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Minister

\_\_\_\_\_ **F. Mammadov**

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Management Board  
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Chairman of Management Board

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## **REGULATIONS**

### **ON GOVERNING BANKS OPERATIONS WITH FIXED ASSETS (PROPERTY)**

(with amendments of 15 April 2010)

**Baku – 2002**

## **1. General provisions**

1.1. These Regulations have been developed in line with the Laws of the Republic of Azerbaijan on the Central Bank of the Republic of Azerbaijan and on Banks and Banking Activity in the Republic of Azerbaijan and determine rules for regulation of banks' operations with fixed assets.

1.2. The key goal of these Regulations is to prevent high concentration of funds in illiquid assets, ensure timely implementation of bank liabilities, as well as avoid capital losses to protect banks' liquidity.

## **2. Banks' operations with fixed assets**

2.1. Banks shall be entitled to conduct the following operations with fixed assets:

- 2.1.1. acquire, if necessary for their activities or for financial leases;
- 2.1.2. dispose of, if not used in their activities;
- 2.1.3. to fully or partially repay debts due from the bank, repossess customer's pledged fixed asset in the order specified in the legislation.

2.2. For supervisory reasons, fixed assets in the bank ownership shall be disaggregated into 2 categories in prudential statements submitted to the Central Bank of the Republic of Azerbaijan (hereinafter – the CBA):

- a) fixed assets used in banking;
- b) fixed assets not used in banking.

## **3. Investments to fixed assets used in banking**

3.1. Without a prior written permission by the CBA, no bank may invest in fixed assets used in banking in the amount exceeding the paid-in capital.

3.2. In the event of violation of banking liquidity or the capital adequacy ratio, banks shall not be allowed to invest in fixed assets.

3.3. The amount of the following fixed assets and expenses shall be considered in determining the amount of investments to fixed assets used in banking:

- 3.3.1. plots of land, premises, furniture and equipment, vehicles etc. used or to be used by the bank and its structural units;

3.3.2. capitalized substantial repair expenses of the fixed asset rented by the bank (capital repairs of the fixed asset, which is directly related to the rented fixed asset and is its integral part, which becomes the bank property upon the term of rent);

3.3.3. fixed assets to be used by the bank in future, which is in the bank's ownership or aims to expand the banking activity. These fixed assets should be used not more than one year.

3.4. The calculation in Item 3.3 herein shall consider cost estimates of the construction implied for the bank's own demand.

3.5. The calculation in Item 3.3 herein shall also consider the amount of direct or indirect investments paid or to be paid to the owner or the lessor of the premises used by the bank. Such investments shall include funds invested to shares, bonds or similar financial instruments of those entities, as well as loans secured through shares of similar entities (the portion not exceeding the loan amount).

#### **4. Fixed assets not used in banking**

4.1. Fixed assets not used in banking shall include the following:

4.1.1. fixed assets, not to be used in banking, pledged for full or partial disbursement of borrower's debt before the bank, or alienated by a debtor or the third person in the order specified in the legislation in lieu of debts;

4.1.2. fixed assets previously used by the bank and its structural units;

4.1.3. fixed assets repossessed for non-implementation of lessee's liability on financial lease and not implied to be used by the bank;

4.1.4. fixed assets acquired for expansion of the banking activity, however not used in banking for over a year.

#### **5. Requirements on fixed assets not used in banking**

5.1. Immovable fixed asset not used in banking should be disposed of within not more than three years.

5.2. The CBA may allow to prolong the period of disposal of the immovable fixed asset not used in banking for one more year:

5.2.1. bank substantiates through documents that it has taken all measures to dispose of this fixed asset within three years;

5.2.2. bank substantiates that the bank may incur losses with the disposal of this fixed asset within three years.

All measures taken by the bank for the disposal of such fixed assets should be documented in full and permanently controlled by the bank's Supervisory and Management Boards. Such documents include an appraiser's opinion on appraisal of fixed assets, sale-purchase offers, correspondences, announcements etc.

5.3. The maintenance term of the immovable fixed asset not used in banking shall commence to be calculated from the following moment:

5.3.1. the date, the ownership over the fixed asset pledged, given to the bank by a debtor or the third party, transfers to the bank;

5.3.2. the date the bank moves to new premises from the old one or usage of this building is terminated in its operation;

5.3.3. the date the bank takes a decision not to use the fixed asset purchased for the bank's implied expansion works;

5.3.4. the date the fixed assets are returned to the bank due to non implementation of liabilities by the lessor for financial lease.

5.4. Unlike immovable fixed assets not used in banking, movable fixed assets not used in banking should be disposed of within 120 days.

5.5. Fixed assets, previously used by the bank or purchased for expansion of its activities, as well as transferred to the bank's ownership, not implied for usage, should be appraised at least once a year. The assets, whose balance value makes up to 20.000 manat shall be appraised in line with Regulations of the CBA on Repossessed Assets and Other Real Estate Owned. The assets, whose balance value makes up over 20.000 manat shall be appraised by outside appraiser as specified in the Regulations in question.

5.6. Re-appraisal of fixed assets not used in banking shall be recorded in financial statements in line with Regulations of the CBA on Accounting of Fixed Assets in All Credit Institutions of the Republic of Azerbaijan.

5.7. Fixed assets not used in banking shall be classified as bank assets and special reserves created in line with Regulations of the CBA on Assets Classification and Loan Loss Provisioning.

5.8. Fixed assets, not disposed of within the period specified in Items 5.1, 5.2 and 5.4 herein shall be classified as loss assets, written off from the balance against created reserves, recorded in off-balance sheet account until disposal or liquidated.

## **6. Permits**

6.1. The CBA's prior permit is required in the following cases:

6.1.1. the intention to own immovable fixed assets not used in banking for over three years. At that, the bank should submit documents, proving the measures it has taken for its disposal;

6.1.2. if the bank incurs additional expenses for repairs or construction of these fixed assets to disburse investments or loans to immovable fixed asset.

6.2. Additional expenses shall be allowed to be incurred for capital repairs or construction of fixed assets in the following cases:

6.2.1. it is proved that as a result of expenses the gap between the total loan value and the market value of the fixed asset declines;

6.2.2. the goal of these additional expenses is not a speculation in the real estate market.

6.3. No permit is required for fixed asset's current repairs related additional expenses.

6.4. The bank shall apply to the CBA at least 30 days prior to repairs or construction of the immovable real estate. The application should be attached with the documents, proving observance of terms and conditions of Item 6.2 herein. The CBA shall consent to or reject the application through substantiation within 30 calendar days.

## **7. Operations on disposal of fixed assets not used in banking**

7.1. Fixed assets not used in banking may be disposed of as follows:

7.1.1. one-off payment of the value of movable and immovable fixed assets in full under an ordinary sale specified in the legislation;

Actual income or loss earned during one-off payment of the sale value of fixed assets shall be immediately recorded in the balance sheet, i.e. confirmed as the bank's income or loss and recorded in the statement;

7.1.2. unlike ordinary sale, buyer's payment of the outstanding amount of the immovable fixed asset for a longer period, i.e. in installments. Immovable fixed assets may be sold in this order only upon at least actual payment of 25% of its market value, if the buyer is a related party or the person acting on behalf of the related party – at least 50%. If the buyer offers down payment, below these ratios, on immovable fixed assets not used in banking, the fixed asset shall not be allowed to be sold.

7.2. Movable fixed assets not used in banking shall not be allowed to be disposed of under the terms and conditions of Item 7.1.2 herein.

7.3. If the fixed asset not used in banking is sold to the buyer under Item 7.1.2 herein, its outstanding amount shall be documented as a loan to the customer and recorded in a relevant balance account. The following terms and conditions should be observed when selling the fixed asset through the bank's own loan:

7.3.1. buyer's creditability should be satisfactory;

7.3.2. when signing a purchase agreement, the property right over the fixed asset and risks, as well as income from its usage should be transferred to the buyer;

7.3.3. at least the fixed asset sold should be documented as collateral.

7.4. if the fixed assets is sold under Item 7.2 herein:

7.4.1. sale related loss is recognized immediately;

7.4.2. if income is generated from sale, it is recorded in the "income of future period" account within one year upon the date of the loan issue;

7.4.3. the amount, recorded in the “income of future period” account shall be recorded in equal portions in income in the remainder period of the loan upon one year from the date of sale of the fixed asset through the loan<sup>1[1]</sup>;

7.4.4. if loan maturity is less than one year when the fixed asset is sold through a loan, income generated from sale shall be recorded upon full disbursement of the loan;

7.4.5. Interest on loans shall be accrued or not accrued under Regulations of the CBA on Non-accrual of Interest on Loan Operations.

## **8. Final provisions**

These Regulations shall take effect from the date of state registration.

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<sup>1[1]</sup> e.g.: the balance value of the fixed asset repossessed or previously used by the bank was 900 mln. manat. The Bank and the buyer agreed that the market value of the fixed asset equals 1 billion manat. The income will make 100 mln. manat (1000-900=100). The buyer (not a related party) makes 300 mln. manat worth downpayment. i.e. over 25% of the market value of the disposed of fixed asset. 700 mln. Manat is documented as a loan in the bank's balance sheet, income from sale (100 mln. manat) is recorded as “income from future period”. Maturity is 5 years. Income is not recorded in the bank's financial statements, during the remainder 4 years, if repayments are made on the basis of an agreed upon schedule, 25 mln worth income is recorded per year (100:4=25).