

The Law of the Republic of Azerbaijan on Non-Bank Credit Institutions

(with amendments of 4 March 2016)

This Law shall define the rules on establishment, management and regulation of non-bank credit institutions with an aim to better meet demand of legal entities and individuals in the Republic of Azerbaijan for financial resources and create suitable conditions for access to financial services.

Chapter 1. General Provisions

Article 1. Main Definitions

1.0. Definitions used herein shall have the following meanings:

1.0.1. Non-Bank Credit Institution (hereinafter referred to as NBCI) – a specialized credit organization that issues loans and carries out other operations in accordance with this Law based on a special permit (license);

1.0.2. Group of joint borrowers – people, who mutually guarantee repayment of loans taken by each group member on a contractual basis;

1.0.3. Pledged deposit – lump-sum funds or funds gradually paid to NBCIs as one of the guarantee forms for repayment of loans by a borrower or a group of borrowers during the effective period of a loan agreement;

1.0.4. Manager – a single head or members of the executive body of the NBCI, the head of an accounting department (chief accountant, finance manager etc.), other staff members who have the authority over pledged deposit, internal auditor, heads of branches and accounting services of NBCIs entitled to accept pledged deposit;

1.0.5. Related party – founders, managers, heads of structural units of NBCIs, their close relatives (spouses, parents, adopters, children, including adoptees), as well as persons with the right to act on their behalf.

1.0.6. *Financial Markets Supervisory Authority – a body launched by a relevant executive authority to regulate and supervise financial markets.*

Article 2. Legal basis for operations of NBCIs and the scope of this Law

2.1. Operations of NBCIs shall be governed by the Constitution of the Republic of Azerbaijan, this Law, the Civil Code of the Republic of Azerbaijan, the Law of the Republic of Azerbaijan on the Central Bank of the Republic of Azerbaijan, other legal and regulatory acts of the Republic of Azerbaijan, normative acts of legal nature of the Central Bank of the Republic of Azerbaijan (hereinafter referred to as the Central Bank), *the financial markets supervisory authority* and international treaties, which the Republic of Azerbaijan is a party to.

2.2. This law shall not apply to credit unions and pawnshops.

Article 3. Independence of NBCIs

3.1. The NBCI shall perform its operations independently within the authority defined herein.

3.2. The NBCI shall not be dependent on the Government and municipalities, except for the cases stipulated in the legislation and these bodies may not interfere with its current activities.

3.3. The NBCI shall not be responsible for liabilities of the State and the State shall not be responsible for liabilities of the NBCI.

3.4. Interest rates on loans granted by the NBCI, as well as the amount of commissions and fees charged for the services provided in accordance with this Law shall be defined based on the agreement signed between the NBCI and a borrower (service user).

Article 4. Unions and associations of NBCIs

4.1. NBCIs may establish unions and associations aiming to coordinate activities, as well as jointly represent and protect their common interests.

4.2. NBCIs shall not use unions and associations in order to sign agreements and perform agreed operations to restrict competition and establish monopoly in the market or set interest rates and commissions. Unions and associations shall comply with the anti-monopoly legislation while performing their activities.

Chapter 2. Establishment and management of NBCIs

Article 5. Organizational-legal form and types of NBCIs

5.1. NBCIs may be established by legal entities and individuals of the Republic of Azerbaijan and (or) foreign countries, as well as by international organizations in the organizational-legal form implied for legal entities in the Civil Code of the Republic of Azerbaijan. Non-commercial NBCIs may be established only in the form of a foundation by international organizations in accordance with agreements signed by the Republic of Azerbaijan, as well as non-governmental organizations funded from state budgets of foreign countries. Non-commercial NBCIs may not establish or participate in commercial organizations.

5.2. NBCIs shall be divided into two groups – those entitled and not entitled to accept pledged deposits.

5.3. NBCIs operating in the territory of foreign countries may establish only branches in the Republic of Azerbaijan without the right to accept pledged deposit. Such branches shall be licensed, regulated and supervised pursuant to the rules applied to NBCIs not entitled to take pledged deposits as defined herein.

Article 6. Name of the NBCI

6.1. The NBCI shall have the words 'non-bank credit institution' in its name. The NBCI's name in documents, commercials or announcements shall not differ from the name indicated in its Charter.

6.2. The NBCI shall not use names of active and state registered banks, credit unions and other non-bank credit institutions.

Article 7. Paid-in (share) capital of NBCIs

7.1. NBCI's minimum paid-in (share) capital, as well as property rights of the founders of the NBCI established as a non-commercial legal entity shall be paid in cash. The paid-in (share) capital (property rights) shall be formed in the national currency of the Republic of Azerbaijan.

7.2. Minimum amount of paid-in (share) capital of NBCIs and minimum requirements for initial property formed by them shall be defined by the *financial markets supervisory authority*.

Article 8. Requirements on the organizational structure and managers of NBCIs

8.1. Regardless of the organizational-legal form, the organizational structure of the NBCI shall include at least the following:

8.1.1. manager (director, head of executive board);

8.1.2. head of the accounting department (chief accountant, financial manager);

8.1.3. credit officer;

8.1.4. internal auditor.

8.2. Managers of the NBCI shall have higher education with at least one year of work experience. Head of the accounting department shall have higher economic education with at least one year of work experience in relevant specialty or a specialized secondary education with at least 5 years of work experience in the relevant position.

8.3. People legally prohibited from holding relevant positions and those charged on intended crimes shall not hold the position of managers of NBCIs.

Article 9. Branches and representative offices of NBCIs

9.1. The NBCI may establish branches and representative offices.

9.2. Branches of NBCIs with the right to accept pledged deposit shall be established only with the permit issued by the *financial markets supervisory authority*.

9.3. Branches of NBCIs without the right to accept pledged deposit and representative offices of both types of NBCIs may be established by a prior written notification of the *financial markets supervisory authority*. In that case the NBCI shall notify the *financial*

markets supervisory authority in writing within 5 business days upon taking the decision on opening a branch or a representative office. The information shall include the name of the executive body which took such a decision, the decision date and number, the name, the address and managers (their specialties and work experience) of the branch or the representative office.

9.4. The Statute of branches and representative offices shall be approved by the NBCI.

9.5. The NBCI shall bear full responsibility for operations and liabilities of its branch and representative office.

Chapter 3. Issuance of licenses and permits

Article 10. License

10.1. The NBCI shall obtain a special permission (license) (hereinafter referred to as license) from the *financial markets supervisory authority* to grant loans.

10.2. The license issued to the NBCI shall contain a special permission required for acceptance of pledged deposits. The NBCI shall be prohibited to accept pledged deposits without such permission.

10.3. The license issued to the NBCI shall be perpetual.

10.4. The license shall take effect from the day of issuance by the *financial markets supervisory authority* and shall only be used by the recipient NBCI.

Article 11. Application for a license

11.1. The NBCI shall submit the following documents to the *financial markets supervisory authority* to obtain a license:

11.1.1. application signed by founder/s or person/s authorized by law;

11.1.2. notarized copies of the certificate on state registration and the Charter;

11.1.3. bank document certifying payment of minimum paid-in (share) capital (formation of initial property);

11.1.4. information on the organizational structure;

11.1.5. information on professional eligibility and non-conviction of managers on intended crimes;

11.1.6. information on financing sources and major indicators of the credit policy (coverage, subjects of financing, terms, interest rates of loans etc.);

11.1.7. permit given by a foreign supervisory body to establish a branch of an NBCI of a foreign country in the territory of the Republic of Azerbaijan (if required by the legislation of the given country);

11.1.8. bank document confirming payment of state duty required for obtaining a license;

11.2. Information stipulated in Article 11. herein shall be signed by person/s applied for the license. The format and content of the application, as well as attached documents shall meet the requirements of regulatory acts of the *financial markets supervisory authority*.

11.3. The *financial markets supervisory authority* shall review the license application within 30 days. In case of shortcomings in the submitted documents, it shall send a written notification to the applicant within 15 days upon receipt of the application and ask to eliminate them. After the shortcomings are eliminated, the *financial markets supervisory authority* shall review the documents within 15 days and take a relevant decision.

Article 12. Grounds for refusal to issue a license

12.1. The license shall be rejected when:

12.1.1. submitted documents do not comply with the legislation or information provided hereby is wrong;

12.1.2. the bank document, certifying payment of minimum paid-in (share) capital required by the *financial markets supervisory authority* or formation of property rights is not submitted;

12.1.3. managers do not meet professional eligibility criteria and/or they were charged on committing intended crimes.

12.2. If the *financial markets supervisory authority* rejects to issue a license, the applicant shall be informed in writing on reasons for refusal.

12.3. The decision of the *financial markets supervisory authority* on refusal may be taken to court in accordance with the procedures stipulated by the legislation.

Article 13. Application for permit to open a branch of an NBCI

13.1. The NBCI entitled to accept pledged deposit shall submit the following documents to the *financial markets supervisory authority* to open a branch:

13.1.1. application signed by the manager of the NBCI;

13.1.2. decision taken by the authorized executive body of the NBCI on opening of a branch;

13.1.3. the Charter of the branch;

13.1.4. decision on appointment of branch managers made by the NBCI's authorized executive body, as well as information on their professional eligibility and non-conviction on intended crimes (to be signed by the manager of the NBCI).

13.2. The *financial markets supervisory authority* shall review the application on opening of a branch within 20 days. In case of shortcomings related to the submitted documents, it shall inform the applicant in writing within 5 working days and ask to eliminate them. Once the shortcomings are eliminated, the *financial markets supervisory authority* shall review the documents within 10 business days and take a relevant decision.

13.3. If submitted documents and information are in compliance with the legislation, the *financial markets supervisory authority* shall take a decision on granting permission for opening a branch, otherwise it shall inform the NBCI in writing on reasons for refusal.

Article 14. Register of licenses and permissions

14.1. The *financial markets supervisory authority* shall maintain a unified registry of NBCIs, their branches and representative offices, accessible for the public. Information on NBCIs' names, addresses, branches and representative offices, registration numbers and dates of issued or terminated licenses and permits, managers, liquidated NBCIs, their branches and representative offices shall be entered into the registry within 3 working days upon receipt of such information.

14.2. The NBCI shall notify the *financial markets supervisory authority* in writing on changes to the registered information, as well as constituent documents (charter, by-law) within 5 calendar days. In case a new manager is appointed to the NBCI, the written notification shall include information indicating conformity of that person with the requirements stipulated in Articles 8.2 and 8.3 herein.

Chapter 4. Requirements for operations of NBCIs

Article 15. Operations of NBCIs

15.1. NBCIs may grant secured and unsecured loans based on the license received from the *financial markets supervisory authority*. Loans issued by NBCIs may be secured with real estate and movable property, pledged deposit, guarantee, warranty and other means provided for in the legislation. Pledged deposit may be accepted only if it is stipulated in the permit given to the NBCI by the *financial markets supervisory authority*.

15.2. The NBCI that received license for provision of loans may also be involved in the following activities:

15.2.1. buy and sell of debt liabilities (factoring, forfeiting);

15.2.2. leasing;

15.2.3. registration of bills of exchange;

15.2.4. issuing guarantees;

15.2.5. provision of insurance agent service;

15.2.6. provision of financial, technical and management consulting services to borrowers and a group of joint borrowers.

15.3. In case a license is required for the operations stipulated in Article 15.2 herein, the NBCI may perform this operation only upon obtaining a *relevant* license.

15.4. The NBCI shall be prohibited to accept deposits from legal entities and individuals.

Article 16. Sources for financing of operations of NBCIs

16.1. Activities of NBCIs may be financed by:

16.1.1. paid-in (share) capital (property rights) and earned revenues;

16.1.2. attracted loans;

16.1.3. contributions, grants and other forms of funds donated by legal entities and individuals;

16.1.4. funds received from other sources, not prohibited by the legislation.

16.2. Funds donated by international organizations, governments of foreign states and other donors, as well as revenues gained from them shall not be taken out by the NBCI beyond the territory of the Republic of Azerbaijan.

Article 17. Loan agreement

17.1. The NBCI shall ensure transparency in issuance of loans and inform borrowers on loan related cost and expenditures.

17.2. An agreement signed between the NBCI and the borrower shall at least include the following, unless otherwise provided for in the legislation:

17.2.1. name and legal address of parties;

17.2.2. purpose of the loan;

17.2.3. amount of the loan;

17.2.4. maturity date of the loan;

17.2.5. repayment method of the loan;

17.2.6. securitization (if secured);

17.2.7. amount of the interest rate, including the annual interest rate on the loan (annual interest rate shall be indicated regardless of loan maturity);

17.2.8. if the loan (principal amount and interest rate) is scheduled to be repaid on equal monthly installments, the average real interest rate to be repaid during the term of loan;

17.2.9. responsibility of parties.

17.3. A loan agreement shall be developed in writing at least in 2 copies, one of the copies provided to the borrower and others added to the filing of documents by the NBCI.

17.4. The loan agreement signed with a group of joint borrowers shall include information (name, legal address and etc.) on all members of the group with a separate copy shall be prepared and submitted to each member.

17.5. The borrower may file a legal claim against the NBCI for damage sustained as a result of non- indication of terms in a loan agreement, stipulated in Article 17.2 herein.

Article 18. Pledged deposit

18.1. The loan agreement may provide for provision of pledged deposit as loan securitization. Amount of pledged deposit shall not exceed the outstanding principal and accrued interests and the term shall not be more than the loan term.

18.2. Pledged deposit shall be paid to the NBCI in a cash and non-cash form and the NBCI shall within 2 business days put the pledged deposit at a special account (s) opened for these types of deposits with the serving bank/s.

18.3. The NBCI shall maintain individual accounting of received pledged deposits. Accounting data shall allow full identification of the borrower (the group of joint borrowers) and the loan secured with pledged deposit.

18.4. In case of full repayment of the loan or in other cases provided for in the loan

agreement, pledged deposit shall be returned by the NBCI to the borrower (the group of joint borrowers) within 2 business days upon the date applied by the borrower.

18.5. The NBCI shall pay interest rates accrued on pledged deposit if stipulated in the loan agreement.

18.6. In case the borrower (the group of joint borrowers) fails to repay debt (principal, interests, fines), the NBCI may deduct that debt from the pledged deposit without any argumentation (without accept) if provided for in the loan agreement.

18.7. The NBCI shall not issue loans or provide other financial services using the funds in pledged deposit accounts. Funds in pledged deposit accounts may be only used when:

18.7.1. buying government securities and securities of central banks (on condition of complying with the requirements of Article 18.4 herein);

18.7.2. exercising the rights stipulated in Article 18.6 herein.

Article 19. Prudential norms and requirements related to operations of NBCIs

19.1. The *financial markets supervisory authority* may establish the following prudential norms and requirements to ensure financial stability of the NBCI which has the right to accept pledged deposits:

19.1.1. maximum amount of the loan issued to a single borrower and a group of joint borrowers;

19.1.2. maximum amount of the loan issued to and requirements for transactions with related parties;

19.1.3. the ratio of accepted pledged deposits to capital of the NBCI;

19.1.4. requirements for loan loss reserves generated through expenses depending on classification and evaluation of assets and off-balance sheet liabilities.

19.2. The *financial markets supervisory authority* may apply all or some of the norms for regulation of operations of the NBCI, as necessary.

19.3. Paid-in (share) capital (property) of the NBCI, not entitled to accept pledged deposits or functioning as a non-commercial legal entity shall not fall below the minimum amount set by the *financial markets supervisory authority* over its lifetime.

19.4. New prudential norms and requirements, changes made by the *financial markets supervisory authority* shall come into force not earlier than one month, while the minimum amount of paid-in (share) capital (property) shall take effect not earlier than one year upon notification of NBCIs. New prudential norms and requirements are irrevocable.

Article 20. Accounting and financial reporting at NBCIs

20.1. The NBCI shall maintain financial accounting and develop financial statements in accordance with the Law of the Republic of Azerbaijan on Accounting and *other normative acts of legal nature*.

20.2. Borrowers, as well as other stakeholders shall have the right to get acquainted with financial statements of the NBCI.

20.3. The NBCI shall submit to the *financial markets supervisory authority* an annual

financial report audited by an independent auditor within 5 months upon the end of the financial year and publish this report in mass media.

Article 21. Requirements for transparency of operations of NBCIs

21.1. The NBCI and its branches shall put up information on terms of provision of services, including issuance of loans and its license in a clearly visible place at its administrative building and provide an opportunity for any person willing to get acquainted with it.

21.2. The NBCI shall not give way to an intended false advertisement about its activities and shall comply with the requirements of the legislation on commercials.

21.3. The NBCI shall place information on change of its name and address in the mass media within 7 calendar days.

Article 22. Delivery of information to the Centralized Credit Registry

22.1. The NBCI shall submit information on each borrower to the Centralized Credit Registry (CCR) created at the *financial markets supervisory authority* in accordance with the working schedule defined by normative acts of the *financial markets supervisory authority*, including the description, terms and rules of submission of relevant information.

22.2. The NBCI may receive information on its borrowers and persons applied for loans from the CCR in accordance with the working schedule of the Registry, including rules and terms for provision of information.

22.3. Any borrower of the NBCI may receive information on him/her from the CCR in accordance with the working schedule of the Registry.

22.4. Information received by the NBCI from the CCR shall be subject to protection of bank secrecy set by the legislation. Persons, who violate the protection of bank secrecy, shall be kept responsible pursuant to the legislation of the Republic of Azerbaijan.

Article 23. Confidentiality

The NBCI shall protect confidentiality of and not disclose illegally the information on operations with its customers, including accepted pledged deposits in accordance with the Law of the Republic of Azerbaijan on Commercial Secrecy. This information shall be kept at the NBCI at least 5 years upon termination of mutual relations with a customer.

Chapter 5. Supervision of operations of NBCIs

Article 24. Supervision of operations of NBCIs

24.1. Operations of the NBCI shall be supervised by the management body defined in its Charter.

24.2. The NBCI shall submit prudential reports on its operations to the *financial markets*

supervisory authority no later than 10 days upon the end of each reporting quarter in the form and content set by the *financial markets supervisory authority*.

24.3. If analysis of reports reveals violations of the requirements of this Law and regulatory acts of the *financial markets supervisory authority* or facts, which may cause such violations, the *financial markets supervisory authority* shall send a written notice to the NBCI asking to eliminate those violations. The notice shall include measures and deadline for elimination of violations (shortcomings) made by the NBCI or facts which may cause such violations.

24.4. The NBCI shall inform the *financial markets supervisory authority* in a written form on the implementation of outlined measures within the period defined in the written notice. In case measures are not taken fully or fail to meet requirements within the timeframe set by the *financial markets supervisory authority*, it shall send a second written notice and warn about the possibility to revoke the license if relevant measures are not taken within the defined timeframe.

24.5. If necessary to verify the reported data, the *financial markets supervisory authority* may examine operations of the NBCI onsite sending a written notice 10 days in advance. In this case inspectors of the *financial markets supervisory authority* shall be entitled to enter the NBCI by presenting their examination cards, examine its statements, books, documents and other accounting records, as well as require explanation on them.

Article 25. Revocation of the license and the permit

25.1. The license issued to the NBCI or permits given to its branches may be revoked by the *financial markets supervisory authority* if:

25.1.1. the NBCI submits a relevant application;

25.1.2. information submitted by the NBCI for getting a license or permit is identified to be false;

25.1.3. the NBCI or its branch does not start operations within twelve months upon the effective date of the license or permit;

25.1.4. instructions of the *financial markets supervisory authority* and the Central Bank for elimination of violations are not fulfilled;

25.1.5. reports required by the *financial markets supervisory authority* are not submitted for 2 consecutive reporting dates or submitted reports are distorted;

25.1.6. the NBCI discharges activities not stipulated herein or prohibited by the license;

25.1.7. the NBCI is liquidated or declared bankrupt in accordance with the legislation;

25.1-1. *In the event of availability of the grounds specified in Article 25.1.4 herein, the Central Bank may send a substantiated appeal to the financial markets supervisory authority in writing to have the license or permit revoked on the issues under its competence.*

25.2. A decision on revocation of the license shall be sent to the NBCI immediately and to a relevant tax authority no later than 5 days after the decision takes effect, as well as published in mass media. Notification on revocation of permission given to a branch of the NBCI shall be sent to the NBCI within 3 business days after the decision of the

financial markets supervisory authority comes into effect.

25.3. The decision on revocation of the license shall come into effect on the date it is published in mass media, unless otherwise stipulated in the decision.

25.4. The NBCI shall suspend its operations on the effective date of the decision on revocation of the license and be liquidated in accordance with the Civil Code of the Republic of Azerbaijan.

25.5. The NBCI, in accordance with legislation, may file a claim to court against the decision of the *financial markets supervisory authority* on revocation of the license. Filing of claim shall not suspend implementation of the relevant decision of the *financial markets supervisory authority*.

25.1-1 Fees payable to the financial markets supervisory authority

NBCIs shall pay fees to the financial markets supervisory authority in the amount and order established by the authority in question.

Chapter 6. Transitional provisions

Article 26. Transitional provisions

26.1. Requirements of Article 17 herein shall apply to loan agreements signed by active NBCIs after this Law becomes effective.

26.2. NBCIs willing to obtain the right to accept pledged deposits may apply for new licenses in accordance with the requirements of this Law.

Ilham Aliyev

President of the Republic of Azerbaijan

Baku city, December 25, 2009