundamental Monetary and Credit Policy Guidelines of the Republic of Belarus contain key parameters of monetary sector development, determine objectives, tasks, and priorities of state monetary and credit policy, and provide for a set of measures and mechanisms for their regulation and control which ensure their implementation.

### **Article 5. Financial and Credit System of the Republic of Belarus**

The banking system of the Republic of Belarus is an integral part of the financial and credit system of the Republic of Belarus. The banking system of the Republic of Belarus is a two-tier system which includes the National Bank and other banks.

The financial and credit system of the Republic of Belarus includes, along with banks, non-bank credit and financial organizations.

## **Article 6. Subjects and Participants of Bank Legal Relationships**

Subjects of bank legal relationship are the National Bank, banks, and non-bank credit and financial organizations.

The Republic of Belarus, its administrative-territorial units, including in the name of state bodies, as well as natural persons, individual entrepreneurs and legal persons may participate in bank legal relationships unless otherwise stipulated by this Code.

The rules of this Code applied to natural persons apply also to individual entrepreneurs unless otherwise stipulated by this Code.

## **Article 7. The National Bank**

The National Bank is the central bank and a state body of the Republic of Belarus . The National Bank regulates credit relations and money circulation, determines settlement procedures. The National Bank has the exclusive right to emit money and exercise other functions stipulated by this Code and other legislative acts of the Republic of Belarus.

## **Article 8. Bank**

A bank is a legal person which has the exclusive right to perform the following banking operations, combined:

to accept monetary funds in deposits from natural and/or legal persons;

to allocate attracted money in its name and at its cost on the conditions of repayment, interest payment, and maturity; and

to open and operate bank accounts for natural and/or legal persons.

A bank is entitled to perform other banking operations and engage in other kinds of activities stipulated in Article 14 of this Code.

## **Article 9. Non-bank Credit and Financial Organization**

A non-bank credit and financial organization is a legal person which has the right to perform certain banking operations and activities stipulated in Article 14 of this Code, except for the combined performance of the following banking operations:

accepting monetary funds in deposits from natural and/or legal persons;

allocating attracted money on its behalf and at its cost on the condition of repayability, interest payment, and maturity; and

opening and operating bank accounts for natural and/or legal persons.

Permissible combinations of banking operations which may be performed by non-bank credit and financial organizations are prescribed by the National Bank.

Dispositions stipulated for banks apply when non-bank credit and financial organizations are created, reorganized, operated and liquidated unless otherwise established by this Code and other banking legislation.

### **Article 10. Objects of Bank Legal Relationships**

The objects of bank legal relationship are money (foreign currency), securities, precious metals and precious stones and other valuables.

### **Article 11. Currency of Monetary Obligations**

Monetary obligations in the territory of the Republic of Belarus must be expressed in the official monetary unit of the Republic of Belarus (Belarusian rouble).

A monetary obligation may provide that it is to be fulfilled in the official monetary unit of the Republic of Belarus in the amount equivalent to a certain sum in a foreign currency or in conventional (calculated) monetary units. In that case the amount payable in the official monetary unit of the Republic of Belarus is determined at the official exchange rate of the relevant currency or of conventional (calculated) monetary units on the date of payment unless a different exchange rate or a different date for determining the exchange rate is stipulated by the legislation of the Republic of Belarus or by agreement between the parties.

The use of foreign currency and also securities and payment instructions in foreign currency in monetary obligations in the territory of the Republic of Belarus is allowed in cases, in the order and on conditions determined by legislation of the Republic of Belarus.

## **Chapter 2** **Banking Activity**

### **Article 12. Banking Activity**

Banking activity is a combination of banking operations performed by banks and non-bank credit and financial organizations aimed at obtaining profit.

### **Article 13. Principles of Banking Activity**

The fundamental principles of banking activity are:

obligatory obtainment by banks and non-bank credit and financial organizations of a special permit (license) for carrying out banking operations (hereinafter – banking license);

independence of banks and non-bank credit and financial organizations in their activities, non-interference of state authorities in their functions, except for the cases stipulated by legislative acts of the Republic of Belarus;

delimitation of responsibilities between banks, non-bank credit and financial organizations and the state;

obligatory compliance with economic standards prescribed by the National Bank for the purpose of maintaining stability and sustainability of the banking system of the Republic of Belarus;

ensuring the right of natural and legal persons to select a bank or a non-bank credit and financial organization;

ensuring bank secrecy of transactions, accounts, and deposits of customers; and

ensuring the repayment of monetary funds to depositors.

#### **Article 14. Banking Operations. Other Activities Performed by Banks and Non-bank Credit and Financial Organizations**

Banking operations are:

acceptance of monetary funds in deposits from natural and/or legal persons;

allocation of accepted monetary funds in own name and at own cost on the conditions of repayability, interest payment, and maturity;

opening and operating accounts of natural and/or legal persons;

opening and operating bullion accounts;

settlement and/or cash services to natural and legal persons, including correspondent banks;

currency exchange transactions;

sale of precious metals and/or precious stones in cases stipulated by legislation of the Republic of Belarus;

acceptance and allocation of precious metals and/or precious stones in deposits;

issuing bank guarantees;

trust management of monetary funds under a contract of trust management of monetary funds;

collection of cash monetary funds, payment instructions, precious metals and precious stones and other valuables;

issuing of bank plastic cards in circulation;

issuance of securities confirming acceptance of monetary funds in deposits and placement thereof on the accounts;

financing against assignment of monetary claims (factoring);

providing natural and legal persons with special premises or strongboxes located therein for bank safekeeping of documents and valuables (monetary funds, securities, precious metals and precious stones, etc.);

carriage of cash monetary funds, payment instructions, precious metals and precious stones and other valuables between banks and non-bank credit and financial organizations, their separate and structural divisions, and delivery of such valuables to customers of banks and non-bank credit and financial organizations.

Rules of and procedures for banking operations are established by the National Bank.

Specific regulations for carrying out banking operations involving precious metals and precious stones are stipulated by special legislation.

In addition to banking operations referred to in part one of this Article, banks and non-bank credit and financial organizations are entitled, in accordance with legislation of the Republic of Belarus, to perform:

Provision of suretyship for third persons which stipulates the fulfillment of obligations in monetary form;

trust management of precious metals and/or precious stones;

operations (transactions) with precious metals and/or precious stones;

leasing;

counseling and information services;

issuance (emission), sale, purchase of securities and other operations with securities;

other activities stipulated by legislation of the Republic of Belarus.

Banks and non-bank credit and financial organizations may carry out certain activities, the list of which is determined by legislative acts of the Republic of Belarus, only on the basis of a special permit (license).

Banks and non-bank credit and financial organizations, while carrying out banking activities, ensure the protection of information resources in accordance with legislation of the Republic of Belarus.

Banks and non-bank credit and financial organizations may not carry out:

industrial and/or trading activities, except for the cases when such activities are carried out for their own needs and for the cases stipulated by legislative acts of the Republic of Belarus;

insurance activities as insurers.

## **Article 15. Types of Banking Operations**

Banking operations may be active, passive, and intermediary.

Active banking operations are operations aimed at providing monetary funds by banks and non-bank credit and financial organizations.

Passive banking operations are operations aimed at attracting monetary funds, precious metals and/or precious stones by banks and non-bank credit and financial organizations.

Intermediary banking operations are operations facilitating banking activities of banks and non-bank credit and financial organizations.

## **Article 16. Specific Features of Determination of Time Limits in Banking Activity**

A term in banking activity is determined by a calendar date or by the expiration of a time period which is calculated in years, months, weeks, and calendar, working or banking days, hours. The term may also be determined by the indication to an event that will inevitably occur.

A term of one banking day means a part of the day set by the bank for performing certain actions.

The term calculated in banking days does not include days which, in accordance with legislation of the Republic of Belarus or standard banking practice, are not working days. If the last day of the term is a non-working day, the next working day shall be deemed the day of the expiration of the term.

If an action is to be performed within a term calculated in banking days, such action must be performed before the expiration of the last banking day of the term.

Any payment instructions delivered to the bank after the expiration of the time set by the bank for the execution of the said payment instructions, such payment instructions are deemed delivered on the next banking day.

#### **Article 17. Specific Feature for Determination of Limitation Periods when Carrying out Banking Activity**

The limitation period for the claims of banks and non-bank credit and financial organizations to borrowers due to the non-fulfillment (unduly fulfillment) of terms and conditions of credit contract is five years.

The limitation period does not extend to depositors' claims on a bank or a non-bank credit and financial organization for the repayment of deposits.

#### **Article 18. State Regulation of Banking Activities**

The state regulation of banking activities is carried out through:

state registration of banks and non-bank credit and financial organizations;

licensing of banking activities;

imposing bans and restrictions on banks and non-bank credit and financial organizations;

setting economic standards with respect to banks and non-bank credit and financial organizations;

supervision of operations of banks and non-bank credit and financial organizations, detection of banking legislation violations, and application of measures of influence stipulated by this Code and other legislation of the Republic of Belarus;

detection of cases of carrying out banking activities without obtainment of banking license and application of punitive measures to persons carrying out such activities.

### **Chapter 3**

#### **Relationship between Subjects and Participants of**

##### **Bank Legal Relationship**

#### **Article 19. Relationships between Banks, Non-bank Credit and Financial Organizations and State**



Banks and non-bank credit and financial organizations are not liable for obligations of the state. The state is not liable for obligations of banks and non-bank credit and financial organizations, except for the cases where the state has assumed such obligations or unless otherwise stipulated by legislation of the Republic of Belarus.

Banks and non-bank credit and financial organizations are independent in their activities. The state, its bodies, and officials may interfere in the activities of banks and non-bank credit and financial organizations only within the limits established by the Constitution of the Republic of Belarus and legislative acts of the Republic of Belarus adopted in compliance with the Constitution.

Control over the performance of cash operations by customers, as well as functions of foreign currency control agent may be imposed on banks and non-bank credit and financial organizations, in accordance with legislative acts of the Republic of Belarus.

It is not allowed to impose on banks and non-bank credit and financial organizations, unless otherwise stipulated by the President of the Republic of Belarus, functions of control over:

performance of licensed economic activities by customers;

timeliness and adequacy of payments by customers of taxes, dues (duties) and other payments into the budget, state special-purpose budgetary and off-budgetary funds;

observance by customers of time-limits for payment of wages/salaries and rates thereof; and

observance by customers and other persons of terms and conditions of contracts concluded between them.

The National Bank and other state bodies may not require banks and non-bank credit and financial organizations to exercise control and other functions inappropriate for them.

Banks may carry out instructions of the Government of the Republic of Belarus, republic's bodies of state administration, local executive and administrative bodies, to perform operations with republican and local budgetary funds and settlements therewith, and ensure the intended use of budgetary funds and funds of state off-budgetary funds allocated for republican and local (regional) programs.

## **Article 20. Relationships between Banks and/or Non-bank Credit and Financial Organizations**

Banks and/or non-bank credit and financial organizations may accept from each other and allocate with each other funds in the form of deposits and credits, effect settlements via correspondent accounts opened with each other, and perform other operations specified in banking licenses.

## **Article 21. Participation of Banks and Non-bank Credit and Financial Organizations in Associations**

Banks and non-bank credit and financial organizations may establish unions and associations that are non-profit organizations.

Establishment and state registration of unions and associations of banks and non-bank credit and financial organizations are carried out in the order established by legislation of the Republic of Belarus.

Banks and non-bank credit and financial organizations may create associations in the form of financial and industrial groups and other economic groups in the order and on the conditions determined by legislation on such groups.

## **Article 22. Relationships of Banks and Non-bank Credit and Financial Organizations with Customers**

Relations of banks and non-bank credit and financial organizations with customers are based on banking legislation and contracts concluded.

Banks and non-bank credit and financial organizations determine independently the terms and conditions of transactions that do not contradict legislation of the Republic of Belarus. Unless otherwise stipulated by rules effective in banks and non-bank credit and financial organizations, contracts concluded between a bank or non-bank credit and financial organization and a customer are public contracts or contracts of adhesion.

The National Bank is entitled to prescribe for banks and non-bank credit and financial organizations obligatory terms and conditions of transactions with customers.

When carrying out banking activities, a bank and a non-bank credit and financial organization are obliged, at a customer's request, to present to the customer, for the insight, the banking license and information on its financial standing and results of performance of respectively that bank and that non-bank credit and financial organization in the volume and in the order established by the National bank.

## **Article 23. Right of Banks and Non-bank Credit and Financial Organizations to Judicial Protection of Their Violated or Challenged Rights and Legitimate Interests**

Banks and non-bank credit and financial organizations have the right to judicial protection of their violated or challenged rights and legitimate interests, including the right to appeal in court actions (omissions) of the National Bank and other state bodies.

# **SECTION II THE NATIONAL BANK**

## **Chapter 4**

### **Legal Status, Objectives and Functions of the National Bank**

## **Article 24. The National Bank as the Central Bank of the Republic of Belarus**

The National Bank is the central bank and a state body of the Republic of Belarus and operates exclusively in the interests of the Republic of Belarus.

The National Bank carries out its activities in accordance with the Constitution of the Republic of Belarus, this Code, laws of the Republic of Belarus, normative legal acts of the President of the Republic of Belarus and is independent in its activities.

The National Bank is accountable to the President of the Republic of Belarus.

The National Bank's accountability to the President of the Republic of Belarus means that:

the President of the Republic of Belarus approves the Statute of the National Bank as well as changes and/or additions thereto;

the President of the Republic of Belarus appoints, with the consent of the Council of the Republic of the National Assembly of the Republic of Belarus, the Chairman and members of the Board of the National Bank and removes them, with the notification of the Council of the Republic of the National Assembly of the Republic of Belarus, from office;

the President of the Republic of Belarus designates an audit organization for the purpose of auditing activities of the National Bank;

the President of the Republic of Belarus approves annual reports of the National Bank, having regard to the auditors' report, and the distribution of profit of the National Bank.

The National Bank is a legal person and have its seal with the State Emblem of the Republic of Belarus and the inscription «Национальный банк Республики Беларусь» [National Bank of the Republic of Belarus]. The National Bank location is the City of Minsk.

The objectives and principles of the National Bank as well as its rights, are determined by the Constitution of the Republic of Belarus, this Code, other legislative acts of the Republic of Belarus.

## **Article 25. Main Objectives of Activities of the National Bank**

The main objectives of Activities of the National Bank are:

protecting the Belarusian rouble and ensuring its stability, including its purchasing power and the rate of exchange to foreign currencies;

developing and strengthening the banking system of the Republic of Belarus;

ensuring efficient, reliable, and secure functioning of the payment system.

Profit making is not the main objective of the National Bank.

## **Article 26. Functions of the National Bank**

The National Bank exercises the following functions:

to develop Fundamental Monetary and Credit Policy Guidelines of the Republic of Belarus and, in concert with the Government of the Republic of Belarus, ensure the implementation of the single monetary and credit policy of the Republic of Belarus in the order established by this Code and by other legislative acts of the Republic of Belarus;

to emit money;

to regulate money circulation;

to regulate credit relations;

to organize the functioning of the payment system of the Republic of Belarus;

to be the lender of last resort for banks, providing refinancing thereto;

to carry out foreign currency regulation;

to establish and exercise foreign currency control both directly and through authorized banks and non-bank credit and financial organizations in accordance with legislation of the Republic of Belarus;

to exercise functions of the central depository of Government and National Bank securities, unless otherwise stipulated by the President of the Republic of Belarus;

to carry out the issuance (emission) of the National Bank securities;

to carry out functions of the financial agent for the Government of the Republic of Belarus and local executive and administrative bodies in matters relating to the execution of the republican and local budgets and to give them advice on those matters;

to give its consent to carrying out by banks and non-bank credit and financial organizations of security operations in the cases stipulated by legislations of the Republic of Belarus;

to carry out state registration of banks and non-bank credit and financial organizations;

to license banking activities;

to regulate activities of banks and non-bank credit and financial organizations for their secure and liquid exercise and to conduct the supervision of such activities;

to establish rules and procedures for carrying out banking operations;

to establish requirements on carrying out of internal control for banks and non-bank credit and financial organizations, bank groups and bank holdings;

to agree the issuance of securities of banks and non-bank credit and financial organizations in the cases stipulated by legislation of the Republic of Belarus;

to regulate banks and non-bank credit and financial organizations activities on issuance and circulation of bills of exchange and promissory notes, unless otherwise determined by the President of the Republic of Belarus;

to establish requirements for banks and non-bank credit and financial organizations on their performing operations with forward and future contracts, options and other financial instruments of time market;

to carry out methodological guidance over accounting and reporting in the banking system, to work out and approve methods of accounting and reporting for the National bank, banks and non-bank credit and financial organizations;

the establish procedures for banks and non-bank credit and financial organizations on drawing statistical reports according to forms and time-limits determined by legislation of the Republic of Belarus;

to work out national financial reporting standards for the National bank, banks and non-bank credit and financial organizations according to International Financial Reporting Standards and to carry out methodological guidance over their maintaining of accounting and reporting;

to determine procedures for cash and non-cash settlements in the Republic of Belarus;

to perform operations necessary to attain the main objectives of the National Bank;

to organize settlement and/or cash services to the Government of the Republic of Belarus, to organizations the list of which is determined in the Statute of the National Bank, and other organizations in the cases stipulated by legislative acts of the Republic of Belarus;

to organize the compilation of balance of payments of the Republic of Belarus, including the international investment position of the Republic of Belarus, and to participate in its drawing-up;

to build up, in agreement with the President of the Republic of Belarus, gold and foreign currency reserves, and to manage them within its competence;

to establish prices for sale of precious metals and precious stones when carrying out banking operations;

to establish the order of opening bullion accounts and the conditions for their operating in banks and non-bank credit and financial organizations in the territory of the Republic of Belarus, as well as the terms for the opening of such accounts by residents in banks and other credit organizations outside its territory. For the purposes of this Code, the term 'resident' has the meaning determined by Clause 7 of Article 1 of the Law of the Republic of Belarus of July 22, 2003 "On currency regulation and currency control";

to establish, in concert with authorized state bodies, the order of importation to the Republic of Belarus and of the exportation of precious metals and precious stones when performing banking operations;

to organize the collection and carriage of cash monetary funds, payment instructions, precious metals and precious stones and other valuables;

to organize control over data security and protection in banks and non-bank credit and financial organizations;

to carry out analysis and forecast of the situation with monetary and credit relations, relations in the sphere of currency regulations and currency control, balance of payments of the Republic of Belarus and the banking system in correlation with social and economic development of the Republic of Belarus, to publish corresponding statistical data and materials of the analysis and forecasting in a periodical printed edition the National Bank;

to conclude agreements with central (national) banks and credit organizations of foreign countries;

to exercise other functions stipulated by this Code and other legislative acts of the Republic of Belarus.

## **Article 27. Fundamental Monetary and Credit Policy Guidelines of the Republic of Belarus**

Annually before October 1 of the current year, the National Bank shall, in concert with the Government of the Republic of Belarus, submit the Fundamental Monetary and Credit Policy Guidelines of the Republic of Belarus for the forthcoming year to the President of the Republic of Belarus.

The Fundamental Monetary and Credit Policy Guidelines of the Republic of Belarus for the forthcoming year include:

brief characteristics of the economic situation of the Republic of Belarus;

principal parameters of the social and economic development forecast of the Republic of Belarus for the forthcoming year, including forecast for the indices of the balance of payments of the Republic of Belarus for the forthcoming year;

main parameters and instruments of monetary and credit policy of the Republic of Belarus for the forthcoming year;

estimates and analysis of the fulfillment of main parameters and instruments of monetary and credit policy of the Republic of Belarus for the current year;

arrangements of the National Bank for the forthcoming year on the improvement of the banking system of the Republic of Belarus, banking control, financial markets and payment system of the Republic of Belarus.

The National Bank informs, on a quarterly basis, the President of the Republic of Belarus and the Government of the Republic of Belarus about the volume of money emission and about the fulfillment of the Fundamental Monetary and Credit Policy Guidelines of the Republic of Belarus.

The National Bank informs, on a quarterly basis, the President of the Republic of Belarus about the volume of gold and currency reserves to be created in accordance with objectives and tasks determined in the Fundamental Monetary and Credit Policy Guidelines of the Republic of Belarus.

## **Article 28. Right of the National Bank to Issue Money**

The National Bank has the exclusive right to issue money.

The emission of money is carried out by the National Bank in the form of release in the circulation of cashless and cash money. Cash money is released in the circulation in the form of banknotes and coins.

The emission of money is carried out by the National Bank through short-term (up to one year) refinancing of banks in order to maintain liquidity of the banking system of the Republic of Belarus and stability of monetary circulation, by purchasing Government securities circulating in the money market of state securities, and by performing operations in the domestic and foreign money markets aimed to increase the gold and foreign currency reserves. The emission of money for long-term (over one year) refinancing of banks is prohibited.

The National Bank issues banknotes and coins in the form of releasing them in circulation by selling to the banks, by purchasing foreign currency and other currency valuables from legal and natural persons in order to ensure stable cash money circulation, as well as in other cases relating to the attainment of the main objectives of the National Bank.

The overall volume of the emission of cashless money, banknotes and coins are determined and regulated exclusively by the National Bank in accordance with objectives and tasks determined in the Fundamental Monetary and Credit Policy Guidelines of the Republic of Belarus.

The National Bank emits the Belarusian rouble. The restrictions of the circulation of the Belarusian rouble in the territory of the Republic of Belarus is not allowed. The issuance in the circulation of other monetary units in the territory of the Republic of Belarus is prohibited

## **Article 29. Right of the National Bank to Organize the Circulation of Banknotes and Coins in the Territory of the Republic of Belarus**

The National Bank determines the face value (denomination), design, levels of protection and other characteristics of banknotes and coins emitted in the circulation, publish cash money description in the official national printed mass media.

The National Bank ensures printing of banknotes, stamping of coins, safekeeping of non-issued banknotes and coins, as well as storing and, if necessary, confirmation of authenticity of banknotes and coins, destruction of original and printing plates, plaster models and master coining instruments, dies and banknotes and coins retired from the circulation.

Banknotes and coins issued in circulation by the National Bank are the only legal means of payment in the territory of the Republic of Belarus, except for the cases stipulated by legislation of the Republic of Belarus.

Banknotes and coins issued in circulation by the National Bank constitute an unconditional liability of the National Bank and are secured by all its assets, and must be accepted at face value in all kinds of payments, and for placement to accounts and on deposit, and for transfers in the whole territory of the Republic of Belarus.

The National Bank has the exclusive right to retire issued banknotes and coins from circulation.

Banknotes and coins put in circulation by the National Bank may not be declared invalid (not being legal means of payment), unless a reasonably prolonged period for their exchange for new banknotes and coins has been established. The period for retiring banknotes and coins from circulation may not be less than one year and more than ten years. At that, it is not allowed to introduce any restrictions on amounts or subjects of exchange.

Decision on exchange of banknotes and coins that have been put in circulation by the National Bank for banknotes and coins of a new specimen is to be taken by the President of the Republic of Belarus.

The National Bank must notify preliminarily the Government of the Republic of Belarus about putting in circulation of new banknotes and coins, except for commemorative banknotes and coins.

The National Bank shall exchange worn-out banknotes and damaged banknotes and coins without restrictions in compliance with regulations established by the National Bank.

The National Bank forms and manages reserve fund of banknotes and coins.

The National Bank has the right to emit, as collectibles, commemorative banknotes and coins as well as bullion (investment) coins made of precious and non-precious metals.

Commemorative banknotes as well as commemorative and bullion (investment) coins may circulate both as legal means of payment and collectibles at value other than the face value.

The National Bank is entitled to carry out exportation from the Republic of Belarus of commemorative and bullion (investment) without permit, and the exportation thereof for the sale in the international market, without export license.

### **Article 30. Rights of the National Bank in the Sphere of Monetary Circulation**

The National Bank determines, in accordance with legislation of the Republic of Belarus in the sphere of monetary circulation:

procedure for performing cash operations, procedure for bank operations with cash money, forms of reporting about bank operations with cash money and time-limits for the presentation thereof, as well as measures of responsibility for the violations thereof;

rules for storing, collection, carriage of cash money, payment instructions, precious metals and precious stones and other valuables;

rules for performing emission and treasury operations;

rules for determining the features of fitness of cash money for use in payments, rules for exchange of worn-out banknotes and damaged banknotes and coins, as well as the procedure for the destruction thereof.

### **Article 31. Rights of the National Bank in the Sphere of Credit Relations**

In sphere of credit relations, the National Bank establishes:

volumes of credits to be extended to banks by the National Bank;

a system for bank refinancing;

normative standards for obligatory reserves to be deposited with the National Bank (reserve requirements); and

rate of refinancing and interest rates for the operations of the National Bank.

The National Bank regulates the total volume of credit to be extended by the National Bank in accordance with Fundamental Monetary and Credit Policy Guidelines of the Republic of Belarus.

Bank refinancing means that the National Bank provides monetary funds to the banks on the condition of repayment and interest payment.

Forms, procedure and conditions of refinancing are determined by the National Bank.

To support the Belarusian rouble and to regulate and stabilize the money market and credit resources market, the National Bank shall established rates of interest for various operations and, in exceptional cases, limits (maximum and/or minimum) of interest rates for banking operations with monetary funds of natural and/or legal persons.

### **Article 32. Rights of the National Banks Relative to Management of Functioning of the Payment System of the Republic of Belarus and to Supervision over the Payment System**

The National Bank carries out the management of functioning of the payment system of the Republic of Belarus and the supervision over the payment system through the establishing of the rules for making payments, tariff policy, liquidity management, as well as through collection, accumulation and analysis of indices characterizing the condition of the payment system of the Republic of Belarus.

The National Bank determines the rules, time-limits and standards for making settlements in cash and cashless forms and the responsibility for the violations thereof.

The National Bank maintains a departmental archive of data and documents concerning interbank settlements. The National Bank is entitled to use the archive for statistical and other processing, as well as for confirmations of the operations performed while carrying out interbank settlements.

### **Article 33. Rights of the National Banks in the Sphere of Foreign Currency Regulation**



In the sphere of foreign currency regulations, the National Bank:

establishes official exchange rates of the Belarusian rouble in relation to other currencies;

regulates circulation of currency valuables in the territory of the Republic of Belarus;

establishes procedures for opening, operating, and regime of residents and nonresidents accounts in foreign currency in banks and non-bank credit and financial organizations. For the purposes of this Code the term 'nonresident' has the meaning determined by Clause 8 Article 1 of the Law of the Republic of Belarus 'On currency regulations and currency control';

establishes procedures for opening and operating, and regime of residents accounts in Belarusian roubles and foreign currency in banks and non-bank credit and financial organizations outside the Republic of Belarus;

establishes procedures for carrying out operations in Belarusian roubles between residents and non-residents;

establishes rules for exchange trading in foreign currencies;

establishes forms of reporting, accounting, and statistics of currency operations as well as procedures and deadlines for presenting information on foreign currency operations to the National Bank required for compiling the balance of payments of the Republic of Belarus and for other purposes;

establishes, in cooperation with authorized state authorities, procedures for and norms of importation, exportation, and remitting to and from the Republic of Belarus of foreign currency, Belarusian roubles, securities in foreign currency and Belarusian roubles, payment documents in foreign currency, and also of other currency valuables in the cases provided for by the Law of the Republic of Belarus "On Currency Regulation and Currency Control" and other legislative acts of the Republic of Belarus;

controls foreign currency operations of banks and non-bank credit and financial organizations;

determines, in accordance with legislation of the Republic of Belarus, functions of currency control agents that may be imposed on banks and non-bank credit and financial organizations;

- brings to responsibility of banks and non-bank credit and financial organizations for violating foreign currency legislation;

- issues permits (licenses) for performing foreign currency operations related to the movement of capital, except for cases established by the Law of the Republic of Belarus "On Currency Regulation and Currency Control" and the President of the Republic of Belarus;

- exercises other powers established by this Code and other legislative acts of the Republic of Belarus.

#### **Article 34. Rights of the National Bank in the Sphere of Regulation and Supervision of Activities of Banks and Non-bank Credit and Financial Organizations**

The National Bank regulates activities of banks and non-bank credit and financial organizations and exercise supervision thereof.

The National Bank exercises permanent control over compliance by banks and non-bank credit and financial organizations with banking legislation.

As regards regulation of activities of banks and non-bank credit and financial organizations and supervision thereof, the primary objectives of the National Bank are the maintenance of stability of the banking system in the Republic of Belarus and protection of interests of depositors and other creditors.

The National Bank defines the scope and rules for the publication (presentation) of information used for assessing the level of reliability of functioning of a bank or a non-bank credit and financial organization.

The National Bank establishes, in accordance with this Code, qualifying requirements and requirements toward business reputation to be met by the candidates to the positions of the head, chief accountant or their deputies of a bank or non-bank credit and financial organization, its affiliate (branch).

A special qualifying commission of the National Bank assesses the compliance of candidates to positions of the head, chief accountant or their deputies of a bank or non-bank credit and financial organization, its affiliate (branch) with qualifying requirements and requirements toward business reputation, established in accordance with this Code. Such assessment is to be performed in the case of:

creation of a bank or a non-bank credit and financial organization or opening of its subsidiary (branch), for persons to be designated to positions of the head, chief accountant respectively of a bank or a non-bank credit and financial organization, its affiliate (branch);

application of measures of influence on a bank or a non-bank credit and financial organization stipulated by paragraph 3 of part 2 of Article 134 of this Code, respectively of the head, chief accountant of a bank or a non-bank credit and financial organization;

appointment of new persons to the positions of the head, chief accountant or their deputies of a bank or a non-bank credit and financial organization, its affiliate (branch), respectively of the persons to be appointed to the positions of the head, chief accountant or their deputies of a bank or a non-bank credit and financial organization, its subsidiary (branch).

The procedure for the assessment of the compliance with qualifying requirements and requirements toward business reputation are established by the National Bank.

To regulate activities of banks and non-bank credit and financial organizations and to exercise supervision thereof, the National Bank shall establish economic standards and exercise supervision over their observance, audit banks and non-bank credit and financial organizations, issue directions to remedy the violations revealed, and apply against violators measures of influence established by this Code and other legislation of the Republic of Belarus.

Banks and non-bank credit and financial organizations are audited by National Bank representatives, including with engagement of experts from other organizations, or, on the instructions of the National Bank, the auditing of activities of banks and non-bank credit and financial organizations is carried out by audit organizations or an auditor, individual entrepreneur that have obtained a special permit (license) of the National Bank to carry out auditing activities.

The National Bank is entitled to require a bank or a non-bank credit and financial organization to present a full auditors' report on its annual report, any interim report, or any other report. Banks and non-bank credit and financial organizations are audited in conformity with legislation of the Republic of Belarus. An audit organization or an auditor, individual entrepreneur shall draw up the auditors' report including information on credibility of financial statements of a bank or a non-bank credit and financial organization, observance of mandatory standards of secure functioning established by the National Bank, condition of internal control, and other data stipulated by legislation of the Republic of Belarus. When auditing banks and non-bank credit and financial

organizations, representatives of the National Bank, as well as, when performing audit, the audit organization or the auditor, individual entrepreneur, engaged by the National Bank are entitled to:

examine accounts and other documents about financial and economic activities, assets and liabilities, actual availability of monetary funds (banknotes, coins), securities, other property of the bank or non-bank credit and financial organization;

require the officials and officers of the bank or non-bank credit and financial organization to provide explanations in oral or in written form on all matters arising in the course of auditing and relating to the subject matter thereof;

exercise other rights not contradicting the legislation of the Republic of Belarus and/or arising out of the substance of obligations under the auditing contract.

Banks engaged in the implementation of agreements with international financial organizations, credit organizations of foreign states for servicing credit lines extended against a guarantee of the Government of the Republic of Belarus are obliged to present auditor's reports containing data about the compliance of their accounting (financial) reporting to International Financial Reporting Standards.

For supervision purposes, the National Bank may request and receive information on financial standing and business reputation of the founders (participants) of a bank or a non-bank credit and financial organization to take decision of the issuance of a permit to acquire more than 10 per cent of stock (shares) of the bank or non-bank credit and financial organization.

Information received in the course of state registration of banks and non-bank credit and financial organizations, while licensing banking activities, as well as in the exercise of bank supervision may not be disclosed, except for cases stipulated by legislative acts of the Republic of Belarus.

Procedures for auditing banks and non-bank credit and financial organizations by the National Bank for the purposes specified in part 3 of this Article are established by the National Bank.

To identify situations that might affect the interests of depositors and other creditors, the National Bank carries out the analysis of the performance of banks and non-bank credit and financial organizations.

The National Bank determines the content and scope of the information received in the course of bank supervision the exchange of which is performed in the course of implementation of international agreements on transnational supervision.

### **Article 35. Rights of the National Bank in the Sphere of Supervision of Bank Activities on a Consolidated Basis**

For the purposes of the supervision of the bank activities on a consolidated basis and of the complex evaluation of risks, the National Bank carries out supervision of the activities of:

a complex of banks and/or non-bank credit and financial organizations where one of the legal persons exerts directly or indirectly (through third persons) a substantial influence on decisions taken by the bodies of management of another legal person (hereinafter – bank group);

a complex of banks and/or non-bank credit and financial organizations and other legal persons not being banks or non-bank credit and financial organizations where one of the legal persons exerts directly or indirectly (through third persons) a substantial influence on decisions taken by the bodies of management of another legal person (hereinafter – bank holding).

A head organization of a bank group is the bank or non-bank credit and financial organization capable of exerting directly or indirectly (through third persons) a substantial influence on decisions taken by the bodies of management of a bank and/or non-bank credit and financial organization making part of the bank group.

A head organization of a bank holding is the bank or non-bank credit and financial organization, or other legal person not being bank or non-bank credit and financial organization capable of exerting directly or indirectly (through third persons) a substantial influence on decisions taken by the bodies of management of a bank and/or non-bank credit and financial organization or other legal person making part of the bank holding.

The influence is considered substantial if it enables to determine decisions (reject undesirable decisions) taken by bodies of management of a legal person, including to determine condition for its carrying out entrepreneurial activities, by virtue of at least one of the following grounds:

disposal of such a number of votes in any of the bodies of management of the legal person which enables to determine decisions (reject undesirable decisions) taken by that body except for the decisions to be taken unanimously;

disposal of such a number of votes in an authorized body of management of the legal person which enables to elect the one-man executive body of management of the legal person and/or more than half of members of the collegial executive body and/or of the board of directors (supervisory board);

disposal of powers to designate the one-man executive body of the legal person;

exercise of powers of the executive body of the legal person on the basis of a contract;

conclusion of a trust management contract concerning all property of the legal person or other contract according to which the rights on management of the activities of such legal person are conceded.

The substantial influence exerted indirectly means an influence through third persons which exert substantial influence on decisions taken by bodies of management of other legal person by virtue of at least one of the grounds stipulated by part 5 of this Article.

The National Bank develops and approves the methodology for the evaluation of ability of a bank or non-bank credit and financial organization or other legal person not being bank or non-bank credit and financial organization to exert directly or indirectly (through third persons) substantial influence on decisions taken by bodies of management of another legal person.

The National Bank shall be informed in the established order:

by the leading organization of a bank group and/or bank holding about its ability to exert directly or indirectly (through third persons) substantial influence on decisions taken by bodies of management of another legal person (other legal persons);

by a bank or non-bank credit and financial organization about the ability of another bank and/or non-bank credit and financial organization or other legal person not being bank or non-bank credit and financial organization to exert directly or indirectly (through third persons) substantial influence on decisions taken by their bodies of management.

On the basis of information submitted in accordance with part 8 of this Article and/or the methodology approved by the National Bank, the National Bank maintains records of leading organizations of bank groups and/or bank holdings, as well as banks, non-bank credit and financial organizations and other legal persons not being banks or non-bank credit and financial organizations considered making part of such bank groups and/or bank holdings.

The leading organization of a bank group and/or a bank holding, in accordance with parts 3 and 4 of Article 119 of this Code, draws up and presents to the National Bank consolidated reporting on the activities of the bank group and/or bank holding.

For the purposes of carrying out the supervision of bank activities on a consolidated basis, the National Bank:

establishes, in accordance with Article 118 of this Code, standards of secure functioning for bank groups and bank holdings, as well as for banks and non-bank credit and financial organizations considered making part of bank groups and/or bank holdings, and exercises supervision of the compliance with them;

establishes the procedure for the submission by legal persons considered making part of bank groups and/or bank holdings to leading organizations of such groups and/or holdings of the information about their activities necessary for the drawing up consolidated reporting;

is entitled to consider, on the basis of the methodology developed by it, a bank, non-bank credit and financial organization, another legal person not being bank or non-bank credit and financial organization, as the leading organization of a bank group and/or bank holding and to require, in accordance with part 3 and 4 of Article 119 of this Code, its submitting to the National Bank of consolidated reporting about the activities of the bank group and/or bank holding;

is entitled to require, on the basis of the methodology developed by it, a legal person not being bank or non-bank credit and financial organization and considered making part of a bank holding to submit the information about its activities, as well as to hold audits of activities of such legal person according to the procedure established by this Code and normative legal acts of the National Bank for performing audits of banks and non-bank credit and financial organizations.

The leading organization of a bank group and/or bank holding has no right to divulgate the received information about activities of legal persons considered making part of the bank group and/or bank holding, except for the cases stipulated by this Code and other legislative acts of the Republic of Belarus.

The information about activities of a legal person considered making part of a bank holding obtained in the course of the exercise of the supervision of bank activities on a consolidated basis may not be divulgated except for the cases stipulated by legislative acts of the Republic of Belarus.

### **Article 36. Right of the National Bank to Judicial Recourse**

The National Bank is entitled to bring lawsuits in the economic court for invalidating transactions of banks and non-bank credit and financial organizations that have been made in violation of legislation of the Republic of Belarus.

The National Bank is entitled to bring lawsuits in the economic court to seek the liquidation of banks or non-bank credit and financial organizations on grounds stipulated by legislative acts of the Republic of Belarus.

## **Chapter 5**

### **Specifics of Functioning of the National Bank**

### **Article 37. Interaction of the National Bank with the Government of the Republic of Belarus and Other State Bodies**

The National Bank, in concert with the Government of the Republic of Belarus, ensures the application of a single monetary and credit policy of the Republic of Belarus.

The National Bank and the Government of the Republic of Belarus inform each other about the supposed actions which are of national importance, coordinate their activities, hold regular mutual consultations.

The Government of the Republic of Belarus, the National Statistical Committee of the Republic of Belarus, the Ministry of Finance of the Republic of Belarus, the Ministry of Economy of the Republic of Belarus, the Ministry on Taxes and Dues of the Republic of Belarus, the State Customs Committee of the Republic of Belarus, the Committee State Control of the Republic of Belarus, and the National Bank shall furnish one another, in a mutually agreed manner and scope, without compensation, with statistical, analytical and other, obtained while carrying out control and supervision functions, information, required for proper performance of their functions.

The National Bank gives advice to the Ministry of Finance on matters of issuance (emission) of state securities and of redemption of national debt of the Republic of Belarus, having regard to their influence on the position of the bank system of the Republic of Belarus and priorities of the monetary and credit policy of the Republic of Belarus.

The National Bank is not liable for obligations of the Government of the Republic of Belarus. The Government of the Republic of Belarus is not liable for obligations of the National Bank, except for the cases stipulated by legislative acts of the Republic of Belarus.

The Chairman of the Council of Directors of the National Bank is a member of the Government of the Republic of Belarus.

### **Article 38. Submission of Information to the National Bank**

Banks and non-bank credit and financial organizations, in the manner established by the National Bank, state bodies entitled to control activities of banks and non-bank credit and financial organizations operating, and other state bodies in the cases stipulated by legislative acts of the Republic of Belarus submit, in the manner agreed with the National Bank, financial and economic information, documents, materials obtained as the result of controls, necessary for the National Bank to perform its functions.

The National Bank maintains an integrated fund of supervisory and control information about banks and non-bank credit and financial organizations in the manner established by the National Bank.

The National Bank establishes for the legal persons making part of a bank holding the procedure of submitting information on their activities necessary for drawing up of consolidated reporting.

The National Bank has the right to request and obtain without compensation from the state bodies non mentioned in part 3 of Article 37 of this Code and from other organizations, in the manner agreed with them, information necessary for completion of financial, banking, and monetary and credit statistical reports and for the organization of compiling of the balance of payments of the Republic of Belarus, including the international investment position of the Republic of Belarus, as well as for the analysis of the state of monetary and credit relations, relations in the sphere of currency regulation and currency control, of balance of payments of the Republic of Belarus and the bank system. The information arrived from state bodies and other organizations may not be divulged without their consent.

The National Bank publishes analytical information, aggregate indicators of financial, banking, and monetary and credit statistical reports and the balance of payments of the Republic of Belarus, including the international investment position of the Republic of Belarus, in national printed mass

media being official editions, exchange the said information with central (national) banks of foreign states, provide it to international financial organizations.

### **Article 39. Normative Legal Acts of the National Bank**

The National Bank, within its powers, adopts normative legal acts binding upon the republican bodies of state administration, local government and self-government authorities, all banks and non-bank credit and financial organizations, and other legal persons operating in the territory of the Republic of Belarus, as well as natural persons.

The National Bank is entitled to adopt (issue) normative legal acts jointly with the Government of the Republic of Belarus or the republic's bodies of state administration.

Normative legal acts of the National Bank must comply with the legislative acts of the Republic of Belarus. In the case of a contradiction of a normative legal act of the National Bank with a legislative act of the Republic of Belarus, the latter shall be applied.

### **Article 40. Property of the National Bank**

Property of the National Bank is in the ownership of the by the Republic of Belarus and is assigned to the National Bank on a right of operative administration.

The National Bank exercises its rights to possess, use, and dispose of the property of the National bank, including gold and foreign currency reserves, in accordance with the objectives of the National Bank and in the manner stipulated by its Statute. The seizure and encumbrance of the said property are not allowed except for the cases stipulated by legislative acts of the Republic of Belarus.

### **Article 41. Authorized Fund of the National Bank**

The amount of the authorized fund of the National Bank is determined by its Statute.

### **Article 42. Reserve Fund and Other Funds of the National Bank**

The National Bank sets up a reserve fund and other funds intended to support its activity.

Setting up and use of the reserve fund and other funds are to be carried out in the manner stipulated by the Statute of the National Bank.

### **Article 43. Exemption of the National Bank from Taxation**

The National Bank and its structural divisions are exempted from all taxes and dues (duties).

### **Article 44. Profit of the National Bank and Distribution Thereof**

The profit of the National Bank is derived as a result of conducting its activity in accordance with this Code and other acts of legislation of the Republic of Belarus.

The National Bank transfers a part of its profit in the amount determined by the republic budget for the forthcoming financial year to the national budget and allocates the remainder to the reserve fund and other funds of the National Bank.

#### **Article 45. Compensation of Losses of the National Bank**

The compensation of losses of the National Bank sustained in the result of its activities is to be made out of the reserve fund of the National Bank.

#### **Article 46. Annual Report of the National Bank**

The annual reporting period for the National Bank is from January 1 to December 31.

Every year, before April 15, the National Bank submits to the President of the Republic of Belarus an annual report approved by the Board of the National Bank.

The annual report of the National Bank includes:

a report on activities of the National Bank, including a list of measures for the implementation of the Fundamental Monetary and Credit Policy Guidelines of the Republic of Belarus and analysis of the fulfillment of the Fundamental Monetary and Credit Policy Guidelines of the Republic of Belarus;

an analysis of the state of monetary and credit relations, relations in the sphere of currency regulation and currency control, balance of payments of the Republic of Belarus and bank system in correlation with social and economic development of the Republic of Belarus;

annual financial reporting.

The annual report of the National Bank shall be accompanied by an auditor's report confirming the fairness of the accounting (financial) reports.

The annual financial reports of the National Bank includes:

annual balance sheet;

profit and loss statement, including the statement on profit obtained and the distribution thereof;

capital variation statement;

statement on formation and use of the funds of the National Bank;

statement on management of shares in authorized capitals of other organizations, which belong to the National Bank;

statement on operational expenses of the National Bank;

statement on fixed assets budget implementation.

Once approved by the President of the Republic of Belarus, the annual report of the National Bank shall be published in the national printed mass media being official editions.



#### **Article 47. Audit of Activity of the National Bank**

Audit of activity of the National Bank is to be performed annually by an audit organization to be designated by the President of the Republic of Belarus.

#### **Article 48. Restriction on Participation of the National Bank in Economic Companies and Other Legal Persons**

Unless otherwise stipulated by the President of the Republic of Belarus, the National Bank may not participate in economic companies and other legal persons, with the exception of certain banks and organizations carrying out the reimbursement of deposits of natural person, of organizations supporting functioning of the National Bank, including those engaged in the securities market, effecting inter-bank settlements, financing and/or developing and introducing banking technologies, as well as international organizations engaged in developing cooperation in monetary, foreign currency and banking spheres.

The order of the participation of the National Bank in organizations referred to in part 1 of this Article is determined by the President of the Republic of Belarus.

#### **Article 49. Delimitation of Responsibilities of the National Bank, Banks and Non-bank Credit and Financial organizations**

The National Bank is not liable for obligations of banks and non-bank credit and financial organizations, except for the cases when the National Bank assumes such obligations.

Banks and non-bank credit and financial organizations are not liable for obligations of the National Bank, except for the cases when banks and non-bank credit and financial organizations assume such obligations.

#### **Article 50. Participation of the National Bank in International Organizations**

In accordance with legislation of the Republic of Belarus, the National Bank may participate in activities of international banking foundations, unions, and associations.

The National Bank represents the Republic of Belarus in international organizations on monetary and credit policy issues of the Republic of Belarus, foreign currency regulation, and other matters within its powers.

#### **Article 51. Interrelationship between the National Bank and Credit Organizations of Foreign States**

Interrelationship between the National Bank and credit organizations of foreign states are established in accordance with treaties of the Republic of Belarus, legislation of the Republic of Belarus, and inter-bank agreements.

For the purposes of carrying out its functions, the National Bank may open representative offices in foreign states.

## **Chapter 6**

### **Operations Performed by the National Bank**

#### **Article 52. Operations Performed by the National Bank**

Operations performed by the National Bank include:

extending credits to banks by way of refinancing;

settlement and cash servicing of the Government of the Republic of Belarus, organizations that appear on the list included in the Statute of the National Bank, and other organizations in the cases stipulated by legislative acts of the Republic of Belarus;

rediscounting of bills of exchange and promissory notes;

securities market operations;

collection and carriage of cash monetary funds, payment instructions, precious metals and precious stones and other valuables;

management, within its competence, of gold and foreign currency reserves, as well as operations with foreign currency, precious metals and precious stones in any kind and state, including the sale and exchange thereof in the territory the Republic of Belarus and abroad;

opening and servicing bullion accounts in the territory of the Republic of Belarus and abroad;

transfer of precious metals in the form of ingots on an uncompensated basis in the cases stipulated by legislations of the Republic of Belarus;

accepting monetary funds of banks and non-bank credit and financial organizations, as well as organizations carrying out guaranteed repayment of bank deposits of natural persons, in deposits;

sale of commemorative and bullion (investment) coins at a price not less than the nominal price;

extending, at the decision of the President of the Republic of Belarus, of bank guarantees sureties for investment projects;

inter-bank settlements, including settlements with non-bank credit and financial organizations;

accepting valuables for safekeeping;

remittance of money and other settlement operations;

sale of foreign currency, foreign currency payment instructions and other currency operations stipulated by legislations of the Republic of Belarus, including documentary operations and operations on extending credits in foreign currency;

provision of banking services to governments of foreign states, central (national) banks and financial bodies of those states, and to international organizations;

intermediary services in the capacity of a financial agent of the Government of the Republic of Belarus for the distribution of Government securities;

operations on servicing the state debt of the Republic of Belarus;

opening and servicing of card accounts for its employees;  
crediting of its employees.

The National Bank have no right to provide services on carrying out bank operations to legal persons not having license to carry out banking activities and to natural persons, except for the cases stipulated by this Article.

Unless otherwise stipulated by this Code or other legislative acts of the Republic of Belarus, the National Bank shall perform bank operations for a fee.

### **Article 53. Lending Activity of the National Bank**

In the sphere of lending activity, the National Bank:

provides banks with refinancing against Government securities and other collateral; and

- extends credits to its employees in the manner prescribed by the Council of Directors of the National Bank, preferential credits, in the manner prescribed by the Council of Directors of the National Bank in compliance with conditions stipulated by legislative acts of the Republic of Belarus for preferential crediting to citizens of the Republic of Belarus.

The National Bank has the right to satisfy its claims with respect to credit and interest thereon at maturity date by indisputably debiting the relevant bank's correspondent account based on the administrative order of the Chairman of the Board of the National Bank.

The National Bank may not extend credits for financing the deficit of the budget and to purchase state securities at primary placement thereof, except for the cases stipulated in the law on the republic budget for the forthcoming financial year and/or by the President of the Republic of Belarus.

### **Article 54. National Bank Operations with Foreign currency, Precious Metals and Precious Stones**

The National Bank is entitled to purchase, sell foreign currency, as well as payments instructions in foreign currency, exchange, allocate, accept, and store foreign currency and to perform other foreign currency operations stipulated by legislation of the Republic of Belarus.

To replenish or regulate the size of gold and foreign currency reserves, the National Bank may perform the following operations with precious metals and precious stones:

to open and operate bullion accounts both within and outside of the territory of the Republic of Belarus; and

to purchase, sell, exchange, exercise trust management, place on deposit, accept for deposit, and store precious metals in the form of bullions, nuggets, coins, and other forms and conditions, and precious stones, as well as to pledge them.

The operations with precious metals and precious stones mentioned in part 2 of this Article are performed by the National Bank without a special permit (license) to carry out activities concerning precious metals and precious stones.

**Article 55. Operations of the National Bank with Securities**

When carrying out monetary and credit regulation, the National Bank issues (emits) securities, determine technical requirements for their manufacture, and to perform operations with securities.

The National Bank provides intermediary services as a financial agent of the Government of the Republic of Belarus in the state securities market and participates in their circulation.

**Article 56. Storage, Collection, and Carriage of Cash, Payment Instructions, Precious Metals and Precious Stones and Other Valuables**

The National Bank is entitled to carry out storage, collection, and carriage of cash monetary funds, payment instructions, precious metals, precious stones and other valuables of the National Bank, banks, non-bank credit and financial organizations, and natural and legal persons in the manner prescribed by the National Bank.

**Article 57. Servicing the National Debt of the Republic of Belarus**

In accordance with legislation of the Republic of Belarus, the National Bank exercises functions of a financial agent of the Government of the Republic of Belarus for servicing the national debt of the Republic of Belarus.

**Chapter 7****Structure, Governing Bodies and Organizations of the National Bank****Article 58. Structure of the National Bank**

The National Bank consists of a central apparatus and structural divisions located within and outside of the territory of the Republic of Belarus.

Structural divisions of the National Bank operate based on regulations to be approved in the order established by the Statute of the National Bank.

**Article 59. Governing Bodies of the National Bank**

The governing bodies of the National Bank are the Board of the National Bank and the Council of Directors of the National Bank.

**Article 60. Board of the National Bank**

The supreme governing body of the National Bank are the Board of the National Bank, a collective body that establishes the may guidelines of activities of the National Bank, carries out its administration and governance.

The composition of the Board of the National Bank is determined by the President of the Republic of Belarus.

The terms of reference of the National Bank and procedures for convening its meetings are determined by the Statute of the National Bank. The Board of the National Bank organizes its work in compliance with the rules of procedure.

Unless otherwise stipulated by the Constitution and other legislative acts of the Republic of Belarus, members of the Board of the National Bank may not hold other state office, as well as be affiliated with a political party.

Restrictions referred to in part 3 of Article 68 of this Code cover the members of the Board of the National Bank.

### **Article 61. Formation of the Board of the National Bank**

The Chairman and other members of the Board of the National Bank are appointed by the President of the Republic of Belarus with the consent of the Council of the Republic of the National Assembly of the Republic of Belarus for a term of five years unless otherwise stipulated by the President of the Republic of Belarus. Members of the Board of the Republic of Belarus shall conclude employment contracts in the manner and on the conditions determined by legislation of the Republic of Belarus.

### **Article 62. Dismissal from Office of the Chairman and/or Member(s) of the Board of the National Bank**

The President of the Republic of Belarus is entitled to dismiss the Chairman and/or member(s) of the Board of the National Bank from office, with notification of the Council of the Republic of the National Assembly of the Republic of Belarus in the case of:

expiration of the term of office;

inability to perform functions for health conditions on the basis of the opinion of medical commission;

resignation;

attainment of the age of retirement (at the accord of the Chairman, member of the Board of the National Bank);

non-compliance, while in office, with the Constitution of the Republic of Belarus, laws the Republic of Belarus, decrees, edicts, and administrative orders of the President of the Republic of Belarus and other legislative acts of the Republic of Belarus binding for the National Bank;

non-observance of restrictions established in part 3 of Article 68 of this Code;

disclosure of data constituting state or official secret;

being convicted guilty of committing a crime by a court judgment;

commission of acts that give reason to loss of trust toward those persons; and

in other cases stipulated by the President of the Republic of Belarus.

### **Article 63. Decision-making by the Board of the National Bank**

The Board of the National Bank is legally qualified to take decisions providing that at least 70 percent of its members are attend its meeting with obligatory attendance of the Chairman of the Board of the National Bank or a person acting as the Chairman.

The Board of the National Bank takes decisions by a simple majority of votes of those attending its meeting.

#### **Article 65. Chairman of the Board of the National Bank**

Chairman of the Board of the National Bank governs the activities of the National Bank and represents the National Bank as a state body and the central bank of the Republic of Belarus.

The powers of the Chairman of the Board of the National Bank are dertermined by the Statute of the National Bank.

#### **Article 65. Council of Directors**

The Council of Directors of the National Bank is an executive collective body of the National Bank.

The Chairman of the Board of the National Bank is the head of the Council of Directors of the National Bank.

The composition of the Council of Directors of the National Bank is determined by the Board of the National Bank.

The terms of reference of the Council of Directors of the National Bank and procedures for convening its meetings are determined by the Statute of the National Bank. The Council of Directors of the National Bank organizes its functioning in accordance with the rules of procedure.

#### **Article 66. Procedures for Formation of the Council of Directors of the National Bank**

All members of the Council of Directors of the National Bank, with exception of its head, are appointed by the Board of the National Bank in the order established by the Statute of the National Bank.

#### **Article 67. Decision-making by the Council of Directors of the National Bank**

The Council of Directors of the National Bank shall take decisions by a simple majority of votes, providing that at least 70 percent of members of the Council of Directors of the National Bank attend the meeting.

#### **Article 68. National Bank Employees**

The National Bank employees are divided into employees being public servants and employees that perform technical servicing and support of activities of the National Bank and are not public servants.

The legal status of the National Bank employees being public servants is determined by legislation of the Republic of Belarus on public service.

Alongside the restrictions stipulated by legislations of the Republic of Belarus on public service, the National Bank employees being public servants may not:

possess and/or purchase in person or through intermediaries shares of banks or non-bank credit and financial organizations;

hold office in banks, non-bank credit and financial organizations, and other organizations as a second job.

The National Bank employees being public servants may obtain credits only in the National Bank.

Preferential crediting of the National Bank employees shall be performed on the conditions determined by legislative acts of the Republic of Belarus for preferential crediting of the citizens of the Republic of Belarus.

The terms of recruitment, dismissal, remuneration of labor, and rights and duties of National Bank employees are determined by the Council of Directors of the National Bank in accordance with legislation of the Republic of Belarus.

Certain categories of National Bank employees according to the list to be approved by the Council of Directors of the National Bank in accordance with legislation of the Republic of Belarus have the right to wear uniform and to carry and keep arms used while performing their duties.

#### **Article 69. Organizations of the National Bank**

The National Bank has the right to establish, with the approval of the President of the Republic of Belarus, organizations necessary for maintenance of its activities.

The organizations of the National Bank operate based on statutes to be approved in the order established by the Statute of the National Bank.

### **SECTION III.**

#### **BANKS AND NON-BANK CREDIT AND FINANCIAL ORGANIZATIONS**

#### **Chapter 8**

#### **General Provisions Relating to Banks**

#### **Article 70. Bank Status**

A bank is a commercial organization registered in the order established by this Code and having, on the basis of a license to carry out bank activities, an exclusive right to perform, in the aggregate, banking operations stipulated by part 1 of Article 8 of this Code.

A bank is entitled to perform other banking operations specified in the license to carry out bank activities.

**Article 71. Organizational and Legal Forms of Banks**

Banks may be established in the form of a joint-stock company or a unitary enterprise in the order stipulated by this Code and other legislation of the Republic of Belarus.

**Article 72. Establishing by a Bank (Participation in Establishing) of Commercial Organizations**

For carrying out its statute objectives and with consent of the National Bank, a bank is entitled to be founder (participant) of commercial organizations in the order and on the conditions determined by this Code of other legislation of the Republic of Belarus.

**Article 73. Bank Statute**

A bank shall have the statute approved in the manner prescribed by legislation of the Republic of Belarus for a legal person of a relevant organizational and legal form.

The statute of a bank shall include:

the name of the bank, having regard to the requirements stipulated by this Code;

indication to its organizational and legal form;

date on the bank's location (location of a permanent executive body of the bank);

list of banking operations in accordance with this Code, as well as of types of activity which are (will be) carried out by the bank if the indication thereof is stipulated by acts of legislation of the Republic of Belarus;

information on the authorized fund size;

information on the governing bodies, including executive and internal control bodies, procedures for formations of such bodies and powers thereof;

any other data stipulated by legislation of the Republic of Belarus for the statute of a legal person of a relevant organizational and legal form.

**Article 74. Bank Name**

A bank must have a name which shall comply with the requirements of legislation of the Republic of Belarus. The name of the bank must indicate the nature of the bank's activity, through the use of the word "bank", as well as its organizational and legal form.

Legal persons registered in the territory of the Republic of Belarus in the prescribed manner may not include in their name the word "bank", except for legal persons which have obtained a license to carry out banking operations from the National Bank.

**Article 75. Authorized Fund of a Bank**



The authorized fund of a bank is to be formed of contributions (property) of by its founders (participants). The authorized fund determines the minimum amount of property of the bank securing the interests of its creditors.

The minimum size of the authorized fund of a bank is established by the National Bank as agreed with the President of Belarus.

When establishing a bank, the minimum size of its authorized fund must be formed of monetary funds.

For the formation of the authorized fund of a bank, only own funds of its founders may be used, and for the increase of the authorized fund of a bank, own funds of participants (property owners) of a bank, other persons and/or the bank may be used.

Own funds of a founder (participant, property owner) of a bank, of other persons, as well as own funds of a bank, mean any legally acquired monetary funds or other property possessed on the right of ownership or by virtue of another right in property.

The amount of property contributions (contributions in a non-monetary form) being made to the authorized capital of the bank may not exceed twenty percent of the amount of the authorized capital of that bank. In this instance property contributions (contributions in a non-monetary form) may comprise property necessary for carrying out banking activity and belonging to fixed assets with the exclusion of unfinished construction objects.

Attracted monetary funds and/or criminal incomes may not be used for the formation and the increase of the size of the authorized fund of a bank.

The property the alienation of which is restricted by the owner, by legislation of the Republic of Belarus or by a contract may not be contributed to the authorized fund of a bank.

Monetary contributions to the authorized fund of a bank may be made both in Belarusian roubles and in foreign currency, except for the cases prescribed by legislation of the Republic of Belarus. At that, the entire authorized fund shall be stated in Belarusian roubles. The recalculation of foreign currency into the official monetary unit of the Republic of Belarus is to be made at the official rate of exchange set by the National Bank on the date of contribution to the authorized fund (the date of receipt of monetary funds for crediting the temporary account in accordance with part 3 of Article 76 of this Code).

Budgetary funds and funds from state off-budgetary funds as well as state property objects may be used for the formation of the authorized fund of a bank only in the cases and in the order stipulated by legislative acts of the Republic of Belarus.

## **Article 76. Procedures for Formation of Authorized Fund of a Bank**

The authorized fund of a bank must be formed in full prior to state registration.

Monetary contributions to the authorized fund are to be transferred to a temporary account opened by the bank founders or a bank, in the case of an increase of its authorized fund, at the National Bank or, with consent of the National Bank, to temporary accounts opened at other banks. The procedure for crediting a temporary account at the National Bank or, with consent of the National Bank, at another bank with monetary funds and for the return of those funds in the case of a refusal of the state registration of the bank or of the state registration of changes and/or additions introduced into constituent documents of the bank are established by the National Bank.

## **Chapter 9**

### **State Registration of Banks**

#### **Article 77. General Provisions Relating to State Registration of Banks**

In accordance with this Code and other acts of legislation of the Republic of Belarus, the following are subject to state registration:

newly established (restructured) banks; and

changes and additions to the constituent documents of banks.

The state body carrying out state registration of banks is the National Bank.

Banking activity without state registration is prohibited.

Incomes received as a result of carrying out of banking activity without state registration and recovered in the established order are to be transferred to the state budget.

#### **Article 78. [Excluded]**

#### **Article 79. Procedure for Submission of Documents Necessary for State Registration of a Bank**

Prior to submitting documents necessary for the state registration of a bank, one of the founders of the bank or his duly authorized representative shall obtain the National Bank's consent concerning the name of the bank being established.

Documents for state registration of a bank are accepted only in the presence of the founders (shareholders) of the bank (natural persons, representatives of legal persons). The founders of a bank are entitled to authorize one of the founders to represent their interests before the National Bank. In doing so, natural persons shall produce the identity documents, and a natural person authorized by the founders of the bank and representatives of legal persons shall produce, in addition to their identity documents, documents confirming their powers.

#### **Article 80. Documents Necessary for State Registration**

For the state registration of a bank, the following documents are to be presented to the National Bank:

an application;

the statute of the bank;

an extract from the minutes of the general meeting of founders (resolution of the property owner) on the approval of the bank statute and candidates to the positions of the head, chief accountant of the bank;

documents confirming the formation of the bank's authorized fund in full (statement of temporary account, expert opinion concerning the credibility of the property value appraisal in the case of a

contribution to the authorized fund in kind and/or other documents in accordance with legislation of the Republic of Belarus);

copies of constituent documents and state registration certificates of the founders-legal persons, auditors' reports on credibility of their accounting (financial) statements, containing data on the availability of own funds for the contribution to the authorized fund of the bank, and a certificate issued by a tax authority confirming the fulfillment by the founders-legal persons of their obligations before the budget and/or state special budgetary funds and/or off-budgetary funds;

data on the founders-natural persons: a copy of the work record card certified at the current place of work (for unemployed – reference of an employment service authority or a copy of the retirement certificate certified by a social security authority at the place of residence); statement of a internal affairs body about the absence of uncanceled or unexpunged conviction of crimes against property and/or order of carrying out economic activities;;

a document certifying the bank's right to be situated at its current location (location of a permanent executive body of the bank) specified in the constituent documents;

Curriculum Vitae forms for candidates nominated to the posts of the head and chief accountant of the bank containing data stipulated by part 3 of this Article;

documents confirming the contributions to the authorized fund of the bank, in accordance with the list made by the National Bank;

a business plan the completion and assessment criteria of which are established by the National Bank;

documents confirming the availability of technical facilities for carrying out appropriate banking operations, according to the list determined by the National Bank; and

a payment document confirming the payment of the state duty for the state registration of the bank.

For the state registration of a bank in the form of a joint-stock company, the following documents shall be additionally presented to the National Bank:

a notarially certified contract on establishing of the joint-stock company;

the list of the founders with indication of amounts of their contributions, number, category and face value of shares to be distributed among them, as well as percentage of such shares in the full authorized fund of the bank.

The Curriculum Vitae forms for candidates nominated to the posts of the head and chief accountant of the bank shall contain the following data:

for the head of the bank, on higher education degree in law or economics and on previous employment period of not less than three years as head of a department or other division of the bank (which may) confirmed by a copy of the diploma and an extract from the work record card;

for the chief accountant, on higher education degree in economics and on previous employment period of employment of not less than three years as accountant of a bank confirmed by a copy of the diploma and an extract from the work record card;

on absence of uncanceled or unexpunged conviction of said persons confirmed by a statement of a body of internal affaires, also containing data stating that they have (not) been accused or suspected in the course of investigation of a criminal case;

The National Bank shall issue to the bank founders who have submitted the documents listed in parts 1 and 2 of this Article a written notification of the receipt thereof.

## **Article 81. Making Decisions on State Registration of Banks**

A decision on state registration of a bank or on denial of such registration are made by the National Bank within two months from the date of submission of the documents required for state registration of the bank.

Prior to making a decision on state registration of a bank, the National Bank has the right to request from Governmental and other authorities, in the order agreed with them, additional information on the founders of the bank being registered, on candidates nominated to the posts of the head and chief accountant of the bank necessary for making decision on the compliance with legislation of the Republic of Belarus while establishing the bank.

Prior to making a decision on state registration of a bank, a special qualifying commission of the National Bank is to assess the compliance of candidates to positions of the head and chief accountant of the bank with qualifying requirements and requirements toward the business reputation that are to be met by them.

Once a decision on state registration of a bank is made, the National Bank shall notify, within five days, its founders accordingly.

Based on the decision about state registration of a bank, the National Bank shall issue, within ten working days:

state registration certificate;

permission to make stamps;

documents confirming the putting on record in taxation bodies, bodies of state statistics, bodies of the Fund of Social Protection of Population of the Ministry of Labour and Social Protection of the Republic of Belarus, as well as in organizations carrying out obligatory insurance.

When carrying out the state registration of a bank, the National Bank interacts, in the order determined by legislation of the Republic of Belarus, with taxation bodies, bodies of state statistics, bodies of the Fund of Social Protection of Population of the Ministry of Labour and Social Protection of the Republic of Belarus, as well as in organizations carrying out obligatory insurance for putting the bank on record in the said bodies and organizations.

On the basis of the state registration of a bank, the National Bank shall submit to the Ministry of Justice of the Republic of Belarus necessary data concerning the bank for making an entry in the Unified State Register of Legal Persons and Individual entrepreneurs.

## **Article 82. Reasons for Denial of State Registration of Banks**

The state registration of a bank is not allowed if:

on the moment of state registration, the authorized fund of the bank has not been formed in full;

a court decision on the execution upon property, concerning one of its founders, has not been executed;

a founder, natural person, has uncanceled or unexpunged conviction of crimes against property and/or order of carrying out economic activities;

a founder of the bank is in arrears of wages and/or payments to the budget or state special budgetary and off-budgetary funds or is a founder (participant, property owner, head) of a legal person (simple partnership (contract on joint activity), economic group) that is in such arrears;

a founder of the bank is a founder (participant, property owner, head) of a legal person with respect to which a decision on liquidation has been taken, but the process of liquidation has not been completed;

a founder of the bank is a social organization pursuing political goals;

not all documents, stipulated by part 1 and 3 of Article 80 of this Code, were presented for the state registration;

inadequate information and incompliance of business plans with criteria established by the National Bank have been detected in the documents presented for the state registration;

cases of using attracted monetary funds and/or allocating of criminal incomes for the formation of the authorized fund of the bank have been established;

the statute of the bank or other documents presented for the state registration do not comply with legislation of the Republic of Belarus, or the order for establishing the bank have been violated.

The state registration of a bank is not performed in the case when candidates to positions of the head or chief accountant of the bank fail to meet qualification requirements specified for them or the special qualifying commission of the National Bank has established insufficient qualification of the said persons.

Inconformity of candidates to positions of the head or chief accountant of the bank with qualification and other requirements specified for them means that:

a candidate proposed for the position of the head of the bank has no higher education degree in law or economics and has less than three years of practical experience in the management of a bank department or other division;

a candidate proposed for the position of the chief accountant of the bank has no university degree in economics and has less than three years of practical experience in the office of accountant of a bank.

Inconformity of candidates to positions of the head or chief accountant of the bank with requirements toward business reputation specified for them means that:

a candidate has previous criminal convictions which have not been cancelled or expunged;

a candidate has been accused or suspected of committing a crime on the day of making decision on the state registration of the bank;

a candidate has committed within the last year an administrative offence in the field of commerce or finance, securities market, banking, entrepreneurial activities and/or taxation that has been ascertained by a legally binding resolution of a body authorized to examine matters of administrative offences;

there is inconformity with other requirements toward business reputation established by the National Bank.

The state registration of a bank may not be denied on the ground that its establishment is not expedient.

The denial of the state registration of a bank or failure of the National Bank to take a decision on its registration within a specified period of time may be appealed to the economic court.

### **Article 83. Notification of Denial of State Registration**

In the case when the National Bank has denied the state registration of a bank it shall notify the bank founders accordingly in writing within five days stating the reasons therefor.

### **Article 84. State Registration of Changes and Additions to Constituent Documents of Banks**

For the state registration of changes and additions to the constituent documents of a bank, the bank shall submit to the National Bank within thirty days of the relevant decision the following documents:

an application;

an extract from the minutes of the bank participants' general meeting (resolution of the property owner) on introducing changes and additions to the bank's constituent documents;

changes and/or additions being made in the constituent documents of the bank annexed thereto;

two copies of the bank's constituent documents in new wording;

a payment document confirming the payment of the state duty for registration of changes and additions being introduced in the constituent documents of the bank.

For the state registration of changes introduced to the constituent documents of a bank concerning the location of the bank (location of the permanent executive body of the bank) or its name, alongside the documents specified in part one of this Article, the bank shall additionally submit to the National Bank a document confirming the right of the bank to be located under the address indicated in the documents submitted for the state registration of changes introduced to the constituent documents of the bank and the original state registration certificate.

For state registration of changes in the size of the authorized fund of a bank, alongside the documents specified in part one of this Article, the bank shall additionally submit to the National Bank:

documents confirming the increase of the authorized fund of the bank (statement of temporary account, expert opinion concerning the credibility of the property value appraisal in the case of a contribution to the authorized fund in kind and/or other documents in accordance with legislation of the Republic of Belarus);

a list of the participants of the bank indicating the changed number and category of shares belonging to them and the percentage of such shares in the authorized fund of the bank, and in the case of the change in the authorized fund of the bank through the additional contributions indicating also the amount of such contributions, for the banks established in the form of a joint-stock company; and

a copy of the document confirming the state registration of the previous issue of shares in the authorized body of state administration regulating the securities market, for the banks established in the form of a joint-stock company.

For the state registration of changes and/or additions introduced to the constituent documents of a bank relating to changes in the composition of its participants, number and category of shares belonging to them, but not entailing the change of the size of the authorized fund, the bank, alongside the documents specified in part one of this Article, shall additionally submit to the

National Bank the documents, concerning its new participants, property owner, specified in indents 6 to 8 of part one of Article 80 of this Code, and when the composition of participants of the bank has been changed, also the new list of its participants with indication of the changed number and category of the shares belonging to them and the percentage of such shares in the size of the authorized fund of the bank.

In the case of introducing changes and/or additions to the constituent documents of a bank relating to its reorganization, if such changes and/or additions do not contain dispositions on the legal succession on the obligations of the reorganized bank, the bank alongside the documents specified in part one of this Article, shall additionally submit to the National Bank transfer act or separation balance sheet.

A decision on the state registration of changes and/or additions introduced to the constituent documents of a bank or on denial in their registration are to be taken by the National Bank within two months from the day of submission of documents necessary for their state registration.

On the basis of the decision of the state registration of changes and/or additions introduced to the constituent documents of a bank, the National Bank submits, within five days, to the Ministry of Justice of the Republic of Belarus necessary data about the bank to be included in the Unified State Register of Legal Persons and Individual Entrepreneurs.

Information on the change of location of a bank (location of the permanent executive body of management of a bank) or its name are to be published in the national printed mass being official editions.

The state registration of changes and/or additions introduced to the constituent documents of a bank may be denied if:

false data has been detected in documents submitted for the state registration of changes and/or additions introduced to the constituent documents of the bank;

not all documents necessary for the state registration of changes and/or additions introduced to the constituent documents of the bank have been submitted;

documents submitted for the state registration of changes and/or additions introduced to the constituent documents of the bank do not comply with legislation of the Republic of Belarus or the order for introducing changes and/or additions to the constituent documents of the bank has been violated;

cases of allocating criminal incomes for the increase of the authorized fund of the bank have been established.

The state registration of changes and/or additions introduced to the constituent documents of a bank may not be denied on the ground that their introduction is not expedient.

If the National Bank denies state registration of changes and additions to the constituent documents of a bank, it shall notify the bank accordingly in writing within five days from the date of taking such decisions indicating the reasons therefor.

Denial of the state registration of changes and/or additions to the constituent documents of a bank or failure of the National Bank to take a decision on their state registration within a specified period of time may be appealed to the economic court.

## **Procedures for Opening Separate Bank Divisions**

### **Article 85. Bank Affiliate (Branch)**

An affiliate (branch) of a bank is its separate division located off the location of the bank, which carries out, on its behalf, all or a part of banking operations stipulated by a banking license.

An affiliate (branch) of a bank is not be a legal person and carries out its activity on the basis of regulations approved by its founding bank. Regulations on an affiliate (branch) of a bank must comply with the provisions of legislation of the Republic of Belarus and the bank statute.

The list of affiliates (branches) of a bank are appended to the bank statute.

The property of an affiliate (branch) of a bank are formed by transferring a portion of the bank's property thereto.

The name of an affiliate (branch) of a bank shall carry an indication that it is an affiliate (branch) of its founding bank.

The affiliate (branch) head is appointed by the head of the bank that has established the affiliate (branch), unless otherwise stipulated by the bank statute, and acts on the basis of a power of attorney issued in the established order.

### **Article 86. Procedures for Establishing Bank Affiliates (Branches)**

Affiliates (branches) of a bank within the Republic of Belarus are deemed established from the date the National Bank gives its consent thereto.

To establish an affiliate (branch), a bank shall submit to the National Bank, within 30 days from the date of a relevant decision/ the following documents:

an application;

an extract from the minutes of the bank participants' general meeting on approval of the decision (resolution of the property owner) to establish the affiliate (branch) of the bank, unless otherwise stipulated by the bank statute;

regulations on the affiliate (branch) approved by the authorized body of the bank; and

curriculum vitae forms of candidates to positions of the head and chief accountant of the affiliate (branch) of the bank completed by them and containing data stipulated by Article 80 of this Code;

the list of affiliates (branches) of the bank formalized as an appendix to the bank statute.

The National Bank must consider an application for the establishment of an affiliate (branch) of a bank within thirty days from the day of submission of the documents referred to in part 2 of this Article. The National Bank shall notify the bank of its decision in writing within three days.

Within 5 days after giving its consent to establish an affiliate (branch) of a bank, the National Bank shall communicate data on its establishment to tax authorities, state statistics authorities.

The bank shall notify the National Bank of any changes and additions to the regulations on an affiliate (branch) of the bank within 30 days.

The National Bank may deny the establishment of an affiliate (branch) of a bank in cases where:



the bank has been incurring losses for three months preceding the date of submission of the documents required for the establishment of an affiliate (branch) of the bank;

the bank has been failing to comply with the economic standards for three months preceding the date of submission of the documents necessary for the establishment of an affiliate (branch) of the bank;

the regulations on an affiliate (branch) of the bank do not comply with provisions of legislation of the Republic of Belarus and the bank statute;

the procedures for its establishment has been violated; and

candidates to the positions of the head and chief accountant of an affiliate (branch) of the bank do not comply with qualifying requirements and/or requirements toward business reputation to be met by them.

Operation of affiliates (branches) of a bank for the establishment of which the consent of the National Bank has not been obtained by is prohibited.

It is not allowed to deny consent for the establishment of an affiliate (branch) on grounds that its establishment is not expedient.

Denial to give consent for the establishment of an affiliate (branch) or failure by the National Bank to take a decision within a specified period of time may be appealed to the economic court.

When a bank takes decision to close its affiliate (branch), the bank shall notify all its customer and creditors of the affiliate (branch) to be closed about it, take measure on the fulfillment of obligations before them, as well as to send to the National Bank a notice on the affiliate (branch) closure with indication to the decision of the authorized body of the bank.

Additional requirements for the procedure of establishing and closing bank affiliates (branches) are established by the National Bank.

## **Article 87. Structural Divisions of Banks and Their Affiliates (Branches)**

A bank and its affiliates (branches) may establish structural divisions (banking centers, settlement and cash centers providing cash and/or settlement services to customers, exchange offices, etc.) which do not have own balance sheets. Affiliates of a bank may also set up branches of the affiliate as structural divisions of the affiliate.

Structural divisions established by a bank or its affiliate (branch) are entitled to provide cash and/or settlement services to customers, perform foreign currency exchange operations and other operations specified by the National Bank.

Banks shall inform the National Bank about the establishment of structural divisions within three days.

## **Article 88. Bank's Representative Office**

A representative office of a bank is its separate division situated off the place of location of the bank that represents and protects its interests.

A bank may, after prior notification of the National Bank, open its representative offices in the Republic of Belarus in the manner prescribed by the National Bank.

The list of bank representative offices is to be appended to the bank statute

A representative office of a bank is not a legal person and carries out its activities on the basis of regulations approved by its founding bank.

A representative office of a bank may not perform bank operations and other activities stipulated by Article 14 of this Code except for protecting and representing the interests of its founding bank including through providing counseling and information services.

The name of a representative office of a bank shall carry an indication that it is a representative office of its founding bank.

Heads of representative offices are appointed by the head of the bank that has established those representative offices, unless otherwise stipulated by the bank statute, and act on the basis of a power of attorney issued to them in the established order.

## **Chapter 11**

### **State Registration of Banks with Foreign Investments, Subsidiary Banks of Foreign Banks, and Representative Offices of Foreign Banks in the Republic of Belarus.**

#### **Specifics of Opening Subsidiary Banks, Affiliates, and Representative Offices of Resident Banks**

#### **Participation of Resident Banks in Authorized Funds of Foreign Banks**

### **Article 89. State Registration of Banks with Foreign Investments**

State registration of a bank in the authorized fund of which foreign investments are used in full or in part (hereinafter – bank with foreign investments) is carried out in the order established by Chapter 9 of this Code, having regard to the specifics stipulated in this Article.

For the state registration of a bank with foreign investments alongside the documents specified by parts 1 and 2 of Article 80 of this Code a foreign legal person shall additionally submit:

a resolution on establishing or on participation in the establishment of a bank with foreign investments in territory of the Republic of Belarus or on purchasing shares in a bank without foreign investments which has been established earlier;

a document certifying registration of the foreign legal person (organization), a legalized extract from the Commercial Register of the country of its establishment or other equivalent document confirming the legal status of the organization in accordance with legislation of the country of its founding (the date of the extract may not precede more than a year the date of the submission of documents);

a balance sheet for the previous year supported by the auditors' report unless otherwise stipulated by the National Bank; and

a written permission of an authorized body of the country of its founding to participate in the establishment of a bank in the Republic of Belarus or to purchase shares in a bank which has been established earlier without foreign investments when such permission is required by legislation of the country of its founding.

For the state registration of a bank with foreign investments alongside the documents specified by parts 1 and 2 of Article 80 of this Code, a foreign natural person shall additionally submit:

a copy of the identity document;

a certificate of creditworthiness of the person issued by his servicing bank or other document stipulated by legislation of the country of residence about the sources of funds being contributed to the authorized fund of the bank or being paid for the shares in a bank which has been established earlier without foreign investments.

All documents must be submitted in either of the state languages of the Republic of Belarus or in the language of the original with a translation into one of the state languages of the Republic of Belarus (the accuracy of the translation from one language into another, the authenticity of the signature of the translator are to notarially certified and/or legalized in accordance with legislation of the country of founding (or residence) of the foreign investor.

State registration of a bank with foreign investments may be denied:

on the grounds stipulated by Article 82 of this Code for the denial of the state registration of a bank available;

- on the grounds similar to restrictions applied in respective foreign countries for the denial of state registration of banks with investments of citizens of the Republic of Belarus and/or legal persons of the Republic of Belarus.

#### **Article 90. Additional Requirements to Establishment and Operation of Banks with Foreign Investments and Subsidiary Banks of Foreign Banks in territory of the Republic of Belarus**

The amount (quota) of foreign capital participation in the banking system of the Republic of Belarus is established by the National Bank as agreed with the President of the Republic of Belarus. The said quota is calculated as a ratio of the total capital belonging to non-residents in the authorized funds of banks with foreign investments and the authorized funds of subsidiary banks of foreign banks to the aggregate authorized fund of banks registered in the Republic of Belarus.

Once the specified quota of foreign capital participation in the banking system of the Republic of Belarus is reached, the National Bank shall cease state registration of banks with foreign investments and subsidiary banks of foreign banks.

A bank with foreign investments is obliged to obtain, based on its application, prior authorization from the National Bank for:

- an increase in the authorized fund of the bank at the cost of funds of non-residents; and
- alienation of shares in favor of non-residents.

A bank's application is considered by the National Bank within thirty days from the date of its submission. If the National Bank fails to provide notification of its decision within the prescribed period, the authorization is deemed granted.

Transactions involving alienation of shares in favor of non-residents that have been performed without authorization of the National Bank are invalid.

The National Bank is entitled to ban increases in the authorized fund of a bank with foreign investments at the cost of funds of non-residents and/or alienation of shares in favor of non-residents if, as a result of such actions, the rate (quota) of foreign capital participation in the banking system of the Republic of Belarus is exceeded.

The National Bank is entitled to impose restrictions on banking operations for banks with foreign investments and subsidiary banks of foreign banks if similar restrictions are applied with regard to

activities of banks with investments of citizens of the Republic of Belarus and/or legal persons of the Republic of Belarus in the respective foreign countries.

### **Article 91. Subsidiary Bank and Representative Offices of a Foreign Bank**

A foreign bank may establish, in accordance with this Code, in the territory in the Republic of Belarus subsidiary banks (bank) and to open, in the manner stipulated by the National Bank, representative offices.

A representative office of a foreign bank is not a legal person and carries out its activity on the basis of regulations approved by the bank that has established it.

A representative office of a foreign bank may not perform banking operations and other activities stipulated by Article 14 of this Code except for protecting and representing the interests of the bank that has established it, including by providing counseling and information services.

### **Article 92. Specifics of Opening Subsidiary Banks, Affiliates, and Representative Offices of Resident Banks Outside the Republic of Belarus. Participation of Resident Banks in Authorized Funds of Foreign Banks**

Resident banks may establish subsidiary banks and open affiliates outside the Republic of Belarus, as well as to participate in authorized funds of foreign banks only with permission of the National Bank.

Representative office of resident banks outside the Republic of Belarus may be opened only after prior notification to the National Bank.

To obtain permission for establishing subsidiary banks, opening affiliates of a resident-bank outside the Republic of Belarus or for participation of a resident bank in the authorized fund of a foreign bank, the following shall be submitted to the National bank:

an application;

a resolution of the authorized body of the bank on establishing a subsidiary bank or opening an affiliate of the resident bank outside the Republic of Belarus or on the participation of the resident bank in the authorized fund of a foreign bank;

feasibility study of establishing a subsidiary bank, opening an affiliate of the resident bank outside the Republic of Belarus or for participation of the resident bank in the authorized fund of a foreign bank;

documents that determine the legal status of a subsidiary bank or affiliate of the resident bank outside the Republic of Belarus or documents confirming the legal status of the foreign bank for participation in which the permission is applied for;

authorization from the republican body of state administration regulating of the securities market for purchasing securities of foreign securities in cases stipulated by legislation of the Republic of Belarus (when purchasing securities in the authorized fund of a foreign bank).

A decision on granting permission to establish a subsidiary bank or to open an affiliate of a resident bank outside the Republic of Belarus abroad as well as to participate in the authorized of a foreign bank or on denial of such permission must be made within thirty days from the date of submission of the documents specified in part 4 of this Article. The National Bank shall notify the bank of its decision in writing within five days from the date of the decision.

The grounds for denial of permission to establish a subsidiary bank, to open an affiliate of a resident bank outside the Republic of Belarus or for participation of a resident bank in the authorized fund of a foreign bank are:

the bank has been incurring losses for three months preceding the date of submission of the documents required for obtaining the permission;

the bank has been failing to comply with the economic standards for three months preceding the date of submission of the documents necessary for obtaining the permission.

Permission for a resident bank to participate in the authorized fund of a foreign bank may also be denied on the following grounds:

non-compliance with the standards for participation of the bank in investment activities; and

absence of permission of a republic's body of state administration regulating the securities market to acquire foreign securities to purchase foreign securities in the cases stipulated by legislation of the Republic of Belarus.

Denial of granting permission to establish a subsidiary bank, to open an affiliate of a resident bank outside the Republic of Belarus or for participation of a resident bank in the authorized fund of a foreign bank or failure by the National Bank to take a decision within the period of time stipulated by this Article may be appealed to the economic court.

## **Chapter 12**

### **Licensing of Banking Activities**

#### **Article 93. General Dispositions on Licensing of Banking Activities**

Licenses for banking operations are issued by the National Bank in the order stipulated in this Code and normative legal acts of the National Bank adopted in accordance with the Code.

A bank acquires the right to carry out banking activities from the date of obtaining a banking license.

Licenses issued by the National Bank are recorded in the register of banking licenses. In the event of revocation, suspension, or revalidation of a banking license, including concerning performance of some banking operations, a proper entry is to be made in the said register.

The register for banking licenses is to be published by the National Bank in the official edition of the National Bank at least once a year. Any changes and additions to the above register are published by the National Bank within thirty days from their entry in the register.

A banking license shall specify banking operations which the bank is entitled to perform.

#### **Article 94. Conditions for Obtaining Banking License**

The National Bank, unless otherwise stipulated by this Article, issues, alongside the state registration certificate, a banking license specifying banking operations which the bank is entitled to perform.

The right to perform banking operations for acceptance in deposits of monetary funds of natural persons not being individual entrepreneurs, on opening and maintaining bank accounts of such natural persons, on opening and maintaining bullion accounts, on selling precious metals and/or precious stones, on allocating precious metals and/or precious stones in deposits may be granted to a bank not earlier than two years from the date of its state registration provided that its financial position has been stable during the two last years and it dispose of a normative capital in the amount established by the National Bank. The criteria for determining the stable financial position of the bank is to be established by the National Bank.

For the purposes of this Chapter, the acceptance of monetary funds of natural persons in deposits means the acceptance of monetary funds in Belarusian roubles or in foreign currency placed by natural persons in the bank with the aim of safekeeping and receiving income for a term, or on demand, or till the occurrence (non-occurrence) of an event determined in the contract, irrespective of the kind of such contract and bank account on which such funds are placed.

#### **Article 95. Procedure for Obtaining Banking License and Introducing Changes and/or Additions to the License**

A banking license specifying banking operations which a bank is entitled to perform is issued to the bank on the basis of documents submitted for the state registration of the bank.

Changes and/or additions to the list of banking operations specified in the banking license issued to a bank are introduced:

on the petition of the bank, including subject to the observance of conditions stipulated by part 2 of Article 94 and part 5 of Article 97 of this Code;

on the initiative of the National Bank in the case of changes in the legislation of the Republic of Belarus, and also in the cases stipulated by Articles 99 and 134 of this Code.

Documents to be submitted by a bank for introducing changes and/or additions to the list of banking operations specified in the banking license issued to the bank, as well as the procedure of their submission and consideration are established by the National Bank.

On the basis of the decision on introduction of changes and/or additions to the list of banking operations specified in the banking license, the National Bank issues to the bank a license drawn up on a new license form with indication of the changed list of banking operations which the bank is entitled to perform. At that, the bank is obliged to return to the National Bank a banking license which was issued earlier (its duplicate) and copies of such license.

#### **Article 96. Grounds for Denial of Issuing Banking License or of Introducing Changes and Additions to License**

The National Bank is entitled to deny the issuance of a banking license on the grounds stipulated by Article 82 and indent 3 of part 5 of Article 89 of this Code for the denial of the state registration of a bank.

Grounds for denial of introducing changes and/or additions to the list of banking operations specified in the banking license are determined by the National Bank.

#### **Article 97. Grounds for Suspension, Reinstatement of Banking License and its Revocation**

The National Bank is entitled to suspend a banking license in the part of performance of certain banking operations for a term necessary for the elimination of violations detected in activities of a bank, but not exceeding one year, in the case of:

non-compliance with prescriptions of the National Bank;

non-compliance with norms of safe functioning established in accordance with this Code;

submission of incomplete or false economic and financial information or failure to submit it in the manner established by the National Bank;

violations of requirements established by the National Bank concerning the manner and deadlines for reporting;

unsatisfactory financial standing of the bank which may entail the non-fulfillment by the bank of its obligations before depositors and other creditors;

established event of false data submission on the basis of which changes and additions to the list of banking operations specified in the banking license were introduced;

other violations of banking legislation requirements.

The National Bank reinstates the suspended banking license in the part of performance of certain banking operations when the bank submits a petition containing information on the elimination of violations detected in its activities. When necessary, the National Bank is entitled to carry out an inspection of the accuracy of the information on the elimination of violations, submitted by the bank.

In the case when the detected violations have not been eliminated within the period established by the National Bank, the National Bank is entitled to suspend the banking license for a new term or to revoke it, including in the part of performance of certain banking operations.

The National Bank is also entitled to revoke the banking license, including in the part of performance of certain banking operations, in the case of:

established event of false data submission on the basis of which changes and additions to the list of banking operations specified in the banking license were introduced

non-performance of banking operations specified in the issued banking license within a period of one year;

established case of inaccurate reporting which lead to the violations of interests of depositors and other creditors of the bank;

repeated (not less than twice) violations, within one year, of requirements established by the National Bank for the manner and deadlines of reports submission;

performance, including a single case, of banking operations which are not specified in the issued banking license;

repeated (not less than twice) non-execution, within a year, at the bank's fault, of court execution documents on levying monetary funds from the accounts of bank customers when such funds were available on the accounts;

violations of other requirements of banking legislation if, within a year, measures of influence established by this Code were repeatedly (not less than twice) imposed on the bank;

unsatisfactory financial standing of the bank which has entailed the non-fulfillment of its obligations before depositors and other creditors;

presence of grounds for recognizing the bank bankrupt in accordance with legislative acts of the Republic of Belarus;

reorganization of bank by the way of its merger and affiliation (at the affiliated bank), or splitting-up or transformation in a non-bank credit and financial organization (introduction of corresponding changes in the bank statute);

passing decision of a bank liquidation.

In the case of elimination of violations with regard to which the banking license in the part of performance of certain banking operations has been revoked, the bank is entitled to make a petition to the National bank on introducing changes and/or additions in the list of banking operations specified in the banking license issued to it. When necessary, the National Bank is entitled to carry out an inspection of the accuracy of the information on the elimination of violations, submitted by the bank.

### **Article 98. Suspension and Reinstatement of Banking Licenses**

The decision of the National Bank on suspension and reinstatement of a banking license in the part of performance of certain banking operations enters into force from the moment of notification of the bank about the decision.

The notification about the suspension and reinstatement of the banking license in the part of performance of certain banking operations is subject to publication by the National Bank in national printed mass media being official editions within 7 days from the date of the respective decision.

In case of suspension of the banking license in the part of performance of certain banking operations, obligations of the parties relative to the performance of those operations are terminated through the fulfillment by parties of their obligations under a respective contract. At that, it is prohibited for the bank to conclude new contracts and to renegotiate already concluded contracts for a new term, the fulfillment of obligation under which is related to the performance of a banking operation in part of which the banking license has been suspended.

### **Article 99. Revocation of Banking Licenses and Consequences Thereof**

The decision of the National Bank on revocation of a banking license, including in the part of performance of certain banking operations, enters into force from the moment of notification of the bank about the decision.

On the basis of the decision on revocation of a banking license in the part of performance of certain banking operations, the National Bank makes changes in the list of banking operations specified in the license issued to the bank.

The notification about the revocation of the banking license in the part of performance of certain banking operations is subject to publication by the National Bank in national printed mass media being official editions within 7 days from the date of the respective decision.

In case of revocation of the banking license in the part of performance of certain banking operations, obligations of the parties relative to the performance of those operations are subject to termination because of impossibility of their fulfillment. At that, the bank shall compensate depositors and other creditors for all losses they suffered because of the impossibility of the fulfillment by the bank of its obligations relative to the performance of certain banking operations in part of which the license has been revoked.



In case of the revocation from the bank of the banking license in part of performance of all banking operations specified in part one of Article 8 of this Code, when the license remains valid relative to the performance of other banking operations, it is allowed the transformation of the bank in a non-bank credit and financial organization (introduction of respective changes to the bank statute).

In case of revocation of the banking license and provided that the bank has fulfilled completely its obligations before depositors and other creditors, the bank is subject to liquidation.

Once a banking has been revoked:

obligations of the bank are considered matured;

obligations of the bank in foreign currency are determined for in Belarusian roubles at the official rate of the National Bank valid on the date of revocation of the banking license;

the bank bears no responsibility for the breach of its obligations because of the impossibility of their fulfillment due to the revocation of the banking license, the termination of accrual of interest, penalties (forfeit, fines) included;

- enforcement of execution documents with respect to property recovery are suspended, except for the enforcement of execution documents issued on the basis of court decisions as to wage arrears recovery, payment of author's royalties and alimony, and compensation for injury to life or health that become effective prior to the revocation from the bank of the banking license;

it is prohibited for the bank to conclude new contracts and to renegotiate for a new term already concluded contracts, to fulfill bank obligations under those contracts, including the performance of operations on a correspondent account of the bank, except for the operations relative to current and operating payments of the bank, repayment of dismissal wages and remuneration for work of persons employed under a labor contract, within the expense budget agreed with the National Bank, as well as to return monetary funds improperly credited to the correspondent account of the bank, prior to the establishment of a liquidation committee (appointment of the liquidator) or the appointment of a receiver (crisis manager) by an economic court.

#### **Article 100. Appeal of Decisions of the National Bank when Licensing Banking Activities**

Decisions of the National Bank on denial of issuance of the banking license, of introduction of changes and/or additions to the list of banking operations specified in the license, on suspension or revocation of the banking license, including in part of the performance of certain banking operations may be appealed to the economic court.

### **Chapter 13**

#### **Reorganization and Liquidation of Banks**

#### **Article 101. Bank Reorganization**

The reorganization of a bank way of its split-up or split-off of another bank (banks) is allowed provided that the authorized fund of the bank(s) emerging as a result of the reorganization remains within the minimum authorized fund established by the National Bank.

A bank may merge only with a bank(s). Once banks have taken decision to merge, it is necessary to obtain a permission from the National Bank for their merger. The procedure for obtaining the permission is established by the National Bank.

A bank may be reorganized by way of affiliation only to another bank. Only a bank or a non-bank credit and financial organization may be affiliated with a bank.

Reorganization of a bank is carried out with notification of the creditors of the bank being reorganized. Any creditor of the bank being reorganized is entitled to require termination or early fulfillment of obligation under which the bank is a debtor and compensations for losses.

When merged, the banks are obliged to return the banking licenses (their duplicates) issued to them and copies thereof to the National bank. At that, the newly created bank is entitled to submit to the National Bank a petition on issuance of the banking license specifying the list of banking operations which the reorganized banks were entitled to perform.

When affiliated, the bank reorganized by the way of affiliation with another bank is obliged to return the banking license (its duplicate) issued to it and copies thereof to the National bank. The bank reorganized by way of affiliation of another bank is entitled to submit to the National Bank a petition on introduction of changes and/or additions to the list of banking operations specified in the license that was issued to it to include in the list the banking operations which the affiliated bank has been entitled to perform.

When split off, the reorganized bank is obliged to return the banking license (its duplicate) issued to it and copies of such license to the National Bank, and the banks being created as a result of split-off shall submit petitions for issuance of banking licenses.

When reorganized, the rights and duties of the bank are transferred to a newly created bank(s) and other legal persons in the manner established by civil legislation.

## **Article 102. Bank Liquidation**

The termination of activities of a bank is carried out by way of its liquidation in accordance with legislation of the Republic of Belarus and with regard to the requirements established by this Code.

A bank may be liquidated by decision of its participants (owner of the bank property), of a body of the bank authorized by the statute, of the economic court or of the National Bank in cases stipulated by legislative acts of the Republic of Belarus. The decisions on the liquidation of a bank may be taken by its participants (owner of the bank property) or a body of the bank authorized by the statute only after the bank has fully settled all obligations before depositors and other creditors of the bank.

The liquidation of a bank, on the initiative of its participants (owner of the bank property) or a body of the bank authorized by the statute, is carried out with a written consent of the National Bank. Procedure for obtaining such consent is established by the National Bank.

If the National Bank refuses to grant its consent for liquidation of a bank, it shall give grounds for its decision and to submit respectively to participants (owner of the bank property) or a body of the bank authorized by the statute a plan of actions to eliminate the causes underlying the decision to liquidate the bank.

The participants (owner of the property) of the bank or a body of the bank authorized by the statute that have taken the decision to liquidate the bank shall set up a liquidation commission (appoint a liquidator) within ten days from the date of receipt of the National Bank's consent, appoint its chairman, and establish procedures and deadlines for liquidation in accordance with legislation of the Republic of Belarus.

The National Bank shall, within five days, submit to the Ministry of Justice of the Republic of Belarus data that the bank is in the process of liquidation for their entry in the Uniform State Register of Legal Persons and Individual entrepreneurs.

The liquidation commission (liquidator) shall assess financial standing of the bank within thirty days of the decision on liquidation of the bank and, if the bank's assets are insufficient to meet the claims of the creditors and/or to pay debts to the budget and to the state special budgetary and off-budgetary funds, file with the economic court an application on the bankruptcy of the bank. The economic court carries out bankruptcy procedure in the manner stipulated by legislation of the Republic of Belarus.

The liquidation of a bank with foreign investments is carried out by the decision of its participants (owner of the bank property) or a body of the bank authorized by the statute in the manner stipulated by legislation of the Republic of Belarus or through a judiciary procedure.

The bank is considered liquidated from the date of the exclusion of the bank from the Uniform State Register of Legal Persons and Individual entrepreneurs.

A notification about the exclusion of the bank from the Uniform State Register of Legal Persons and Individual entrepreneurs is to be published by the National Bank in national printed mass media being official editions and in the official edition of the National Bank within thirty days from the date of an appropriate entry in the Register.

### **Article 103. Termination of Activities and Obligations of Banks at Liquidation**

A bank is obliged to terminate its activities from the date of the decision on its liquidation and to withdraw from other legal persons (to take a decision on liquidation of the legal person the property of which the bank owns).

Persons who have concluded a bank account contract with a bank to be liquidated are obliged to terminate the contract unilaterally within thirty days from the date of publication about the liquidation of the bank in national printed mass media being official editions.

### **Article 104. Priority of Depositors' and Creditors' Claims Settlement at Bank Liquidation**

When a bank is liquidated, except for cases of its bankruptcy, claims of its depositors and other creditors are settled in the following order of priority:

first, deposits of natural persons and interest accrued thereon are repaid and claims for compensation of harm caused to life and health are settled;

second, arrears of alimony of expenses of the state for maintenance of children under state protection, salaries and dismissal wages payable to the bank's employees are discharged;

third, indebtedness on payments to the budget and state special budgetary and off-budgetary funds is discharged;

fourth, claims of creditors relative to obligations secured by the pledge of the property of the bank being liquidated are satisfied;

- fifth, deposits of individual entrepreneurs and legal persons and interest thereon are repaid;

- sixth, claims of the National Bank relative to credits extended to the bank for refinancing are satisfied; and

- seventh, claims of other creditors in accordance with legislation of the Republic of Belarus are satisfied.

Claims of depositors and other creditors in each subsequent category are satisfied only after claims of depositors and other creditors of the preceding category have been completely satisfied.

## **Chapter 14**

### **General Provisions about Non-bank Credit and Financial Organizations**

#### **Article 105. Organizational and Legal Form of Non-bank Credit and Financial organization**

A non-bank credit and financial organization is established as an economic company and carries out its activity in the manner established by legislation of the Republic of Belarus, having regard to the specifics stipulated by this Code.

#### **Article 106. Name of Non-bank Credit and Financial Organization**

The name of a non-bank credit and financial organization must indicate the nature of activity of the organization through the use of the words "non-bank credit and financial organization", as well as its organizational and legal form.

Legal persons registered in the territory of the Republic of Belarus in the established order may not use in their name the words "non-bank credit and financial organization" or otherwise indicate that they have the right to carry out banking activities, except for the persons that have obtained banking license from the National Bank.

#### **Article 107. State Registration and Licensing of Non-bank Credit and Financial Organizations**

Non-bank credit and financial organizations are subject to state registration by the National Bank in the manner established for banks in Chapter 9 of this Code, having regard to the specifics stipulated in this Article. A non-bank credit and financial organization may perform certain banking operations stipulated by this Code on the basis of the license issued by the National Bank.

The list of documents to be presented by a non-bank credit and financial organization for state registration and obtaining a banking license are determined by the National Bank depending on the organizational and legal form of the non-bank credit and financial organization and activity which it will carry out.

A decision on state registration or denial of such registration of a non-bank credit and financial organization are made by the National Bank within the period not exceeding two months from the date of submission of the documents necessary for state registration, stipulated by the National Bank.

Concurrently with a decision on the state registration of a non-bank credit and financial organization, the National Bank shall make a decision on the list of banking operations that may be performed by the non-bank credit and financial organization and on the issuance of a banking license.

Based on the decision on the state registration of a non-bank credit and financial organization, the National Bank shall, within 10 days, submit to the Ministry of Justice of the Republic of Belarus necessary data about the organization for their entry in the Uniform State Register of Legal Persons and Individual entrepreneurs.

A registered non-bank credit and financial organization is given a certificate of state registration and a banking license.

The documents to be submitted by a non-bank credit and financial organization for introduction of changes and/or additions to the list of banking operations specified in the banking license issued to it, as well as procedure of their submission are established by the National Bank.

Based on the decision on introduction of changes and/or additions to the list of banking operations specified in the banking license, the National Bank issues to the non-bank credit and financial organization the license formalized on a new license form specifying the changed list of banking operations which the organizations are entitled to perform.

The revocation, suspension and reinstatement of the banking license issued to a non-bank credit and financial organization are carried out on the grounds and in the order stipulated by Articles 97 to 99 of this Code.

#### **Article 108. Reorganization and Liquidation of Non-bank Credit and Financial Organizations**

Non-bank credit and financial organizations are reorganized and liquidated in the manner prescribed by legislation of the Republic of Belarus for legal persons of the relevant organizational and legal form, having regard to the specifics stipulated in Chapter 13 of this Code for banks.

In case of reorganization of a non-bank credit and financial organization through transformation into some other commercial organization, the latter may not be transformed into a non-bank credit and financial organization within three years from the date of revocation of the banking license.

The transformation of a non-bank credit and financial organization into a bank (introduction of relevant changes to the statute of the non-bank credit and financial organization) is allowed subject to requirements stipulated by Chapter 9 of this Code for the state registration of banks.

### **SECTION IV**

#### **ENSURING STABILITY OF BANKING. ACTIVITIES**

#### **LIABILITY OF SUBJECTS AND PARTICIPANTS OF**

#### **BANKING RELATIONSHIP**

### **Chapter 15**

#### **Ensuring of Stability of Banking. Activities**

#### **Protection of Rights and Interests of Depositors and Other Creditors of Banks**

#### **Article 109. Ensuring Financial Soundness of Banks**

To ensure financial soundness, a bank is obliged to timely identify, control, and minimize the risks that threaten its financial soundness. In order to compensate for financial losses that might result from its operation, the bank is obliged to set up reserves (funds) the size and utilization procedures of which are determined by the National Bank. The bank is obliged to categorize assets continually as to their reliability, and set up special reserves for covering potential losses on assets and operations not reflected in the balance sheet, including reserves for devaluation of assets, charging those losses to pretax expenses in the manner established by the National Bank, unless otherwise stipulated by legislative acts of the Republic of Belarus.

The bank is obliged to observe standards of safe operation, bans, and restrictions established in accordance with this Code, which ensure its safe and sound operation. The bank is obliged to introduce internal control ensuring an adequate level of soundness in accordance with the nature and volume of banking operations being performed. The head organization of a bank group and/or bank holding is obliged to introduce a system of internal control over risks on a consolidated basis.

### **Article 110. Required Reserves Fund Allocated in the National Bank**

Banks must deposit a portion of attracted monetary funds in the required reserves fund allocated in the National Bank.

The required reserves fund is used for regulating currency circulation in accordance with the objectives and tasks of monetary and credit policy of the Republic of Belarus and for insuring liquidity and solvency of the bank.

The National Bank is entitled to collect, on the basis of an administrative disposition of the Chairman of the Board of the National Bank, outstanding monetary funds to be paid to required reserves fund by indisputably debiting the bank's correspondent account.

### **Article 111. Safe Operation Standards Established for Banks**

To maintain stability and soundness of the banking system of the Republic of Belarus, the National Bank establishes the following safe operation standards for banks:

the minimum size of the authorized fund for a newly established (reorganized) bank;

the limit for the non-monetary portion of the authorized fund, but not exceeding 20 percent of the fund;

the minimum size of regulatory capital for a functioning bank;

liquidity standards;

regulatory capital adequacy standards;

credit risk restriction standards;

foreign currency risk restriction standards;

standards of bank participation in authorized funds of other commercial organizations;

other standards necessary for the restriction of banking risks and for the protection of interests of depositors and other creditors.

The National Bank determines methods of calculating regulatory capital, assets and liabilities, risks for each safe operation standard, having regard to the international standards and consultations with banks, banks unions and associations.

The National Bank informs banks on forthcoming changes of safe operation standards and methods of calculation thereof at least one month prior to putting them into force.

For the purposes of determining the size and adequacy of the regulatory capital of a bank, the National Bank is entitled to assess its assets and liabilities on the basis of methods established by the latter. The bank is obliged to reflect in its reports the size of regulatory capital, assets and liabilities determined by the National Bank in accordance with the requirements of this Article.

The National Bank establishes safe operation standards for non-bank credit and financial organizations depending on the list of banking operations those organizations may perform.

### **Article 112. Size of Authorized Fund and Regulatory Capital of Banks**

The size of the authorized fund of a newly established (reorganized) bank may not be less than the minimum size of the authorized fund established by the National Bank for a newly established (reorganized) bank.

The size of regulatory capital of a bank is established as a sum of the authorized fund, other funds, and retained profit minus outstanding reserves (funds) determined by part one of Article 109 of this Code, with an increase/decrease in a number of other components of regulatory capital of the bank the list and calculation procedures of which are determined by the National Bank. Components of regulatory capital of a bank are determined on the basis of its loss coverage capacity.

### **Article 113. Liquidity Standards of a Bank**

Liquidity standards of a bank are established as a ratio of assets to liabilities, having regard to the terms, amounts, types of assets and liabilities, and other factors determined by the National Bank.

### **Article 114. Regulatory Capital Adequacy Standards of a Bank**

Regulatory capital adequacy standards of a bank are established as a maximum ratio of the size of (part of) regulatory capital to risks accepted by the bank.

### **Article 115. Credit Risk Restriction Standards**

The credit risk restriction standards are established as a percentage of normative capital of a bank.

With a view of restriction of banks credit risks, standards of maximum exposure to a debtor, insider (group of connected debtors), as well as standards of total of large exposures and of total of exposures to insiders and persons connected with the latter, are established.

While determining an exposure to a debtor it shall be taken in consideration total of credits and other monetary obligations of the debtor in relation to the bank, as well as off-balance-sheet obligations of the bank in relation to the debtor which envisage the fulfillment in monetary form.

A large exposure to a debtor is considered an exposure exceeding the percentage ratio to the regulatory capital of the bank established by the National Bank.

Connected debtors are considered natural and legal persons – bank's debtors connected economically and/or legally (having property in common ownership, mutual guarantees and/or obligations, mean natural and legal persons that are customers of a bank so interconnected economically and/or legally (having common property, mutual guarantees and/or obligations, one and the same debtor being in the managerial position simultaneously by two and more other debtors, as well being in relation to each other a legal person and a person which has the right to give instructions binding for such legal person or having a possibility to determine otherwise its actions, including being parent economic company or partnership and a subsidiary company, dependent economic companies, unitary enterprise and owner of its property) that financial difficulties one of the debtors entail or make likely the emergence of financial difficulties in respect of other debtor(s).

Insiders are considered natural and legal persons, the owner of bank's property, bank participants having five and more percent shares, members of bank bodies of management, members of credit council (committee), heads of detached and structural divisions the bank, as well as persons which can influence the decision-making on granting credit by virtue of connection with the bank, bank's property owner or participants of the bank, or with members of bank bodies of management.

To insiders pertain also natural persons being close relatives or in-laws of natural persons specified in part 7 of this Article. Natural persons being insiders of the bank in accordance with part 7 of this Article remain considered insiders within one year after losing connection with the bank.

With a view of determining large exposures, detecting connected debtors and insiders, the National Bank, based on the methods established by it, is entitled to assess interrelationships of bank debtors between themselves, as well as with the bank, with the bank's property owner, with participants of the bank and members of bank bodies of management. A bank is obliged to reflect in its reports large exposures of the bank, assessing them according to the methods established by the National Bank in accordance with the requirements of this Article.

The National Bank shall keep register of large exposures of banks and non-bank credit and financial organizations.

#### **Article 116. Standard of Foreign Currency Risk Restrictions**

The National Bank establishes a standards of an open foreign currency position on foreign currency risk as a percentage to the regulatory capital of a bank.

#### **Article 117. Standard of Bank's Participation in Authorized Funds of Other Commercial Organizations**

The National Bank establish standards for a bank's participation in the authorized fund of a commercial organization and authorized funds of commercial organizations in the aggregate as a maximum percentage ratio to the regulatory capital of a bank.

#### **Article 118. Safe Operation Standards Established for the Purposes of Supervision of Banking Activities on a Consolidated Basis**



The National Bank may establish for bank groups the following safe operation standards: liquidity, regulatory capital adequacy, credit risks restriction, currency risk restrictions. In this case the duty to comply with the said standards is imposed on the head organization of the bank group.

For banks deemed making part of a bank group and/or a bank holding, the National Bank establishes safe operation standards having regard to the risks relative to the ability of other legal persons to substantially influence decisions being taken by bodies of management of such banks, and also relative to the possibility of such banks to substantially influence decisions being taken by bodies of management of other legal persons.

### **Article 119. Reports to be Submitted to the National Bank**

Banks shall submit reports on their activity to the National Bank in manner prescribed by the National Bank.

Banks shall publish reports on their activities, annual report after having it verified by an audit organization (auditor, individual entrepreneur), in the national mass media being official editions in the manner prescribed by the National Bank.

For the purposes of supervision of banking activities on a consolidated basis, the head organization of a bank group and/or bank holding shall submit to the National Bank, in the manner prescribed by it, consolidated reports on activities respectively of the bank group and/or bank holding.

The requirements for consolidated reports on activities of a bank group and bank holding (form and contents), as well as the manner of their completing, are determined by the National Bank.

The head organization of a bank group and/or a bank holding shall publish, in the manner prescribed by the National bank, consolidated reports on activities of the bank group and or bank holding, annual consolidated reports after having them verified by an audit organization (auditor, individual entrepreneur), in national mass media being official editions.

### **Article 120. Guarantees for Repayment of Funds Attracted by Banks from Natural Persons**

The state promotes and protects savings of the citizens, creates guarantees of the repayment of deposits.

To ensure guarantees of the repayment of funds attracted by banks from natural persons and compensation for loss of income on deposited funds, various forms of guaranteeing repayment of such funds may be developed in accordance with legislation of the Republic of Belarus.

### **Article 121. Bank Secrecy**

Data on accounts and deposits, including data on availability of an account with a bank (non-bank credit and financial organization), account holder, account number, and other details of the account, amounts of balances of accounts and deposits, as well as data on particular transactions, on operations without opening an account, operations on accounts and deposits, and property stored at the bank constitute bank secrecy and may not be disclosed.

The National Bank and other banks guarantee non-disclosure of bank secrecy of their customers and correspondent banks. Employees of the National Bank and other banks are obliged to preserve bank

secrecy except for the cases stipulated by this Code and other legislative acts of the Republic of Belarus.

Data constituting bank secrecy of legal persons and individual entrepreneurs may be disclosed by a bank to said persons, their representatives provided that the latter have proper powers, and audit organizations (auditors, individual entrepreneurs) which perform their auditing, and in the following cases stipulated by legislative acts of the Republic of Belarus:

to courts (judges) – with respect to criminal and civil cases under their consideration, cases pertaining to the jurisdiction of economic courts, and cases on administrative offences, as well as with regard to execution documents;

to a public prosecutor, or his deputy, and also, with the authorization of a public prosecutor or his deputy, to bodies of inquiry and preliminary investigation with respect to materials and cases under their consideration;

to bodies of the Committee of State Control of the Republic of Belarus;

to bodies of state securities of the Republic of Belarus;

to taxation and customs bodies;

to notaries for execution of notarial actions;

to the National Bank.

Banks must submit data on accounts of central bodies of state administration, other legal persons and individual entrepreneurs that make use of budgetary funds and/or funds of state off-budgetary funds, and receiving (having received) funds on state external credits and/or other funds against guarantees of the Government of the Republic of Belarus, guarantees (sureties) of local executive and administrative bodies to the Ministry of Finance of the Republic of Belarus and to local financial authorities.

Data constituting bank secrecy of natural persons, except for individual entrepreneurs, may be disclosed by a bank to said persons, their representatives provided that the latter have proper powers, and in the following cases stipulated by legislative acts of the Republic of Belarus:

to courts - with respect to criminal cases under their consideration in connection with which, in accordance with the law, property could be confiscated and/or other material punishment may be imposed, and with respect to civil suits considered within criminal proceedings, as well as with respect to cases on administrative offences;

to courts - with respect to civil cases under their consideration and cases put under jurisdiction of economic courts, and on execution documents;

to a public prosecutor, or his deputy, and also, with the authorization of a public prosecutor or his deputy, to bodies of inquiry and preliminary investigation with respect to materials and cases under their consideration;

to Department of Financial Monitoring of the Committee of State Control of the Republic of Belarus;

to notaries for execution of notarial actions;

to the National Bank.

In case of the death of an account holder or depositor, statement on balances of his accounts and/or deposits and/or property stored in the bank is furnished by a bank to persons designated by the account holder or depositor in a testamentary disposition, to notaries with respect to probation cases

under their consideration, and to foreign consular offices with respect to accounts of foreign citizens.

Data constituting bank secrecy are provided by a bank based on a written request of an authorized official of a state body.

Persons that have received data constituting bank secrecy in accordance with this Article may not disclose it without consent of the account holder and/or depositor or property depositor, except for cases stipulated by legislative acts of the Republic of Belarus, are subject to responsibility for the disclosure of this data in accordance with legislation of the Republic of Belarus.

## **Article 122. Restrictions of Banks Activities and Their Participation in Authorized Funds of Other Legal Persons**

Banks are not entitled to extend:

credits to the Government of the Republic of Belarus;

favorable terms and conditions to insiders and banks employees.

For the purposes of this Article, favorable terms and conditions mean:

conclusion with persons specified in indent 3 of part one of this Article or on their behalf of such a transaction which, with regard to its substance, purposes, peculiarities and risk, the bank does not conclude with other customers;

conclusion with persons specified in indent 3 of part one of this Article or on their behalf of a transaction on terms and conditions on which the bank does not conclude similar transactions with other customers of the bank;

charging persons specified in indent 3 of part one of this Article remuneration and/or fee for performance of a bank operation in the lower amount than the remuneration and/or fee for performance of that bank operation charged on other customers of the bank.

Transactions with preferential terms and conditions concluded with persons specified in indent 3 of part one of this Article are void.

It is prohibited for executive officers and specialists of banks to participate personally or through proxies in the management of a commercial organization except for the cases stipulated by legislation of the Republic of Belarus, as well as to be engaged personally or through proxies in entrepreneurial activity and other remunerated activity (do other remunerated work), except for carrying out teaching, scientific and creative activities in accordance with legislative acts of the Republic of Belarus.

Banks may not be transferred in the management by other banks or persons, except for the cases stipulated by this Code.

Banks may not reduce the size of their authorized fund without prior written consent of the National Bank.

Participation of a bank in the authorized fund of another bank is allowed only with the consent of the National Bank.

Participation of a bank in the authorized fund of a legal person not being bank in the amount exceeding the amount established by the National Bank is allowed only after obtaining the authorization of the National Bank.

The National Bank gives its consent to the participation of a bank in the authorized fund of another bank and the authorization to the participation of a bank in the authorized fund of a legal person not being bank with regard to results of an analysis of the financial standing of that bank, possibility of management of shares being purchased, influence on its activities and risks of the persons in the authorized funds of which the bank participates.

The founders of a bank may not retire as founder of the bank (the bank's property owner may not take decision of the liquidation of the bank) within first three years from the date of its state registration.

### **Article 123. Requirements to Members of Bank's Executive Body and Other Persons at Bank's Shares Acquisition**

Members of a bank's executive body are obliged to notify the National Bank and the executive body of the bank, and also authorized state bodies and other organizations in the cases stipulated by legislative acts of the Republic of Belarus, of acquisition of the bank's shares and of any transactions with such shares within five days from the date of conclusion thereof.

Failure of the members of a bank's executive body to comply with the requirements stipulated by this Article entails responsibility in accordance with legislative acts of the Republic of Belarus.

Acquisition of more than five per cent of shares in the authorized fund of a bank as a result of one or more transactions performed by one legal person or natural person or by a group of legal persons and/or natural persons interconnected by agreement, or a group of legal persons affiliated or subordinated with respect to one another requires the consent of the National.

The National Bank may deny to grant consent for purchase/sale of more than 5 per cent of a bank's shares when the economic court establishes bankruptcy of the purchaser of shares, incompliance of the purchaser of the shares with requirements placed on the founders of a bank established by this Code. Legislation of the Republic of Belarus may determine other cases for denial to grant consent to purchase/sale of more than 5 percent of a bank's shares.

### **Article 124. Banks' Transactions with Own Shares**

Banks must obtain consent of the National Bank for the purchase of more than 5 percent of the shares issued by the bank

### **Article 125. Bank Activity to Attracting Deposits and Extending Credits**

Banks independently establish terms of and procedures for attracting monetary funds of natural and/or legal persons in deposits and the placement of those monetary funds within the limits established by this Code and normative legal acts of the National Bank.

Banks shall ensure access to data regarding the average rates of interest on credits and deposits.

Where the President of the Republic of Belarus or, in the established order, the Government of the Republic of Belarus takes decisions on extending bank credits on preferential terms and conditions or on changing terms and conditions of credits extended earlier for preferential terms and conditions, such banks are compensated for their losses from the sources determined in those decisions or in accordance therewith.

## **Article 126. Methods of Securing Fulfillment of Obligations under Contracts Concluded by Banks**

The fulfillment of obligations under contracts concluded by banks may be secured by a guarantee deposit of money, transfer of legal title in property, including property rights, pledge of immovable and movable property, suretyship, guarantee and other methods stipulated by legislation of the Republic of Belarus or by a contract.

Securing fulfillment of obligations under contracts concluded by banks by a guarantee deposit of money, transfer of a legal title in property, including in property rights, is carried out on conditions stipulated respectively by Articles 148 and 149 of this Code having regard to specific features of legal relationships arising on the basis of such contracts.

## **Chapter 16**

### **Imposing Arrest and Levying Execution on Monetary Funds and Other Property Held in Banks.**

#### **Suspension of Operations on Accounts in Bank**

## **Chapter 127. General Provisions of Imposing Arrest and Levying Execution on Monetary Funds and Other Property Held in Banks**

Arrest on monetary funds and other property of a natural person and legal person held on accounts, deposits or stored in a bank may be imposed only in accordance with this Code and other legislative acts of the Republic of Belarus.

Levying execution on monetary funds and other property of a natural person and legal person held on accounts, deposits or stored in a bank is allowed in the cases determined by legislative acts of the Republic of Belarus according to:

executive endorsements of notaries and other execution documents;

decision (order) of an authorized state body (official).

When arrest has been imposed on monetary funds and other property of a natural person and legal person held on accounts, deposits or stored in a bank, the bank discontinues all debiting operations on accounts of that person and return of property of that person within property limits on which the arrest is imposed unless otherwise stipulated by legislative acts of the Republic of Belarus and relevant decision of an authorized state body (official) on imposing arrest.

## **Article 128. Imposing Arrest and Levying Execution on Monetary Funds and Other Property Held in Banks of a Legal Person and Individual Entrepreneur Held in a Bank**

Arrest on monetary funds and other property of a legal person and individual entrepreneur held on accounts, deposits or stored in a bank may be imposed only according to:

a court decision (ruling) within the amount of a claim;

a decision of a prosecutor or his deputy, of a body of criminal prosecution in the cases stipulated by the Code of Criminal Procedure of the Republic of Belarus;

an execution document.

Arrest on property of a legal person or individual entrepreneur held on accounts, deposits or stored in a bank may be also imposed by decision of bodies of the Committee of State Control of the Republic of Belarus, customs and taxation bodies in the cases stipulated by legislative acts of the Republic of Belarus.

#### **Article 129. Imposing Arrest on Monetary Funds and Other Property of a Natural Person Held in Bank**

Arrest on monetary funds and other property of a natural person not being individual entrepreneur held on accounts, deposits or stored in a bank may be imposed only according to:

a court decision (ruling) for the purposes of securing the execution of a court sentence in a criminal case concerning the civil suit, other material punishments or possible confiscation of property, as well as securing claim and/or execution actions in civil cases, in case put under jurisdiction of economic courts and in cases on administrative offences;

a decision of a prosecutor or his deputy, of a body of criminal prosecution in the cases stipulated by the Code of Criminal Procedure of the Republic of Belarus.

Arrest on monetary funds and other property of a natural person not being individual entrepreneur held on accounts, deposits or stored in a bank may be also imposed according to decisions of taxation or customs bodies in the cases stipulated by legislative acts of the Republic of Belarus.

#### **Article 130. Imposing Arrest on Monetary Funds and Other Property of a Bank**

Imposing arrest on monetary funds of a bank is carried out by bank's transferring monetary funds to a special deposit account with the National Bank. The National Bank debits such account in the order established by legislation of the Republic of Belarus.

Imposing arrest on other property of a bank is carried out in order established by legislative acts of the Republic of Belarus.

When securing an action for recovery of monetary funds from a bank, the bank is entitled to place on the court's deposit account the sum of money claimed by the plaintiff.

Imposing arrest on the correspondent account of a bank, suspension or termination of operations on such account are not allowed except for the case of the revocation of the banking license.

#### **Article 131. Confiscation of Monetary Funds and Other Property of Natural and Legal Person**

Monetary funds and other property of a natural and legal person may be confiscated only on the basis of court decision on property confiscation or a court sentence having legal effect.

#### **Article 132. Suspension of Operation on Accounts in a Bank**

The suspension of operations on accounts in a bank is carried out by authorized bodies in the cases and the order determined by legislative acts of the Republic of Belarus.

## **Chapter 17**

### **Liability of Subjects and Participants of Banking Relationships**

#### **Article 133. Liability for Carrying Out Banking Activities with Banking License**

Persons carrying out banking activities without a banking license are liable in accordance with legislation of the Republic of Belarus.

When banking activities are carried out without a banking license, a legal person may be liquidated and activity of an individual entrepreneur may be terminated in the order established by legislation of the Republic of Belarus.

Incomes received as a result of carrying out banking activities without a banking license and recovered in the established order are to be transferred to the national budget.

#### **Article 134. Measure of Influence Applied by the National Bank**

In the cases stipulated by Article 97 of this Code, the National Bank is entitled to revoke the banking license or to suspend its effect, including in part of certain banking operations.

If a bank or non-bank credit and financial organization does not comply with an order on elimination of violations, there are losses resulting from the activities of a bank or non-bank credit and financial organization during a year, and if the violations or other actions of a bank or a non-bank credit and financial organization, mentioned in Article 97 of this Code, lead to a situation which could entail insolvency of the bank or non-bank credit and financial organization or creates a threat for interests of depositors and other creditors, the National Bank is entitled to:

require implementation of measures on improvement of financial standing of the bank or non-bank credit and financial organization, including modification of its assets structure;

make proposals on replacement of the head of the bank or non-bank credit and financial organization or carry out a re-assessment of the compliance of the head, chief accountant of the bank or non-bank credit and financial organization with qualifying requirements and/or requirements toward business reputation;

require removal of the head of the bank or non-bank credit and financial organization from office;

propose to participants (the property owner) of the bank or to participants of the non-bank credit and financial organization to take actions aimed at increasing the regulatory capital of such bank, non-bank credit and financial organization till the size ensuring their compliance with safe operation standards;

change safe operation standards for the bank or non-bank credit and financial organization for a period of up to one year or until violations are eliminated;

impose a ban on opening affiliates (branches) and/or creating structural divisions of the bank for a period of up to one year or until violations are eliminated;

change the list of banking operations specified in the banking license;

put the bank or non-bank credit and financial organization under temporary management of the National Bank or appoint temporary administration in the order established by legislation of the Republic of Belarus.

If a bank group or bank holding violates safe operation standards established for such groups and holdings in accordance with part one of Article 118 of this Code, fails to submit or submits incomplete and/or false consolidated reports on activities of the bank group and/or bank holding, violates other requirements of banking legislation and/or orders of the National Bank, the National Bank is entitled to:

require the elimination of detected violations;

demand the head organization of such bank group and/or such bank holding to desist from a possibility to substantially influence decisions taken by bodies of management of the bank, non-bank credit and financial organization considered making part of the bank group and/or bank holding.

If banks or non-bank credit and financial organizations considered making part of the bank group and/or bank holding violate requirements of banking legislation established for bank groups and/or bank holdings and/or relevant orders of the National Bank, the National Bank is entitled to:

require elimination of detected violations;

apply to them measures of influence established by parts one and two of this Article;

demand the head organization of such bank group and/or such bank holding to desist from a possibility to substantially influence decisions taken by bodies of management of the bank, non-bank credit and financial organization considered making part of the bank group and/or bank holding.

Measure of influence are applied having regard to character of the violation, degree of its influence on the financial standing of the bank or non-bank credit and financial organization, occurrence of the situation which can entail the insolvency of the bank and non-bank credit and financial organization or endangers interests of depositors and other creditors based on criteria established by the National Bank.

The measures of influence established by this Article may be applied to a bank or non-bank credit and financial organization within two years from the date of the commission of the violation by them and within three months from the date of its detection.

Procedure for applying measures of influence to a bank or non-bank credit and financial organization is established by the National Bank.

The bank and non-bank credit and financial organization are entitled to appeal the decision of the National Bank on applying measures of influence to them in the order established by legislation of the Republic of Belarus.

### **Article 135. Liability of Bank or Non-bank Credit and Financial Organization for Damage to Depositors and Creditors**

A bank and a non-bank credit and financial organization are liable for non-fulfillment (improper fulfillment) of their obligations in compliance with legislation of the Republic of Belarus and having regard to the specifics stipulated by this Code.



A bank or a non-bank credit and financial organization are not liable for damage to depositors and other creditors by non-fulfillment (improper fulfillment) of their obligations thereto, if such non-fulfillment (improper fulfillment) has been caused by force majeure and also in the cases stipulated by part 2 of Article 136 of this Code.

Officials of a bank or non-bank credit and financial organization are liable for violation of the established procedure for concluding transactions, as established by legislation of the Republic of Belarus.

If insolvency (bankruptcy) of a bank or a non-bank credit and financial organization has been prompted by its founders (participant, property owner) or other persons, including the head of the bank or non-bank credit and financial organization, who are authorized to issue instructions binding such bank or non-bank credit and financial organization or otherwise determine its activities, then, should the property of the bank or credit and financial organization be insufficient, subsidiary liability may be imposed on the said persons with respect to its obligations.

**Article 136. Liability of the National Bank, Banks, or Non-bank Credit and Financial Organizations for Damage Caused as a Result of Suspension of Operations on Accounts, Imposing Arrest or Levying Execution on Monetary Funds and Other Property**

A bank or a non-bank credit and financial organization bear material liability to customers of the bank or non-bank credit and financial organization in the case of imposing arrest on property of the bank or the non-bank credit and financial organization.

The National Bank, banks, and non-bank credit and financial organizations do not bear liability for damage caused as a result of suspension of operations on accounts or levying execution on monetary funds and other property of natural persons and legal persons.

## **SPECIAL PART**

### **SECTION VI.**

#### **ACTIVE BANKING OPERATIONS**

#### **Chapter 18**

#### **Bank Credit**

**Article 137. Credit Contract**

Under a credit contract, a bank or a non-bank credit and financial organization (lender) undertakes to provide monetary funds (credit) to another person (borrower) in the amount and on the terms determined by the contract, and the borrower undertakes to repay (reimburse) the credit and interest thereon.

A credit contract may provide for a duty of the lender to pay also fee (commission fee and other payments) for using credit.

### **Article 138. Determining the Day of Granting Credit**

The day of granting credit is considered the day when the amount of credit is credited to the borrower's account or transferred by a bank in payment of settlement documents presented by the borrower, or used in compliance with instructions of the borrower, or paid to the borrower in cash.

### **Article 139. Form of Credit Contract**

A credit contract must be concluded in writing. Non-observance of the written form of a credit contract makes it invalid.

### **Article 140. Material Terms of Credit Contract**

The material terms of a credit contract are terms concerning:

the amount of credit with indication of the credit currency (for a credit line, maximum amount of the monetary funds granted to the borrower and the maximum limit of outstanding indebtedness of the borrower);

the term and procedure for granting and repayment (reimbursement) of the credit;

the interest on credit and procedures for payment thereof, and also the amount of the charge for using credit and the procedure for payment thereof if the duty for its payment is stipulated by the credit contract except for the cases of granting credit on preferential terms on the basis of decisions taken by the President of the Republic of Belarus or, in the established order, by the Government of the Republic of Belarus;

purposes for which the borrower undertakes to use or not to use of granted monetary funds (intended use of the credit), in the case stipulated by part 2 of Article 144 of this Code;

the manner of securing the fulfillment of obligations under the credit contract;

- liability of the lender and the borrower for non-fulfillment of the obligations under the credit contract;

- other terms concerning which one of the parties requests to be agreed.

### **Article 141. Lender's Refusal to Enter into Credit contract**

A lender is entitled to refuse to conclude a credit contract if there is data evidencing that the amount of the credit extended to the borrower will not be repaid (reimbursed) on time, if the borrower fails to provide security for the fulfillment of the obligations under credit contract, if the economic court has taken decision on bankruptcy with liquidation (termination of activities) of the borrower, or if there are any other grounds which could influence the fulfillment by the borrower of the obligations under the credit contract or are stipulated by legislation of the Republic of Belarus.

The lender is entitled to refuse to fulfill the obligations under the credit contract if the borrower has not fulfilled its obligations under such contract in the case stipulated by part 4 of Article 144 of this Code and in other cases stipulated by the credit contract.

#### **Article 142. Borrower's Refusal to Receive Credit**

After a credit contract has been concluded, the borrower is entitled to refuse, unless otherwise stipulated by the legislation of the Republic of Belarus or credit contract, to receive credit, in whole or in part, notifying the lender prior to the date of granting credit established in the contract.

#### **Article 145. Repayment of Credit before Maturity**

A credit may be repaid (reimbursed) before maturity, subject to the terms and conditions stipulated by the credit contract. In case if the credit contract does not provide for a repayment (reimbursement) of the credit before maturity, such credit may be repaid (reimbursed) before maturity only with the consent of the lender.

When the borrower fails to fulfill (improperly fulfills) his obligations under the credit contract, the lender may demand repayment (reimbursement) of the credit before maturity.

#### **Article 144. Intended Use of Credit**

A credit contract may be concluded with the condition of intended use of the credit.

A credit contract stipulating granting credit against the guarantee of the Government of the Republic of Belarus, a guarantee (suretyship) of a local executive and administrative body must contain the condition of intended use of the credit.

If a credit contract has been concluded with the condition of intended use of the credit, the lender is obliged to ensure to the lender a possibility to control the intended use of the credit.

When the borrower fails to fulfill the condition of intended use of the credit of the credit contract and/or the duties stipulated by part 3 of this Article, the lender is entitled, unless otherwise stipulated by the credit contract, to demand the repayment (reimbursement) of the credit before maturity, payment of interest due and of the charge for using credit if the duty to pay the charge is stipulated by the credit contract and/or to refuse to further credit the borrower under the contract.

#### **Article 145. Interest on Credit**

Before the conclusion of a credit contract, the lender is obliged to ensure a possibility for each borrower to be informed on the interest rate and on the amount of the charge for using credit, if the duty to pay the charge is stipulated by the credit contract.

When concluding a credit contract with each particular borrower, the lender determines, at his discretion, the rate, periods of calculation and deadlines for the payment of the interest and the charge for using credit, if the duty to pay the charge is stipulated by the credit contract.

The parties are entitled to provide in the credit contract for a procedure under which the interest on credit is to be repaid in full on the date of repayment of the credit or in equal installments during its repayment (reimbursement) period.

Payment of the interest for the use of credit on the day of granting a credit is not allowed.

A borrower which fails to repay (reimburse) the credit on time is obliged to pay the interest at a higher rate, determined in the credit contract, during the period from the maturity date to the date of

its full repayment (reimbursement), unless other rate is stipulated by legislation of the Republic of Belarus.

When the funds are not sufficient for the fulfillment of the obligations under a credit contract in full, unless otherwise stipulated by the President of the Republic of Belarus, the borrower shall reimburse in the first place the expenses of the bank relative to the fulfillment of the obligation, in the second place, the principal of the credit, then interest due and the charge for using the credit, in the third place, shall fulfill other obligations under the credit contract.

The credit contract may provide for a liability of the borrower for untimely placing of the interest and the charge for using the credit, if the duty to pay the charge is stipulated by the credit contract.

#### **Article 146. Insurance by the Lender of the Risk of Non-repayment (Non-reimbursement) of Credit and/or of Untimely Repayment (Reimbursement) of Credit**

Under a contract of insurance of risk of non-repayment (non-reimbursement) and/or of untimely repayment (reimbursement) of credit, the insurance organization (insurer) undertakes to indemnify the insured (lender) against the damage caused to its material interests by non-repayment (non-reimbursement) and/or of untimely repayment (reimbursement) of credit. Under such contract, insured may be lender, bank or non-bank credit and financial organization.

Unless otherwise stipulated by the insurance contract, the insurer which has paid insurance compensation to the insured (lender) receives, within the limits of the paid compensation, the right of the insured (lender) to damage compensation (subrogation).

#### **Article 147. Methods of Securing Fulfillment of Obligations under Credit Contract**

The fulfillment of obligations under a credit contract can be secured by a guarantee cash deposit, transfer of the legal title to property, including property rights, to the lender, pledge of movable and immovable property, suretyship, guarantee, and other methods stipulated by legislation of the Republic of Belarus or contract.

#### **Article 148. Guarantee Cash Deposit**

To guarantee the fulfillment of obligations under a credit contract, a borrower or a third person may transfer funds in Belarusian roubles or foreign currency to the lender. The interest is not calculated on the guarantee cash deposit unless otherwise stipulated by the contract. Funds transferable as a guarantee of fulfillment of obligations under the credit contract may be held in accounts opened by the lender. If the borrower fails to fulfill his obligations under the credit contract, the lender is entitled to satisfy his claims at the expense of deposited funds.

If the credit currency is other than that of the guarantee cash deposit, the rate of conversion is determined by an agreement between the parties. If the parties fail to come to an agreement, the dispute on the conversion rate is to be decided in the court.

Banks having the banking license granting the right to perform banking operation on accepting monetary funds from respectively natural and/or legal persons in deposits are entitled to use guarantee cash deposit as a method of securing the fulfillment of obligations under a credit contract.

Articles 170 to 188 of this Code do not cover the guarantee cash deposit, unless otherwise stipulated by the contract.

#### **Article 149. Transfer of Legal Title to Property to Lender**

To secure the fulfillment of obligations under a credit contract, the legal title to the property belonging to the borrower or a third person on the right of ownership, on the right of economic management or on the right of operative administration, including to property rights, may, based on a separate contract, be transferred to the lender unless the right to the transfer of the legal title is restricted by the property owner or legislation of the Republic of Belarus.

The contract on the transfer of the legal title to the property, including to the property rights, must stipulate the right of the borrower to repurchase the property transferred to the lender by repaying the credit (right of redemption) within the time period for repayment (reimbursement) of the credit determined in the credit contract. The lender may not to alienate the property before the expiration of the time period for the exercise of the right to repurchase.

The transfer of the legal title to the property does not entails an obligatory delivery of the property unless otherwise stipulated by the contract. In the event when the property is to be delivered to the lender in accordance with terms and conditions of the contract on the transfer of the legal title to the property, the lender is obliged to possess, use and dispose of the property within the limits determined by the contract on the transfer of the legal title to the property.

The lenders obtains the right of ownership, the right of economic management or the right of operative administration of the property, including to the property rights, if the borrower fails to repay (reimburse) the credit within time period established by the credit contract. When the value of the property specified in the contract on the transfer of the legal title to the property exceeds the amount of claims of the lender under the credit contract, the lender is obliged to pay the difference within the time period established by such contract.

Relationships between the borrower and the lender under the contract on the transfer of the legal title to the property, including to the property rights, which are not regulated by this Article are regulated by norms of legislation of the Republic of Belarus on a purchase/sale contract. In cases stipulated by legislation of the Republic of Belarus, contracts providing for the transfer of a legal title the property, including to the property rights, are subject to state registration in the manner prescribed by purchase/sale contracts.

#### **Article 150. Specifics of Securing Fulfillment of Credit Contract Obligations by Pledge**

A contract of pledge must be concluded in accordance with requirements of civil legislation of the Republic of Belarus.

Value of property being pledged must be assessed in the order established by legislation of the Republic of Belarus.

The lender may require the pledgor to insure the asset to be pledged for its full assessed value at the expense and in favor of the pledgor.

If a credit contract provides for securing fulfillment of its obligations by pledging goods in circulation, and if the asset pledged is held by the borrower, the borrower is obliged to provide the lender with a possibility to exercise control over the availability, amount, state and conditions of storage of the property pledged and its restoration or replacement in case of loss or damage.

The satisfaction of claims of the lender on the repayment (reimbursement) of the credit from the property pledged is carried out without the recourse to the court and public sale on the basis of the notarially certified contract between the lender and the borrower concluded after the grounds, established by legislation of the Republic of Belarus, for imposing the execution on the asset pledged have arisen. Such contract may not provide for the transfer of the right of ownership of the property pledged to the lender.

The execution may not be imposed in the order established by part 5 of this Article on the property pledged subject to levying on a decisions of the court or belonging to the fixed assets of the pledgor.

### **Article 151. Line of Credit**

When opening a line of credit, the borrower has the right, in accordance with the credit contract, to obtain and use credit during a determined time period within established maximum limits of the credit subject to compliance with the maximum limit of outstanding indebtedness on the credit.

### **Article 152. Inter-bank Credit Contract**

An inter-bank credit contract means a credit contract which establishes relations between banks with respect to mutual lending the specifics of which are determined by the National Bank.

Unless otherwise stipulated by the National Bank or credit contract, the provisions of this Chapter relating to methods of securing the fulfillment of obligations and form of the credit contract are not applied to an inter-bank credit contract.

## **Chapter 19**

### **Contract of Financing Against Assignment of Monetary Claim**

#### **(Factoring Contract)**

### **Article 153. Contract of Financing Against Assignment of Monetary Claim**

Under a contract of financing against assignment of monetary claim (hereinafter – factoring contract) one party (factor), bank or non-bank credit and financial organization, undertakes to the other party (creditor) to enter into a monetary obligation between the creditor and the debtor on the creditor's side by repaying the creditor the sum of the debtor's monetary obligation at a discount. A discount means the difference between the sum of the monetary obligation of the debtor and the sum payable by the factor to the creditor.

The monetary obligation may be assigned by the creditor to the factor also for the purposes of securing the fulfillment of the obligations of the creditor before the factor.

### **Article 154. Classification of Factoring Contracts**

Under a factoring contract:

the debtor may be notified of the conclusion of the factoring contract under which creditor's rights have been transferred to the factor (open factoring);

the debtor may be not notified of the conclusion of the factoring contract under which creditor's rights have been transferred to the factor (confidential factoring).

Factoring contracts may be classified as to:

place of factoring: domestic if parties to a factoring contract are residents, international if one of the parties to a factoring contract is non-resident;

terms of payment: contracts without recourse when the factor bears the risk on non-payment of monetary claims by the debtor; with recourse when the creditor bears the risk of non-payment of monetary claims by the debtor.

### **Article 155. Subject of Assignment under Factoring Contract**

A subject of assignment under a factoring contract may be both a matured monetary claim (existing monetary claim) and monetary claim that will mature in the future (future monetary claim).

When a future monetary claim has been assigned, the factor is entitled to demand its fulfillment only upon maturity of such a claim. At that, if the maturity is subject to a specific circumstance (event), the factor is entitled to demand the fulfillment of the assigned monetary claim only upon the occurrence of such circumstance (event).

For cases stipulated in part 2 of this Article, no additional formalization of monetary claim assignment is required.

### **Article 156. Fulfillment of Monetary Claim by Debtor**

The debtor is obliged to fulfill monetary claim to the factor provided that he has been notified in writing by the creditor or factor of the assignment of the monetary claim with indication of the monetary claim to be fulfilled and the bank or non-bank credit and financial organization acting as factor.

The fulfillment of the monetary claim by the debtor to the factor is deemed the fulfillment to an appropriate creditor and exempts the debtor from the fulfillment of the corresponding obligation before the creditor.

### **Article 157. Agreement on Prohibiting (Limiting) Assignment of Monetary Claim**

Assignment of monetary claims to the factor is valid even if there is an agreement between the creditor and the debtor on prohibiting (limiting) the assignment.

The provision of part 1 of this Article does not exempt the creditor which has breached the agreement on prohibiting (limiting) the assignment of monetary claim from obligations or liability before the debtor in connection with such assignment.

### **Article 158. Subsequent Assignment of Monetary claims**

Unless otherwise stipulated by a factoring contract, subsequent assignment of monetary claim by the factor is not allowed.

If subsequent assignment of a monetary claim is permitted by the factoring contract, and the monetary claim has been assigned to a bank or non-bank credit and financial organization, relationships of the parties are regulated by the provisions of this Chapter.

#### **Article 159. Rights of Factor to Monetary Obligation Sum Paid by Debtor**

The factor obtains rights to the whole sum of monetary obligation paid by the debtor under the assigned monetary claim, with exception of the case stipulated by part 2 of this Article.

If the monetary claim towards the debtor has been assigned by the creditor with a view of securing the fulfillment of its obligation to the factor and otherwise not stipulated by the factoring contract, the factor is obliged to present a report to the creditor and pass on to him the sum of monetary obligation in part exceeding the sum of obligations of the creditor before the factor, secured by the assignment of the claim.

#### **Article 160. Counterclaims of Debtor against Claims of Factor**

The debtor is entitled to raise for the set-off against the claims of the factor monetary claims based on the contract with the creditor which were available to the debtor by the time written notification of the assignment was received by the debtor and which matured before the receipt of the notification or the maturity of which has been not determined or determined as on call.

The set off of the claims of the debtor based on the breach, by the creditor, of an agreement prohibiting (limiting) assignment of the monetary claim is not allowed.

#### **Article 161. Repayment to Debtor of Monetary Obligation Sum Paid to Factor**

Where a creditor violates his obligations under a contract concluded with a debtor, the debtor is not entitled to demand repayment of the monetary obligation sum paid to the factor under the assigned monetary claim, provided the debtor is entitled to receive such sum directly from the creditor, except where the factor fails to provide the creditor with the sum of the monetary obligation related to the assignment of monetary claim.

#### **Article 162. Creditor's Liability to Factor**

The creditor is obliged to prove validity of the assigned monetary claim by documents evidencing his claim to the debtor and bears the liability before the factor for the validity of the assigned monetary claim.

Assigned monetary claim is deemed to be valid if the creditor has the right to assign it and at the moment of assignment he is not aware of any circumstances based on which the debtor is entitled not to fulfill such claim.

In the case of invalidity of the assigned monetary claim the factor obtains the right of recourse to the creditor irrespective of terms and conditions of the payment.

Under a factoring contract without recourse, the creditor is not liable for the non-fulfillment (unduly fulfillment) by the debtor of the assigned monetary claim.



Under a factoring contract with recourse, the factor is entitled to raise before the creditor the demand on reimbursement of:

the sum of monetary obligation not paid by the debtor and losses incurred in the case when the debtor has not paid to the factor the monetary obligation sum due to the latter under the assigned monetary claim or the paid sum is less than the sum due;

losses incurred in the case when the debtor has delayed the payment to the factor of the monetary obligation sum due to the latter under the assigned monetary claim.

### **Article 163. Undisclosed Factoring**

Under an undisclosed factoring contract, the fulfillment by the debtor of the monetary claim to the creditor is considered the fulfillment to an appropriate creditor.

Relationships under an undisclosed factoring contract are regulated by the rules of factoring specified in Articles 153, 155, and 157 to 162 of this Code, unless otherwise stipulated by the contract or follows from the nature of the transaction.

## **Chapter 20**

### **Bank Guarantee. Suretyship**

### **Article 164. Concept and Types of Bank Guarantee**

By virtue of a bank guarantee, a bank or a non-bank credit and financial organization (guarantor) gives in its own name at the request of another person (principal) a written undertaking to pay the principal's creditor (beneficiary) an monetary amount (make the payment) in accordance with the terms and conditions of the guarantee.

Depending on terms and conditions of paying to the beneficiary a monetary amount (making the payment), a bank guarantee may be a demand guarantee or conditional guarantee. Depending on the parties participating in the undertaking, a bank guarantee may be a confirmed guarantee, counter-guarantee or syndicated guarantee.

A demand guarantee means the guarantor's undertaking to pay to the beneficiary a monetary amount (make the payment) on its first written demand in accordance with the terms of the guarantee.

A conditional guarantee means the guarantor's undertaking to pay to the beneficiary a monetary amount (make the payment) on its first demand in accordance with the terms of the guarantee with presentation of documents proving or confirming the non-fulfillment (unduly fulfillment) by the principal of the obligations towards the beneficiary. Such documents may be appropriate court (arbitration) decisions or other documents specified in the guarantee.

An issued guarantee may be confirmed, in the full amount or in part, by another bank or non-bank credit and financial organization (confirmed guarantee). Unless otherwise stipulated in the guarantee, the confirming party bear, along with the original guarantor, joint and several liability to the beneficiary within the limits of the confirmed amount unless otherwise stipulated by the terms of the guarantee.

At instruction of the principal, a bank and a non-bank credit financial organization may request a guarantee (primary guarantee) from another bank or non-bank credit and financial organization by issuing them a counter undertaking (counter guarantee) thereto. The terms of the counter-guarantee do not stipulate obligations for the beneficiary and do not grant it additional rights in comparison with the primary guarantee.

A syndicated guarantee means a bank guarantee issued to the beneficiary by several guarantors through a principal guarantee bank.

### **Article 165. Material Terms and Form of Bank Guarantee**

The material terms of a bank are terms containing the indication of:

the principal;

the beneficiary;

the guarantor;

underlying contract or another document requiring the issue of the bank guarantee;

maximum monetary amount payable;

period for which the guarantee is issued or the circumstance (event) upon occurrence of which the undertaking of the guarantor on the bank guarantee is terminated (validity period of the bank guarantee);

conditions for the payment to the beneficiary of the monetary amount (making the payment).

A bank guarantee must be issued in a written form. An electronic document satisfies the written form requirement for a bank guarantee.

### **Article 166. Securing by Bank Guarantee of Obligation of Principal**

A bank guarantee secures the duly fulfillment by the principal of its obligations toward the beneficiary (underlying obligation).

### **Article 167. Independence of Guarantor's Undertaking under Bank Guarantee from Underlying Obligation**

In relations between a guarantor and a beneficiary, the guarantor's obligation to the beneficiary stipulated by a bank guarantee is separate from the underlying obligation for securing which the guarantee has been issued, even if a reference to that obligation is included in the guarantee. Amendment of the underlying obligation after the issue of a guarantee does not create legal consequences for the guarantor, unless otherwise stipulated in the guarantee.

Once a bank guarantee is issued, no further agreements between the guarantor and the principal create legal consequences for the beneficiary.

### **Article 168. Irrevocability of Bank Guarantee**

A bank guarantee may not be revoked by the guarantor, unless otherwise stipulated in the guarantee.

Introduction of changes and additions in the bank guarantee after the issue is allowed with the consent of the beneficiary.

#### **Article 169. Non-transferability of Rights under Bank Guarantee**

The beneficiary's right of demand toward the guarantor under a bank guarantee may not be transferred, unless otherwise stipulated in the guarantee.

#### **Article 170. Effectiveness of Bank Guarantee**

A bank guarantee comes into effect from the date of the issue, unless otherwise stipulated in the guarantee. The bank guarantee is considered issued from the moment of its delivery to the beneficiary.

If a bank guarantee is transferred to the beneficiary by mail or as an electronic document, it is considered issued from the moment of its submission to a communication organization or transmission of the electronic document by the teletransmission system of the sender.

#### **Article 171. Demand of Beneficiary under Bank Guarantee**

The beneficiary's demand to pay a monetary amount (make the payment) under a bank guarantee must be presented to the guarantor in a written form. The demand under a conditional guarantee must be accompanied by documents specified in the guarantee. The beneficiary shall indicate the nature of the non-fulfillment (unduly fulfillment) by the principal of the underlying obligation for securing which the guarantee is issued in the demand or in the documents accompanied it.

The beneficiary's demand must be received by the guarantor prior to the expiry of the bank guarantee unless otherwise stipulated in the guarantee.

#### **Article 172. Guarantor's Duties upon Receipt of Beneficiary's Demand under Bank Guarantee**

Upon receiving the beneficiary's demand to pay a monetary amount (make the payment) under a bank guarantee, the guarantor is obliged to give notice to the principal of the received demand not later than the next working day and deliver to him copies of the demands and documents attached thereto.

The guarantor is obliged to examine the beneficiary's demand and documents attached thereto and determine whether the demand and documents attached thereto comply with the terms of the bank guarantee.

#### **Article 173. Time for Examining by Guarantor Beneficiary's Demand under Bank Guarantee**

The guarantor is obliged, within not more than seven business days following the day of receipt of the beneficiary's demand to pay a monetary amount (make the payment) and documents attached thereto, to pay to the beneficiary the monetary amount (make the payment) under the bank

guarantee or in the event of refusal to pay give notice thereof to the beneficiary in writing, unless the bank guarantee provides for a shorter period.

#### **Article 174. Guarantor's Refusal to Satisfy Beneficiary's Demand under Bank Guarantee**

The guarantor refuses to satisfy the beneficiary's demand under a bank guarantee if the demand and/or documents attached thereto do not comply with the terms of the bank guarantee or in the event of expiry of the undertaking of the guarantor under the bank guarantee.

The guarantor who, prior to satisfying the beneficiary's demand, becomes aware that the underlying obligation for securing which the bank guarantee is issued has already been performed in whole or in a certain part, has been terminated for other reasons, or has become invalid must immediately give notice thereof to the beneficiary and the principal.

The beneficiary's demand under a bank guarantee received by the guarantor the notice stipulated by part 2 of this Article is to be satisfied in accordance with the terms of the bank guarantee.

#### **Article 175. Limits of Guarantor's Undertaking under Bank Guarantee**

The guarantor's undertaking toward the beneficiary stipulated by the bank guarantee is limited by the payment of the monetary amount for which such guarantee is issued.

The guarantor's liability to the beneficiary for non-fulfillment (unduly fulfillment) of the undertaking under the bank guarantee is not limited by the monetary amount for which the guarantee is issued, unless otherwise stipulated in the guarantee.

#### **Article 176. Termination of Undertaking of Guarantor under Bank Guarantee and of Principal under Underlying Obligation**

The guarantor's undertaking to the beneficiary under the bank guarantee terminates:

upon the payment to the beneficiary of the monetary amount for which the guarantee is issued (making the payment);

upon expiry of the period for which the guarantee is issued (validity period) unless otherwise stipulated in the guarantee;

as a consequence of renunciation by the beneficiary of his demand under the bank guarantee by its return to the guarantor;

as a consequence of renunciation by the beneficiary of his demand under the guarantee by sending a written notice to the guarantor of the release from obligations; or

Termination of the guarantor's undertaking to the beneficiary under the bank guarantee on grounds stipulated by indents 2, 3 and 5 of part 1 of this Article is not be dependent on whether or not the bank guarantee has been returned to the guarantor.

Where a guarantor undertaking to the beneficiary under the bank guarantee is terminated, the guarantor is obliged to give notice thereof to the beneficiary not later than on the business day following the day of termination.

The undertaking of the principal to the beneficiary under the underlying obligation for securing of which the bank guarantee is issued is terminated in the relevant part by the fulfillment by the guarantor of his undertaking to the beneficiary under the bank guarantee.

#### **Article 177. Guarantor's Recourse against Principal**

Unless otherwise agreed upon between the guarantor and the principal under the bank guarantee, the guarantor obtains no right to recourse against the principal for reimbursement of monetary amounts paid to the beneficiary.

The guarantor is not entitled to demand from the principal to reimburse monetary amounts paid to the beneficiary not in accordance with terms of the bank guarantee or for non-fulfillment (unduly fulfillment) of the undertaking of the guarantor toward the beneficiary.

#### **Article 178. Suretyships of Bank and Non-bank Credit and Financial Organization**

A bank or a non-bank credit and financial organization is entitled to undertake toward creditors of another person for the fulfillment by that person of his monetary obligation in whole or in part (issue suretyships) in accordance with legislation of the Republic of Belarus.

## **SECTION VII. PASSIVE BANKING OPERATIONS**

### **Chapter 21 Bank Deposit**

#### **Article 179. Concept of Bank Deposit**

A bank deposit is monetary funds in Belarusian roubles or foreign currency deposited by natural or legal persons in a bank or non-bank credit and financial organization for the purposes of safekeeping and earning income for a term or at call or till the occurrence (non-occurrence) of a circumstance (event) determined in the concluded contract.

#### **Article 180. Right to Accept Monetary Funds in Deposits**

Monetary funds are accepted in deposits by a bank or a non-bank credit and financial organization having the right to accept monetary funds of natural and/or legal persons in deposits on the basis of the banking license. Acceptance of monetary funds in deposits are formalized in the form of a bank deposit contract or other contract containing terms and conditions similar to the terms and conditions of a bank deposit contract established by this Code.

#### **Article 181. Bank Deposit Contract**

Under a bank deposit contract, one party (deposit taker) accepts monetary funds, deposit, from the other party (depositor) and undertakes to repay the deposited monetary funds, perform cashless settlements at instructions of the depositor in accordance with the contract, and to pay interest thereon in the manner and on the terms and conditions specified in the contract.

Income on deposit may also be paid in a different form on the terms and conditions and in the manner specified in a bank deposit contract.

The deposit is repaid to the depositor at his request and in the manner specified by this Code and appropriate contract.

### **Article 182. Types of Bank Deposit Contract**

The types of a bank deposit contract are:

a demand bank deposit contract;

a term bank deposit contract;

a conditional bank deposit contract.

A demand bank deposit contract is a contract whereby the deposit-taker is obliged to repay deposit and pay interest thereon at the first request of the depositor.

A term bank deposit contract is a contract whereby the deposit-taker is obliged to repay deposit and pay interest thereon at the expiration of the time period specified in the contract.

A conditional bank deposit contract is a contract whereby the deposit-taker is obliged to repay deposit and pay interest thereon upon the occurrence (non-occurrence) of the circumstance (event) specified in the contract.

### **Article 183. Form of Bank Deposit Contract**

A bank deposit contract must be made in a written form.

A bank deposit contract is deemed to be in a written form if it is formalized in a documentary form (as a deposit contract, savings book, savings certificate or certificate of deposit, deposit account contract, etc.).

Failure to comply with a written form of a bank deposit contract entails invalidity of the contract from the date of its conclusion.

### **Article 184. Material Terms and Conditions of Bank Deposit Contract**

Material terms and conditions of a bank deposit contract include:

the currency of deposit and the initial amount of the deposit;

the rate of interest on deposit;

the type of a bank deposit contract;

the time of deposit repayment, in respect of a term deposit contract;

circumstance (event) upon occurrence (non-occurrence) the deposit taker undertakes to repay the deposit, in respect of a deposit in escrow contract;

last name, first name, patronymic, identity document details of the natural person, name and place of location of the legal person (place of location of its permanent executive body), in the name of which the deposit is placed;

other terms and conditions concerning which are to be agreed upon according to the declaration of one of the parties.

The bank deposit contract concluded with depositor, natural person (with exception of a depositor being individual entrepreneur), besides the terms and conditions determined by part one of this article or other legislation of the Republic of Belarus, shall contain the following material conditions:

the order of placement of monetary funds in the deposit;

the order of repayment of monetary funds to individuals in the cases of non-fulfillment of the obligation by the deposit-taker or an early termination of the contract;

the liability of the deposit-taker for the non-fulfillment of the obligation.

## **Article 185. Depositors and Theirs Rights**

Depositors may be both natural and legal persons.

Depositors are free in selecting a bank and/or a non-bank credit and financial organization for depositing their monetary funds and may hold deposits with one or more banks and/or with one or more non-bank credit and financial organizations.

Depositors may dispose of their deposits, obtain income thereon, give instructions to the bank or non-bank credit and financial organization on transfer of monetary funds from their deposit accounts to other bank accounts and/or to other persons and make use of other kinds of bank services in accordance with legislation of the Republic of Belarus and bank deposit contract.

Depositors have the right to replenish their deposits on the terms and conditions of an earlier contract, if it is stipulated by terms and conditions of the bank deposit contract.

## **Article 186. Depositors' Right to Recover Deposits**

Deposit-takers ensure safety of deposits and timely fulfillment of their obligations toward depositors.

Deposit-takers are obliged to repay deposits in accordance with the terms and conditions of the bank deposit contracts.

Under a term bank deposit contract or conditional deposit contract, a depositor, natural person (with exception of an individual entrepreneur) is entitled to demand the repayment of the deposit before the maturity of the deposit or the occurrence of the circumstance (event) stipulated in the contract. The deposit-taker is obliged to the deposit within five days from the day of submission of the demand.

A provision of a term or conditional bank deposit contract on the waiver by the depositor of the right to demand premature repayment of the deposit is void.

If a term or conditional bank deposit is repaid to the depositor at his demand prematurely or before the occurrence of the circumstance (event) specified in the contract, interest on deposit is paid in the amount and in the manner stipulated by the bank deposit contract.

### **Article 188. Interest on Deposit**

The deposit-takers pay the depositor interest on the deposit at a rate stipulated by the bank deposit contract.

The rate of interest on term deposits and deposits in escrow may be change by agreement of the parties, unless otherwise stipulated by the bank deposit contract.

In the event of the decrease of the refinancing rate established by the National Bank, the deposit-taker has the right to unilaterally change the rate of interest on deposits paid in official monetary unit of the Republic of Belarus (Belarusian roubles) with a prior notification of depositors if it is stipulated by the bank deposit contract.

In the event of decreasing of the interest rate on deposit by the deposit-taker, the new rate is applied to the deposit that has been placed prior to the notification of the depositor of the decrease of the interest rate in the national printed mass media being official edition or in another way stipulated by the bank deposit contract, on expiration of at least one month from the date of notification.

### **Article 188. Procedure for Calculation and Payment of Interest on Deposit**

Interest on a deposit accrues from the date of receipt by the deposit-taker until the day preceding the day of its repayment to the depositor, unless otherwise stipulated by the bank deposit contract.

Interest on a deposit is paid to the depositor monthly, unless otherwise stipulated by the bank deposit contract.

When a deposit is being repaid, interest is calculated and paid in full.

### **Article 189. Placing Monetary Funds on Deposit Account of Depositor by Other Persons**

Unless otherwise stipulated by the bank deposit contract, monetary funds remitted to the depositor's account by other persons may be entered to the deposit.

### **Article 190. Deposits in the Name of Other Persons**

The bank deposit contract may be concluded in the name of other person which obtains the rights of a depositor from the day of presentation to the deposit-taker of the first demand in a written form with respect to the deposit.

Prior to the presentation by a person. in whose name the deposit has been placed, of the first demand, the person who has concluded the bank deposit contract may use the rights of the depositor with respect to the deposit place by him in the name of another person.

If prior to the presentation of the first demand, the person in whose name the deposit was placed renounced the deposit, or the natural person died, was considered missing or declared dead, or the



legal person was liquidated, the person that concluded the bank deposit contract may make use of the rights with respect to the deposit placed by him in the name of another person.

The rules on a contract in favor of a third person established by civil legislation apply to the bank deposit contract in the name of another person, unless it contradicts the rules of this Article and the nature of the bank deposit.

### **Article 191. Bank Deposit of Precious Metals and/or Precious Stones**

A bank deposit of precious metals and/or precious stones means precious metals and/or precious stones placed by natural and legal persons in a bank or a non-bank credit and financial organization with a view to earning income for a term or at call or till the occurrence (non-occurrence) of a circumstance (event) determined in the contract. Income on a bank deposit of precious metals and/or precious stones is paid in the form of interest and in the manner determined by the bank deposit contract of precious metals and/or precious stones.

Interest on a deposit of precious metals and/or precious stones may be paid also in another form on the terms and conditions and in the manner determined by the bank deposit contract of precious stones and/or precious stones.

The rules of this Chapter apply to the bank deposit of precious metals and/or precious stones unless otherwise stipulated by legislation of the Republic of Belarus or follows from the nature of obligations under the contract of bank deposit of precious metals and/or precious stones.

### **Article 192. Savings Book**

A bank deposit contract with a depositor, natural person (with exception of an individual entrepreneur), may be formalized by a savings book issued by the deposit-taker.

The savings book shall specify:

the name, place of location of the depositor (place of location of its permanent executive body);

series and number of the savings book;

the last name, first name, patronymic (for a nominal savings book);

the deposit account number;

amount of the deposit in numbers and in words, as well as amounts of monetary funds credited and debited to the account;

the currency of the deposit;

interest on the deposit;

the account balance at the time of presenting the savings book to the deposit-taker;

the time period for the deposit repayment, for a term bank deposit;

the circumstance (event) on the occurrence (non-occurrence) of which the deposit-taker undertakes to return the deposit, for a conditional bank deposit.

Deposit data specified in the savings book shall serve as a basis for settlements between the deposit-taker and the depositor.

The deposit-taker repays the deposit and interest thereon and fulfills instructions of the depositor on remittance of monetary funds from his deposit account to other persons only upon presentation of the savings book.

### **Article 193. Types of Savings Book**

A savings book may be either a nominal savings book or a bank savings book to bearer.

### **Article 194. Nominal Savings Book**

A nominal savings book is a savings book under which the right to withdraw the deposit and interest thereon pertains only to the person named in it or his representative with corresponding powers.

The operations on the deposit are performed by the deposit-taker only upon the presentation of the nominal savings book.

If a nominal savings book is lost or is unfit for presentation, the deposit-taker, on the depositor's application, issues a new personal savings book or pays, at the demand of the depositor, the balance on his deposit account and interests due.

### **Article 195. Bank Savings Book to Bearer**

A bank savings book to bearer is a savings book under which the right to withdraw the amount of the deposit and interests on the deposit pertains to the person presenting such savings book.

The bank savings book to bearer constitutes a security to bearer.

The restoration of rights under a lost savings book to bearer is carried out the court the order established by procedural legislation.

### **Article 196. Savings Certificate and Deposit Certificate**

A savings certificate is a security certifying the amount of the deposit placed to the deposit-taker and the rights of the depositor (natural person holding the certificate, with exception of an individual entrepreneur—certificate holder) to withdraw, at maturity, the amount of the deposit and interest thereon at the deposit-taker that has issued the certificate or at any affiliate (branch) of the deposit-taker.

A deposit certificate is a security certifying the amount of the deposit placed to the deposit-taker and the rights of the depositor (legal person/ individual entrepreneur – certificate holders) to withdraw, at maturity, the deposit and interest thereon at the deposit-taker or at any affiliate (branch) of the deposit-taker.

Savings and deposit certificates may be nominal securities or securities to bearer.

The savings certificate must contain:

the name " savings certificate";

the series and number;

the date of deposit;

the amount of the deposit in figures and in words in Belarusian roubles;

the rate of interest and frequency of payment thereof;

the time of deposit repayment;

the obligation of the deposit-taker to return the amount placed in the deposit and to pay the interest due;

the procedure for the return of monetary funds to the depositor in the case of non-fulfillment of the obligation or premature termination of the contract established by an authorized body of the bank (it is allowed to indicate these data referring to the source of the publication of the relevant act of the authorized body of the bank);

the liability of the deposit-taker for the non-fulfillment of the obligation;

the name and location of the deposit-taker (location of its permanent executive body);

the last name, first name, patronymic and identity document details of the depositor if the certificate is a nominal security;

the indication “to bearer” if the certificate is a security to bearer;

sealed signatures of authorized persons of the deposit-taker;

the tear-off coupon (slip) which is detached from the blank form at the time of certificate issuance and retained at the deposit-taker.

The deposit certificate must contain:

the name “deposit certificate”;

the series and the number;

the date of the deposit;

the amount of the deposit in figures and in words in Belarusian roubles;

the rate of the interest on the deposit and the intervals for its payment;

the date of deposit repayment;

the obligation of the deposit-taker to return the amount placed in the deposit and to pay the interest due;

the name and location of the deposit-taker (location of its permanent executive body);

the name and location (location of its permanent executive body) and the number of the current bank account (for depositors, legal persons); the last name, first name, patronymic and identity document details and, when available, the number of the current bank account (for depositors, individual entrepreneurs) if the certificate is a nominal security;

the indication “to bearer” if the certificate is a security to bearer;

sealed signatures of authorized persons of the deposit-taker;

the tear-off coupon (slip) which is detached from the blank form at the time of certificate issuance and retained at the deposit-taker.

Certificates are issued in Belarusian roubles. The issue of certificates in foreign currency is not allowed. The certificate may not be used as a means of settlement or payment for goods (works, services), except for the services provided by a bank or a non-bank credit and financial organization.

The duration of certificate circulation and rate of interest thereon are established by the deposit-taker at the issuance of the certificate and may not be changed during the period of certificate circulation.

Rights evidenced by nominal savings and deposit certificates may be assigned in the order established for the cession of a claim.

Rights evidenced by a savings certificate may be transferred only to a natural person. Rights evidenced by a deposit certificate may be transferred only to a legal person and/or individual entrepreneur, with exception of the cases stipulated by legislation of the Republic of Belarus.

Transactions with savings and deposit certificates are concluded only in Belarusian roubles.

In case of an early presentation of a savings certificate or deposit certificate for payment, the deposit-taker pays the amount and interest stipulated for an at-call deposit, unless a different rate of interest is stipulated by the terms and conditions of the certificate. The condition of a savings certificate limiting the right of its holder to receive the amount of the deposit and the interest thereon at first demand is void.

If the maturity date specified in the certificate is missed, such certificate is deemed, starting from the maturity date specified therein, to be a demand document under which the deposit-taker is obliged to pay the amount stated therein.

Procedures for and terms of issue and circulation of savings and deposit certificates not regulated by this Article are determined by the National Bank in agreement with authorized central bodies of state administration carrying out the state regulation of the securities market.

## **Chapter 22**

### **Bank Account**

#### **Article 197. Current (Settlement) Bank Account Contract**

Under a current (settlement) bank account contract, one party (bank or non-bank credit and financial organization) undertakes to open a current (settlement) account for the other party (account holder) to keep its monetary funds and credit the account with monetary funds received in favor of the account holder, and also undertakes to carry out the account holder's instructions for transfer and payment of corresponding monetary funds from the account, whilst the account holder empowers the bank or non-bank credit and financial organization to use the temporarily idle resources available on his account with payment of interest determined by legislation of the Republic of Belarus or the contract and pay commission to the bank or non-bank credit and financial organization for services rendered.

A current (settlement) bank account contract may be concluded by a natural or legal person in the name of another natural person which obtains the right of the holder of the account.

Relations under the current (settlement) bank account are regulated by legislation of the Republic of Belarus.

**Article 198. Account Holders under Current (Settlement) Bank Account Contract**

Account holders under a current (settlement) bank account contract may be natural and legal persons.

**Article 199. Order of the Conclusion of Current (Settlement) Bank Account Contract**

A bank or non-bank credit and financial organization are obliged to conclude a current (settlement) bank account contract with any natural or legal person requesting that a current (settlement) bank account be opened, subject to the conditions determined by the bank for opening such accounts.

After the conclusion of a current (settlement) bank account contract, the bank or non-bank credit and financial organization open a current (settlement) bank account for the account holder and assign an number to the account allowing to identify such account.

**Article 200. Procedure for Disposal of Monetary Funds on Current (Settlement) Bank Account**

A current (settlement) bank account holder may dispose of monetary funds on his account either personally or through a duly authorized person.

The rights of the current (settlement) bank account holder and his duly authorized persons are confirmed by presenting to the bank or non-bank credit and financial organization documents determined by the National Bank.

Debiting monetary funds on the current (settlement) bank account without a payment instruction given (accepted) by the account holder is not allowed except for cases stipulated by this Code, other legislative acts of the Republic of Belarus or the current (settlement) bank account contract.

The bank or non-bank credit and financial organization is not entitled, unless otherwise stipulated by the President of the Republic of Belarus and this Code, to determine and control the intended use of monetary funds by the account holder, as well as to establish other restrictions on the holder's rights to dispose of his monetary funds not stipulated for by legislation of the Republic of Belarus or current (settlement) bank account contract.

Disposal of monetary funds with the use of electronic documents stipulated by the current (settlement) bank account contract is carried out in the order established by legislation of the Republic of Belarus.

**Article 201. Current (Settlement) Bank Account Operations**

A bank and non-bank credit and financial organization perform the following current (settlement) bank account operations:

crediting the bank account with the monetary funds received in favor of the holder thereof;

remitting monetary funds from the bank account to other persons, including the bank and/or non-bank credit and financial organization;

pay cash monetary funds from the account;

other operations stipulated by legislation of the Republic of Belarus or current (settlement) account contract.

#### **Article 202. Time Limits for Performing Current (Settlement) Bank Account Operations**

A bank or non-bank credit and financial organization are obliged to perform operations within one banking day, unless otherwise stipulated by legislation of the Republic of Belarus or the current (settlement) bank account contract.

#### **Article 203. Remuneration (Fee) for Services of Bank or Non-bank Credit and Financial Organization**

A bank account holder pay for services of a bank or non-bank credit and financial organization on performing operations with monetary funds on the holder's account on the terms and conditions determined by the current (settlement) bank account contract.

Remuneration (fee) for rendered services are charged by the bank non-bank or credit and financial organization on monetary funds of the account holder monthly, unless otherwise stipulated by the current (settlement) bank account contract.

Remuneration (fee) is not charged:

for services to state bodies, budget-financed organizations, and other legal persons and individual entrepreneurs on settlement (current) bank accounts opened by them for placing budgetary funds;

for performing payment instructions of a bank holder for remitting a tax, due (duty), penalty fee and other obligatory payments to the national and local budgets, state special budgetary and non-budgetary funds;

for the execution of resolutions of a taxation body, customs body, body of the Fund of Social Protection of Population of the Ministry of Labour and Social Protection of the Republic of Belarus on levying a tax, due (duty), penalty fee and other obligatory payments to the national and local budgets, state special budgetary and non-budgetary funds;

for the acceptance of monetary funds from natural person paying a tax, due (duty) and other obligatory payments to the national or local budgets, state special budgetary funds and to the Fund of Social Protection of Population of the Ministry of Labour and Social Protection of the Republic of Belarus;

for performing inter-bank settlements using budgetary funds;

in other cases stipulated by legislative acts of the Republic of Belarus.

#### **Article 204. Interest for Using Monetary Funds**

For using monetary funds on a current (settlement) bank account, the bank or non-bank credit and financial organization pay the account holder interest at the rate and in the order determined by the current (settlement) bank account contract, unless otherwise stipulated by legislation of the Republic of Belarus.

Unless otherwise stipulated in the current (settlement) bank account contract, interest paid by a bank or non-bank credit and financial organization for using monetary funds on the current (settlement) bank account are credited to the account upon expiration of each month.

A bank or non-bank credit and financial organization are entitled, after prior notification the account holder, to change unilaterally the amount of interest paid by them for using monetary funds on the current (settlement) bank account if it is stipulated by the current (settlement) bank account contract.

#### **Article 206. Priority of Debiting Current (Settlement) Bank Account**

Where monetary funds available on a current (settlement) bank account are sufficient for satisfying all monetary claims presented to the account holder, the account is debited in order of precedence.

Where monetary funds available on a current (settlement) bank account are insufficient for satisfying all monetary claims presented to the account holder, payment instructions received by the bank are settled in the order of priority indicated by the account holder, recoverer, subject to requirements stipulated by legislative acts of the Republic of Belarus.

#### **Article 206. Termination of Obligations under Current (Settlement) Bank Account Contract**

Obligations under a current (settlement) bank account contract are subject to termination at the demand of the account holder within a period established by agreement of the parties.

A bank or non-bank credit and financial organization is entitled to terminate obligations under a current (settlement) bank account contract when there are no monetary funds on the account during three months following the day of the last debiting of the account, and in other cases stipulated by legislation of the Republic of Belarus.

When the obligations have been terminated and in other cases stipulated by the contract, the balance of the account is paid out at the demand of the account holder or may be remitted to another bank account indicated by the latter not later than on the banking day following the transfer of documents to a bank or credit and financial organization selected by the account holder, unless otherwise stipulated by legislation of the Republic of Belarus.

#### **Article 207. Indisputable Debiting of Payers' Accounts**

When levying on monetary funds on accounts in a bank or non-bank credit and financial organization, the debiting of the accounts are performed indisputably in accordance with payment instructions of the recoverer on the basis of execution endorsements of notaries or other execution documents, resolutions (orders) of a state authorized body (official) in cases stipulated by legislation of the Republic of Belarus.

Banks and non-bank credit and financial organizations do not consider a payers' objections concerning indisputable debiting of their accounts.

#### **Article 208. Temporary Account Contract**

Under a temporary account contract, a bank or non-bank credit and financial organization undertakes to open a bank account to a legal person for building an object until its putting into service; to a founder, authorized by other founders, of a commercial organization being created for their setting up its authorized fund; to a created commercial organization for an increase of the

amount of its authorized fund; and in other cases stipulated by legislation of the Republic of Belarus.

#### **Article 209. Correspondent Account Contract**

Under a correspondent account contract, a correspondent bank or non-bank credit and financial organization undertakes to open a correspondent account for a bank or a non-bank credit and financial organization-(account holder) for safekeeping its monetary funds and crediting the account with monetary funds received in favor of the account holder, and also undertakes to carry out instructions (orders) of the account holder concerning remittance and payment of appropriate monetary funds from the account in the order stipulated by legislation of the Republic of Belarus.

#### **Article 210. Charity Account Contract**

Under a charity account contract, a bank or non-bank credit and financial organization undertakes to open a bank account for a natural or legal person for collecting, safekeeping, and using monetary funds received as aid or donation for charity purposes.

#### **Article 211. Card Account Contract**

Under a card account contract, a bank or non-bank credit and financial organization undertakes to open a bank account for a natural or legal person for recording operations performed by such persons with the use of bank plastic cards.

#### **Article 212. Procedure for Opening Bank Accounts for Customers**

The procedure for opening bank accounts for customers, as well as liability of banks and non-bank credit and financial organizations for violation of such procedure are established by legislative acts of the Republic of Belarus and by normative legal acts of the National Bank.

### **Chapter 23**

#### **Trust Management of Monetary Funds**

#### **Article 213. Contract of Trust Management of Monetary Funds**

Under a contract of trust management of monetary funds, the settlor transfers to a bank or non-bank credit and financial organization (trustee) its monetary funds to a trust for a definite period of time, and the trustee undertakes to manage, for a fee, the entrusted monetary funds in the interests of the settlor or a person designated by the latter (the beneficiary).

Monetary funds are managed by banks only.

#### **Article 214. Legal Regulation of Trust Management of Monetary Funds**



Relations arising out of or in connection with trust management of monetary funds and not regulated by this Code or other acts of banking legislation are regulated by civil legislation on trust management of property.

#### **Article 215. Form of Contract of Trust Management of Monetary Funds**

A contract of trust management of monetary funds must be made in a written form. Non-observance of the written form of the contract of trust management of monetary funds entails its invalidity.

#### **Article 216. Material Terms and Conditions of Contract of Trust Management of Monetary Funds**

A contract of trust management of monetary funds must contain material terms and conditions determined by civil legislation for the contract of trust management of property.

#### **Article 217. Subject Matter of Contract of Trust management of monetary funds**

Any monetary funds belonging to the settler on the right of ownership may be subject matter of a contract of trust management of monetary funds.

In cases stipulated for by legislation of the Republic of Belarus, settlors of monetary funds may be persons other than owners thereof.

Monetary funds which are in economic management or operative administration may not be transferred to trust management.

#### **Article 218. Using Monetary Funds Transferred to Trust Management**

Monetary funds transferred to a trust management may be used by trustees in accordance with the contract of trust management of monetary funds for:

- placement on deposit to obtain income;
- purchase of securities (except promissory notes and bills of exchange and checks) and for management thereof them.

The trustee has no right to use monetary funds transferred by the settlor in interest nor related to the trust management of the funds.

#### **Article 219. Procedure for Transferring Monetary Funds to Trust Management**

Monetary funds are transferred, in the order established by the National Bank, to a trust management:

- by settlors-legal persons shall through remittance from the current (settlement) account of the settlor to the fiduciary (trust) account;
- settlors-natural persons through remittance from bank accounts or through payments in cash to the fiduciary (trust) account.

### **Article 220. Forms of Trust Management of Monetary Funds**

The forms of trust management of monetary funds are:

full trust management.;

trust management by agreement;

trust management by order.

### **Article 221. Full Trust Management of Monetary Funds**

Under full trust management of monetary funds, the trustee independently performs actions with the settlor's monetary funds within instructions on management with obligatory notification to the settler about every action taken, unless otherwise stipulated by the contract.

### **Article 222. Trust Management of Monetary Funds by Agreement**

Under trust management of monetary funds by agreement, the trustee performs actions the settlor's monetary funds subject to obligatory prior agreement of each action with the settlor.

### **Article 223. Trust Management of Monetary Funds by Order**

Under trust management of monetary funds by order, the trustee performs actions with the settlor's monetary funds only according to the settlor's order.

### **Article 224. Protection of Trustee's Rights**

The trustee's rights to monetary funds transferred to a trust management are protected in the same way as the settlor's rights to said monetary funds, including protection against wrongful acts of the settlor himself.

### **Article 225. Pooling of Monetary Funds of Several Settlers by Trustee**

The trustee has the right to pool monetary funds of several settlers in order with the view of using them in most effective way, subject to compliance with the terms and conditions of each contract of trust management of monetary funds.

### **Article 226. Accounting by Trustee of Monetary Funds and Securities in Trust Management**

The trustee is obliged to maintain separate accounting of his own monetary funds and securities, monetary funds and securities of the settlor transferred to a trust management and received

(acquired) under such management by the trustor, as well as separate accounting of monetary funds and securities of different settlors.

Recovery on obligations related to trust management of monetary funds transferred by one settlor may not be performed out of monetary funds of another settlor being in trust management of the same trustee by.

#### **Article 227. Transfer of Management Powers**

Unless the obligation of the trustee to fulfill his obligations personally follows from the contract of trust management of monetary funds, the trustee is entitled to engage for their fulfillment only another bank or non-bank credit and financial organization.

#### **Article 228. Fiduciary (Trust) Account Contract**

A fiduciary (trust) account for the settlor is opened on the basis of a fiduciary (trust) account contract. At that, the trustee has the right to open the fiduciary (trust) account in his own establishment.

A fiduciary (trust) account contract is concluded only subject to the conclusion of a contract of trust management of monetary funds.

Procedures for conclusion, execution, and termination of a fiduciary (trust) account contract are established by this Code and normative legal acts of the National Bank.

#### **Article 229. Right of Ownership of Settlor of Monetary Funds in Fiduciary (Trust) Account**

Placement of monetary funds in a fiduciary (trust) account does not entail termination of the settlor's right of ownership of such funds.

The settlor's right of ownership shall also apply to the monetary funds and securities received (acquired) under the trust management.

#### **Article 230. Closing Fiduciary (Trust) Account**

A fiduciary (trust) account is to be closed in case of:

termination of obligations under a contract of trust management of monetary funds;

absence of monetary funds in the account during one year;

in other cases stipulated for by legislation of the Republic of Belarus or the contract.

## **SECTION VIII. INTERMEDIARY BANKING OPERATIONS**

## **Chapter 24**

### **Settlements**

#### **Article 231. Settlements**

Settlements may be effected in cashless and cash form.

Settlements in a cashless form mean settlements between natural and legal persons or with their participation effected via a bank or non-bank credit and financial organization, its affiliate (branch) in a cashless order.

Settlements in a cashless form effected as bank remittance, letter of credit, and collection.

The order of effecting settlements with cash monetary funds is regulated by legislation of the Republic of Belarus.

The provisions of this Chapter cover all settlements, including settlements in a cashless form effected by non-bank credit and financial organizations.

#### **Article 232. Effecting of Settlements by Way of Bank Remittance Based on Payment Instructions**

Settlements in a cashless form by way of a bank remittance are effected on the basis of payment instructions.

Payment instructions may be issued by:

presentation of settlement documents (payment orders; payment demand, payment demand/order);

using payment instruments while carrying out respective operations (check, bank plastic card, other instruments);

presentation and using other documents and instruments in the cases stipulated by the National Bank.

Settlements in a cashless form by way of a bank remittance may be effected also on the basis of a contract between a bank and a customer containing data necessary for effectuation of a bank remittance.

Requirements toward the form and content of payment instructions and toward procedure for performing operations while effecting settlements in a cashless form are established by the National Bank.

The ground for a banks' effecting settlements in a cashless form is a contract (bank deposit contract, bank current (settlement) account contract, correspondent account contract or other contract) concluded between the bank and a customer unless the duty of accepting for execution (acceptance) by the bank of payment instructions is established by normative legal acts of the National Bank.

Obligations arising out of a contract concluded by a bank and a customer are independent in relation to obligations arising out of a contract concluded between the customer and his counterparty (hereinafter – underlying contract) for the execution of which the bank remittance is effected. Banks are not bound by terms and conditions of the underlying contract and by a volume of obligations of parties thereof, including when payment instructions contain a reference to the underlying contract. Banks have no right to control the fulfillment by the parties of their obligations under the

underlying contract unless otherwise stipulated by the President of the Republic of Belarus, as well as to interfere in the relations of the parties of the underlying contract.

A bank is entitled to deny a customer to effect settlements in a cashless form in the case:

of absence of a contract concluded between the bank and the customer, except for the case when the duty of the bank to accept for execution (acceptance) of payment instructions is established by normative legal acts of the National Bank;

if the contract concluded does not stipulate the effectuation of settlements in that form;

of absence of a sufficient sum of funds in the payment currency on the account of the customer unless there is a credit contract.

A bank denies to effect settlements in a cashless form in the case:

when arrest is imposed on monetary funds in the customer's account and/or operations on the account are suspended according to a resolution of an authorized state body (official) (in that case settlements in a cashless form may be effected after the execution of the relevant resolutions of the authorized state body (official)). The legislative acts of the Republic of Belarus may establish the cases and the order of performing settlements in a cashless form when the arrest is imposed on monetary funds in the customer's account and/or operations on the account are suspended;

when execution (acceptance) of payment instructions constitute a violation of legislation of the Republic of Belarus on the side of the bank;

when the form and content of payment instructions do not comply with requirements established by normative legal acts of the National Bank or the bank has founded reasons to believe that payment instructions are not true.

After taking decision on denial of the execution of settlements in a cashless form, the bank is obliged to notify the customer about that not later the banking day following the day of receipt of banking instructions unless otherwise stipulated by legislation of the Republic of Belarus or contract.

### **Article 233. Form of Payment Instructions**

Customers may issue payment instructions in a written form or in the form of an electronic document.

Payment instruction of a customer – legal person, issued in a written form, shall carry signatures of persons authorized to dispose of the account and impression of the account holder's seal. Payment instruction of a customer- legal person which contains such signatures and the impression of the seal and which comply by other features with requirements of legislation of the Republic of Belarus is considered authentic.

Payment instruction of a customer – natural person, issued in a written form, shall carry the signature of that person or a person authorized by the former to dispose of the account. Payment instruction of a customer- natural person which contains such signature and which comply by other features with requirements of legislation of the Republic of Belarus is considered authentic. Payment instruction of a customer – individual entrepreneur may also carry impression of his seal.

A bank does not bear liability for accepting for the execution (acceptance) of forged payment instructions in a written form in cases where, in accordance with parts 2 and 3 of this Article, they were considered valid and at that no malicious intent on the part of the bank is proved.

The rules of using for settlements in a cashless form of payment instructions in the form of electronic documents are established by legislation of the Republic of Belarus.

#### **Article 234. Assignment of Duty on Payment Instructions Execution to Another Bank**

In the case when, due to specifics of settlements in a cashless form or to other reasons, a bank approached by a customer can not effect payment in full, this bank may redirect partial execution of the customer's instructions to another bank (correspondent bank). With the consent of the servicing bank, the customer is entitled either to determine a correspondent bank for execution of payment instructions or give the right to choose such bank to the servicing bank.

The bank is liable for losses caused to the customer due to the non-execution of his instruction on choice of a correspondent bank.

#### **Article 235. Customer's Right to Change and Cancel Payment Instructions**

Customers has the right to change or cancel payment instructions issued to a bank before the bank performs real actions for their execution. Real actions for the execution of payment instructions mean:

making accounting entries on corresponding accounts;

performing other actions by the bank determined by legislation of the Republic of Belarus.

After performing a real action, the bank is entitled not to take any actions on changing or canceling payment instructions.

#### **Article 236. Time Limits for Payment Instructions Execution**

Payment instructions are to be executed by the bank not later the banking day following the day of the delivery thereof to the bank, unless otherwise stipulated by this Code, other legislation of the Republic of Belarus or contract. Banks are obliged to accept customers' payment instructions the time of execution of which will come at a future date, as well as payment instructions the execution of which is subject to the occurrence of some circumstances (events) in the future if the possibility of performing such operations is stipulated by the rules established by banks.

#### **Article 237. Bank Liability for Non-execution or Unduly Execution of Payment Instructions**

Unduly execution by a remitting bank of payment instructions of a customer (recoverer) mean:

untimely debiting monetary funds from the account of the payer;

debiting monetary funds in an amount not corresponding the amount indicated in payment instructions of the customer (recoverer);

issuing, for the execution of payment instructions of the customer (recoverer), corresponding bank of a payment order not corresponding the payment instructions of the customer (recoverer), corresponding bank which has entailed the remittance (crediting) of monetary amounts in favor of an undue beneficiary, corresponding bank;

other cases of execution of payment instructions in the order not corresponding legislation of the Republic of Belarus or contract.

Unduly execution by a receiving bank of payment instructions of the corresponding bank mean:

untimely crediting monetary funds to the beneficiary's account;

crediting monetary funds to the beneficiary's account in the amount not corresponding to the payments instructions of the corresponding bank;

crediting monetary funds in favor of an undue beneficiary;

other cases of execution of payment instructions in the order not corresponding legislation of the Republic of Belarus or contract.

In the case of non-execution or unduly execution by a bank of payment instructions of a customer (recoverer), the bank is obliged to indemnify the customer (recoverer) for real loss, including penalty fee (penalty, penalty charge) recovered by counterparties under the underlying contract, sanctions imposed by authorized state bodies, as well as to pay interest for using borrowed monetary funds in the order established by civil legislation.

In the case of non-execution or unduly execution by a bank of payment instructions, a customer (recoverer) is also entitled to claim indemnification for lost profit if it is stipulated by a contract between the bank and the customer or if the bank acted with malicious intent.

### **Article 238. Cases of Exempting Banks from Liability for Non-execution or Unduly Execution of Payment Instructions**

Banks are not be liable for non-execution or unduly execution of accepted payment instructions of customers in cases of:

indication of incorrect details of payment instructions;

loss of payment instructions by communications organizations or distortion by them of electronic messages;

break-downs or crash of technical systems used by the bank occurred without fault of the bank;

other cases stipulated by parts 2 and 3 of Article 242, part 1 of Article 146 and part 2 of Article 247 of this Code and other legislative acts of the Republic of Belarus.

### **Article 239. Payment Order**

Payment order is a payment instruction whereby one bank (remitting bank) remits, by order of the customer (payer) for a fee, monetary funds to another bank (receiving bank) in favor of a person indicated in the order (beneficiary).

Where the payer and the beneficiary recipient hold their accounts in the same bank or the beneficiary has not an account in the bank is paid cash monetary funds by the remitting bank, the remitting bank and the receiving bank constitute one and the same person.

In effecting settlements by payment orders, the beneficiary may not demand the remitting bank to effect payment.

### **Article 240. Execution of Payment Order**

Execution of a payment order by the remitting bank means issuing a payment order to the receiving bank concurrently with the provision of monetary funds which are necessary for the execution of such payment order to such bank.

Execution of a payment order by the receiving bank means:

crediting monetary funds to the beneficiary's account. In that case, after the execution of the payment order, the receiving bank is obliged to give the beneficiary documents confirming the crediting of monetary funds to his account;

paying out cash monetary funds to the beneficiary or using monetary funds in accordance with his instructions (when remitting (crediting) monetary funds in favor of an beneficiary not having account in the bank).

### **Article 241. Effecting Remittance of Monetary Funds by Payment Order**

Remittance of monetary funds by a payment order results in the acceptance of the payment order by the receiving bank.

Acceptance of the payment order by the receiving bank is deemed to be the fulfillment by the payer of his obligation regarding remittance of money to the beneficiary.

From the time the receiving bank accepts the payment order until the monetary funds are transferred to the beneficiary the receiving bank is considered the debtor of the latter.

Execution of the payment order is deemed duly even if the amount of the payment order accepted by the receiving bank is less than the amount of the payer's payment as a result of collecting by the bank of charges for banking services.

### **Article 242. Conditions of Acceptance of Payer's Payment Order by Remitting Bank**

When accepting a payment order, the remitting bank shall verify, within the functions of exercising control imposed on it, the form of the payment order for compliance with requirements of legislation of the Republic of Belarus and, in the cases stipulated by the President of the Republic of Belarus, also verify accompanying documents.

If the payment order contains insufficient data for execution thereof, the remitting bank returns it to the payer without execution.

The remitting bank accepts the payment order of the payer for execution only when there are monetary funds available on the payer's account, unless the contract between the remitting bank and the payer stipulates a possibility of crediting by the remitting bank the payer's account (overdraft) or granting him credit in other form.

### **Article 243. Acceptance of Payment Order by Remitting Bank**

A payment order is deemed accepted by the remitting bank in the case of:



notification by the remitting bank to the payer of the acceptance of his payment order;

issue by the remitting bank of a payment order for execution of the received payment order;

receipt by the remitting bank of the payment order, if the payer and the remitting bank have agreed that the remitting bank will execute the payer's payment orders upon receipt thereof;

debiting by the remitting bank the payer's accounts to effect payment under the payment order;

crediting by the remitting bank the correspondent account of the receiving bank for the purpose of executing the payment order;

using the monetary funds received by the remitting bank in accordance with indications of the payment order;

a failure to send to the payer a notification about the refusal of acceptance of his payment order.

#### **Article 244. Remitting Bank's Refusal to Accept Payment Order**

The remitting bank is entitled to refuse the acceptance of a payer's payment order in the case of:

absence of a sufficient amount of monetary funds on the payer's account, if the execution of the payment order must be carried out through debiting monetary funds available on the payer's account;

the form of the payment order does not comply with the requirements of legislation of the Republic of Belarus.

Notification about the refusal of acceptance of the payment order must be sent not later than on the banking day following the day of time limit for the payment order execution.

#### **Article 245. Acceptance of Payment Order by Receiving Bank**

A payment order is deemed accepted by the receiving bank in the case of:

notification by the receiving bank to the remitting bank of the acceptance of the payment order;

receipt by the receiving bank of the payment order, if the remitting bank and the receiving bank have agreed that the receiving bank will execute the remitting bank's orders upon receipt thereof;

debiting by the receiving bank the correspondent account of the remitting bank to effect payment under the payment order;

crediting by the receiving bank the account of the beneficiary to execute the payment order or otherwise make monetary funds available to the beneficiary;

using monetary funds by the receiving bank to repay the beneficiary's debt to the bank or using them in accordance with execution documents;

notification by the receiving bank to the payee of its right to dispose of the received monetary funds;

using the received monetary funds by the receiving bank in accordance with the payment order;

a failure to send to the remitting bank a notification about the refusal of acceptance of his payment order.

### **Article 246. Receiving Bank's Refusal to Accept Payment Order**

The receiving bank may refuse to accept the remitting bank's payment order in the case of:

absence of a sufficient amount of monetary funds on the corresponding account of the remitting bank if where the payment order must be executed by debiting monetary funds available on the remitting bank's account;

absence of reimbursement for the amount of the payment order on the part of the remitting bank coverable otherwise;

the form of the payment order does not comply with the requirements of legislation of the Republic of Belarus.

Notification of refusal to accept of the payment order must be sent not later than on the banking day following the day of the expiry of the time limit for payment order execution.

### **Article 247. Procedures for Execution of Payment Order by Receiving Bank**

Upon acceptance of a payment order, the receiving bank is obliged to transfer monetary funds at the disposal of the beneficiary or otherwise use the remitted funds in accordance with the payment order.

Where data contained in the payment order is insufficient for due execution of such order or there are discrepancies in the payment order received, the receiving bank must request further information from the remitting bank not later than on the banking day following the day of receipt of the payment order. If there is no response from the remitting bank or payer within three days, the receiving bank must return the received monetary funds to the remitting bank.

### **Article 248. Time Limit for Payment Order Execution by Remitting Bank and Receiving Bank**

Once accepted, the payment order must be executed by the remitting bank and the receiving bank on the banking day it is received. Where there is no sufficient time for executing such payment order before the banking day is over, it may be executed on the following banking day. The payment order may specify other time limit for the execution thereof.

In the case of absence of a sufficient amount of no monetary funds on the account, and if the execution of the payment order must be carried out by debiting the monetary funds available on the account, the payment order may, provided that there is an appropriate contract, be executed upon occurrence of monetary funds on the account within the time limits established by part 1 of this Article.

### **Article 249. Payment Order Modification and Revocation**

The payment order may be modified or revoked by the payer or the remitting bank provided that the notification of modification or revocation of a payment order is received prior to its actual execution by the remitting bank or the receiving bank, respectively.

Where the notification of modification or revocation of a payment order is received prior to its actual execution, the remitting bank or the receiving bank executes the payment order having regard to its modification.

Where the notification of modification or revocation of a payment order is received prior to its actual execution, the remitting bank and the receiving bank have no right to effect payment under the payment order. In that case the remitting bank and the receiving bank are obliged to return received monetary funds to the payer and the remitting bank respectively.

The payer and the remitting bank, as well as the remitting bank and the receiving bank, may agree upon that a payment order being transferred to the remitting bank or the receiving bank may not be modified and/or revoked (irrevocable payment order).

Verification of authenticity of a notification of payment order modification or revocation is carried out in the order established by banking law for verification of authenticity of a payment order.

Death of a natural person, termination of activities of an individual entrepreneur, liquidation of a legal person (payer), or liquidation of the remitting bank do not constitute grounds for revocation of a payment order.

#### **Article 250. Debiting Monetary Funds Credited to Account due to Technical Error**

Where monetary funds are credited to an account due to a technical error, the receiving bank is entitled to debit credited monetary funds from the account and return them to the remitting bank without following the order of priority of payments stipulated by legislation of the Republic of Belarus.

Procedure and time limit for return of monetary funds credited to an account due to a technical error are established by normative legal acts of the National Bank.

#### **Article 251. Intermediary Bank (Settlement Center)**

If a payment order is executed via a bank (intermediary bank, settlement center) not being either a remitting bank or a receiving bank, rules established by this Code for the receiving bank are applied to the intermediary bank (settlement center) that has received the payment order, and rules established by this Code for the remitting bank are applied to the intermediary bank (settlement center) that has sent the payment order.

#### **Article 252. Payment Demand**

A payment demand is a payment instruction containing the payee's demand to the payer to pay a specified amount of monetary funds through a bank.

Rules for effecting settlements in a cashless form by a payment demand are established by the National Bank.

#### **Article 253. Payment Demand-Order**

A payment demand-order is a payment instruction containing the payee's demand to the payer to pay the cost of goods delivered under a contract or actions performed in his favor on the basis of

settlement, shipping, and other documents sent to the payer (avoiding the servicing bank), which are stipulated by the contract.

Rules for effecting settlements in a cashless form by a payment demand-order are established by normative legal acts of the National Bank.

#### **Article 254. Letter of Credit**

A letter of credit is an undertaking by virtue of which a bank acting under the instruction of a customer-applicant (issuing bank) is to make payment to a payee (beneficiary) or is to accept and pay a bill of exchange drawn by the beneficiary or to authorize another bank (executing bank) to effect such payment, or to accept and pay the bill of exchange drawn by the beneficiary, provided that all terms and conditions of the letter of credit are complied with. A letter of credit may be executed by payment against presentation, payment by installment, accepting, or discounting a bill of exchange.

For advising a letter of credit to a beneficiary, the issuing bank (executing bank) may engage another bank (advising bank).

A letter of credit is an independent undertaking in relation to obligations arising out of a sales or other contract which stipulates that form of settlements. Banks are not bound by terms and conditions of such contracts.

#### **Article 255. Types of Letter of Credit**

A letter of credit may be revocable, irrevocable, confirmed, transferable, standby.

#### **Article 256. Revocable Letter of Credit**

A revocable letter of credit is a letter of credit that may be amended or cancelled by the issuing bank without prior notice to the beneficiary. Revocation of a letter of credit does not create any obligations toward the payee for the issuing bank.

The issuing bank must reimburse the executing bank if, prior to receipt by it of notice of amendment or cancellation, the executing bank made a payment, accepted and paid or discounted a bill of exchange upon presentation by the beneficiary of documents which appear on their face to be in compliance with the terms and conditions of the letter of credit, or as authorized to make a deferred payment accepted such documents.

#### **Article 257. Irrevocable Letter of Credit. Confirmed Letter of Credit**

An irrevocable letter of credit is a letter of credit that cannot be amended or cancelled without the beneficiary's consent.

A letter of credit is deemed to be irrevocable, unless otherwise expressly stated in the text thereof.

The issuing bank must reimburse the executing bank which, upon presentation of documents which appear on their face to be in compliance with the terms and conditions of the letter of credit, made a payment, undertook to make a deferred payment, accepted and paid or discounted a bill of exchange, as well as to accept such documents.

At the request of the issuing bank, the executing bank involved in a documentary credit operation may confirm an irrevocable letter of credit (confirmed letter of credit). Such confirmation means an undertaking of the executing bank in addition to that of the issuing bank to make payment under the letter of credit, accept and pay a bill of exchange or to make other actions in accordance with the terms and conditions of the letter of credit.

An irrevocable letter of credit confirmed by the executing bank may not be amended or cancelled without the consent of the executing bank.

If drawings by installments within given periods are stipulated by the letter of credit and any installment is not drawn within the period allowed for that installment, the letter of credit ceases to be effective both for that and any subsequent installments, unless otherwise stipulated by the letter of credit.

### **Article 258. Transferable Letter of Credit**

A transferable letter of credit is a letter of credit under which the issuing bank (executing bank) may, at the request of the beneficiary, to give the consent to another person (another beneficiary) to execute the letter of credit, in whole or in part, provided that it is allowed by the obligation subject to presentation by that beneficiary of documents specified in the letter of credit.

A letter of credit may be transferred if it is designated by the issuing bank as transferable. A transferable letter of credit may be transferred only once, unless otherwise stipulated therein. Prohibition to transfer a letter of credit does not mean a prohibition to assign the right to claim the amount of monetary funds due under it.

### **Article 259. Standby Letter of Credit**

A standby letter of credit is a letter of credit under which a bank issues an independent undertaking to pay to the beneficiary a certain amount of monetary funds to the beneficiary upon his demand (application) or upon demand accompanied by documents in conformity with the terms and conditions of the letter of credit indicating that payment is due because of a default of the applicant in the performance of an obligation, or because of occurrence of a circumstance (event).

Provisions of this Code relative to the bank guarantee apply to a stand-by letter of credit unless otherwise stipulated by the terms and conditions of the standby letter of credit.

### **Article 260. Relations between Applicant and Issuing Bank**

Instructions of the applicant to the issuing bank on the basis of which a letter of credit is opened may not provide for any obligations for the beneficiary or other banks involved in the execution of the letter of credit and may not grant them any rights.

The applicant is obliged, concurrently with giving instructions to the issuing bank, make available monetary funds necessary for the execution of a letter of credit, unless otherwise stipulated by agreement between the applicant and the issuing bank. The fulfillment by the applicant of this duty does not affect relations between the issuing bank and the beneficiary (other banks involved in the execution of the letter of credit).

In the case when in the course of the examination of documents under a letter of credit, discrepancies with its terms and conditions have been detected, the executing is entitled to refuse the documents to which effect is must give notice within 7 banking days following the day of receipt of the documents by telecommunications to the bank from which it received the documents or to the beneficiary if the documents were received directly from the latter. shall promptly notify the instructing party to this effect and execute the letter of credit only with the consent of the instructing party. In the case when discrepancies of documents with the terms and conditions of the letter of credit have been detected, the issuing bank is entitled to approach the applicant requesting whether the latter agrees to pay such documents or refuses their payment.

#### **Article 261. Relations between Issuing Bank (Confirming Bank) and Beneficiary**

The issuing bank (confirming bank) is obliged to effect payment to the beneficiary only upon presentation of documents that appear on their face to be in compliance with the terms and conditions of the letter of credit.

The issuing bank (confirming bank) is obliged to examine the documents and determine whether to take up or refuse them credit seven banking days following the day of receipt of the documents. In case of refusal to take up the documents, a notice stating their discrepancies with the terms and conditions of the letter of credit must be immediately sent to the party from which the documents were received.

Procedures for examining whether document are in compliance with the terms and conditions of a letter of credit are established by normative legal acts of the National Bank.

#### **Article 262. Legal Status of Executing Bank**

Unless the letter of credit stipulates that it is executed by the issuing bank, it must indicate the executing bank.

Unless the executing bank is the confirming bank, the obligations to examine documents and execute the letter of credit may be imposed on such bank only on the basis of the instructions of the issuing bank. must be designated in a letter of credit.

Unless the executing bank is the confirming bank, the beneficiary is entitled to present demands arising out of the letter of credit only to the issuing bank.

#### **Article 263. Legal Status of Advising Bank**

The advising bank's liabilities under a letter of credit are limited to check the apparent authenticity of the notice on opening (amending) the letter of credit and to forward it without delay to the party to which it is addressed.

When the advising bank refuses to advise a letter of credit, it shall notify the party from which the letter of credit was received to that effect not later than on the banking day following the day of receipt of the letter of credit.

#### **Article 264. Relations between Beneficiary and Applicant**

A letter of credit is independent of the existence, modification, or termination of obligations between the beneficiary and the applicant.

If a letter of credit is not executed, the beneficiary is entitled to approach the applicant with corresponding demands, unless the beneficiary's demands imply otherwise.

#### **Article 265. Termination of Issuing Bank's Obligations under Letter of Credit**

Obligations of the issuing bank under a letter of credit terminate:

upon execution of the letter of credit;

upon non-presentation of documents in compliance with the terms and conditions of the letter of credit within the period for which the letter of credit was opened;

upon the beneficiary's waiver of its rights under the letter of credit;

upon revocation by the issuing bank of the letter of credit if it is determined as revocable.

If the issuing bank's obligations under a letter of credit terminate on grounds stipulated by indents 3 and 4 of part one of this Article, the issuing bank is obliged to remit to the applicant the monetary funds made available for the execution of the letter of credit, not later than on the banking day following the day of occurrence of the said grounds or of return of monetary funds from the executing bank.

#### **Article 266. Domestic and International Letters of Credit**

A letter of credit is considered domestic if residents act as the issuing bank and the beneficiary. Specifics of executing domestic letters of credit are determined by the National Bank.

A letter of credit is considered international if any of the parties involved in settlements under the letter of credit is a non-resident. When executing international letters of credit, the parties shall abide by norms of international agreements, international rules and practices in the sphere of letters of credit, as well as by norms of law applicable to international letters of credit.

International rules and practices may apply to domestic letters of credit in cases where a reference is made thereto in the text of the letter of credit.

Unless otherwise stipulated by the parties, the law of the issuing bank is considered applicable to international letters of credit of relations between the issuing bank and the applicant, the issuing bank and the advising bank or the executing bank, as well as between the advising bank or the executing bank and the beneficiary.

#### **Article 267. Concept and Forms of Collection**

Collection means the handling by banks of documents, in accordance with instructions of a customer which results in delivery to a drawee of financial documents not accompanied by commercial documents (clean collection) or of financial documents accompanied by commercial documents or only commercial documents (documentary collection) in order to obtain payment and/or acceptance of the payment or on other terms and conditions.

Collection is handled by a bank (remitting bank) upon instructions of a customer (principal) or in its own behalf. In the processing the collection alongside the remitting bank may be involved any other bank (collecting bank). A bank making presentation of documents to the drawee is the presenting bank.

Financial documents mean bills of exchange, promissory notes, checks, or other similar instruments used for obtaining the payment of money, drawn up in order to fulfill monetary obligations.

Commercial documents mean transport documents, invoices, documents of title and other documents, not being financial documents

The presenting bank is entitled to debit the drawee's account subject to delivery of documents with the consent of the drawee (by-acceptance form) or without the consent of the drawee (without-acceptance form). The conditions under which a without-acceptance form of the collection is allowed, and different forms of acceptance (prior acceptance or subsequent acceptance) are used, are determined by legislation of the Republic of Belarus, including normative legal acts of the National Bank as well as by agreements between the drawee and the presenting bank.

Certain types of collection based on tax, administrative, and other relationships are regulated by this Code, unless otherwise stipulated by special legislation of the Republic of Belarus.

Specifics of document circulation and certain types of collection are determined by legal normative acts of the National Bank.

#### **Article 268. Duties of Remitting Bank**

The remitting bank is obliged to take up from the principal collection order (application) and documents specified in the collection order (application), examine accuracy of the completion of the collections order (application) and availability of documents specified in it. When the collection order (application) are duly completed and documents specified in it are available, the remitting bank forwards the documents received for the collection to the presenting bank or to the drawee, if the remitting bank exercises functions of the presenting bank, not later than on the banking day following the day of their delivery or within other period specified in the collection order (application).

The remitting bank is not liable to the principal for the refusal of the drawee to pay against financial documents. In case of such refusal the remitting bank is obliged to notify without delay the principal to this effect and send to it the returned financial documents.

#### **Article 269. Obligations of Presenting Bank**

Under the by-acceptance form of the collection, the presenting bank is obliged to notify the drawee of the principal's requirements and/or present documents to the drawee not later than on the banking day following the day of receipt of documents for the collection or within other period of time specified in the received instructions.

The presenting bank is not liable to the principal for refusal of the drawee to accept presented documents.

Under the without-acceptance form of the collection, the presenting bank is obliged to verify the apparent authenticity of presented financial documents and remit the amount being recovered to the remitting bank on the day of delivery of the documents or on the next banking day if they are delivered after the end of the banking day.



If monetary funds on the payer's account are insufficient, the actions of the presenting bank are determined by normative legal acts of the National Bank unless otherwise established by legislative acts of the Republic of Belarus.

#### **Article 270. Liability of Presenting Bank**

If the collection is delayed through the fault of the presenting bank, the principal has the right, regardless of availability of contractual obligations, to bring an action directly against the presenting bank.

#### **Article 271. International Collection**

Collection is deemed international if at least one party involved in settlements under the collection is non-resident.

Specifics of international collection are determined by norms of treaties, international rules and practices, as well as norms of law applicable to international collection.

Unless otherwise determined by the parties, applicable to international collection is:

law of the remitting bank's state - with respect to relations between the principal and the remitting bank; and

law of the presenting bank's state – with respect to relations between the remitting bank, drawee, other bank, and the presenting bank.

#### **Article 272. Settlement by Checks**

A check is a security containing an unconditional order of the drawer to pay a sum of money specified therein to the check holder.

A check must be drawn only on a bank holding funds at the disposal of the drawer, of which the drawer is entitled to dispose by means of a check.

The revocation of a check before the expiry of the time limit for its presentation is not allowed.

Rules for effecting settlements in a cashless form by means of checks are established by normative legal acts of the National Bank.

#### **Article 273. Bank Plastic Cards**

A bank plastic card is a payment instrument ensuring access to a bank account and effecting settlements in a cashless form for goods (works, services), receipt of cash monetary funds and performance of other operations in accordance with legislation of the Republic of Belarus.

#### **Article 274. Procedure for Issuance of Bank Plastic Cards into Circulation**

Issuance of bank plastic cards into circulation is carried out by a bank on the basis of a banking license.

Banks issue bank plastic cards into circulation and provide settlement and/or cash services to natural and/or legal persons when performing operations with bank plastic cards.

### **Article 275. Legal Regulation of Transactions in Cashless Form**

Procedures for effecting settlements in a cashless form in the territory of the Republic of Belarus are established by this Code and normative legal acts of the National Bank.

## **Chapter 25**

### **Foreign Currency Exchange Operations**

#### **Article 276. Foreign Currency Exchange Operations**

Foreign currency exchange operations are:

operations involving exchange of a foreign currency for the official monetary unit of the Republic of Belarus and/or exchange of the official monetary unit of the Republic of Belarus for a foreign currency at established exchange rates (foreign currency trading);

operations involving exchange of one foreign currency for another foreign currency at established exchange rates (foreign currency conversion); and

other operations determined by the National Bank.

#### **Article 277. Procedures for Performance of Foreign Currency Operations**

In the territory of the Republic of Belarus foreign currency operations are carried out through banks and non-bank credit and financial organizations that have banking licenses conceding the right to perform such operations.

Foreign currency trading and/or conversion may be carried out at foreign currency exchanges and at off-exchange currency market.

The National Bank may establish limits of exchange rates at which foreign currency trading and/or conversion of foreign currency is carried out in the domestic currency market.

The procedure for currency exchange operations is established by the National Bank.

## **Chapter 26**

### **Bank Safekeeping. Temporary Use of Bank Strongbox**

#### **Article 278. Bank Safekeeping Contract**

Under a bank safekeeping contract, one party (bailee) undertakes, for a fee, to provide safekeeping of documents and valuables delivered to it by another party (bailor) and redeliver them to the bailor intact.

Under a bank safekeeping contract, a bank and non-bank credit and financial organization may act as a bailee.

Relationships regarding safekeeping are regulated by this Code and civil legislation.

### **Article 279. Bank Safekeeping Items**

The bailee may take up from the bailor monetary funds, securities, precious metals, precious and semiprecious stones, and other valuables as well as documents (hereinafter - bank safekeeping items) for safekeeping.

### **Article 280. Form of Bank Safekeeping Contract**

A bank safekeeping contract shall be concluded in a written form. At that, the simple written form of a bank safekeeping document is deemed to be complied with if the acceptance of documents and valuables for safekeeping is evidenced by the bailee through issuance to the bailor of a personal safekeeping document. The presentation of such document constitutes a ground for redelivery of bank safekeeping items to the bailor.

### **Article 281. Types of Bank Safekeeping**

Bank safekeeping may be close, strongbox or open.

### **Article 282. Close Safekeeping**

Close bank safekeeping is a type of bank safekeeping whereby safekeeping of bank safekeeping items is effectuated by providing the bailor with an individual bank strongbox (strongbox cell, separate room in a bank, non-bank credit and financial organization) safeguarded by the bailee. The bailee ensures for a bailor a possibility to place bank safekeeping items into the individual strongbox and to take them out of the box without anyone's control, including the control of the bailee.

### **Article 283. Strongbox Bank Safekeeping**

Strongbox bank safekeeping is a type of bank safekeeping whereby safekeeping of bank safekeeping items is effectuated by providing the bailor with an individual bank strongbox (strongbox cell, separate room in a bank, non-bank credit and financial organization) safeguarded by the bailee. The bailee effectuates control over placement by the bailor of bank safekeeping items into the individual strongbox and their withdrawal from the box.

### **Article 284. Open Bank Safekeeping**

Open bank safekeeping is a type of bank safekeeping whereby the bailee undertakes to safeguard bank safekeeping items of the bailor and to return them in an unchanged state at the expiry of the bank safekeeping contract.

Under open bank safekeeping, bank safekeeping items of different bailors are kept separately, without being sealed, with indication of the name of each bailor.

#### **Article 285. Verification of Bailor's Identity**

In accordance with a bank safekeeping contract, the identity of a bailor may be verified by communicating a code or by presentation of an identity document or identity card, or key, or other sign or a document.

#### **Article 286. Providing Individual Bank Strongbox to Another Person for Temporary Use**

Relationships concerning the provision by banks and non-bank credit and financial organizations of individual bank strongboxes (strongbox cells, separate rooms in a bank, non-bank credit and financial organization) for temporary use of another person without their liability for the preservation of content of the strongboxes are regulated by dispositions of civil legislation on the lease contract insofar it does not contradict the essence of such bank relationships.

### **Chapter 27**

#### **Collection and Carriage of Cash Monetary Funds,**

#### **Payment Instructions, Precious Metals and Precious Stones and Other Valuables**

#### **Article 287. Collection and Carriage of Cash Monetary Funds, Payment Instructions, Precious Metals and Precious Stones and Other Valuables**

Collection of cash monetary funds, payment instructions, precious metals and precious stones and other valuables means collecting such valuables from cash registers of legal persons and individual entrepreneurs and their delivery to cash departments of banks and non-bank credit and financial organizations, carried out on the basis of a contract by collection services of banks and non-bank credit and financial organizations.

Carriage of cash monetary funds, payment instructions, precious metals and precious stones and other valuables means carriage of such valuables between banks and non-bank credit and financial organizations, their separate and structural divisions, as well as delivery of such valuables to clients of banks and non-bank credit and financial organizations.

Banks and non-bank credit and financial organizations which carry out collection and/or carriage of cash monetary funds, payment instructions, precious metals and precious stones and other valuables have the right to:

acquire, in the order established by normative legal acts of the President of the Republic of Belarus and other legislative acts of the Republic of Belarus, civil and service weapons and ammunition for it to be used respectively by employees of their collection services and employees duties of which include carriage of cash monetary funds, payment instructions, precious metals and precious stones and other valuables;

receive, in the order stipulated by the President of the Republic of Belarus, for temporary use some types and models of military weapons and ammunition for them to be used by employees of their collection services and employees duties of which include carriage of cash monetary funds,

payment instructions, precious metals and precious stones and other valuables in the course of their office.

Handing out weapons and ammunition to employees of collection service and employees of banks and non-bank credit and financial organizations the duties of which include carriage of cash monetary funds, payment instructions, precious metals and precious stones and other valuables is performed on a decision of heads of banks and non-bank credit and financial organizations after the said employees have received relevant training and when there are no obstacles for issuance to them of a permission to acquire civil weapons.

Employees of collection service and employees of banks and non-bank credit and financial organizations the duties of which include carriage of cash monetary funds, payment instructions, precious metals and precious stones and other valuables are provided with uniform, footwear, weapons equipment and individual protection means in the order established by legislation of the Republic of Belarus.

#### **Article 288. Application of Weapon**

Employees of collection service and employees of banks and non-bank credit and financial organizations the duties of which include carriage of cash monetary funds, payment instructions, precious metals and precious stones and other valuables have the right to apply weapons in cases and in the order established by a law.

President of the Republic of Belarus A.Lukashenko