

**REPUBLIC OF ALBANIA
THE PEOPLE'S ASSEMBLY**

BANKING LAW

OF THE REPUBLIC OF ALBANIA

Law No.8365, date July 2, 1998

According to Article 16 of Law No.7491, dated April 29, 1991, "On the main constitutional provisions" on the proposal of the Council of Ministers,

**THE PEOPLE'S ASSEMBLY OF
THE REPUBLIC OF ALBANIA**

HAS DECIDED:

CHAPTER I

GENERAL PROVISIONS

Article 1

1. This Law shall constitute the main principles of doing banking business in the Republic of Albania, establishing, organizing and supervising banks and also regulates their conservatorship and receivership.

2. This Law shall apply to all persons doing banking business in the Republic of Albania, including branches and representative offices of the foreign banks. The Bank of Albania, by virtue of the nature or size of their business or the origin of their resources, has the right to exempt these persons, in whole or in part, from the application of the provisions of this Law.

3. The Bank of Albania may, by rule or regulation, make other persons that engage in activities described in Article 26, subject to the provisions of this Law.

Article 2

1. Wherever used in this Law, the following terms shall have the following meanings:

a. **"Bank"** means a juridical person licensed by the Bank of Albania to engage in banking business;

b. **"Banking business"** means the business of accepting and collecting of deposits from the public and using such funds to make loans, advances, or as investments for the account of and at the risk of the juridical person carrying on the business and such other related business that the Bank of Albania may, by regulation specify;

c. **"License"** means an administrative act issued by the Bank of Albania granting the right to engage in banking business;

ç. **"Banking Deposit"** means the juridical undertaking on a sum of money put in a bank as a deposit and paid on the following terms:

i) that sum of money is to be repaid by the bank, with or without interest or premium of any kind, either on demand or at a time or in circumstances agreed by or on behalf of depositor or his/her **representative** as well as the bank; and

ii) that sum of money is not referable to the provisions of property or services or other means of enforced execution of obligations.

d. **"Credit"** means any juridical undertaking to disburse a sum of money in exchange for a right to repayment of the amount disbursed and outstanding and to payment of interest or other charges on such amounts, any extension of the due date of a debt security or other right to payment of a sum of money;

dh. **"Financial activity"** means any of the activities that are listed in Article 26;

e. **"Equity interest"** means any ownership right or voting right with respect to a juridical person.

ë. **"Significant interest"** means a direct or indirect holding of an interest in a juridical person that represents the equivalent of ten [10] percent or more of the equity or of the voting rights, or that makes it possible to exercise a significant influence over the management or policies of such juridical person.

f. "Affiliate" means a juridical person or some juridical persons which directly or indirectly:

- i) own equity interest or significant interest of the bank, or other juridical persons;
- ii) control the bank or other juridical persons;
- iii) influence the management of the bank or other juridical persons.

g. "Subsidiary" means any juridical person in which another person or affiliate juridical persons holds more than fifty percent (50 %) of the voting shares, or a significant interest that permits such other person or affiliate juridical persons to exercise control;

gj. "Branch office" means a place of business that forms a legally dependent part of a bank and that conducts directly all or some financial activities;

h. "Banking agency" means a place of business that forms a legally dependent part of a branch office and conducts directly one or some financial activities;

i. "Representative banking office" means a place of business of the bank that promotes the advertising of the financial activities. The representative banking office is not engaged in banking and financial business.

j. "Voting shares" means common shares in the capital of the issuer and any other shares of any designation or description that carry the right to vote on any general or special shareholder meeting of the issuer.

k. "Controller" means a person that has control over a bank or over any juridical person in the following manner:

- i) the controller directly or indirectly or acting through one or more persons, owns, controls, or has the power to vote 25 % or more of any class of voting shares of the bank or juridical person; or
- ii) the controller controls in any manner the election of a majority of the administrators of the bank or juridical person;
- iii) the Bank of Albania determines, after notice and opportunity for hearing, that the controller directly or indirectly exercises a controlling influence over the management or policies of the bank or juridical person.

l. "Administrator" means a person who is:

- i) a member of the Board of Directors or of the Audit Committee of the bank;
- ii) a general executive officer (GEO) of a bank;

ll. "Person" means an individual, physical person, juridical person and any affiliate juridical persons;

m. "Capital distribution" means the distribution of cash or any other property by a bank to its owners made on account of that ownership, but not including any dividend consisting only of shares or rights to purchase such shares.

n. "Regulatory capital" means capital defined by the Bank of Albania from time to time for regulatory purposes.

2. The headings of the chapters in this Law are used solely for convenience of reference and are not intended to govern, limit, or aid in the construction of any term or provision hereof.

3. Words in the singular in this Law may be construed as plural and vice versa whenever the changes is necessary to effectuate the obvious intention of the provision in question.

4. A masculine pronoun shall include the feminine pronoun.

Article 3

The banking system in the Republic of Albania is organized in two levels. The first level is comprised by the Bank of Albania, whose status is defined by special law. The second level is comprised by other banks.

Article 4

1. As specified in Article 26, the following shall engage in banking and financial activity :

- a) Banks licensed by the Bank of Albania;
- b) Persons specified in Article 1, paragraph 3, licensed by the Bank of Albania;
- c) Branch offices of foreign banks licensed by the Bank of Albania.

2. Banks shall be founded as joint stock companies, public or private, with Albanian capital exclusively, foreign capital exclusively, or with common capital. Banks shall be founded as cooperative banks as specified in the provisions of Article 64.

Article 5

1. Banks shall have the right to open branches, agencies or representative offices outside the territory of the Republic of Albania, with the prior approval of the Bank of Albania.

2. Banks shall have the right to open subsidiaries within and outside the territory of the Republic of Albania, with the prior approval of the Bank of Albania.

3. Banks licensed by the Bank of Albania may expand or decrease the number of branches, agencies and representative offices in the Republic of Albania, submitting prior information to the Bank of Albania. The Bank of Albania shall refuse an extension of the branches in case it threatens the organizational and financial position and supervision of the bank.

Article 6

1. No person shall engage in the banking business without a license issued by the Bank of Albania.

2. Pursuant to Article 1(3), no person shall conduct activities as specified in Article 26 without a license issued by the Bank of Albania.

3. No one shall use the word "bank" or derivatives of the word "bank" in respect of a business, product or service without an effective license issued by the Bank of Albania, unless such usage is established or recognized by law or international agreement, or unless it shall be clear from the context in which the word "bank" is used that it does not concern banking business.

4. No bank organized outside the Republic of Albania shall be permitted to engage in any banking business in Albania unless the activity is undertaken through a branch office for which an effective license has been issued by the Bank of Albania.

5. No person shall make a misstatement of material facts or false representation or do anything to create a false appearance or engage in any manipulative device or practice in relation to banking business.

6. All foreign banks licensed to do banking business in the Republic of Albania shall use Albanian language in their names, documentation and correspondence in the Republic of Albania.

CHAPTER II

LICENSING

Article 7

The Bank of Albania shall have sole responsibility for the issuance of licenses to banks for conducting banking business in the Republic of Albania.

Article 8

1. The Bank of Albania defines by rule or regulation the amount of the initial minimum capital required for banks and may adjust such amount from time to time.

2. The amount of paid up initial minimal capital shall determine the banking and financial activities for which a licensed bank will be permitted to engage, in accordance with Article 26.

Article 9

1. Licenses shall be applied for in writing to the Bank of Albania in such form as shall be prescribed by regulation of the Bank of Albania and shall be accompanied by the following basic information:

- a) the qualification, integrity and experience of the administrators of the proposed bank, including business or professional history for the past 7 years and names of references which the Bank of Albania shall contact; a statement that none of the disqualifying factors of Article 21 apply to any prospective administrators;
- b) the amount of the subscribed capital stock of the proposed bank;
- c) a business plan for the proposed bank, setting out, inter alia, the organizational structure, the types of financial activities envisaged, and projected financial statements and the assumptions on which they are made for the first three years;
- ç) the name, residence, and business or professional history for the past 7 years of each person who proposes to own the significant interest of the proposed bank, and the amount proposed; For the purpose of this provision, the proposed ownership interest of affiliated persons will be aggregated to determine the amount of the proposed ownership for possession.
- d) additional documents and information:
 - i) draft articles of incorporation and charter of the bank
 - ii) the proposed name of the bank
 - iii) the location of the bank head office
 - iv) the equity capital source origin
 - v) verification for the payment of all taxes by the respective taxation authorities
- dh) additional information for the licensing as shall be prescribed by regulation of the Bank of Albania.

2. If a foreign bank proposes to own more than 10 percent of the proposed subscribed capital stock of a bank, the foreign bank should be authorized to engage in the business of receiving money deposits or other repayable funds in the foreign country where its head office is located. Providing however that the competent foreign authorities that supervise the financial activities at the head office of the foreign bank concerned have given their written consent to the granting of such license.

3. The Bank of Albania may request an applicant to submit supporting information for its license application if, in the opinion of the Bank of Albania, the basic information submitted is incomplete or insufficient.

4. The license application for the branch office of a foreign bank shall be applied for by the foreign bank. The application for such license shall be accompanied by such information, similar to the information required by subparagraph 1 of this Article, and other supplemental information as follows:

- a) the permission to from the respective foreign authorities where the bank is located;
- b) the incorporation act and charter of the bank, including all information regarding the address of the bank head office, description of its activity, amount of capital, charter organization and its administrators;
- c) the annual accounts and financial reports, consolidated annual accounts and financial reports, and the auditor opinion on consolidated annual accounts and financial reports for the last three years;
- ç) the approval of the respective licensing and supervision authorities for opening the branch of the foreign bank.
- d) the amount of the endowment capital.

For the purpose of this paragraph, one or more branches offices of the same foreign bank shall be considered as one bank.

For the management of its branch office the foreign bank shall nominate at least two residential administrators.

5. The request for opening a representative office is made by the foreign bank. Such a request shall be accompanied by the information mentioned in subparagraph 4 (a), (b), (c), (ç) of this Article.

Article 10

1. Within 3 months from the date of its receipt of an application for a license, the Bank of Albania shall grant preliminary approval or deny the license and notify the applicant of its decision in writing. For the purposes of this paragraph, the date of receipt of an application for a license is the date when the applicant meets the criteria prescribed by the regulation of the Bank of Albania.

2. The Bank of Albania shall grant a preliminary license only if it be convinced that:

- i) the bank will comply with the provisions of this law;
- ii) the qualifications, experience, and integrity of its administrators and shareholders with significant interests are appropriate for its business plan and for the financial activities that the bank will be licensed to engage in; and
- iii) the prospective financial condition of the proposed bank will be satisfactory;
- iv) the founders of the bank are not less than three partners, except for the case when a branch office of a foreign bank is opened;
- v) the foreign bank applying for a license to open a branch office is adequately supervised on a consolidated basis by the respective foreign supervision authorities;
- vi) the initial capital stock does not constitute a loan, credit or advance payment made by third persons;
- vii) the general executive-directors of the bank are more than two.

3. The decision of the Bank of Albania refusing a license shall include an explanation of the grounds for which the license was refused. The grounds for denial

of such an application may include that the information submitted by the applicant was, in the opinion of the Bank of Albania, insufficient to determine whether the applicant meets the criteria in subparagraph "2" for approval of an application.

4. In the case of preliminary approval for a license, the Bank of Albania shall enumerate the conditions for the bank to receive the license to commence the business in which the bank will be authorized to engage.

- a) Such conditions shall relate only to:
 - i) the payment by shareholders of the bank of its initial capital required/effective transfer of the endowment capital of the branch office of the foreign bank;
 - ii) the hiring of the administrators of the bank;
 - iii) the lease or purchase of bank premises and operations equipment;
 - iv) the nomination of a certified public accountant, in accordance with Article 39.
- a) The Bank of Albania shall issue the final license for the bank to commence its operations, if the conditions described in this Article are satisfied. The Bank of Albania shall define additional terms and conditions to receive a license.
- b) If a bank fails to comply within one year with the conditions to receive the license to commence its operations, the preliminary approval for a license shall become void. The Bank of Albania may extend the one year validity of the preliminary approval for a license, for a period not exceeding six months from the moment the term falls due.

5. The branch office of the foreign bank shall not engage in such banking activities that are not conducted by the foreign bank.

Article 11

1. A license shall be granted for an indefinite period of time and shall not be transferable.

2. Subsequent to initial licensing, banks that believe that their capital has attained the amount that would entitle them to engage in additional financial activities in accordance with Article 26, may apply to the Bank of Albania to engage in such additional activities. If, in the opinion of the Bank of Albania, the applicant bank's capital meets the requisite amount, the Bank of Albania may authorize such bank to engage in additional financial activities. Otherwise, the Bank of Albania shall deny such an application and provide the reasons in writing.

3. Without the prior written consent of the Bank of Albania, the bank shall not:

- a) change its name;
- b) terminate the twining agreement for the administration and management of the bank;
- c) engage in financial activities other than those prescribed in the license;
- ç) increase the capital with non-liquid resources;
- d) repurchase its shares or other related persons to the bank;
- dh) decrease the capital
- e) change one or some administrators
- ë) amalgamate, allocate, merge or sell the assets of the bank
- f) conduct activities prescribed in Article 33

4. The Bank of Albania may charge fees for :

- a) the processing of a license application;
- b) the issuance of a license.

Such fees shall not be refunded.

Article 12

1. A central register shall be kept by the Bank of Albania for consultation by the public that shall record for each licensed bank the name, the head office and branch office addresses, including the names and addresses of administrators and shareholders having a significant interest, and current copies of the documents listed in Article 18.

2. A copy of this register shall be kept for public consultation by each regional office of the Bank of Albania.

3. Documents concerning former banks whose licenses have been revoked shall be removed from the register. A list of such banks shall be maintained in the register, indicating that their licenses have been revoked.

4. When a license has been granted, the Bank of Albania shall publish an announcement in the Official Bulletin of the Bank of Albania and in some of the most circulated newspapers.

Article 13

1. The license of a bank may be revoked only by decision of the Bank of Albania (i) upon a request of the bank; (ii) following an infraction pursuant to Article 44 paragraph 2.

2. On one or more of the following grounds, the license of a bank may be revoked by decision of the Bank of Albania.

- a) The license has been obtained on the basis of false information submitted by or concerning the applicant, including the qualifications, experience or integrity of its proposed administrators and shareholders with significant interests, or other material irregularities that occurred in connection with the license application;
- b) The bank has not commenced operations within the period prescribed in Article 10, paragraph 4 (c) or has ceased for more than 6 months to engage in the business of receiving transferable deposits or other repayable funds;
- c) Another bank that holds a significant interest in the bank has had its license revoked;
- ç) A merger, amalgamation, allocation or sale of substantially all the assets of the bank has occurred;
- d) The holder of a significant interest in the bank has transferred or otherwise lost such interest without the prior written consent of the Bank of Albania, or a person becomes a holder of a significant interest in the bank;
- dh) The owners of the bank have decided to dissolve or to liquidate the bank, or the bank has ceased to exist as a legal entity;
- e) The activities of the bank during its first 3 years of operation differ substantially from those presented in the application for a license and, in the opinion of the Bank of Albania, such deviation is not justified by changed economic circumstances.

2. When a bank requests the Bank of Albania to revoke its license, the Bank of Albania shall decide on the request within 30 days after the receipt of the written request.

3. The license issued to a foreign bank concerning one or more branch offices must be revoked by the Bank of Albania if the foreign bank does not have the authority, or has lost the authority, to engage in the business of receiving money

deposits or other repayable funds in the foreign country where its head office is located.

4. A decision by the Bank of Albania to revoke a license shall be communicated in writing to each bank and branch office concerned and shall give the grounds for the decision.

Article 14

1. A decision to revoke a license shall be published in the Official Bulletin of the Bank of Albania and in one or more circulated newspapers. The decision to revoke a license shall become effective on such date as the Bank of Albania decision shall specify.

2. After effective revocation of a license takes effect, the bank shall be prohibited from engaging in any financial activity, and shall as soon as practicable thereafter liquidate its assets, terminate its current deposit agreements, and discharge its liabilities. During the winding up of its affairs, the bank shall otherwise continue to be subject to the provisions of this Law as if it were licensed.

CHAPTER III ADMINISTRATION AND GOVERNANCE

Article 15

1. Banks shall be organized as joint stock company under the Law on "Commercial Companies" No.7638 of November 19, 1992 except where otherwise indicated in this Law. Banks shall be organized as a branch office of a foreign bank or as cooperative bank, pursuant to Article 65 of that law.

2. The bank organized as a joint-stock company is founded by at least three partners. The partners may be individuals, physical or juridical persons.

3. The bank organized as a joint-stock company shall not have Council of Supervisors. Article 96, the first sentence of Article 97 and subsection II of Section IV of the Law on "Commercial Companies" No.7638 of November 19, 1992, shall not apply to banks.

4. In Article 98 of the "Commercial Companies" law, the term "Council of Supervisors" shall be substituted by the term "General Meeting of Shareholders". In the first paragraph of point four of Article 136 the term "Council of Supervisors" shall be substituted by the term "Board of Directors" and any other responsibilities incumbent upon such council under the Law on "Commercial Companies" shall be the responsibility of the Board of Directors.

Article 16

Each bank shall enjoy legal, operational, financial and administrative autonomy from any other person, including the Bank of Albania and any agency or political subdivision of the Government, unless the law specifically otherwise provides. This autonomy shall be respected and no person shall seek improperly to influence any administrator of a bank in the discharge of his or her duties or to interfere in the activities of any bank, except in the execution of an order of a juridical authority or duty under the Law.

Article 17

1. Each bank shall be administrated by a Board of Directors, as the responsible policy-making and supervisory organ, and shall have an Audit Committee.

2. The Board of Directors and Audit Committee authorities shall be set forth by their respective charter. The "charter" of the bank and every change thereof shall be approved by the General Meeting of Shareholders. The bank informs the Bank of Albania for the amendments in the charter.

Article 18

1. Each bank shall be governed by internal bylaws, approved by its Board of Directors, which shall be in compliance with its charter and shall establish :

- a) The structure of the organization, administration and operation of the bank, including its operational and administrative units, their sub-units and functions, supervisory positions and reporting relationships;
- b) The duties of each departmental director and the units under his direction and supervision;
- c) The functions of the Audit Committee and other permanent internal committee;

- d) The limits of the authority of the administrators and other employees of the bank to engage in financial activities in the name and for the account of the bank.

Article 19

1. The Board of Directors of a bank shall be responsible for the formulation and implementation of policies and supervision of the activity of the bank.

2. The Board of Directors of a bank shall have an uneven number of not less than five members. Board members shall be appointed by the General Meeting of Shareholders of the bank for a period of not more than four years. They may be reappointed for subsequent periods.

3. The General Meeting of Shareholders of a bank may decide remuneration for board membership of the Board of Directors.

Article 20

1. The Audit Committee shall consist of three members appointed by the "General Meeting of Shareholders" and shall have the following duties:

- a) Shall monitor and supervise the appropriate accounting procedures and internal controls, including those that may be established by the Bank of Albania, supervise the compliance with those procedures and audit the bank's accounts and records;
- b) Shall monitor the implementation of the regulations and report to the Board of Directors of the Bank;
- c) Shall deliver opinions on any matters submitted to it by the Board of Directors.

2. The Audit Committee shall meet ordinarily once per quarter and extraordinarily when convened by the Board of Directors. Decisions shall be taken by a majority of the members present. No abstentions shall be allowed.

3. Upon its request, the Audit Committee may be assisted by experts appointed by the Board of Directors of the bank.

4. The "General Meeting of Shareholders" of a bank may decide remuneration for membership of the Audit Committee.

Article 21

1. All persons elected or appointed as administrators of a bank, must be of good repute, graduated on economics or jurisprudence, and must meet the criteria established by regulation by the Bank of Albania regarding qualifications, experience and integrity in management.

2. A person shall not be eligible to become a member of the Board of Directors of a bank, or shall by decision of the "General Meeting of Shareholders" of a bank be relieved of his membership on the Board of Directors of the bank, in the event that:

- a) he is a member of the Board of Directors of another bank in the Republic of Albania, except such bank is an affiliate.
- b) he has, by law, been deprived of the right to sit on a Board of Supervisors or Directors of a commercial company organized under Law on the "Commercial Companies";
- c) he serves, or has served at any time during the immediately preceding 12 consecutive months as a director of a bank that has been subject to conservatorship or receivership according to the provisions of this law;

- ç) he has worked in any capacity in, or helped in the establishment of unauthorized deposit-taking business or an "audited subject" according to Law No.8215, dated 09/05/1997 "For the auditing of the financial non-banking persons who have borrowed money from the public" as amended by Law N. 8227 of dated 30.07.1997.
- d) he serves, or has served at any time during the immediately preceding 12 months' period, on the Supervisory Council of the Bank of Albania;
- dh) he has been convicted by a competent court of a crime involving moral turpitude; or
- e) he has been subject to an insolvency proceeding and not discharged from payment of past debts.

3. The Board of Directors of a bank may delegate their duties to others, but shall remain responsible for their acts.

Article 22

The merger, amalgamation, allocation or sale of substantially all the assets of a bank shall have legal effect after the approval of the Bank of Albania. Determinations shall be based upon the criteria described in Article 9, as if the determination were for the issuance of a license. Authorizations shall be granted, in the case of an amalgamation, only if the resulting bank shall have received a license. Mergers and amalgamations that would be inconsistent particularly with the provisions of Article 26 shall not be authorized.

Article 23

1. Present and past administrators, employees, and present or past agents of a bank, including administrators, employees or agents of any information network or office pursuant to Article 23 of the Bank of Albania Law no.8269 dated 23.12.1997, judicial authorities as well as other persons charged to examine banking activity, shall be required to keep secret, and not to use for personal gain or gain by other than the bank that they serve or have served, any information that they obtained in the course of their services to the bank.

2. The information described in paragraph 1 may be disclosed only to the Bank of Albania, the certified public accountant, to such administrators, employees or agents of any information network or office pursuant to Article 23 of the Bank of Albania Law, to such judicial authorities as the law shall provide, and when the protection of the bank's own interest in legal proceedings requires disclosure.

3. Banks shall introduce suitable arrangements and procedures so that the bank, the administrators and employees of the bank are not placed in a situation where their duty to one customer conflicts with their duty to another, or where their own interest conflicts with their duty to a customer.

Article 24

1 No bank shall conceal, convert, or transfer currency or other property, knowing that such property is derived from criminal activity, for the purpose of concealing or disguising the illicit origin of the property or of assisting any person who is involved in such activity to evade the legal consequences of his action.

2. The Bank shall not disclose the fact that such information is passed to the authorities responsible for fighting against money laundering, or is required by them, or that investigation procedures have started, or that orders for non execution of the

operation are given, except when such an information is requested by the competent jurisdiction.

3. The knowledge described in paragraph 1 may be inferred from objective factual circumstances.

4. Notwithstanding Article 23, banks for rational suspicions shall, on their own initiative, inform the authorities responsible for combating money laundering of the evidence that property is derived from criminal activity and provide, at the authorities request, any additional related information, in accordance with the procedures established by applicable legislation.

5. A bank shall be responsible only for full and adequate client identification. A bank should have a good knowledge of its clients and their volume of operations. When a bank provides information that is referred to in paragraph 1 in good faith, the bank shall be exempted from liability of any kind for complying with this Article and/or for breach of any restriction on disclosure of information, regardless of the result of the communication.

6. For the purposes of this Article, "bank" includes employees, administrators and owners of a bank, and authorized deposit-taking institutions according to Article 4.

Article 25

1. Administrator of a bank shall disclose, in writing, to the bank the nature and extent of the material interest or relation, when :

- a) They are a party to a material contract or a proposed material contract with the bank, or
- b) They have a material interest in or a material relation to any person who is a party to a material contract or a proposed material contract with the bank.

2. The disclosure required by paragraph 1 shall be made by the administrator when the contract or proposed contract comes or reasonably should come to the attention of the administrator.

3. The disclosure of interest by every administrator shall be in a general notice in writing to the Board of Directors of the bank from time to time, but no less than annually.

The notice shall provide; a) names and addresses of the administrator's associates and reasonably full particulars of every material interest that such person has at the time.

b) the material interests in any contract between the bank and any person named in the declaration too.

4. An administrator who has a material interest or a material relation within the scope of paragraphs 1 or 3 shall leave any meeting of the Board of Directors at which the contract is discussed, and shall refrain from voting on any matter related thereto that becomes subject of action by the Board of Directors of the bank. Such interest, if so disclosed shall not disqualify the interested person for purposes of constituting a quorum.

5. For the purposes of paragraphs 1 and 3, an interest shall be material if it is material with reference to the wealth, business or family (any person who is related by marriage or to the second degree of consanguinity) interests of the person having the interest. A person has a material interest in:

- a) Any company if the person owns, directly or indirectly, a significant interest in the company, or is an administrator of the company;

- b) Any partnership if the person is a partner.

6. Where an administrator fails to disclose a material conflict of interest in accordance with this Article:

- a) a court of competent jurisdiction may, on the application of the bank, a shareholder, or the Bank of Albania, set aside the contract on such terms as it thinks fit, and
- b) the Bank of Albania may, by written order, suspend the administrator from office for any period not exceeding one year.
- c) The Bank of Albania requires the bank to remove the administrator from office permanently.

7. Independent of the fiduciary obligation of banks under Article 23, administrators of banks have a fiduciary duty to the bank that they serve and to bank's customers to place the bank's interests and its customers' interests before their pecuniary interest.

CHAPTER IV
OPERATIONAL REQUIREMENTS PERMISSIBLE
ACTIVITIES FOR BANKS

Article 26

1. Banks shall be authorized in their license to engage in the banking and financial activities described in paragraph 3, 4 and 5 of this Article under the following conditions:

a) Banks which commence operations with the paid up minimum amount of required capital for granting of license until it doubles the minimum amount, and meet the criteria described in the regulations of the Bank of Albania, as adjusted from time to time, may engage in the financial activities described in paragraph 3 of this Article.

b) Banks which commence operations with between two and three times as much as the paid up minimum amount of required capital and meet the criteria described in the regulations of the Bank of Albania, as adjusted from time to time, may engage in the financial activities described in paragraphs 3 and 4 of this Article.

c) Banks which commence operations with as much as three times the paid up minimum amount of required capital and meet the criteria described in the regulations of the Bank of Albania, may engage in the financial activities described in paragraphs 3, 4 and 5 of this Article.

ç) The branch office of the foreign bank shall conduct financial activities described in paragraphs 3, 4 and 5 of this Article according to the paid up endowed capital by the foreign bank and if it meets the criteria described in the regulations of the Bank of Albania.

2. No bank shall engage in financial activities that exceed those specifically authorized by its license.

3. In accordance with the license granted, banks shall have the right to:

- a) Receiving deposits
- b) Extending credit
- c) Borrowing funds and buying and selling for its own account or for account of customers, of :
 - (i) money market instruments ;
 - (ii) debt securities;
 - (iii) futures and options relating to debt securities or interest rates; or
 - (iv) interest rate instruments ;
- ç) Providing payment and collection services;
- d) Issuing and administering means of payment;
- dh) Money (including foreign currency) broker;
- e) Financial leasing;
- ë) Providing safe cases services;
- f) Providing bank guarantee transactions;
- g) Providing services as a financial agent or consultant (not including services described in subparagraphs 3 /a and 3/b; and
- gj) Such other financial activities related to the business of banking or incidental thereto as the Bank of Albania shall determine by regulation ;

4. Dealing in foreign currencies, including future contracts for the sale of foreign exchange currencies.

5. Banks may, in accordance with their corresponding licenses, carry out the following additional services:

- a) provide trust services, including, without limitation, the investment and administration of funds received in trust;
- b) provide services as an investment portfolio manager or investment adviser;
- c) underwriting and distribution of debt and equity securities and, dealing in equity securities subject to the limits established under Article 33, trade for own account and for account of customers in equity securities.

Article 27

1. Banks shall conduct their administration and operations in accordance with sound administrative and accounting procedures and the requirements of the law.

2. Banks shall maintain adequate capital and sufficient liquid resources and, with due regard to the nature of their business, shall ensure that their assets are diversified as to risk of loss.

Article 28

1. Banks shall keep on file the pertinent legal documents for every credit transaction, including:

- a) The credit application, the documents which indicate its use and legal status.
- b) The description of the collateral or guarantees and the value assigned to it, which shall serve as the basis for the execution of the obligation to be paid as part of the debt.
- c) The financial records of the customer and any guarantors;
- ç) The credit agreement, including the total amount, the interest rate, the repayment schedule, the object or purpose of the credit.
- d) The decision approving the credit transactions signed by responsible persons. In the case of a decision by the Board of Directors, a copy of the meeting minutes at which the credit transaction was approved, must be extracted.
- dh) The signature of any person authorized to extend the credit on behalf of the customer.

2. The Bank of Albania shall have the right to request further documents and procedures other than conditions determined in paragraph 1 of this Article.

Article 29

1. A bank shall prepare and maintain at its Head Office records containing:

- a) Its charter and bylaws and all amendments thereto;
- b) A register of its shareholders, including the number of shares registered in the name of each shareholder;
- c) Minutes of meetings and resolutions of the Board of Directors; and,
- ç) Minutes of meetings and resolutions of the shareholders.
- d) Written policies and procedures for identifying, monitoring and controlling market, country, international and other material risks and their corresponding reserve policies, in compliance with rules and directives issued by the Bank of Albania.
- dh) Accounting records exhibiting clearly and correctly the state of its business affairs, explaining its transactions and financial position so as to enable the

Bank of Albania to determine whether the institution has complied with all the provisions of this Law;

- e) Such other records that appear to be indispensable as required by this Law, or by regulation of the Bank of Albania.

Article 30

1. Banks shall maintain a regulatory capital as prescribed by the Bank of Albania.

2. Banks shall observe the following limits when prescribed by regulation of the Bank of Albania:

- a) The maximum ratios and exposures to be maintained by a bank concerning its assets, risk-weighted assets, and off-balance sheet items and various categories of regulatory capital;
- b) The maximum aggregate amount of credits, expressed as a percentage of its regulatory capital that a bank shall be permitted to have committed or outstanding to or for the benefit of any single person or group of affiliated persons;
- c) The maximum aggregate amounts of credit, expressed as a percentage of the aggregate amount of all its credits, that a bank shall be permitted to have committed or outstanding to or for the benefit of the ten persons (including groups of persons), with respect to whom the bank's exposure on account of credit affiliated transactions, is the greatest.

Article 31

1. Banks shall be obliged to observe requirements concerning the minimum aggregate amount of liquid resources (as defined by the Bank of Albania) or specific categories of such resources in relation to the value or change in value of assets (including guarantees and collateral received) or specific categories thereof, or in relation to the amount or change in the amount of liabilities or specific categories of liabilities, provided however, that the bank shall be permitted to meet the requirements concerning liquid resources by maintaining with the Bank of Albania money deposits of an equivalent value.

2. According to the prescribed regulation of the Bank of Albania, banks shall be obliged to:

- a) classify and evaluate the assets;
- b) make provisions on the basis of such classification and evaluation;
- c) specify the time when earnings on non performing loans may no longer be accounted for as income except as received in cash.

3. A bank shall make no capital distribution if, in the opinion of the Bank of Albania, after making the distribution, the bank would have less than the minimum regulatory capital.

4. No bank may engage directly in industry, commerce, or services other than financial services, or acquire any interests in enterprises carrying on activities other than those prescribed in Article 26.

Article 32

Each bank shall regularly notify its customers of the terms and conditions of annual interest rates, related to deposits, credit applications and their changes, including the calculation method used, pursuant to the rules and regulations of the Bank of Albania.

Article 33

Banks shall not, without prior written authorization from the Bank of Albania:

- a) Decrease their capital by repurchase of shares or distribution of reserve assets;
- b) Purchase shares of a commercial company which is neither a bank nor a financial institution or become a partner in aggregate amounts exceeding ten percent of such commercial company's capital, or come under common ownership, or otherwise become associated with subjects other than banks or such similar institutions as the Bank of Albania may designate; and
- c) Permit the investments described under paragraph (b) exceeding 15 % of the bank's regulatory capital. Such an investments shall not receive authorization from the Bank of Albania to exceed at any time 25% of the bank's regulatory capital.

Article 34

1. The prohibitions specified in Article 33 shall not apply in the following cases:

- a) Acquisition of shares or other interests by way of repayment of credits granted. In this case the purchasing bank shall dispose of all shares or interests acquired within one year, unless an extension is granted by the Bank of Albania;
- b) Acquisition of shares or other interests as an agent;
- c) Acquisition of shares or other interests for the purpose of reselling them to third parties.

CHAPTER V

BUSINESS WITH PERSONS RELATED TO THE BANK

Article 35

Banks shall not enter into a transaction with or for the benefit of a person who is related to the bank, if such transaction would be entered into on less favorable terms and conditions to the market. For the purposes of this paragraph, persons who are related to a bank shall include without limitation:

- (a) any administrator of the bank; and
- (b) any person who is related to such administrator by marriage, consanguinity to the second degree, or business interest as may be defined by regulation of the Bank of Albania.

Article 36

No bank shall extend credit to or for the benefit of a person so related to the bank if as a result thereof the aggregate amount outstanding on all credits extended by the bank to persons so related to the bank would exceed an amount in relation to the bank's regulatory capital as prescribed by regulation by the Bank of Albania.

Article 37

The Bank of Albania defines by regulation the restrictions or conditions for the credits extended by the bank or other related persons to the bank. For the purposes of this paragraph, a related person shall include;

- (a) any person or any number of such persons acting in concert, that have a direct or indirect significant interest in the bank extending the credit; and
- (b) any juridical person or undertaking in which the bank holds a significant interest.

CHAPTER VI
ACCOUNTS, AUDITING, INSPECTION,
AND REPORTING REQUIREMENTS

Article 38

1. Banks shall keep adequate accounts and prepare financial statements to reflect accurately and in accordance with sound accounting principles and methodology its financial condition.

2. In the event that the bank will have an equity interest in one or more other banks equivalent to more than fifty percent of its capital, the bank shall keep the necessary accounts and shall prepare financial statements so as to accurately reflect the financial condition of such other banks, in accordance with standard accounting principles and methodology.

3. Accounts and financial statements shall be in such form and detail and in accordance with such accounting standards as shall be prescribed by regulation of the Bank of Albania, respecting the preparation and presentation of the bank's account, including the creation of appropriate provisions for bad and doubtful assets and the recognition and timing of income receipts.

Article 39

1) Banks shall each appoint a certified public accountant, licensed to practice this activity in the Republic of Albania and approved by the Bank of Albania who shall:

- a) Assist it in maintaining proper accounts and records, including the manner to be maintained, that may be prescribed by the Bank of Albania;
- b) Prepare an annual report together with an audit opinion as to whether the financial statements present a true and fair view of the financial condition of the bank in accordance with the provisions of this Law;
- c) Review the adequacy of internal audit and control practices and procedures and make the corresponding recommendations; and

2) The certified public accountant informs the Bank of Albania about any fraudulent act performed by an employee of the bank or any of its subsidiaries and any irregularity or deficiency in its administration or operations that should be expected to result in a material loss for the bank.

3) A copy of the annual report together with an audit opinion shall be placed in the Bank of Albania.

Article 40

The balance sheet of the bank, the annual report and the report of the certified public accountant for the financial year shall be published in the official bulletin of the bank.

Article 41

All banks shall be subject to inspections by the Bank of Albania inspectors and by the certified public accountant. In their inspections of banks, the Bank of Albania and the certified public accountant may:

- a) examine the accounts and related documentation, the company books, and any other document in the archives of the bank. As concerns the

branch office of a foreign bank, its balance sheet and financial statements shall be subject to such an inspection.

- b) require administrators, employees and agents of the bank to provide all such information on any matter relating to its administration and operations as they shall request. The information to be provided should be such as requested by the Bank of and the certified public accountant.

Article 42

1. Balance sheets and financial statements of these branches may be prepared on a special basis, in accordance with the National Accounting Standards.

2. A representative organ of the foreign financial institution may function as an Audit Committee of these branch offices for the implementation of this law.

Article 43

1. Each bank shall prepare and submit to the Bank of Albania one or some reports concerning the assessment of the financial condition of the bank and branch office on an individual and consolidated basis. The reports shall be prepared in such form and detail as shall be prescribed by regulation of the Bank of Albania.

2. The foreign bank and branch office of a foreign bank shall be subject to inspections by inspectors of the Bank of Albania or by certified public accountants. Officials of the supervision authority of another country that is charged with the monetary or prudential supervision of financial activities in that country, shall be permitted to inspect a bank that:

- a) is a branch or subsidiary of a foreign bank that has its head office in that country; or
- b) has a significant interest in a foreign bank that is located in that country.

3. The foreign bank and branch office shall admit and cooperate fully with the inspectors of the Bank of Albania and the certified public accountants.

CHAPTER VII

INFRACTIONS AND PENALTIES

Article 44

1. The remedial measures and penalties provided for infractions described in this Article shall be determined in particular cases by the Bank of Albania. Any party aggrieved may appeal such decision to the courts of law, within 8 days upon notification of that decision.

2. In case of violation of a provision of this Law or of any regulation or order of the Bank of Albania, violation of any condition or restriction attached to an authorization issued to an institution by the Bank of Albania, breach of a fiduciary duty, or unsafe or unsound operation of the institution or any of its subsidiaries, the Bank of Albania may take the following actions or impose the following penalties, in spite of the order presented :

- a) Issues written warnings for the administrators;
- b) Orders the bank to submit to the Bank of Albania a satisfactory program of remedial action;
- c) Orders the bank to cease and desist from such infractions and undertakes remedial action;
- ç) Requires that the bank cease some or all of its operations or refrain from payment of dividends;
- d) Imposes fines on the administrators not to exceed 8 months salary, and on the bank, not to exceed 20 million leks;
- dh) Suspends the administrators from positions in a bank for a period not to exceed 12 months;
- e) Requires the bank to dismiss one or all of its administrators from positions in the bank;
- ë) Orders the bank to terminate the remuneration of the administrators;
- f) Takes over the management of the bank for a period not to exceed 12 months and dismiss any or all administrators and officers of the bank;
or
- g) Revokes the license of the institution.

3. Upon determination by the Bank of Albania that a bank's ratio of its regulatory capital to its risk-weighted assets is less than 50 percent of the required minimum ratio prescribed by the Bank of Albania, in addition to the measures described in paragraph 2, the Bank of Albania shall request shareholders to remedy the situation within a period of not if after the expiration of that period, the bank's ratio of its regulatory capital to risk-weighted assets is less than 50 percent, the provision in Article 48 shall apply, exceeding six months.

Article 45

1. The violation of the provisions of Article 6 on the part of other persons besides banks, shall constitute a criminal offense. Penalties shall be imposed to such persons or they shall be sentenced up to [3] year's imprisonment.

2. The violation of the provisions of Article 23 shall constitute a criminal offense. Penalties shall be imposed to such persons or they shall be sentenced up to 1 year imprisonment. In case this is done for profiting reasons or to damage another person, shall constitute a criminal offense and penalties shall be imposed to such persons or they shall be sentenced up to 2 year's imprisonment.

3. The penalties described in Article 44 may be applied to any person prescribed in Article 1(3). The Bank of Albania shall also be empowered, to limit or liquidate the business of such person. The provisions of Articles 51 to 54 shall apply to such person.

Article 46

The measures and penalties provided in Article 44 shall not preclude application of other civil penalties or criminal penalties as provided in other legislation in force.

Article 47

Any fines imposed in accordance with Article 44 shall be cashed for the account of the Bank of Albania.

CHAPTER VIII

CONSERVATORSHIP AND RECEIVERSHIP

Article 48

Upon the determination by the Bank of Albania that a bank's ratio of its regulatory capital to its risk-weighted assets is less than 50 percent of the required minimum regulatory capital prescribed by the Bank of Albania, the Bank of Albania shall require shareholders to remedy the situation within a period not exceeding six months. If, after the expiration of that period, this ratio is less than 50 percent, the Bank of Albania shall appoint a conservator to take possession and control of the bank for a period not exceeding twelve months.

Article 49

1. The conservator shall have all the powers of the administrators, executive directors and officers of the bank, unless the Bank of Albania, in the order of appointment, limits the conservator's authority.

2. The conservator may operate the bank in the way in which he believes to be the best way to restore the bank to a sound financial condition.

3. The conservator shall be subject to such rules and regulations as the Bank of Albania may determine from time to time.

4. The conservator shall be subject to the same rights and obligations and shall be subject to the same restrictions, penalties and conditions that are applicable to administrators, officers or employees of the bank.

5. The powers of the shareholders, administrators and officers of the bank shall be suspended during the period of the conservatorship. Provided, however, that the officers and administrators may be instructed by the conservator to exercise specified functions for the bank, and such administrators or officers may be dismissed by the conservator.

6. The conservator may, in consultation with the Bank of Albania, set aside and make available for withdrawal by depositors and payment to other creditors such amounts as in the opinion of the conservator may appropriately be used for these purposes. All depositors and creditors who are similarly situated shall be treated in the same manner.

7. The conservator shall report regularly to the Bank of Albania the progress of conservatorship.

Article 50

The conservatorship shall cease:

- a) at the expiration of the term specified in the decision ordering the conservatorship;
- b) upon the request of the conservator to the Bank of Albania, if the Bank of Albania deems that the bank can operate normally;
- a) upon decision of the Bank of Albania to liquidate the bank.

Article 51

1. The Bank of Albania shall appoint a receiver to take possession and control of a bank, and revoke the bank's license, whenever the Bank of Albania determines that one or more of the following circumstances exist:

a) There is a violation or violations of laws or regulations that are likely to cause insolvency or substantial dissipation of assets or earnings, or is likely to otherwise seriously prejudice the interests of depositors. For purposes of this subparagraph, insolvency shall mean:

- (i) The bank is not likely to be able to meet the demands of its depositors or pay its obligations in the ordinary course of business; or
- (ii) The bank's value of its assets falls below the sum of its liabilities; or

b) The Bank of Albania acquires objective evidence that bank administrators are involved in illegal operations, have committed serious fraud acts, or have personally benefited and caused serious damage to the bank or third parties.

c) The Bank of Albania shall appoint a receiver to take possession and control of a bank whenever person to whom a bank has liabilities certifies to the Bank of Albania that 10 percent of such liabilities, as determined by the most recently issued balance sheet of the bank, were not paid by the bank, as they fell due. If the Bank of Albania fails to act upon presentation of such certification, one or more such persons may seek a writ from a court of competent jurisdiction to compel the Bank of Albania to act in accordance with this paragraph.

2. A receiver shall be appointed:

- a) Within seven days of a determination by the Bank of Albania under paragraph 1 of this Article; or
- b) Within fifteen days of the delivery to the Bank of Albania of a certification under paragraph 1(c) of this Article.

Article 52

1. The receiver shall, within twelve months from the date of his appointment, in accordance with the criteria of Article 51, paragraph 2:

- a) Arrange for the purchase of certain assets by third parties and assumption of certain liabilities by one or more other banks; or
- b) Liquidate the assets of the bank, as provided in this chapter; provided, however, that the Bank of Albania shall approve or deny the terms of a prospective sale of a bank.
- c) Sell the bank;

2. The receiver shall take the action described in paragraph 1 of this Article which, in his opinion, is most likely to result in marshaling the greatest amount of the bank's assets or which otherwise protects the interests of depositors and other creditors.

3. To effect a sale of a bank under subparagraph 1(a) of this Article or a purchase of substantially all its assets and an assumption of substantially all of its liabilities under subparagraph 1(b) of this Article, the receiver may allow a reduction in the value of liabilities so long as, in his opinion, no depositor or other creditor would receive less than they would receive in a liquidation.

4. In determining the amount of assets that are likely to be realized by a sale of the bank's assets, the receiver shall:

- a) Evaluate alternatives on a present value basis, using a realistic discount rate; and
- b) Document that evaluation and the assumptions on which the evaluation is based, including any assumptions with regard to interest rates, asset recovery rates, inflation, asset holding costs, and payment of contingent liabilities.

Article 53

Whenever a receiver is appointed under Article 51, the receiver shall, within three days of such appointment:

- a) post in each office of the bank a notice announcing such action pursuant to this Law and that the bank's license has been revoked, specifying the date and time at which possession by the receiver shall take effect;
- b) publish a notice to the same effect in one or more newspapers of general circulation ; and
- c) transmit copies of such notices to the Bank of Albania within three days of each of the posting and publication.

Article 54

1. Within a period of thirty days after the date on which a receiver of a bank has been appointed;

(i) one or more shareholders of a bank owning in the aggregate not less than 25 % of any class of voting shares of the bank;

(ii) any person holding at least one-quarter of the aggregate amount of deposits, or

(iii) other creditors comprising at least one-quarter in value of the aggregate of the claims of creditors other than depositors, may institute proceedings in a court of competent jurisdiction to show cause why the receivership should be terminated solely in light of the bases for appointment of a receiver in Article 51.

2. In determining whether to terminate the receivership, the sole question before the court shall be whether the Bank of Albania acted in arbitrary or capricious manner in establishing the receivership, in light of the criteria of Article 51.

3. The court shall hold a hearing on the matter within ten days of the filing of a valid appeal. Within twenty days of the termination of the hearing, the court shall decide on the appeal.

- a) If the court determines that the Bank of Albania acted in an arbitrary or capricious manner in establishing a receivership, the sole remedy to be awarded by the court shall be monetary damages to be repaid by the Bank of Albania. The Bank of Albania shall reexamine the decision to revoke and reinstate the license.
- b) If the court determines that the Bank of Albania has not acted in an arbitrary or capricious manner in establishing a receivership, the appeal shall be denied and the receivership shall continue in accordance with the terms of this Law.

Article 55

1. A receiver is vested with the full and exclusive powers of administration, management and control of the bank and may take such actions as the receiver reasonably believes to be the best way to liquidate the bank to realize the maximum amount of assets, notwithstanding that the bank's license has been revoked, including, without limiting the generality of the foregoing, the power:

- a) To continue or discontinue any operations;
- b) To borrow money the security of the assets of the institution, or unsecured;

- c) To stop or limit the payment of any obligation, subject to subparagraph (f) (iv);
- ç) To reset the rates of interest payable on the bank's liabilities; provided, however that such rates may not be less than those prevailing in the relevant market
- d) To employ any necessary officer, employee or professional advisor; and
- dh) To execute any instrument in the name of the bank, to initiate or defend and conduct in its name any action or legal proceeding; provided, however, that the receiver must receive approval from the Bank of Albania for any of the following actions:
 - (i) The sale of any asset of the bank having a value in excess of a limit prescribed in the bylaws of the Bank of Albania;
 - (ii) The creation of a security interest in any asset of the bank in favor of a creditor who extends new credit to the institution in an amount exceeding the one prescribed in the bylaws of the Bank of Albania;
 - (iii) The compromise or release of any claim if the amount of the claim exceeds the one prescribed in the bylaws of the Bank of Albania; or
 - (iv) The payment of any claim (other than a claim in respect of an obligation incurred by the receiver in the exercise of its powers in liquidation, before the procedures referred to in Article 57 and 58 are completed) in which case all depositors and creditors who are similarly situated shall be treated in the same manner.

2. The receiver shall report each month to the Bank of Albania on the progress of the receivership. Such report shall include information concerning the prospects for the actions described under Article 52 (1), the aggregate amount of claims against the bank, the aggregate amount of assets of the bank that have been sold, and projections of future sales of assets.

Article 56

1. When a receiver has taken possession of a bank:
- a) The Bank of Albania shall revoke the license of the bank;
 - b) Any term, statutory, contractual or otherwise, on the expiration of which a claim or right of the bank would expire or be extinguished, shall be extended by six months from the date of such expiration or extinction;
 - c) Any attachment or lien (except an attachment or lien existing 6 months prior to the placement of the bank in receivership) shall be vacated. No attachment or lien, except an attachment or lien created by the receiver in the application of Article 55, or a writ of execution issued pursuant to a judgment issued prior to the date of the appointment of the receiver for an amount prescribed in the bylaws of the Bank of Albania, shall attach to any of the assets or property of the bank so long as such receivership continues;
 - ç) Shareholders' rights shall be extinguished except for the right to receive dividends in liquidation under Article 60 (3); and
 - d) Every payment or transfer of an asset or property of the bank made:
 - (i) Within a period of three months before the receiver takes possession of the bank; or

- (ii) To an affiliate or related financial institution or person within a period of one year before the receiver takes possession of the bank; with the intent to effect a preference of the recipient over other creditors of the bank, shall be void and of no effect; provided, however, that payment of deposits in an amount not exceeding the one prescribed in the bylaws of the Bank of Albania per depositor shall not be subject to this provision.

The person invoking subparagraph 1(d) and calling to declare the transactions void and of no effect shall have the onus of showing that the payment or transfer was made with intent of making the preference required in such paragraph.

2. Where the payment or transfer has the effect of bestowing a preference on the recipient, it shall be presumed to have been made with that intent, except, in the case of:

- a) A payment made by a bank to a creditor in the ordinary course of business to discharge in whole or in part a debt or other liability of the bank to the recipient; or
- b) A transfer of an asset or property by the bank made in a current exchange for valuable consideration equal to the fair market value of the asset or property transferred.

Article 57

1. Within 30 days of taking possession of a bank the receiver shall promptly make an inventory of the assets and property of the bank and transmit a copy thereof to the Bank of Albania, which shall make a copy available for examination by the public.

2. The receiver shall sell the assets of the bank under Article 52 (1)(b) through a transparent procedure, whereby other banks and the public at large are given the opportunity to bid for the assets of the bank.

3. The receiver may terminate:

- a) The contracts of employment of any person with the bank;
- b) Any contract for services to which the bank is a party; or
- c) Any obligation of the bank as a lessee of real property;

4. Within two months after the appointment of the receiver:

a) The receiver shall take any necessary steps to terminate all fiduciary functions performed by the bank, return all assets and property held by the bank as a fiduciary to the owner thereof, and settle its fiduciary account; and

b) The receiver shall send by registered mail, at the address shown in the bank's records, to all depositors, other creditors, safekeeping services customers, and bailers of property held by the bank, a statement of the nature and amount for which their claim is shown in the bank's records.

The statement shall note that any objection must be filed with the receiver within one month thereafter and shall request safekeeping services customers and bailers to withdraw their property.

5. Any property held in safekeeping on the premises of the bank that has not been withdrawn before the date specified in the statement referred to in the subparagraph 4(b) shall be taken into possession by the receiver in the manner prescribed by the Bank of Albania.

6. Any unclaimed funds held by the bank as a bail, together with inventories pertaining thereto, shall be deemed to be unclaimed funds and taken into possession and held by the Bank of Albania which shall attempt to identify the rightful owner.

Article 58

Within two months after the last day specified in the notice referred to in subparagraph 4(b) of Article 57 for the filing of claims, the receiver shall:

- a) Reject any claim if he doubts the validity thereof;
- b) Determine the amount, if any, owing to each known depositor and other creditor and the priority class of the claim under the provisions of this Law;
- c) Prepare for filing with the Bank of Albania a schedule of allowable claims; and
- ç) Notify each person whose claim has not been allowed in full and publish once a week for three consecutive weeks, in one or more newspapers of general circulation in every cooperative where the bank had an office, a notice of the date and place where the schedule referred to in subparagraph 1(c) will be available for inspection, and the date, within fifteen days from the date of the third publication of the notice, on which the receiver will file the schedule with the Bank of Albania.

Article 59

1. Within twenty days after the filing of the schedule referred to in subparagraph (c) of Article 58, any depositor, other creditor, or one or more shareholders of the bank owning in the aggregate not less than 10 % of any class of voting shares of the bank may file with the Bank of Albania an objection to any action or proposed action under subparagraphs (a) or (b) of Article 58. Any objection so filed shall be determined by the Bank of Albania within one month of registration thereof.

2. If an objection is sustained, the Bank of Albania shall direct that an appropriate modification of the schedule or of the proposed steps to pay claims be made.

3. After filing the schedule, the receiver may, from time to time, make partial distribution to the holders of claims that are undisputed or that have been allowed by the Bank of Albania, on condition that a proper reserve is established for the payment of disputed claims.

Article 60

1. In any liquidation of a bank, secured claims shall be paid in accordance with their terms, and other allowed claims shall be paid in priority to all other debts, in the order of the class of claims indicated below:

- a) Necessary and reasonable expenses incurred by the receiver and the Bank of Albania in application of the provisions of this Chapter;
- b) Creditors who extend new credit to the bank after the appointment of a receiver;
- c) Claims by small depositors up to the amount prescribed in the bylaws of the Bank of Albania;
- ç) Depositors not paid under subparagraph (c);
- d) Other claims against the bank.

2. After payment of all claims filed, with interest for secured claims, to the extent of the value of the security, from the date of entry of the claim in the schedule of allowable claims described in subparagraph 1(c) Article 59, at a rate to be fixed by the Bank of Albania, any remaining valid claims that were not filed within the time specified for the filing of objections under Article 59 shall be paid.

3. Any assets remaining after all claims have been paid shall be distributed among the shareholders in accordance with their rights and interests.

If the amount available for payment for any class of claims listed under this Article is insufficient to provide payment in full, the said claims shall abate in equal proportions.

Article 61

1. Once all assets of a bank have been distributed pursuant to liquidation, the receiver shall render an account to the Bank of Albania.

2. Upon approval of this account by the Bank of Albania, the Bank of Albania and receiver shall be relieved of any further responsibility in connection with the liquidation of the bank.

Article 62

1. The receiver shall meet minimum standards of competence, integrity, and experience.

2. No person shall be appointed as receiver who:

- a) Has been convicted for a crime;
- b) During the past five years has been held liable in a civil proceeding for fraud, dishonesty, misrepresentation, or breach of fiduciary duty;
- c) Is currently a party to a proceeding in which he is alleged to have engaged in fraudulent activity or has been charged with the commission of a felony or which seeks a remedy that would prevent or materially interfere with his ability to perform his or her duties;
- ç) Is a subject of an investigation relating to fraudulent activity or the commission of a felony;
- d) Has been found by a court to have, without justification, defaulted on any obligations to a bank.

3. Prior to designation of the receiver, a person shall submit a certificate that he is not prohibited from serving as a representative of the receiver pursuant to paragraph 2.

4. Prior to being designated receiver in a particular case, or as soon as practicable thereafter, the person shall submit information to permit the Bank of Albania to make a determination with regard to any conflicts of interest. Information related to personal, business, and financial relationships of the person, his spouse, and minor children is required, including, but not limited to, the following:

- a) Loans from a bank whose assets are involved in the liquidation;
- b) Employment by a bank whose assets are involved in the liquidation;
- c) Ownership interest in a bank whose assets are involved in the liquidation;
- ç) Relationships within the last five years with any other bank as an officer, director, or a shareholder holding a significant interest, or employee;
- d) Financial, business or close financial relationships with any person or entity who has an interest in the bank subject to liquidation or in the assets which are the subject of the liquidation, including information about negotiations or arrangements for future employment with such person or entity;
- dh) A list and description of any instance during the preceding five years in which there was a default on any material obligation to a bank;
- e) Ownership of any competing property, if the receivership involves the valuation, disposition, or management of real estate;

- ë) Any other business or financial interest which could adversely affect the person's ability to act impartially as a receiver; and,
- f) Any other information which may be requested by the Bank of Albania.

5. At the same time that the information required by paragraph 4 is provided, the person designated receiver shall provide the following certification: that no conflicts exist as a result of the person's business interests or family relationships. Prior to appointing a receiver, the Bank of Albania must conclude that no conflicts of interest exist, or that if such conflicts exist, the person is capable of acting impartially because of the non material nature of such conflicts, and issue a waiver. After being designated, the receiver shall notify the Bank of Albania within ten days after learning of any conflict of interest, and either describe the steps he has taken or will take to eliminate the conflict.

6. The receiver must maintain impartiality in his duties. He shall not:

- a) Accept or solicit favors, gifts, or other items of monetary value directly or indirectly from any individual or entity (i) whom the receiver knows is seeking action from the receiver in connection with the receivership or (ii) which has interests which may be substantially affected by the performance or nonperformance of duties;
- b) Improperly use or allow improper use of receiver's property, or property over which the receiver has supervision or control, for the personal benefit of any individual or entity other than the receiver; and
- c) Make any unauthorized promise or commitment on behalf of the receiver.

7. The receiver is prohibited from disclosing non-public information to anyone, except as required to perform his duties as receiver.

Upon the discovery by the Bank of Albania that a receiver failed to abide by the procedures or standards set forth in this Law, the Bank of Albania shall require the person to resign.

Article 63

1. The terms and conditions of service for the professional employees appointed to assist the receiver in connection with proceedings under this chapter shall not be paid amounts greater than those payable to employees of banks for similar services, except that the Bank of Albania may authorize payment at higher rates, if the Bank of Albania determines that paying such higher rates is necessary in order to recruit and retain necessary personnel.

2. All claims arising out of or in connection with the insolvency of a bank or a bank in receivership against the receiver or the Bank of Albania shall be finally settled in accordance with the provisions of this chapter.

3. In any court or arbitration court proceeding arising out of or in connection with a bank insolvency or a bank in receivership against a bank receiver or the Bank of Albania:

- a. The sole question before the court or arbitration court in determining whether the defendant acted unlawfully shall be whether the defendant acted in an arbitrary or capricious manner in light of the facts and the law in case;
- b. The Bank of Albania, the receiver and professional employees appointed to assist the receiver shall not be liable for damages or otherwise liable for acts or omissions performed pursuant to and in the course of the duties and responsibilities of a receivership, unless such acts or omissions constitute intentional wrongful conduct; and

c. A receivership and the action in question shall continue without restriction during the period of an appeal and any further appeal or other judicial proceedings related to the appeal.

Article 64

1. Subject to the provisions of this Article, cooperative banks shall be subject to all the provisions of this law, including the supervision requirements. Cooperative banks shall be subject to the supervision by the Bank of Albania.

2. This Article provides for the organization, management, capitalization, operations, distribution of surplus, and voluntary liquidation of cooperative banks.

a) Cooperative banks shall be legal persons and have the capacity to:

- (i) enter into contracts and issue obligations;
- (ii) institute legal proceedings and be subject to such proceedings; and
- (iii) for the purpose of their business, acquire, hold, and dispose of property, whether movable or real estate.

a) Cooperative banks shall be registered in the commercial register.

b) Members of a cooperative bank are limited to:

- (i) individuals who pay an initial membership fee established by the bank, who own deposits in the bank and have a common bond of occupation or reside within 25 percent kilometers of the head office of the bank, and
- (ii) subjects with local small business defined as natural or legal persons, as sole proprietorship or forms of business, recognized in the law No. 7638, November 19,1992 on "Commercial Companies" and other respective laws, located within 25 kilometers of the head office of the bank and which have an annual turnover of less than 1000 times the average monthly salary in the region in question who pay an initial membership fee established by the bank.

c) Members shall not be liable for the cooperative bank's liabilities. Their liability to their cooperative bank shall be limited to any liability which they incur by specific act in relation to the cooperative bank.

3. Cooperative banks shall be managed by a Board of Directors of at least 3 persons who hold office for a term of 4 years. Board members shall be elected and appointed by the "General Meeting of Shareholders" of the cooperative bank. Members of the Supervisory Board may be reelected.

a) Any member of the cooperative bank, at the time of the general meeting activities shall have the right for one vote

b) The Board of Directors shall establish bylaws for the governance of its affairs, subject to prior approval by the Bank of Albania.

The cooperative bank shall have an Audit Committee. Members of the Audit Committee shall be elected and appointed by the "General Meeting of Shareholders" of the cooperative bank.

4. The initial surplus account of cooperative banks shall be 1/3 of the amount of minimum capital required from time to time by the Bank of Albania for the licensing of other banks and may be in the form of debt liabilities subordinated to the claims of depositors with an average term to maturity of 5 years. After 5 years of its commencing operations, a cooperative bank shall maintain a surplus account equivalent to 10 percent of total assets.

5. Credit may be extended only to individuals and to local small business. Credit to a single borrower or group of related borrowers is limited to 100 times the average

monthly salary in the region in question, except in the case of credit for the purchase of a residence by the borrower.

6. Cooperative banks shall allocate the surplus resulting from income in excess of expenses and taxes to a surplus account. If in any financial year the surplus account exceeds 10 percent of total assets, such excess amount may, by decision of the Board of Directors, be distributed to members in proportion to their deposits held 6 months before the balance sheet date.

7. Cooperative banks may liquidate voluntarily upon,

- (i) a vote of members owning 75 percent of the amount of the bank's deposits 30 days prior to the vote; and
- (ii) approval by the Bank of Albania.

a) A request to the Bank of Albania for approval of the voluntary liquidation of a bank shall be accompanied by :

- (i) a duly authenticated copy of the decision of the depositors of the bank to liquidate the bank;
- (ii) a description of the reasons for the proposed liquidation;
- (iii) a liquidation plan including a time table for liquidation;
- (iv) the name of the liquidation trustee to be appointed by the bank, together with a description of his or her professional qualifications and experience; and
- (v) information, including a recent financial statement for the bank audited by an independent auditor acceptable to the Bank of Albania, adequate to show to the satisfaction of the Bank of Albania pursuant its requirements, that the bank is solvent and that its assets are sufficiently liquid to pay off its liabilities within the liquidation period proposed in the liquidation plan.

b) Within one month from the date that the Bank of Albania has received the request and the necessary information, the Bank of Albania shall inform the owners of the bank its decision on the request. If the request is denied, the decision shall give the reasons for the denial. If the request is approved, the decision shall include the revocation of the banking license of the bank and shall be published in the Official Gazette and one or more newspapers of more circulation.

Article 65

1. A bank aggrieved by an order or regulation of the Bank of Albania which the bank believes is unlawful, may file an appeal with the Court of Appeal. The Bank of Albania's action in question shall continue without restriction during the period of such an appeal and any further appeal or other judicial proceedings related to the appeal, unless the Court of Appeal specifically states that the Bank of Albania's action after hearing shall be suspended.

2. For the action taken by the Bank of Albania under this law or the Law No. 8269 date 23.12.1997 on "The Bank of Albania", the court shall decide only:

- a) if the Bank of Albania acted unlawfully and arbitrary; and
- b) The Bank of Albania administrators or advisors engaged to represent or assist the Bank of Albania shall not be liable for damages or otherwise liable for acts or omissions performed pursuant to responsibilities for the Bank of Albania. They shall not be responsible unless such acts or omissions constitute intentional wrongful conduct.

CHAPTER IX

GENERAL PROVISION

Article 66

1. The Bank of Albania may put into effect an electronic system for transfer of funds, in agreement with banks or other persons conducting banking business.

2. If an electronic system of transfer of funds is put into effect pursuant to paragraph 1 of this Article, it may authorize the Bank of Albania to act upon unconditional electronic payment orders received from an originating bank, and effect the payment transfer by immediately crediting the account of, and electronically advising the receiving bank

3. If an electronic system of transfer of funds, giving the value date is put into effect, the actions to be taken are the same as the one prescribed in paragraph 2, respecting the given value date.

Article 67

Banks shall have an emblem and their seal showing the distinct symbols.

Article 68

Banks shall pay the impost and other taxes at the level set by the law.

Article 69

1. Institutions that operate as a bank at the time that this law enters into force and are licensed for this activity pursuant to the Law no 8075, date 22.02.1996 "On the Banking System in the Republic of Albania", shall be deemed to be licensed to operate as a bank in accordance with this law. The Bank of Albania shall require the bank to provide additional information, if the Bank of Albania deems the already provided information as not sufficient and complete.

2. Persons operating as banks not licensed or re licensed as prescribed by the Law No.8075, dated 22.02.1996 "On the Banking System in the Republic of Albania", shall provide a complete information applying for a license as prescribed by the Law within a period of 3 months from the date this Law shall enter into force. The Bank of Albania may suspend the operation of the bank and start liquidation procedures when the term prescribed in this provision falls due.

Article 70

1. The public bank with wholly Albanian capital conducts banking activity, is organized and supervised pursuant to this Law and the bylaws of the Bank of Albania.

2. The public bank with wholly Albanian capital that does not meet the criteria for the capital after this Law enters into force shall:

a) meet the criteria described in Articles 31 and 32 till the end of the year 1999.

b) present for approval to the Bank of Albania a detailed program pursuant to the requirements of subparagraph 2(a) of this Article, within 3 months from the date this Law enters into force.

The Bank of Albania may extend the term described in subparagraph 2(a) of this Article, simply for legitimate reasons, not exceeding one year from the date this term falls due.

Article 71

1. All decisions, rules, regulations, orders, approvals and authorizations of the Bank of Albania shall be considered as bylaws.

2. All bylaws of the Bank of Albania pursuant to the Law No.8075, date 22.02.1996 "For the Banking system in the Republic of Albania", provided for those in opposition to the provisions of this Law, shall be in power.

Article 72

Law no 8075, date 22.02.1996 "On the Banking System in the Republic of Albania", shall be repealed.

Article 73

This law shall enter into force 15 days after the publication in the "Official Gazette".