

# REPUBLIC OF ARMENIA LAW ON BANKRUPTCY OF BANKS AND CREDIT INSTITUTIONS

## **CHAPTER I. GENERAL PROVISIONS**

### **Article 1. The Subject of Regulation of the Law**

1. This Law provides definitions and criteria of insolvency and bankruptcy of banks and credit institutions (hereinafter banks) functioning in the territory of the Republic of Armenia, the procedures and conditions for implementation of preventive measures against insolvency and bankruptcy, as well as the procedure for liquidation of banks as a result of their bankruptcy, liquidation of banks whose registration has not been revoked under article 42.5 of this Law infra. The functioning of the Liquidating commission (Liquidator) of the banks whose registration has not been revoked under article 42.5 of this Law infra shall be brought to conformity with the requirements of this Law.
2. The rules of administration of banks' insolvency and bankruptcy cases are established by this Law, other laws, and legal acts of the Central Bank of the Republic of Armenia (hereinafter Central Bank) in cases and manner provided for by this Law.

### **Article 2. Insolvency of Banks**

1. Bank shall be considered insolvent if:
  - a. In accordance with article 4.1 of this law the bank has exhausted 50 percent or more of its statutory capital, or
  - b. The bank is unable to meet the legitimate claims of its creditors, or
  - c. The aggregated evaluation of indicators of the bank is below the threshold of aggregated evaluation of indicators established by the Board of the Central Bank, or
  - d. The bank regularly violates the norm of mandatory reserve provided for by the law. The measurement of regularity of violation shall be established by the Board of the Central Bank and shall be the same for all the banks functioning in the territory of the Republic of Armenia.
2. Only the Board of the Central Bank may establish insolvency of a bank in cases when any of the grounds provided for in paragraph 1 of this Article persists.
3. If any of the insolvency grounds provided for in paragraph 1 of this Article has been revealed the Central Bank in a two-week period may:
  - a. Appoint provisional administration (hereinafter also administration) and approve the program of financial rehabilitation, or

- b. File bank bankruptcy claim with the Court.

### **Article 3. Bank Bankruptcy**

1. Bank bankruptcy is the establishment of insolvency of a bank by court upon the claim of the Central Bank. In such a case the bank is subject to liquidation under procedure provided for by this Law.
2. Bankruptcy of a bank can be established only upon the claim of the Central Bank under any of the grounds established by article 24 of this Law.

### **Article 4. The Motion by the Organization Conducting the Auditing of the Bank**

1. If the organization auditing a bank reveals any of the grounds of bank's insolvency as established by this Law, it may immediately inform the Central Bank in a manner provided for by law, enclosing all relevant documentation.
2. Non-fulfillment of the requirement provided for in paragraph 1 of this Article is considered the ground for revoking the license of the auditing organization. In such case the Central Bank shall file a written motion to a state body authorized in granting licenses.

### **Article 4.1 Exhaustion of Statutory Capital**

For enforcing the requirement provided for in point "a" of paragraph 1 of Article 2 of this law the bank's equity capital is considered exhausted by 50% or more, if on the moment the bank was recognized insolvent the value of its equity capital is less than half of the value required by the Central Bank for the given period.

## ***CHAPTER II. PROVISIONAL ADMINISTRATION***

### **Article 5. The Objective of the Administration**

1. Administration is the bank's extraordinary management body. The head and members of the Administration shall be appointed by the Central Bank as provided for by this Law.
2. The purpose of appointing administration shall be to:
  - a. Satisfy claims by the bank's depositors and owners of banking accounts through reorganization of the bank, and (or)
  - b. Reestablish financial stability of the bank by means of selling bank's assets or the entire bank (as a single and functioning unit with the entirety of assets and liabilities), and (or)
  - c. Reestablish financial stability of the bank by means of collection (realization) of the bank's assets in possibly shortest timeframe, and (or)
  - d. Reestablish financial stability of the bank by means of increasing the statutory capital or investment attraction through loan contracts as provided for by this Law, and (or)
  - e. Reestablish financial stability of the bank by means of transfer of bank's liabilities to a third party in accordance with the requirements of the legislation of the Republic of Armenia, and (or)

- f. Implement other steps not prohibited by law, directed at financial rehabilitation of the bank.
3. The Administration shall function under the financial rehabilitation program. The program of financial rehabilitation, amendments and additions to it shall be subject to approval by the Central Bank. The Administration may submit to the Central Bank proposals for amending or making additions to the financial rehabilitation program.
4. The Administration shall function in the manner prescribed by this Law, other laws, and normative acts of the Central Bank.
5. For the period of Provisional Administration the Head of Administration shall receive all the authorities of the managing bodies of the bank in their entirety.
6. For the period of Provisional Administration it shall be prohibited to satisfy the claim of a bank participant (shareholder) for separation of his part (deposit) in the statutory capital conditioned by his withdrawal from bank founders. It shall be also prohibited to separate the part (deposit) of a participant (shareholder) of the bank's statutory capital or to make payments from the bank's assets in the size of that part (deposit) (including payment in kind) in lieu of confiscation for the purpose of satisfying the claims of bank's participants' (shareholders') creditors.  
For the period of Provisional Administration set-offs of mutual liabilities shall be only permitted with the approval of Administration and if envisioned by the program of financial rehabilitation of the bank.  
For the period of Provisional Administration the cessation of claims to the bank shall be only permitted with the approval of Administration and if envisioned by the program of financial rehabilitation of the bank.

#### **Article 6. Appointment of the Administration**

1. The Central Bank shall be authorized to appoint Administration (either an individual Administrator or a collegial body) if any of the grounds specified in Article 2 of this Law persists.
2. The decision of the Board of Central Bank to appoint Administration shall go into effect from the moment of adoption and shall be published within two days through press and (or) other mass media. The Central Bank may also approve by the same decision the bank's financial rehabilitation program provided for by Article 19 of this Law.

#### **Article 7. The Duration of Functioning of the Administration**

1. The duration of functioning of the Administration (with up to a three year period) shall be established by the program of financial rehabilitation of the bank for a period of up to 1 year. After filing of bankruptcy case with the court by the Central Bank under procedure established by Article 24 of this Law infra, the Administration shall continue functioning until appointment of a Liquidator by the court.
2. After completion of the duration of functioning of the Administration established by the bank's financial rehabilitation program, the Central Bank may further extend the duration of Provisional Administration by another 1 year. When extending the duration of functioning of the Administration the Central Bank shall make necessary amendments and (or) additions to the program of bank's financial rehabilitation.

#### **Article 8. The Head of Administration**

1. From the moment of appointment of the Head of Administration by the Central Bank the Head of Administration makes inventory/list of the assets and liabilities of insolvent bank in accordance with the special procedure approved by the Central Bank for “Assessment of assets and liabilities of insolvent banks and credit organizations”.
2. For the assessment of assets and liabilities of the insolvent bank and for fulfilling the tasks provided for by this law the Head of Administration for the implementation of his works may involve lawyers, auditors, accountants, and other specialists.
3. Upon the agreement of the Central Bank the Head of Administration may authorize members of administration to manage operations of different sections of the bank.
4. In case of the absence of the Head of Administration or impossibility of executing his official responsibilities, a temporary acting Head of Administration shall be appointed in the manner and conditions provided for by the rehabilitation program.
5. As a result of the assessment referred to in this Article the Head of Administration within the period determined by the Board of the Central Bank (but no later than 6 months after the bank is recognized insolvent) shall submit to the Board of the Central Bank the opinion on attracting the funds in the form of capital, recovery of non-performing assets, partial or entire sale of assets and liabilities, possibility for changing the bank’s nature of business (in case of insolvency of the bank) in accordance with the 6<sup>th</sup> chapter of RA law on “Credit institutions”, as well as on the potential effect of bankruptcy of the bank on financial and banking systems of the Republic of Armenia.
6. On the basis of the assessment results the Head of Administration shall develop program of financial rehabilitation of the insolvent bank and submit it to the approval of the Board of Central Bank, also attaching
  - a. Personal data of the candidates of members of Administration
  - b. Respective grounds for presenting the candidates of members of Administration
  - c. The list of members of Administration
  - d. Opinion referred to in paragraph 5 of this Article.
7. The Board of Central Bank appoints the members of the Provisional Administration and approves the financial rehabilitation program, if
  - a. Opinion presented by the Head of Administration and the draft of the rehabilitation program form grounds for possibility of financial rehabilitation of the bank and (or)
  - b. The liquidation of the bank will not preserve the unity and smooth functioning of banking system and (or)
  - c. through provisional administration – implementation of tasks defined in paragraph 2 of Article 5 of this law - it is possible to maximally satisfy the claims of creditors of the bank and (or) to minimize costs of Deposit Guarantee Fund, and (or)
  - d. through implementation of activity(activities) referred to in articles 20, 21, 22, or 23 it is possible to financially rehabilitate the bank or credit institution. Besides, financial assistance or additional investments by participants of the bank or credit institution and (or) by other persons

shall be made within three-month period after approval of financial rehabilitation program of the bank or credit institution, or within the mentioned period the participants of the bank or credit institution and (or) other persons, and the Central Bank shall come to an agreement on financial assistance and (or) additional investments, which cannot be made behind the period of implementation of financial rehabilitation program.

8. The Head of Administration shall held responsibility for the functioning of the Administration as provided for by laws.
9. The Head of Administration shall function on behalf of the bank without any letter of authorization. Upon the Agreement of the Central Bank the Head of Administration may issue letter of authorization to the members of Administration.

#### **Article 9. The Consequences of Non-Fulfillment or Non-Orderly Fulfillment of Obligations by the Head of Administration**

1. The Head of Administration shall be responsible under legislation of the Republic of Armenia to the bank for non-fulfillment or non-orderly fulfillment of her/his obligations.
2. In case of non-fulfillment or non-orderly fulfillment of the obligations by the Head of Administration, the Central Bank shall:
  - a. Temporarily or permanently dismiss the Head of Administration from discharge of his/her obligations, and (or)
  - b. Invalidate the qualification certificate of the Head of Administration. Aforementioned decision of the Central Bank can be contested in the Court by the Head of Administration only if adopted in violation of procedures set forward by this Law. Submission of the appeal to the Court does not suspend the effectiveness of the Central Bank decision for the period of judicial settlement.
3. The Head of Administration shall incur personal property responsibility for damages caused to the bank by virtue of her/his non-legitimate or risky operations.

#### **Article 10. The Rights and Duties of the Head of Administration**

1. The Head of Administration, functioning on the basis of this Law and bank's financial rehabilitation program shall:
  - a. Discharge authorities reserved to the bank's management bodies by laws and founding documents,
  - b. Submit to the Central Bank the program of financial rehabilitation, proposals for amendments and addition thereto,
  - c. Take steps towards preservation of the property and documentation of the bank,
  - d. Identify the bank's creditors, the extent of their demands,
  - e. Take steps towards collecting bank's credit and debit dues,
  - f. Apply to the Central Bank with the motion to announce moratorium on satisfaction of bank's creditors' claims,
  - g. Receive necessary information and documentation on the bank's functioning from the managing bodies of the bank,

- h. Sell off the bank as a single acting unit or a part of the bank's assets and liabilities, if envisioned by the program of financial rehabilitation. In case of partial sale of assets and liabilities of the bank, the sequence and size for selling assets and liabilities shall be established by the Board of the Central Bank,
  - i. Submit applications to courts and arbitral tribunals on behalf of the bank,
  - j. Appoint representatives of the Administration in the territorial branches of the bank and affiliated subsidiaries,
  - k. Sign contracts based on rehabilitation program on behalf of the bank. He/she is authorized to dismiss management and employees of the bank and unilaterally terminate payment of their salaries,
  - l. Be authorized to unilaterally change the interest rates on deposits and credit contracts with agreement of the Central Bank,
  - m. Discharge other authorities not prohibited by the law.
2. The Head of Administration shall approve the rules of procedure of the Administration upon prior consent of the Central Bank. Members of the Administration shall fulfill the orders of the Head of Administration deriving from the law, other legal acts and the program of financial rehabilitation.
3. The Administration under the cases, procedure, conditions and in the timeframe provided for by the program of financial rehabilitation, shall declare the reduction of the banks' statutory capital, and in the manner stipulated by laws and other legal acts shall apply to the Central Bank for registration of the reduction of statutory capital through reduction of the value of nominal shares/stakes, however, its value shall not be less than the net value of the bank's assets. Moreover, the size of statutory capital cannot be less than the minimum size of statutory capital set by the law.
- The reduction of the bank's statutory capital shall not serve as ground for the bank's creditors to demand fulfillment of obligations beforetime, or their termination, compensation of losses, liquidation of the bank, as well as any compensation of difference in new nominal value resulting from the reduction of the value of the bank's participants' nominal share and statutory capital.
- The Administration under the cases, procedure, conditions and in the timeframe provided for by the program of financial rehabilitation, shall declare about the increase of the banks' statutory capital and in the manner stipulated by laws and other legal acts, shall apply to the Central Bank for registration of the increase of the banks' statutory capital. Besides, the banks' participants, whose authorities have been suspended in accordance with the procedure set forth in Article 11 of this law, cannot use the preferential right of acquiring converted securities of shares/stocks.

**Article 11. Suspension and Termination of the Authorities of the Bank's Management Bodies in the Period of Functioning of the Administration**

1. The authorities of the bank's management bodies shall get suspended and the authorities of the Executive Director (or of another body with similar functions) shall get terminated from the moment decision of the Board of the Central Bank to appoint Provisional Administration and approve bank's financial rehabilitation program goes into effect.
2. In the period of Provisional Administration the bank's managing bodies shall not be authorized to adopt decisions within powers vested in them by law or founding and internal documents of the bank.

3. Immediately after appointment of the Administration the bank's managing bodies shall pass on to the Head of Administration the bank's seal and seal clichés. In the timeframe agreed to by the Administration they shall pass on to the Administration the accounting and other documentation, material and other values of the bank.
4. The management and employees of the bank shall comply with rightful orders of the Head of Administration.

**Article 12. Motion of the Head of Administration**

1. In case of impossibility of financial rehabilitation at the completion or during implementation of the steps envisioned by the program, the Head of Administration shall file a written motion to the Central Bank containing request to invalidate the banking license given to the bank and to file request for launching bankruptcy case with the court.
2. In case of financial rehabilitation at the completion or during implementation of the steps envisioned by the program, the Head of Administration shall present a written motion to the Central Bank containing request to terminate the Provisional Administration and to return the bank under management of the participants (stakeholders, shareholders).
3. The Board of the Central Bank shall discuss the motions under paragraphs 1 and 2 of this article supra within fifteen days period and make decision on approving or rejecting the request contained therein.

**Article 13. Disputes Arising From the Functioning of the Administration** (*removed*)

**Article 14. Moratorium on Claims of Bank's Creditors**

1. In case of appointment of Administration the Central Bank shall be authorized to announce moratorium on satisfaction of claims of creditors of the bank for the entire period of Administration (or if necessary, for a short period) upon motion of the Head of Administration or along with the requirements of the program it approves. The moratorium shall be effective over payments under financial liabilities and mandatory payments, including taxation obligations that have had occurred before the appointment of the Administration, and liabilities and actions established by paragraph 2 of this article if there is no decision of the Board of the Central Bank stipulating that the moratorium shall not be extended to the liabilities and actions mentioned in this paragraph.
2. While the moratorium is in place:
  - a. All the exactions and other financial punishments to be calculated, paid and charged for non-fulfillment or non-orderly fulfillment of financial liabilities and mandatory payments including taxation obligations, as well as settlement, payment and charging of interests to be paid or arrest shall get suspended,
  - b. Any and all confiscations and collections established by enforcement or other documents shall be prohibited,
  - c. Implementation of enforcement documents related to confiscations in kind shall get suspended (with the exception of enforcement documents related to financial confiscations envisioned by paragraph 4 of this article), if the judicial decisions on them have come into force before the appointment of the Administration,

3. After completion of the moratorium on satisfaction of claims by the creditors of the bank exactions and other financial punishments envisioned by laws or contracts for non-fulfillment or non-orderly fulfillment of obligations shall not be calculated, paid, charged or confiscated. Only interest incurred for under Article 411 of the Civil Code of the Republic of Armenia (illegal withholding of other's financial resources) shall be accrued to the financial liabilities or mandatory payments related liabilities after the termination of the moratorium on claims of the bank's creditors, and only if that interest does not exceed the interest rate envisioned by the law or contract. In case the interest incurred under Article 411 of the Civil Code of RA to be accrued to the financial liabilities and mandatory payments related liabilities exceeds the interest rate provided for by the law or contract, the interest rate provided for by the law or contract shall be accrued. The interest incurred under Article 411 of the Civil Code of the Republic of Armenia shall be calculated in a manner provided for by this article only after the period of moratorium on claims of the bank's creditors. The aforementioned interest calculation shall not include exactions and other financial punishments or interests accrued on the amount of liability.
4. The moratorium shall not include:
  - a. Claims related to damages caused to the life or health of citizens,
  - b. Claims of citizens related to dismissal settlements and salary payments (with the exception of persons related to the bank) and honorariums under copyright contracts,
  - c. Claims related to current expenses necessary for regular functioning of the bank.
5. The moratorium on satisfaction of claims of bank's creditors provided for by this Article shall be terminated upon the decision of the Board of the Central Bank.  
By the decision of the Board of the Central Bank, in cases and manner envisaged by the program of financial rehabilitation, the termination of the moratorium may be extended either to the entire claims of creditors or their part.

#### **Article 15. Unilateral Refusal of the Obligations Under Contracts Signed by the Bank**

The head of Administration may, with a thirty-day prior notice about his/her intention, unilaterally dissolve those contracts signed by the bank that are not directly related to the banking activities of the bank if obviously unfavorable conditions for the latter are agreed to therein or fulfillment of contractual obligations would lead to significant reduction of the bank's assets. Until formal notification of the other party about dissolution of a contract under procedure established in this article, the Head of Administration shall not be dismissed of the duty of fulfilling contractual obligations unless the program of bank's financial rehabilitation establishes a moratorium on such performance. In case of existence of such a moratorium the obligations shall be fulfilled in the manner provided for in article 14 of this Law.

#### **Article 16. Invalidity of Bank's Transactions**

1. Upon receiving an application from the Head of Administration the Court can invalidate:
  - a. Transactions concluded within three years preceding the appointment of Provisional Administration by which the manager of the bank or participants (shareholders, stakeholders) or persons directly related to them have received from the bank property free of charge or under obviously favorable conditions,

- b. Dividends distributed between the bank's participants (shareholders, stakeholders) within three years preceding the appointment of Provisional Administration, the property transferred to them or other persons free of charge,
  - c. Transactions completed within three years preceding the appointment of Provisional Administration by which the bank has transferred assets the real market value of which significantly exceeded the real market value of the assets received by the bank in return or transactions that have been obviously unfavorable for the bank, with the exception of cases when another bank represents the other side of the transaction and as result of recognizing invalidity of the transaction the financial position of the bank representing other side of the transaction would significantly worsen.
  - d. Transactions completed within 90 days preceding the appointment of Provisional Administration by which the bank has made payments or has alienated property under obligations undertaken in the past except for current expenses necessary for regular functioning of the bank, with the exception of cases when another bank represents the other side of the transaction and as result of recognizing invalidity of the transaction the financial position of the bank representing other side of the transaction would significantly worsen.
2. The Head of Administration may file applications to the court with motion to invalidate the transactions provided for in this article within one year after her/his appointment.

#### **Article 17. Report of the Administration**

The Administration shall report to the Central Bank. The Central Bank shall establish the rules and conditions for supervising the Administration (including frequency, rules and conditions of reports to the Central Bank).

#### **Article 18. Termination of Functioning of the Provisional Administration**

1. The Central Bank shall terminate the functioning of the Provisional Administration if:
  - a. The goals outlined in the program of financial rehabilitation have been achieved by the end of the period envisioned by the program of financial rehabilitation or at any moment in the process of its implementation, and the Board of the Central Bank has taken relevant decision, or
  - b. At the end of the period envisioned by the program of financial rehabilitation or at any moment in the process of its implementation the Court has made a decision on the bankruptcy of the bank and appointed a liquidator according to the appeal of the Central Bank.
2. The decision of the Board of the Central Bank provided for in paragraph 1 of this article shall go into effect at the moment of adoption.
3. From the moment decision of the Board of the Central Bank provided for in paragraph 1.a of this article goes into effect the powers of the managers and managing bodies of the bank shall be considered re-established, except for the powers of the Executive Director (or a managing body with relevant functions) who shall not be re-established in his/her functions.

## **CHAPTER III. THE PROGRAM OF FINANCIAL REHABILITATION OF THE BANK**

### **Article 19. The Program of Financial Rehabilitation of the Bank**

1. The Head of Administration shall submit to the Board of the Central Bank and the latter shall approve by its decision the program of financial rehabilitation of the bank.
2. The program of financial rehabilitation of the bank shall include:
  - a. Assessment of the financial situation of the bank,
  - b. Modes of involvement of the bank's participants (shareholders, stakeholders) and other persons in the process of financial rehabilitation,
  - c. Action plan for reduction of the maintenance expenses of bank's functioning,
  - d. Action plan for receiving additional incomes,
  - e. Action plan for returning overdue credit debts and debits,
  - f. Action plan for changing the organizational structure of the bank,
  - g. Action plan for reestablishment of current liquidity and statutory capital level, as well as of other economic indicators.
  - h. Cases, procedures, conditions, and timings for increasing and decreasing the bank's statutory capital as provided for in Article 10 of this law.
3. The program of financial rehabilitation of the bank may include:
  - a. Financial assistance or additional investments by the participants (shareholders, stockholders) of the bank and other persons by means of increasing the statutory capital, provision of credits, loans, as well as by acquisition of bonds and other securities,
  - b. Changing the structure of bank's assets and liabilities, as well as selling off the bank as a single unit or a part of it,
  - c. Changing the organizational structure of the bank,
  - d. Reorganization of the bank, e. Other measures not prohibited by law.
4. The Central Bank shall establish the form of the program of financial rehabilitation and other mandatory provisions therein.
5. The Central Bank shall establish the overseeing procedures and control the implementation of the bank's financial rehabilitation program.
6. From the moment of approval of the bank's financial rehabilitation program it shall be no more subjected to the regulatory framework of economic normative set out by the Law of the Republic of Armenia on Banks and Banking. The Central Bank may establish other scales of main and special economic normative for the insolvent bank, the manner of their calculation and the list of elements, included in the calculation thereof.

### **Article 20. Financial Assistance, Additional Investments by the Bank's Participants and other Persons**

1. Financial assistance and additional investments by the bank's participants (shareholders, stakeholders) and other persons may take a form of:
  - a. Making a deposit in the bank. The program of financial rehabilitation shall establish the conditions of depositing.
  - b. Provision of guarantees for the bank's credit liabilities, provision of credits and loans, acquisition of subordinate bonds,

- c. Acceptance of delays and deadline alienation on payments,
  - d. Transfer of the bank's liabilities with the agreement of its creditors,
  - e. Additional investment towards the bank's statutory capital,
  - f. Remit on the bank's debts,
  - g. Other forms not prohibited by law.
2. The creditor of the bank may, with the agreement of the Central bank, direct assets in banking accounts and deposits towards increasing bank's statutory capital.
3. The bank and the person providing financial assistance to the bank shall make decisions on forms and conditions of financial assistance to the bank. The Head of Administration shall in advance coordinate such decisions with the Central Bank.

#### **Article 21. Change in the Structure of the Bank's Assets and Liabilities**

1. The change of the structure of the bank's assets may include:
  - a. Improvement of the quality of the credit portfolio,
  - b. Change of the timeframe of the assets structure with the purpose of bringing it in line with the deadlines for implementation of relevant liabilities,
  - c. Reduction on bank's expenses, including reduction of debts service share and management related expenses,
  - d. Selling off unprofitable assets and assets alienation of which does not impair the proper execution of bank activities of the bank,
  - e. Other changes in the structure of assets,
2. The change of the structure of the bank's liabilities may include:
  - a. Increase in the amount of general and statutory capital,
  - b. Decrease in the share and scope of the current and short-term liabilities within general structure of liabilities,
  - c. Increase in the share of long and midterm liabilities within general structure of liabilities,
  - d. Other changes in the structure of liabilities.

#### **Article 22. Change in the Organizational Structure of the Bank**

The organizational structure of the bank may be changed in the following ways:

- a. Change in the number and composition of the bank's staff,
- b. Change in the structure of the bank,
- c. Liquidation of territorial branches or organizational units,
- d. Other forms potentially beneficial for the financial rehabilitation of the bank.

#### **Article 23. Reorganization of the Bank**

1. Reorganization of the bank shall be completed in accordance with the Law of the Republic of Armenia on Banks and Banking.
2. The program of financial rehabilitation may include provision for changes in the organizational-legal form of the bank that shall be implemented as provided for by law and other legal acts.

## ***CHAPTER IV. The Peculiarities of Bank Bankruptcy Procedure***

### **Article 24. Grounds for Filing Bank Bankruptcy Procedure**

The Central Bank shall file an application on bankruptcy of a bank with court when:

- a. Any of the grounds listed in article 2 of this Law persists,
- b. It becomes obvious for the Central Bank in the period of Provisional Administration that by means of liquidation it will be possible to secure more assets of the bank than in case of continuation of functioning of the Administration, or that it is impossible to reestablish stable solvency of the bank.

### **Article 25. The Right of Initiative for Filing Bank Bankruptcy Procedure**

Bank bankruptcy procedure can be filed only by the Central Bank by decision of its Board.

### **Article 26. Motion to the Central Bank for Initiation of Bank Bankruptcy Procedure**

1. The bank's creditors may present a motion to the Central Bank requesting to file bank bankruptcy procedure with court as provided for by this Law. The motion shall be supported by relevant documentation of bank's financial liabilities and their scope.
2. The Central Bank shall study motion outlined in paragraph one of this article supra and in a period of two weeks shall decide whether the motion shall be satisfied or rejected. In exceptional cases the Chairman of the Central Bank may choose to extend the examination period by further two weeks. The Central Bank shall send to the creditors the decision specified in this paragraph within three days since the moment of its entry into force.
3. Decision of the Central Bank to reject the request submitted by the creditor can be contested by the creditor within ten days' period since it goes into force. When examining relevant complaints, the court may request the Central Bank to provide conclusion on existence of grounds outlined in Article 24 of this Law, or a copy of the decision of the Board of the Central Bank on renunciation of the banking license. The Central Bank shall forward the documents requested by the court as outlined in this article supra within ten days since receiving the court's request. Presentation of the copy of the decision of the Board of the Central Bank on renunciation of the banking license shall serve as a basis for initiating bankruptcy procedure.
4. If the Court receives the conclusion of the Central Bank witnessing to the lack of grounds outlined in Article 24, it shall return the application on the bank's bankruptcy to the creditor.

### **Article 27. Bank's Bankruptcy Application of the Central Bank to the Court**

1. If the grounds outlined in article 24 of this Law persists the Board of the Central Bank shall discuss and pronounces on renunciation of the banking license of the bank.
2. Within five days after entry into force of the decision on renunciation of the bank's banking license the Central Bank shall file bank's bankruptcy application with the court and shall submit a nomination (nominations) for the position of Liquidator. The Central Bank shall submit to the Court the decision (or a copy of the decision) of its Board on renunciation of the bank's banking license, and in case of existence of grounds provided for by paragraph 2 of Article 2 also the decision of the Board of

the Central Bank on recognizing the bank's insolvency. The motion of the Central Bank shall be submitted together with the attached documents as established by the Board.

**Article 28. The Initiation of Bank's Bankruptcy Procedure and Order of the Business**

1. Bank Bankruptcy cases shall be processed under the Civil Procedure Code of the Republic of Armenia if this Law does not state otherwise.
2. The Court considering bank bankruptcy case may only apply liquidation procedure.
3. There shall be no choice for reconciliation agreement in bank bankruptcy procedures.
4. The indebted bank, the Central Bank and the liquidator shall be considered parties in a bank bankruptcy case.

**Article 29. Decision of the Court on Bank's Bankruptcy and Appointment of Liquidator**

1. After pronouncing on admissibility of the Central Bank's application, the court shall hear the case within a three-day period. The Court shall decide on either upholding or rejecting the application of the Central Bank. The decision of the court shall enter into force from the moment of its pronouncement and shall not be subject to appeal. The Court shall reject the application of the Central Bank if its decision is in violation of the procedure prescribed by this Law. When taking a decision on a bank's bankruptcy the Court shall also appoint the liquidator from among nominees of the Central Bank or the bank's creditors.
2. From the moment the Court upholds the Central Bank's application and appoints the liquidator:
  - a. The liquidator shall receive the powers of the bank's management,
  - b. All the payments on interests and other similar compensations, settlement and payment of any fines and interests, payment of rental and other fees, settlement and payment of any taxes and duties shall get terminated,
  - c. All the accounts of the bank (including the accounts in non-resident banks) shall get frozen and only payments to the bank shall be allowed,
  - d. All the court cases in which the bank has been recognized as a respondent, as well as the decisions of the courts and arbitrages providing for confiscation of the bank's property and enforcement procedures on such decisions shall get suspended. The demands satisfaction of which is suspended as outlined in this paragraph can be presented to the liquidator as provided for by this Law.
  - e. Within a three-day period after receiving the liquidator's request the relevant state body shall change the bank's proprietary title, adding to it the "liquidating bank" words.
3. Within a ten-day period after the decision of the Court to reject the application of the Central Bank enters into force, the Central Bank shall re-establish the banking license of the bank, as well as the powers of the managers and managing bodies of the bank, except for the powers of the Executive Director (or a managing body with relevant functions) who shall not be re-established in his/her functions.

## **CHAPTER V. THE RULES OF LIQUIDATION OF A BANK THAT HAS BEEN RECOGNIZED BANKRUPT**

### **Article 30. The Rules of Liquidation of a Bank**

1. The Court shall start the process of liquidation of the bank that has been recognized bankrupt by the Court from the moment the decision envisioned by article 29 of this Law goes into force.
2. The managing bodies of the bank or, if as provided for by this Law an administration has been appointed, the Head of Administration shall pass on to the liquidator the seal and stamp clichés of the bank, documentation, material and other assets of the bank within 15 days after the decision on recognizing the bank's bankruptcy and appointment of the liquidator.
3. The liquidator within a three-day period after his/her appointment shall publicly announce through print and other mass media the place and period for filing demands of the bank's creditors. The period for filing demands with the bank shall not be shorter than two and longer than six months.
4. Throughout the demands filing period established by paragraph 3 of this article, the liquidator shall initiate necessary steps directed at returning the property deposited with the bank to the rightful owners and completing relevant final settlements. The liquidator shall send notifications to the owners of the assets, indicating the term during which the owner may claim back the assets. That period shall not exceed one month. The owners of the property shall receive their property within one month after receiving the liquidator's notification. If the property owner does not claim for it within the set period of one month the liquidator shall deposit it, and signs the contract as provided for by law.
5. Throughout the demands filing period established by paragraph 3 of this article, the liquidator takes necessary steps directed at identifying the bank's debtors and recovering the debts.
6. The liquidator shall prepare, approve and publish in a print outlet with a minimum of 2,000 copies an interim liquidation balance within one month after completion of the period of presenting creditors' claims. The interim balance shall include information on:
  - a. The composition of assets of the liquidating bank,
  - b. The list of creditors' claims, including: the total amount of claims to the bank and claims included in the bank's balance, the amount due to each deposit holder or creditor and the order of satisfaction established by article 31 of this Law, as well as a free-standing list of declined claims,
  - c. The results of study of the claims,
  - d. Other information requested by the Central Bank.
7. The liquidator shall present to the Central Bank a copy of the print outlet that has published the interim liquidation balance as requested by paragraph 6 of this article on the day of publication. The Central Bank may oblige the liquidator to publish the interim liquidation balance in another print outlet with a minimum of 2,000 copies.
8. The liquidator shall satisfy the claims of the creditors in order established by article 31 of this Law, in line with the interim liquidation balance starting with the date of publication.

9. The liquidator shall change the seal, stamp cliché and letterheads of the bank adding the “liquidating bank” words within a reasonable period of time after changing the bank proprietary name as provided for by article 29.2e of this Law.

#### **Article 31. The Order of Claims’ Satisfaction**

1. The debts protected by collateral shall be paid on priority basis from the amounts secured from selling out the relevant collateral. If the indebtedness is larger than the revenue secured from selling out the relevant collateral, the claims on the remaining part shall be covered along with payments on claims of the other creditors.
2. Bank’s liabilities shall be covered from liquidation funds in the following order:
  - a. First: Necessary and substantiated costs (including salaries) incurred by the administration and/or the liquidator in discharging powers vested in them by this Law, within the budget approved by the Board of the Central Bank.
  - b. Second: Claims on deposits made and loans given to the bank after the appointment of administration, with the exception of cases specified by the contract between the creditor and the Central Bank.
  - c. Third: Bank deposits and credit balances on the bank accounts belonging to the citizens of the Republic of Armenia, foreign citizens as well as persons without citizenship in the amount of up to 2 million drams if deposited in the RA currency, and in the amount equivalent to 1 million drams if deposited in foreign currency. In cases when one person possesses more than one deposit (account) in the bank, all the deposits shall be merged and their aggregate amount considered as one deposit.
  - d. Fourth: Bank claims other than bank deposit and bank account balances included in the second order.
  - e. Fifth: Bank’s liabilities towards the state and community budgets, other mandatory payments established by the legislation of the Republic of Armenia
  - f. Sixth: Claims of bank’s shareholders/stakeholders

The lists of creditors under priority orders listed in sub-points c. and d. supra shall not include persons related to the bank, whose claims shall be satisfied in priority order established by sub-point f. supra.

If the claim of the person referred to in sub-point c exceeds the amount of 2 mln drams (or in case of foreign currency the amount equivalent to 1 mln dram) his/her claim in the amount of up to 2 mln drams (or in case of foreign currency- in the amount of 1 mln drams) shall be satisfied in the priority-order specified in the sub-point c, while the claim exceeding the mentioned amount shall be satisfied in the priority-order specified in sub-point d.

Within the deposit guarantee scheme after remunerating the guaranteed amount the guarantor determined by the law receives right of claim toward the bank for the actually reimbursed amount in the priority-order(s) at which the given depositor (creditor) would have the right of claim for the deposit (account balance) as provided for in this Article. The creditors within same priority order have equal rights for satisfaction of their claims. The claims of creditors within same priority order shall be satisfied after full satisfaction of claims within the previous priority order.

3. Whether the liquidation funds are insufficient to fully cover the claims of creditors within same priority order, the satisfaction of claims shall be performed proportionally, or taking as a basis for satisfaction of claims the size of creditors’

claims – with priority from small toward bigger. The court shall determine the principle for satisfying claims within 5 days after submitting the motion by the Central Bank, considering which of the options would allow to satisfy more number of creditors. The respective decision of the court shall enter into force from the moment of its promulgation and cannot be contested.

4. The creditor whose claims have been rejected or indefinitely postponed by the liquidator may choose to appeal the liquidator's actions before the approval of the liquidation balance. The court shall study application submitted under this paragraph within a three-day period. The decision of the court shall go into force from the moment of pronouncement and shall not be subject to appeal. Meanwhile, the Court may suspend satisfaction of the claims by the liquidator until the pronouncement of the court decision on the case if the satisfaction process has reached the priority order contested by the creditor. Satisfaction of claims presented after the deadline provided for by this Law shall be performed from funds left after full satisfaction of claims presented in due timeframe. If the creditor, who presented the claim and was registered by the liquidator, does not appear for receiving his/her claim within the timeframe of the respective priority- order announced in the press or other mass media by the liquidator, then the amounts or other property to be provided to such creditor shall be kept as notary deposit or with any bank.

Before starting satisfying claims within any priority-order the liquidator shall announce about the location, procedure, and timings for receiving the claims in the given order by the press and (or) other mass media. The main information about the location, procedure, and timing related to satisfaction of claims, as well as any respective changes shall get legal force on the next day of its publication in the press and (or) other mass media.

The period for satisfaction of claims under the priority-order specified in the sub-point c of point 2 of this Article shall not be less than 21 days. In addition, in case of missing the period specified for satisfaction of claims it cannot be restored irrespective of any reason for not meeting the deadline.

5. Claims rejected by the liquidator and not contested by the creditor in court, as well as claims rejected by court decisions shall be considered remitted. In cases when the creditor has submitted a claim after the deadline provided for by this Law for motion of creditor claims and it is impossible to satisfy the claim because of the lack of liquidation funds, the claim shall be considered cleared even disregarding a lawful decision of the court to recognize the claim.
6. If during satisfaction of claims within any priority-order specified in this Article it becomes clear that the bank no longer has any assets or it is impossible to satisfy creditors' claims in any other way, the liquidator in accordance with Article 32 of this law shall draw up the liquidation balance and present it to the court for approval. After the court's decision on approval of the liquidation balance all calculations with creditors shall be considered completed.

### **Article 32. Approval of Liquidation Balance**

1. After completing settlements with the creditors, the liquidator shall prepare liquidation balance and submit it to the court with a request to approve it.
2. The court shall decide to approve or reject the approval of the liquidation balance within a ten-day period. In the latter case the court shall mention the grounds for rejection. The Central Bank shall be watched as a mandatory participant to

liquidation balance approval cases in the court. The court shall reject the approval of liquidation balance if the liquidator has violated requirements of this Law.

3. In cases when the court rejects approval of the liquidation balance, the liquidator may correct mistakes that have caused the rejection in a ten-day period, and re-submit the balance for approval by the court. The court shall study the case as provided for by paragraph 2 of this article supra.
4. Within a three-day period after receiving the decision of the court to approve the liquidation balance in a manner laid out in this article the Central Bank shall make a note in the Banks' registrar about renouncing the bank's registration. From that moment the bank shall be considered liquidated, and its activities – ceased. The Central Bank shall notify about this the body responsible for state registration of legal entities.

### **Article 33. The Powers of the Liquidator**

1. The liquidator shall discharge functions vested in him/her by this Law with the aim of maximal satisfaction of the bank's creditors' claims. The liquidator:

- a. May unilaterally denounce any employment, provision of services, rental and any other similar contracts,
  - b. May sign any civil legal contract that is essential to discharge of functions vested in the liquidator by this Law,
  - c. Within a two-month period after appointment, the liquidator may file with the court motions laid out in article 16 of this Law,
  - d. May sell out the bank's assets in public auctions,
  - e. Discharge other functions vested in her/him by this Law.
2. The liquidator shall publish information in press about his/her activities on a regular basis and at least once a month in a manner established by the Central Bank.
  3. The liquidator shall present reports to the Central Bank and the court in accordance with the procedure, manner, frequency, and timeframes determined by the Central Bank.
  4. The Court may request from the liquidator any information on his/her activities.
  5. The Central Bank at its own initiative or based on the motion of the court may undertake revisions of activities of the liquidating bank and (or) the liquidator, in accordance with the RA law on "The Central Bank of the Republic of Armenia". Based on the results of revisions, as well as the violations of the laws and other legal acts regulating the activities of the liquidating bank and (or) the liquidator stated in the reports presented to the Central Bank and the court, the Central Bank may take responsibility actions against the liquidator, provided for in point 6 of this Article 6 or present the motion provided for in Article 36 of this law to the court.
  6. The Central Bank may apply the following responsibility actions against the liquidator:
    - a. Give warning notice and instruction to eliminate the allowed violations
    - b. Invalidate the qualification certificate
    - c. Apply penalty

The Central Bank shall take responsibility actions defined in this point in accordance with the RA law on "The Central Bank of the Republic of Armenia".

The responsibility actions defined in this point and (or) dismissal of the liquidator from his/her responsibilities according to Article 36 of this law shall not relieve the liquidator from other responsibilities defined by the legislation of the Republic of Armenia

#### **Article 34. Bank's Liquidating Funds**

1. Bank's liquidating funds include: the assets owned by the bank under property rights (resources, including the claiming rights), collateral assets (in the part of financial cost exceeding the financial liabilities of the bank), the funds returned to the bank on the basis of a judicial decision reached by the court upon the liquidator's application on invalidity of a transaction, the funds of the bank's participants (shareholders, stakeholders) and managers in the part of subsidiary responsibility established by this Law and other laws of the Republic of Armenia, other funds provided for by legislation.
2. The Board of the Central Bank shall approve the list of the property, which shall be sold through public bargaining

#### **Article 34.1. The Procedure on selling the property of the liquidating banks**

The procedure for selling the property of the banks under the process of liquidation by the liquidators is defined by the Central Bank of the Republic of Armenia.

#### **Article 35. Bank's Liquidating Account**

1. Within a three-day period after court's decision on the bank's bankruptcy and appointment of the liquidator the liquidator shall open liquidating account in one of the banks functioning on the territory of the Republic of Armenia and placing at the account all the financial assets of the bank as well as funds secured from selling off bank's liquidating assets. The liquidating bank shall not have any other bank accounts except for the account provided for by this article.
2. The manner of opening and management of the liquidating account as well as of closure of accounts in other banks shall be regulated by the normative acts of the Central Bank.

#### **Article 36. The Consequences of Non-Fulfillment or Non-Orderly Fulfillment of Obligations by the Liquidator**

1. In case of non-fulfillment or non-orderly fulfillment of the obligations established by this law by the liquidator the Central Bank may choose to apply to the court with a motion to dismiss the liquidator from discharging her/his functions.
2. Non-fulfillment or non-orderly fulfillment of the liquidator obligations may serve as a grounds for renunciation of the Competition manager license. The Central Bank may present a relevant motion to the respective state body.
3. The liquidator shall bear responsibility established by the legislation of the Republic of Armenia for non-fulfillment or non-orderly fulfillment of her/his obligations.
4. The bank's creditors, debtors, and the Central Bank may contest the actions of the liquidator in court.

#### **Article 37. The Responsibility of the Bank's Participants (Shareholders, Stakeholders)**

1. In case of the bank's bankruptcy related to direct or indirect activities of the participants (shareholders, stakeholders) capable of giving mandatory orders to the bank or of otherwise predetermining its functioning those persons shall bear subsidiary responsibility for the bank's liabilities.
2. The Central Bank and the liquidator may apply to court requesting to pronounce on existence of subsidiary responsibility.

**Article 38. Recognition of Bankruptcy of a Self-Liquidating Bank**

1. If the assets of a self-liquidating bank are insufficient to satisfy the claims of the bank's creditors, the bank shall be liquidated as provided for by this Law by means of bankruptcy procedure. In the case provided for by this article the Central Bank may apply with a motion on the bankruptcy of the liquidating bank.
2. Within a three-day period after receiving the application outlined in paragraph one of this article supra, the court shall hear the case as provided for by this Law.

**CHAPTER VI. REQUIREMENTS PRESENTED TO THE HEAD OF ADMINISTRATION AND LIQUIDATOR**

**Article 39. The Qualification of the Head of Administration and Licensing of the Liquidator**

1. The Head of Administration shall possess relevant qualification certificate (license) given by the Central Bank.
2. Bank liquidator shall possess Competition manager license given by the authorized governmental body and shall comply with qualification requirement established by the Central Bank.
3. The Central Bank shall establish the rules and grounds for licensing of the Head of administration and liquidator, grounds and limitations for their selection, issuing and renunciation of their licenses.

**Article 40. Costs Incurred by Administration and Liquidator, Imbursement**

1. The costs incurred by administration including the imbursement for its members shall be covered from the bank's funds, and those of liquidator from the liquidating funds.
2. The Central Bank shall establish the imbursement and costs of the Head of administration and its other members. The court upon motion of the Central Bank shall establish the imbursement and costs of the liquidator. Imbursement of the liquidator shall not exceed the imbursement established by the Central Bank for the Head of Administration.

**SECTION VII. FINAL PROVISIONS**

**Article 41. Court Hearing Bankruptcy Cases**

1. A judge of the Economic Court of the Republic of Armenia shall hear bank bankruptcy cases.
2. The court that has pronounced on the bank's bankruptcy shall hear appeals related to the actions of liquidator during the bankruptcy procedure provided for by this Law.

**Article 42. Going Into Effect**

1. This Law shall go into effect from the moment of official publication.

2. From the moment of going into effect of this Law the Law of the Republic of Armenia on Bankruptcy of Banks of June 29, 1996 shall be considered invalid.
3. From the moment this Law goes into effect:
  - a. After completion of the preliminary receivership period established by the aforementioned Law on Bankruptcy of Banks the Central Bank may choose to appoint provisional administration and approve the financial rehabilitation program or present an application on recognition of the bank's bankruptcy to the court. The Central Bank in those cases shall have powers vested in it by this Law.
  - b. The Receivers of the banks under receivership procedure provided for by the aforementioned Law on Bankruptcy of Banks shall receive all the powers vested in provisional administration by this Law. The Central Bank shall also have powers vested in it by this Law.
  - c. If a decision is made on liquidation of a bank under receivership procedure established by the aforementioned Law on Bankruptcy of Banks bankruptcy procedure shall be established with regard to those banks and the liquidation shall be implemented as provided for by this Law.
4. Until introduction of Liquidators' licensing by the authorized governmental body, the liquidators may be appointed from among persons satisfying the grounds established by the Central Bank.
5. From the moment this Law goes into effect the banks liquidated under the legislation of the Republic of Armenia before June 29, 1996 shall be considered liquidated and their functioning – terminated, if the creditors of those banks do not present relevant claims to courts within a two-month period. The Central Bank shall remove such banks from registration, and make appropriate note in the Bank registrar.
6. Until adoption of the Law on Public Auctioning selling off of the liquidating bank's assets shall be implemented through public auctions organized by the liquidator in accordance with the rules established by the Central Bank.

**President of the Republic of Armenia Robert Kocharyan November 30, 2001, city of Yerevan HO [Armenian Law] - 262 15**