DECISION
ON THE APPROVAL OF REGULATION ON CAPITAL BUFFERS OF BANKS

No 110 of 24 May 2018
(in force as of 30 July, 2018)
Official Monitor of the Republic of Moldova No 183-194, Article 900 of 08.06.2018

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REGISTERED:
by the Ministry of Justice
of the Republic of Moldova
under No 1333 on 4 June 2018

Pursuant to Article, 5 paragraph (1), letter (d), Article 11, paragraph (1), Article 27, paragraph (1), letter (c), Article 44, letter (a) of Law No 548/1995 on the National Bank of Moldova (republished in the Official Monitor of the Republic of Moldova, 2015, No 297-300, Article 544), with further amendments, and Article 63 of Law No 202/2017 on the Activity of Banks (Official Monitor of the Republic of Moldova, 2017, No 434-439, Article 727), with further amendments, by the Executive Board of the National Bank of Moldova,

DECIDES:

1. To approve the *Regulation on Capital Buffers of Banks*, as set out in the Annex.

2. The Regulation referred to in paragraph 1 shall enter into force on 30 July 2018.

3. From the date of entry into force of the Regulation referred to in paragraph 1, banks shall ensure that their activity, including internal policies and regulations, complies with its requirements.

4. For the purpose of application of Chapter V of the Regulation referred to in paragraph 1, for the period until 31 December 2019, the systemic risk buffer rate established by the National Bank of Moldova in accordance with Section 2 of Chapter V for exposures situated in the Republic of Moldova shall be increased by 2 percentage points in the case of banks which capital is owned, directly and / or indirectly, by more than 50% cumulatively, by persons meeting any of the following criteria:

1) are not entities in the financial sector;

2) are residents of states / are located in countries where prudential supervision and regulation requirements are not applied, at least equivalent to those applied in the Republic of Moldova, established by the normative acts of the National Bank of Moldova;

3) are not subject to supervision by the banking or capital market supervisory authorities of the countries concerned.

5. For the direct and / or indirect holdings in the capital of the banks owned by the multilateral development banks determined by the normative acts of the National Bank of Moldova, the criteria listed in paragraph 4 shall not apply.

CHAIRMAN OF THE
EXECUTIVE BOARD
OF THE NATIONAL BANK OF MOLDOVA **Sergiu CIOCLEA**

No 110, Chisinau, 24 May 2018

Annex
Approved
by Decision No 110 of 24 May 2018
of the Executive Board of the National Bank of Moldova

REGULATION
on the Capital Buffers of Banks

This regulation transposes:

- Article 128-131, Article 133, Article 134, Article 136, Article137 and Article139-142 of the Directive No 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on the access to the activity of credit institutions and prudential supervision of credit institutions, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC, published in the Official Journal of the European Union No L 176 of 27 June 2013, as last amended by the European Parliament and Council Directive (EU) 2023/2864 of 13 December 2023 amending certain Directives as regards the establishment and functioning of the European single access point, published in the Official Journal of the European Union No L 1 of 20 December 2023;

- Article 1, paragraph 1, 2, paragraph 4 to 8, Article 2 (1) - (6), Article 3 (1), (3) and (4) of the Commission Delegated Regulation (EU) 1152/2014 of 4 June 2014, supplementing Directive 2013/36/EU of the European Parliament and of the Council, as regards the regulatory technical standards for identifying the geographical situation of credit exposures for the purposes of calculating the countercyclical capital buffer rate specific to the institution, published in the Official Journal of the European Union No L 309/5 of 30 October 2014.

[The harmonization clause amended by the Decision of Executive Board of NBM No 3 of 09.01.2025, in force 16.02.2025]

Chapter I
GENERAL PROVISIONS

1. This Regulation shall apply to banks headquartered in the Republic of Moldova and to branches in the Republic of Moldova of banks of other states which are licensed by the National Bank of Moldova, hereinafter referred to as *banks*. This Regulation applies both individually and in a consolidated manner.

2. The terms and expressions used in this Regulation have the meanings laid down in Law No 202 of 6 October 2017 on the Activity of Banks (Official Monitor of the Republic of Moldova, 2017, No 434-439, Article 727), (hereinafter: Law No 202/2017).

[Item 2 amended by the Decision of Executive Board of NBM No 3 of 09.01.2025, in force 16.02.2025]

3. For the purposes of this Regulation, the following terms shall be used:

capital conservation buffer – the own funds which a bank is required to maintain under Chapter II;

bank-specific countercyclical capital buffer – the own funds that a bank is required to maintain under Chapter III, Section 2;

systemically important institutions buffer (O-SII buffer) – the own funds that an O-SII type bank identified by the National Bank of Moldova may be obliged to maintain according to Chapter IV, Section 2;

systemic risk buffer – the own funds that a bank is or may be required to maintain under Chapter V Section 1;

combined buffer requirement - the total common equity Tier 1 capital required by banks to meet the requirement for the capital conservation buffer plus the following buffers, as appropriate:

1) bank-specific countercyclical capital buffer;
2) O-SII buffer;
3) systemic risk buffer;

countercyclical buffer rate - the percentage rate that banks have to apply in order to calculate the bank-specific countercyclical capital buffer and which is set in accordance with Chapter III, Section 4, Section 5, Section 6 or, as the case may be , by a relevant authority from a foreign state;

reference point for buffer - the reference rate for the buffer, calculated in accordance with paragraph 29, for determining the countercyclical buffer rate;

the relevant authority in a foreign State - the competent authority or the designated authority;

designated authority - a public authority or an officially recognized body in the domestic law of a foreign State which, under the national law of that State, is responsible for determining the countercyclical buffer rate for that State and, where appropriate, other capital buffers;

O-SII-type company - a systemically important institution at national level, as identified by the relevant authority in the state of origin of the company (the Republic of Moldova or another state);

discretionary pension benefits - additional benefits such as pensions provided on a discretionary basis by a bank to an employee as part of his variable remuneration package, which do not include the benefits payable to the employee in accordance with the terms of the pension scheme of the bank.

4. For the purpose of preventing and mitigating macro-prudential or systemic risk, this Regulation lays down:

1) own funds requirements that banks have to hold for the purpose of setting up the following capital buffers:
a) capital conservation buffer;
b) bank-specific countercyclical capital buffer;
c) O-SII buffer;
d) systemic risk buffer;

2) the particularities related to the setting up by the National Bank of Moldova and the method of calculation by the banks of the capital buffers indicated in sub-paragraph 1);

3) the method of calculation by the National Bank of Moldova of the countercyclical buffer rate for exposures located in the Republic of Moldova;

4) the particularities related to the recognition or, as the case may be, the setting by the National Bank of Moldova of the countercyclical buffer rate for exposures located in foreign states;

5) the peculiarities related to the recognition by the National Bank of Moldova of the systemic risk buffer rate established by the relevant authority in the foreign state;

6) restrictions on distributions and other requirements for banks, including the presentation of the capital conservation plan, if the bank does not have a sufficient level of own funds to meet the coverage requirements of capital buffers (capital conservation measures).

5. Decisions of the National Bank of Moldova on the determination of the capital buffers rate to be applied by banks or, as the case may be, the recognition of the buffer rates established by the relevant authority of a foreign state for banks authorized in that state, shall be taken by a decision of the Executive Board of the National Bank of Moldova, which shall be published in the Official Monitor of the Republic of Moldova and shall contain the information as provided for in this Regulation.

6. Banks must meet the requirements for holding capital buffers with common equity Tier 1 capital, in addition to those maintained to meet the own funds requirement imposed by the

Regulation on own funds of banks and capital requirements, approved by the Decision of the Executive Board of the National Bank of Moldova No 109/2018 (hereinafter – the Regulation No 109/2018).
[Item 6 amended by the Decision of Executive Board of NBM No 3 of 09.01.2025, in force 16.02.2025]

6^{1}. Banks shall not use common equity Tier 1 capital that is held to meet the combined buffer requirement for any of the own funds requirements provided for in paragraph 130 of the Regulation No 109/2018 and the additional own funds requirements, specified in Article139 paragraphs (3)–(5) of Law No 202/2017, to address risks other than the risk of excessive leverage.

6^{2}. Banks shall not use common equity Tier 1 capital that is maintained to meet one of the elements of the combined buffer requirement to comply with the other applicable elements of the combined buffer requirement.
[Items 6^{1} and 6^{2} added by the Decision of Executive Board of NBM No 3 of 09.01.2025, in force 16.02.2025]

7. Where a bank does not meet the requirements for capital buffers for banks provided for in this Regulation, it shall be subject to restrictions on distributions provided for in Chapter VI.

8. For the purposes of this Regulation, the total amount of risk exposure represents the total amount of the risk exposure calculated in accordance with paragraph 132 of the Regulation No 109/2018.
[Item 8 amended by the Decision of Executive Board of NBM No 3 of 09.01.2025, in force 16.02.2025]

Chapter II
THE REQUIREMENT TO MAINTAIN A CAPITAL CONSERVATION BUFFER

9. In addition to common equity Tier 1 capital maintained to meet the own funds requirement set out in the Regulation No 109/2018, banks are required to maintain a capital conservation buffer, consisting of common equity Tier 1 capital equal to 2,5% of the total risk exposure of the respective banks, on an individual and consolidated basis.
[Item 9 amended by the Decision of Executive Board of NBM No 3 of 09.01.2025, in force 16.02.2025]

10. Banks shall not use common equity Tier 1 capital that are held to meet the requirement in paragraph 9 to comply with any of the requirements of Article 139 (3) to (5) of Law No 202/2017.

Chapter III
COUNTERCYCLICAL CAPITAL BUFFER

Section 1
General provisions

11. The provisions of Sections 2, 3 and 7 of this Chapter regulate the requirement for banks to maintain a bank-specific countercyclical capital buffer, the manner in which banks shall calculate the buffer, and the peculiarities of the term for the imposition of countercyclical buffer rate.

12. The provisions of Sections 4-6 of this Chapter regulate, for the purpose of calculation by bank of the bank-specific countercyclical capital buffer, the following:

1) the modality of setting by the National Bank of Moldova the rate of the countercyclical buffer rate for credit exposures located in the Republic of Moldova (countercyclical buffer for the Republic of Moldova);

2) the modality of setting or recognizing, as the case may be, by the National Bank of Moldova the countercyclical buffer rate for credit exposures located in foreign states (the countercyclical buffer for the foreign state).

Section 2
Requirement to maintain a bank-specific countercyclical capital buffer

13. Banks are required to maintain a bank-specific countercyclical capital buffer, which is equivalent to the total risk exposure of the respective banks multiplied by the weighted average of the countercyclical buffer rate calculated in accordance with Section 3 of this Chapter, on an individual and consolidated basis. This buffer consists of common equity Tier 1 capital.

14. Banks shall maintain the bank-specific countercyclical capital buffer in addition to any common equity Tier 1 capital maintained to meet the own funds requirement set out in the Regulation No 109/2018, the requirement to maintain a capital conservation buffer under Chapter II of this Regulation and any of the requirements imposed under Article 139 paragraphs (3) to (5) of Law No 202/2017.

[Item 14 amended by the Decision of Executive Board of NBM No 3 of 09.01.2025, in force 16.02.2025]

15. For the purpose of accurately calculating the bank-specific countercyclical capital buffer, banks shall ensure that the applicable countercyclical buffer rates are properly documented for the countries in which the relevant bank credit exposures are located and establish procedures for the regular update of such data, taking into account the provisions of this Chapter.

Section 3
Calculation of bank-specific countercyclical capital buffer rate

16. The bank-specific countercyclical capital buffer rate shall be equal to the weighted average of the countercyclical buffer rates applied in the Republic of Moldova and in other states where the relevant bank credit exposures are located or which are applied for the purposes of this Section under paragraphs 40 or 43.

17. For the purpose of calculating the weighted average of the amount referred to in paragraph 16, the bank shall apply, for each countercyclical buffer rate applicable to exposures situated in a country, the coefficient obtained by dividing its total credit risk own funds requirements, which refers to the relevant credit exposures located in that country, to total own funds requirements for credit risk that relate to all its relevant credit exposures.

18. The total credit risk own funds requirements used for calculating the coefficient referred to in paragraph 17 shall be determined in accordance with the following normative acts of the National Bank of Moldova:

1) Regulation on credit risk treatment for banks according to the standardized approach, approved by the Decision of the Executive Board of the National Bank of Moldova No 111/2018 (hereinafter – Regulation No 111/2018);

2) Regulation on credit risk mitigation techniques used by banks, approved by the Decision of the Executive Board of the National Bank of Moldova No 112/2018 (hereinafter – Regulation No 112/2018);

3) Regulation on market risk treatment under the standardized approach, approved by the Decision of the Executive Board of the National Bank of Moldova No 114/2018 (hereinafter – Regulation No 114/2018).

[Item 18 amended by the Decision of Executive Board of NBM No 3 of 09.01.2025, in force 16.02.2025]

19. Relevant credit exposures shall include all exposure classes (excluding exposures to central governments or central banks, regional governments or local authorities, public sector entities, multilateral development banks, international organizations, and banks) which are subject to the following requirements:

1) credit risk own funds requirements, set out in the following normative acts of the National Bank of Moldova:

a) Regulation No 111/2018;

b) Regulation No 112/2018;

2) if the exposure is held in the trading book – the specific risk requirements for own funds, provided for in the Regulation No 114/2018.

[Item 19 amended by the Decision of Executive Board of NBM No 3 of 09.01.2025, in force 16.02.2025]

20. Banks shall identify the geographical location of a relevant credit exposure in accordance with the requirements set out in the Annex to this Regulation.

21. If the countercyclical buffer rates applicable according to this Chapter for exposures located in the Republic of Moldova and other states are up to 2.5% (inclusive) of the total amount of risk exposure for the purpose of the calculation set out in paragraphs 16 and 17, banks apply the established rates.

22. If, in accordance with paragraph 32, the National Bank of Moldova determines the countercyclical buffer rate higher than 2.5% of the total amount of risk exposure, banks shall apply the rate of the respective buffer established by the National Bank of Moldova to the exposures located in the Republic of Moldova, for purposes of calculation set out in paragraphs 16 and 17, including, where appropriate, for the purpose of calculating the consolidated capital item for that bank.

23. If the countercyclical buffer rate established by the relevant authority of a foreign state for that state is greater than 2.5% of the total amount of risk exposure, banks shall apply the following rates of countercyclical buffer for the relevant credit exposures located in that state for the purposes of the calculation referred to in paragraphs 16 and 17, including, where appropriate, for the purpose of calculating the consolidated capital item for that bank.

1) a countercyclical buffer rate of 2.5% of the total amount of risk exposure if the National Bank of Moldova has not recognized the countercyclical buffer rate higher than 2.5% in accordance with Section 5 of this Chapter;

2) the countercyclical buffer rate set by the relevant foreign state authority, if the National Bank of Moldova has recognized this countercyclical buffer rate in accordance with Section 5 of this chapter.

24. If, in accordance with Section 6 of this Chapter, the National Bank of Moldova determines the countercyclical buffer rate for a foreign state higher than 2.5%, banks shall apply the respective buffer rate to the relevant credit exposures located in that state, established by the National Bank of Moldova for the purposes of the calculation set out in paragraphs 16 and 17, including, where appropriate, for the purpose of calculating the consolidated capital item corresponding to that bank.

25. For the purpose of the calculation set out in paragraphs 16 and 17, where the countercyclical buffer rate is increased, the following provisions shall apply:

1) the countercyclical buffer rate for the Republic of Moldova shall apply from the date specified in the decision setting the rate of the respective buffer;

2) subject to sub-paragraph 3), a countercyclical buffer rate not exceeding 2.5% set by the relevant authority in the foreign state shall apply at the date specified in paragraph 49;

3) if the relevant state authority in the foreign state has established the countercyclical buffer rate for that state not exceeding 2.5% and the National Bank of Moldova requires the application of

the relevant rate from the date specified in paragraph 50 - that rate shall apply from the date specified in the judgment published in accordance with paragraph 51;

4) a countercyclical buffer rate higher than 2.5% established by the relevant authority of the foreign state recognized under Section 5 of this Chapter shall apply from the date specified in the judgment published in accordance with paragraph 38;

5) subject to sub-paragraph 6), where a countercyclical buffer rate of more than 2.5% established by the relevant foreign state authority is not recognized under Section 5 of this Chapter, the rate of 2.5% shall apply at the date specified in paragraph 49;

6) where a countercyclical buffer rate of more than 2.5% established by the relevant authority of the foreign state is not recognized under Section 5 of this Chapter, and the National Bank of Moldova requires the rate of 2.5% from the date referred to in paragraph 50 - the 2.5% rate shall apply from the date specified in the judgment published in accordance with paragraph 51;

7) where the National Bank of Moldova determines the countercyclical buffer rate for a foreign state in accordance with paragraphs 40 to 44, the rate of that buffer shall apply from the date specified in the judgment published in accordance with paragraph 47.

26. If the decision has the effect of reducing the countercyclical buffer rate for the purposes of calculation set out in paragraphs 16 and 17, that rate shall apply from the date of publication of the decision of the Executive Board of the National Bank of Moldova in the Official Monitor of the Republic of Moldova.

Section 4
Determination of countercyclical buffer rate for the Republic of Moldova

27. This section establishes regulations related to the countercyclical buffer rate for the Republic of Moldova for its application by banks in calculating the bank-specific countercyclical capital buffer.

28. The National Bank of Moldova shall quarterly calculate a reference point for buffer in order to guide it in the determination of the countercyclical buffer rate in accordance with paragraph 30.

29. The reference point for buffer reflects, in a relevant manner, the credit cycle and the risks due to the excessive credit growth in the Republic of Moldova and takes due account of the peculiarities of the Moldovan economy. The reference point for buffer is based on the deviation of the ratio „loans to the private sector / gross domestic product” from its long-term trend, taking into account at least:

1) an indicator of the increase in lending levels in the Republic of Moldova and, in particular, an indicator reflecting the changes in the ratio „loans granted to the private sector of the Republic of Moldova / gross domestic product”;

2) any recommendation issued by the designated macroprudential national authority, as defined in the legislation in force.

30. The National Bank of Moldova shall quarterly assess the cyclical systemic risk intensity and the appropriateness of the countercyclical buffer rate for the Republic of Moldova and set or adjust the countercyclical buffer rate for the Republic of Moldova, if necessary. In this process, the National Bank of Moldova considers the benchmark buffer calculated in accordance with paragraph 29 and other variables and information that the National Bank of Moldova considers relevant to address cyclical systemic risk.

[Item 30 amended by the Decision of Executive Board of NBM No 3 of 09.01.2025, in force 16.02.2025]

31. The countercyclical buffer rate, expressed as a percentage of the total exposure amount, shall be set between 0% and 2.5%, calibrated in steps of 0.25 percentage points or multiples of 0.25 percentage points.

32. In justified cases, based on the considerations set out in paragraph 30, the National Bank of Moldova may set a countercyclical buffer rate than 2.5% of the total amount of the risk exposure.

33. If the National Bank of Moldova determines for the first time the countercyclical buffer rate for the Republic of Moldova to a greater extent than zero or increases the already required rate of that buffer, it also determines the date from which the increased buffer must be applied for the purposes of calculating the bank-specific countercyclical capital buffer. That date shall not exceed 12 months from the date on which the increased rate of countercyclical buffer is published in accordance with paragraph 5.

34. If the date referred to in paragraph 33 is before 12 months after the date on which the increased rate of countercyclical buffer is published, the shorter implementation deadline shall be justified on the basis of exceptional circumstances.

35. If the National Bank of Moldova reduces the level of the existing countercyclical buffer rate, including if the value is 0, an indicative period is also set during which no increase in the buffer is expected. The setting of the indicative period is not a commitment for the National Bank of Moldova.

36. The National Bank of Moldova shall notify on a quarterly basis, by publishing on the official website, about the established rate of the countercyclical buffer for the Republic of Moldova. The notification shall include at least the following information:

1) the applicable rate of countercyclical buffer;

2) the relevant ratio „loans to the private sector / gross domestic product” and its deviation from the long-term trend;

3) the reference point for buffer, calculated in accordance with paragraph 29;

4) a justification for this rate of countercyclical buffer;

5) if the rate of countercyclical buffer is increased - the date from which the increased rate has to be applied for the purpose of calculating the bank-specific countercyclical capital buffer;

6) if the date referred to in sub-paragraph 5 is before 12 months from the date of publication of decision under paragraph 5, a reference to exceptional circumstances justifying the reduction of the time-limit for implementation shall be made;

7) where the rate of countercyclical buffer rate is reduced, the indicative period during which no rate increases are expected, together with a justification for this period.

Section 5
Approval of countercyclical buffer rates higher than 2.5% established in foreign states

37. If a relevant authority in a foreign state has set for that state a countercyclical buffer rate higher than 2.5% of the total amount of risk exposure, the National Bank of Moldova shall consider this buffer rate for the purpose of calculating the bank-specific countercyclical capital buffer.

38. The decision of the National Bank of Moldova to recognize a rate of over 2.5% of the countercyclical buffer for a foreign state to be applied by banks shall contain at least the applicable rate of the said buffer, the name of the foreign state to which it applies and the date from which this rate is to be applied.

39. In the case referred to in paragraph 38, the National Bank of Moldova shall also announce its recognition by publication on its official website. The notification shall include at least the following information:

1) applicable rate of countercyclical buffer;

2) the foreign state to which it applies;

3) if the rate of countercyclical buffer is increased - the date from which the increased rate has to be applied for the purpose of calculating the bank-specific countercyclical capital buffer;

4) if the date referred to in sub-paragraph 3) is before 12 months from the date of publication of the decision in accordance with paragraph 38, a reference to the exceptional circumstances justifying the reduction in the time-limit for implementation.

Section 6
Peculiarities of the decision on the countercyclical buffer rates for foreign states

40. If the relevant authority of a foreign state did not establish and publish the countercyclical buffer rate for that state, and one or more banks hold credit exposures located in that state, the National Bank of Moldova shall determine the countercyclical buffer rate for that state to be applied for the purposes of calculating the bank-specific countercyclical capital buffer.

41. The determination of the countercyclical buffer rate for the foreign state in the case specified in paragraph 40 can be done using the gross domestic product and credit data in that state, as well as other information on economic and financial conditions for that state, that are available from different sources.

42. If, in the situation specified in paragraph 40, the National Bank of Moldova does not set the rate of the respective buffer for the foreign state, then the 0% rate for the respective exposures shall apply.

43. If the relevant authority in a foreign state has established and published the countercyclical buffer rate for that state, the National Bank of Moldova shall set a different rate of countercyclical buffer for that foreign state for the purposes of calculation by banks of the bank-specific countercyclical capital buffer, if it has reasonable grounds to believe that the countercyclical buffer rate established by the relevant foreign state authority is not sufficient to adequately protect these banks against the risks of excessive credit growth in that state.

44. A countercyclical buffer rate for the foreign state shall not be set below the rate established by the relevant authority in that state, unless that rate of the buffer exceeds 2.5% of the total amount of the risk exposure.

45. Where a countercyclical buffer rate for a foreign state which is superior to the existing applicable rate of countercyclical buffer is set in accordance with paragraph 40 or 43, it also sets the date from which this increased rate is to be applied for the purposes of calculation of bank-specific countercyclical capital buffer. That date shall not exceed 12 months from the date on which the increased rate of countercyclical buffer is published in accordance with paragraph 47.

46. If the date referred to in paragraph 45 is before 12 months after the date on which the increased rate of countercyclical buffer is published, the shorter implementation deadline shall be justified on the basis of exceptional circumstances.

47. The decision of the National Bank of Moldova on the countercyclical buffer rate determined in accordance with paragraphs 40 or 43 shall contain at least the applicable rate of the said buffer, the foreign state to which it applies and the date from which that rate is to be applied.

48. The National Bank of Moldova shall also notify on the official website about the setting of any rate of countercyclical buffer for a foreign state in accordance with paragraphs 40 or 43. The notification shall include at least the following information:

1) the countercyclical buffer rate and the foreign state to which it applies;

2) a justification for this buffer rate;

3) if the countercyclical buffer rate is set above zero for the first time or is increased - the date from which the increased rate has to be applied for the purposes of calculating the bank-specific countercyclical capital buffer;

4) if the date referred to in sub-paragraph 3) is before 12 months from the date of publication of the judgment under paragraph 47 - a reference to the exceptional circumstances justifying the reduction of the implementation deadline.

Section 7
Peculiarities related to the term of imposing certain countercyclical buffer rates set by the foreign states

49. Subject to paragraph 50, if the increased countercyclical buffer rate higher than 2.5% established by the relevant foreign state authority is not recognized under Section 5 of this Chapter or where the relevant authority in the foreign state has set the increased countercyclical buffer rate for that state but it does not exceed 2.5%, the respective rate shall apply 12 months from the date on which the relevant authority in the respective state announced an increase in the countercyclical buffer rate, irrespective of whether the authority in question requires banks established in that foreign state to apply the modification within a shorter period. In this respect, a modification in the countercyclical buffer rate for the foreign state is deemed to be announced at the time it is published by the relevant authority in that foreign state under the applicable national regulatory framework.

50. The National Bank of Moldova shall demand banks to apply the rates indicated in paragraph 49 from the date that is before 12 months from the date when the relevant foreign state authority announced the increase in the countercyclical buffer rate. In this case, the shorter term for implementing the increased rate is either justified based on exceptional circumstances or shall correspond to the shorter term when the relevant authority of the foreign state requires banks established in that foreign state to apply the increased rate.

51. The decision of the National Bank of Moldova to impose a shorter period than 12 months in accordance with paragraph 50 shall contain at least the reference to the foreign state which has established the buffer rate and the respective rate, the date from which the rate of the said buffer is to be applied.

52. The National Bank of Moldova shall also announce on its official website about the introduction of a deadline for applying the countercyclical buffer rate for a foreign state referred to in paragraph 50. The notification shall include at least the following information:

1) the countercyclical buffer rate and the foreign state to which it applies;

2) a reference to the exceptional circumstances justifying the reduction of the implementation period or, where appropriate, a reference to the shorter term which the relevant authority in the foreign state requires banks set up in that state to apply the increased rate.

Chapter IV
O-SII BUFFER

Section 1
Identification of O-SII type companies in the Republic of Moldova

53. An O-SII type company in the Republic of Moldova is either a parent bank in the Republic of Moldova, a parent holding company in the Republic of Moldova, a mixed parent holding company in the Republic of Moldova or a bank in the Republic of Moldova, whose bankruptcy or malfunction can trigger systemic risk at national level.

54. In order to assess the systemic importance and identify banks as O-SII type companies in the Republic of Moldova, the National Bank of Moldova uses a methodology based on at least one of the following criteria:

1) size;

2) the importance for the economy of the Republic of Moldova;

3) the scope of cross-border activities;

4) interconnection of the bank or the group with the financial system.

55. The National Bank of Moldova shall inform the public, at least through its official website, about its methodology for identifying the O-SII type companies in the Republic of Moldova, elaborated in the light of the provisions of this section.

56. The National Bank of Moldova shall identify the banks that are O-SII type companies in the Republic of Moldova and establishes the list of these banks, which is reviewed at least annually. The updated list of banks identified as O-SII type companies in the Republic of Moldova shall be approved by a decision of the Executive Board of the National Bank of Moldova, which shall be published in the Official Monitor of the Republic of Moldova. The list of O-SII banks in the Republic of Moldova shall be approved by the decision indicated in paragraph 61.

57. In addition to the publication of the decision under paragraph 56, the National Bank of Moldova shall also communicate the name of the banks identified as O-SII type companies in the Republic of Moldova:

1) the target banks;

2) to the public by publishing the list of O-SII type companies in the Republic of Moldova on the official website.

Section 2

The requirement to maintain an O-SII buffer

58. Based on the criteria for identification of the O-SII type companies in the Republic of Moldova, the National Bank of Moldova may demand every O-SII type company in the Republic of Moldova, on a consolidated or individual basis, as the case may be, to maintain an O-SII buffer of up to 3% of the total amount of risk exposure.

[Item 58 amended by the Decision of Executive Board of NBM No 3 of 09.01.2025, in force 16.02.2025]

58^{1}. Under the recommendation of the designated macroprudential national authority, as defined in the legislation in force, the National Bank of Moldova may require the O-SII, on a consolidated or individual basis, as appropriate, to maintain an O-SII buffer higher than 3% of the total amount of risk exposure.

[Item 58^{1} added by the Decision of Executive Board of NBM No 3 of 09.01.2025, in force 16.02.2025]

59. If the O-SII buffer rate set by the National Bank of Moldova for an O-SII type company in the Republic of Moldova is higher than 0%, that bank shall maintain an O-SII buffer at the rate established by the National Bank and Moldova.

60. The O-SII type companies from the Republic of Moldova shall not use common equity Tier 1 capital that are retained to cover the O-SII buffer referred to in paragraph 58 in order to meet any of the requirements imposed in accordance with the Regulation No 109/2018, the requirement to maintain a capital conservation buffer under Chapter II of this Regulation, the requirement to maintain a bank-specific countercyclical capital buffer in accordance with Chapter III, Section 2 of this Regulation, as well as any of the requirements imposed under Article 139, paragraph (1) - (5) of Law No 202/2017.

Section 3
Determination of the O-SII buffer

61. The decision of the National Bank of Moldova on the O-SII buffer rate shall contain at least the name of the banks identified as O-SII type companies in the Republic of Moldova that shall apply the buffer, the buffer rate for each O-SII type company in the Republic of Moldova and the date from which this rate is to be applied.

62. If the National Bank of Moldova demands the maintenance of an O-SII buffer, it shall comply with the following:

1) the O-SII buffer shall not create disproportionate negative effects on the financial system as a whole or parts thereof, forming or creating an obstacle to the functioning of the internal market;

2) the O-SII buffer shall be reviewed at least annually.

63. Without prejudice to Chapter V and paragraph 58, where an O-SII type company in the Republic of Moldova is a subsidiary of an O-SII type company which is either a bank, either a group led by a parent bank in the foreign State and is subject to a specific buffer of the O-SII on a consolidated basis, the buffer to be applied on an individual basis, for the O-SII type company, which is the subsidiary of the Republic of Moldova, must not exceed the lower amount of the following:

1) the sum of the O-SII buffer rate applicable to the group on a consolidated basis and 1% of the total amount of risk exposure; and

2) 3 % of the total amount of risk exposure or the buffer rate specific to the O-SII company applicable to the group on a consolidated basis, set by the National Bank of Moldova in accordance with the paragraph 58^1..

[Item 63 amended by the Decision of Executive Board of NBM No 3 of 09.01.2025, in force 16.02.2025]

Section 4
Information on the O-SII buffer and correlation with the systemic risk buffer

[Name of Section 4 completed by the Decision of Executive Board of NBM No 3 of 09.01.2025, in force 16.02.2025]

64. If the requirement of the O-SII buffer is established, in addition to the publication of the decision in accordance with paragraph 61, the National Bank of Moldova shall also inform the public through its official website, and of the O-SII companies in the Republic Moldova, at least the following information:

1) the name of the banks identified as O-SII type companies in the Republic of Moldova;

2) the respective buffer rate for each O-SII type company in the Republic of Moldova.

65. In addition to the information referred to in paragraph 64, the National Bank shall also publish information related to:

1) the reasons for which the O-SII buffer is considered to be effective and proportionate in mitigating the risk;

2) an assessment, based on the available information, of the possible positive or negative impact of the O-SII buffer on the internal market.

65^1. If a bank is subject to a systemic risk buffer set out in accordance with paragraph 70, that buffer shall be cumulated with the O-SII buffer to be applied in accordance with this Chapter.

[Item 65^1 amended by the Decision of Executive Board of NBM No 3 of 09.01.2025, in force 16.02.2025]

[Section 5 "Correlation between the O-SII buffer and the systemic risk buffer" repelled by the Decision of Executive Board of NBM No 3 of 09.01.2025, in force 16.02.2025]

Chapter V
SYSTEMIC RISK BUFFER

Section 1
Requirement to maintain a systemic risk buffer

70. The National Bank of Moldova shall establish a systemic risk buffer in order to prevent and mitigate macroprudential or systemic risks that are not covered by other normative acts developed under Law No 202/2017 and the provisions of Chapter III, Section 2 and Chapter IV of this Regulation, in the sense of risk disruption of the financial system that can generate considerable negative consequences for the financial system and for the real economy of the Republic of Moldova..

[Item 70 amended by the Decision of Executive Board of NBM No 3 of 09.01.2025, in force 16.02.2025]

71. If the National Bank of Moldova acts in accordance with paragraph 70, banks shall calculate the systemic risk buffer, on an individual or consolidated basis, as follows:

$$B_{SR} = r_T \cdot E_T + \sum_i r_i \cdot E_i$$

where:

BSR = the systemic risk buffer;

r_T = buffer rate applicable to the total amount of risk exposure of a bank;

E_T = the total amount of risk exposure of an institution, calculated in accordance with paragraph 132 of Regulation No 109/2018;

i = the index denoting the subset of exposures as referred to in paragraph 76;

r_i = buffer rate applicable to the risk exposure amount of the subset of exposures i;

Ei = risk exposure amount of a bank for the subset of exposures i, calculated in accordance with the paragraph 132 of the Regulation No 109/2018.

[Item 71 amended by the Decision of Executive Board of NBM No 3 of 09.01.2025, in force 16.02.2025]

72. Banks shall not use common equity Tier 1 capital for compliance with the requirement provided in paragraph 71 in order to meet any of the requirements imposed by the Regulation No 109/2018, the requirement to maintain a capital conservation buffer pursuant to Chapter II of this Regulation, the requirement to maintain a bank-specific countercyclical capital buffer according to Chapter III, Section 2 of this Regulation, and any of the requirements imposed under Article 139, paragraph (1) - (5) of Law No 202/2017.

73. If the application of restrictions on distributions referred to in Chapter VI does not lead to a satisfactory improvement of the bank's common equity Tier 1 capital, from the perspective of relevant systemic risk, the National Bank of Moldova shall take additional measures in accordance with Article 138, paragraph (1) and (2) of Law No 202/2017.

74. Where the bank is subject to a systemic risk buffer, in addition to the provisions of this Chapter, the provisions of Chapter IV, Section 5, shall apply.

Section 2
Determination of systemic risk buffer

75. The National Bank of Moldova shall impose the systemic risk buffer to all exposures or a sub-subset of exposures, as it was mentioned in paragraph 76, on all banks and/or one or more sub-sets of those banks and sets the rate of this buffer in gradual or accelerated adjustment steps of 0.5 percentage points. The National Bank of Moldova shall impose different requirements (rates) for different groups of banks and exposures.
[Item 75 amended by the Decision of Executive Board of NBM No 3 of 09.01.2025, in force 16.02.2025]

76. A systemic risk buffer may apply:
1) to all exposures located in the Republic of Moldova;
2) the following sectoral exposures in the Republic of Moldova:
a) all retail exposures to natural persons that are secured on residential property;
b) all exposures to legal entities which are secured by mortgages on commercial immovable property;
c) all exposures to legal entities other than those specified in letter b);
d) all exposures to natural persons other than those specified in letter a);
e) other sectoral exposures.
3) all exposures located in other States;
4) sectoral exposures, as identified in subparagraph 2), located in other States, only to enable recognition of a buffer rate set by another State in accordance with Section 4 of this Chapter;
5) subsets of any of the categories of exposures identified in subparagraph 2), based on the type of debtor or sector of the counterparty, exposure type, collateral type, risk profile, geographical area.
[Item 76 amended by the Decision of Executive Board of NBM No 3 of 09.01.2025, in force 16.02.2025]

77. If the maintenance of a systemic risk buffer is demanded, the National Bank of Moldova shall comply with the following:
1) the systemic risk buffer shall not create disproportionate negative effects on the financial system as a whole or in part, forming or creating in this way an obstacle to the functioning of the internal market;
2) the systemic risk buffer shall be reviewed at least once every two years;
3) the systemic risk buffer shall not be used to address risks covered by the provisions of Chapters III and IV of this Regulation.
[Item 77 amended by the Decision of Executive Board of NBM No 3 of 09.01.2025, in force 16.02.2025]

78. The decision to establish or restore a rate of systemic risk buffer shall be taken based on the following elements:
1) the systemic or macro-prudential risk in the state concerned;
2) the reasons why the size of systemic or macro-prudential risks threatens the stability of the financial system in the Republic of Moldova, justifying the systemic risk buffer risk;
3) the reasons why the systemic risk buffer is considered effective and proportionate for risk mitigation;
4) an assessment, based on the available information, of the potential positive or negative impact of the systemic risk buffer on the internal market;
5) the reasons why none of the measures contained in Law No 202/2017 or in the regulatory acts based on the Law, are not sufficient, individual or in conjunction, to address the identified

macro-prudential or systemic risk, taking into account the relative effectiveness of the respective measures;

6) if the systemic risk buffer rate applies to all exposures, a justification of why the National Bank of Moldova considers that the systemic risk buffer is not duplicating the functioning of the O-SII buffer provided for in Chapter IV of this Regulation.

[Item 78 amended by the Decision of Executive Board of NBM No 3 of 09.01.2025, in force 16.02.2025]

79. The decision of the National Bank of Moldova on the systemic risk buffer shall contain at least the established rate of the said buffer, the level of applicability (on an individual / consolidated basis), the list of banks to which the buffer shall apply, the date from which this rate is to be applied and the countries where the exposures to which this buffer applies, are located.

Section 3
Information on systemic risk buffer

80. If the National Bank of Moldova establishes the requirement of a systemic risk buffer, it shall, in addition to the publication of decision under paragraph 79, notify the public by publishing at least the following information on the official website:

1) the systemic risk buffer rate(s) and the applicability level (on an individual / consolidated basis);

2) the name of the banks to which the systemic risk buffer applies;

2^1) the exposures to which the systemic risk buffer rate(s) applies;

3) a justification for the systemic risk buffer rate(s);

4) the date from which banks must apply the established or restored rate(s) of systemic risk buffer; and

5) the countries where the exposures are located, at which the established rate of the systemic risk buffer will be applied.

[Item 80 amended by the Decision of Executive Board of NBM No 3 of 09.01.2025, in force 16.02.2025]

81. If the publication of information referred to in paragraph 80, sub-paragraph 3) may endanger the stability of the financial system, the respective information shall not be included in the notification.

82. If the established rate of the systemic risk buffer is applicable to exposures located in foreign states, the National Bank of Moldova shall send to the supervisory authorities of those states a letter at least with the information included in the notice referred to in paragraph 80 and which may be completed with the relevant information indicated in paragraph 78.

Section 4
Recognition of a systemic risk buffer rate set by the foreign state

83. The National Bank of Moldova may recognize the systemic risk buffer rate established by the relevant authority in a foreign state for banks authorized in that state. In this case, the National Bank of Moldova may demand from the banks in the Republic of Moldova the application of the recognized systemic risk buffer rate for the exposures located in the respective state which has set the rate of the buffer recognized by the National Bank of Moldova.

83^1. If the National Bank of Moldova imposes a systemic risk buffer rate on Moldovan banks according to paragraph 83, that systemic risk buffer may be cumulative with the systemic risk buffer

applied in accordance with paragraph 70, provided that the buffers address different risks. Where the buffers address the same risks, only the higher buffer shall apply.
[Item 83[1] added by the Decision of Executive Board of NBM No 3 of 09.01.2025, in force 16.02.2025]

84. For the purpose of adopting the recognition decision under paragraph 83, account shall be taken of the information specified in paragraph 80 which is publicly available or provided, upon request, by the relevant authority of the respective state which determines the buffer rate.

85. The decision of the National Bank on recognition shall contain at least the applicable rate of the said buffer, the name of the foreign state in which the exposures to which the recognized rate applies, and the date from which that rate is to be applied by banks.

86. The National Bank of Moldova shall also notify on the recognition of the rate by publishing the information referred to in paragraph 85 on the official website.

Chapter VI
CAPITAL CONSERVATION MEASURES

Section 1
Combined buffer requirement

87. Banks that meet the combined buffer requirement are forbidden to make a distribution in relation to their common equity Tier 1 capital, provided that those distributions will lead to a reduction in common equity Tier 1 capital up to a level at which the combined buffer requirement is no longer met.

87[1]. A bank fails to meet the combined buffer requirement where it does not hold own funds in the amount and of the quality necessary to meet both the combined buffer requirement and each of the requirements set out in Regulation No 109/2018 and any of the requirements imposed under the Article 139 paragraphs (3)-(5) of Law No 202/2017, addressing other risks than the risk associated with excessive leverage.
[Item 87[1] added by the Decision of Executive Board of NBM No 3 of 09.01.2025, in force 16.02.2025]

88. If banks do not meet the combined buffer requirement, the provisions of Sections 2 to 4 of this Chapter shall apply.

89. For the purposes of this Chapter and with reference to the provisions of the Regulation No 109/2018, a distribution in relation to common equity Tier 1 capital, shall include the following:

1) payment of dividends in cash;
2) distribution of bonus shares, partially or wholly paid, or other capital instruments;
3) purchase by a bank of its own shares or other capital instruments;
4) repayment of the amounts paid in connection with the capital instruments;
5) distribution of any common equity Tier 1 capital items.

Section 2
Restrictions on distributions

90. Banks that do not meet the combined buffer requirement shall:

1) calculate the maximum distributable amount in accordance with Section 3 of this Chapter;
2) notify the National Bank of Moldova, by letter, about the failure of the combined buffer requirement and the calculated maximum distributable amount. That notification shall be submitted to the National Bank of Moldova no later than the next business day following the calculation of the maximum distributable amount.

91. Until the approval by the National Bank of Moldova of the capital conservation plan in accordance with Section 4 of this Chapter, the issuance of such prior approval as set out in paragraphs 94 to 97 to any bank in the situation referred to in paragraph 90 shall be prohibited from taking any of the following measures:

1) distribution of common equity Tier 1 capital;

2) creation of an obligation to pay variable remuneration or discretionary pension benefits or the payment of variable remuneration if the obligation to pay was created at a time when the bank did not meet the requirements of the combined buffer requirements;

3) making payments related to additional Tier 1 own funds items.

92. Once the capital conservation plan has been approved by the National Bank of Moldova in accordance with Section 4 of this Chapter and it has issued the prior approval referred to in paragraph 94, the bank may distribute by any of the measures referred to in paragraph 91, up to the maximum distributable amount (calculated in accordance with Section 3 of this Chapter).

93. The restrictions set out in Sections 1 and 2 of this Chapter only apply to payments which result in a reduction in common equity Tier 1 capital or a reduction in profits and provided that the suspension of a payment or non-payment is not an event of failure to fulfil obligations or a condition for the commencement of insolvency proceedings with respect to the bank.

94. If a bank does not meet the combined buffer requirement and intends to distribute any of its distributable profits or take one of the measures referred to in paragraph 91, it shall demand the prior approval of the National Bank of Moldova, with at least 30 business days before the holding of the bank board meeting which shall examine the expected distribution / measure or the respective proposal, which shall be submitted to the general meeting of the shareholders.

95. The process of requesting and issuing the prior approval referred to in paragraph 94 is regulated by the Regulation No 109/2018, as well as by the provisions of paragraphs 96 and 97.

96. During the application process indicated in paragraph 94, in addition to the documents necessary for receiving the prior approval of capital distributions as provided for in the Regulation No 109/2018, banks shall provide the following information:

1) the amount of own funds held by the bank, denominated as follows:

a) common equity Tier 1 capital,

b) additional Tier 1 own funds,

c) Tier 2 own funds;

2) the amount of interim and end-of-year financial profits;

3) the maximum distributable amount, calculated in accordance with Section 3 of this Chapter;

4) the amount of distributable profits, planned to be allocated for the following:

a) dividend payments,

b) share repurchases,

c) payments related to additional Tier 1 own funds items,

d) payment of a variable remuneration or discretionary pension benefits, including the creation of a new payment obligation or payment under a payment obligation created at the time the bank failed to meet the combined buffer requirement.

97. If the National Bank of Moldova does not approve the capital conservation plan in accordance with paragraph 109, it shall refuse to grant the prior approval referred to in paragraph 94.

98. Banks shall have in place internal procedures to ensure that the amount of distributable profits and the maximum distributable amount are accurately calculated.

99. At the request of the National Bank of Moldova, banks shall be able to demonstrate the exact nature of the calculations mentioned in paragraph 98.

Section 3
Calculating the maximum distributable amount

100. Banks are required to calculate the maximum distributable amount by multiplying the amount calculated in accordance with paragraph 101 by the factor determined in accordance with paragraphs 102 and 103. Banks shall reduce the maximum distributable amount by any of the measures referred to in paragraph 91.

101. The amount to be multiplied in accordance with paragraph 100 shall be the amount referred to in sub-paragraph 1 and 2 of this paragraph, minus the amount referred to in sub-paragraph 3):

1) the interim profits not included in the common equity Tier 1 capital in accordance with the Regulation No 109/2018, less any distribution of profits or any payment resulting from measures referred to in paragraph 91;

2) the end-of-year financial profits not included in common equity Tier 1 capital in accordance with the requirements of the Regulation No 109/2018, less any distribution of profits or any payment resulting from measures referred to in paragraph 91;

3) the amounts that should be paid by tax if the items specified in sub-paragraph 1) and 2) of this paragraph were to be retained.

[Item 101 added by the Decision of Executive Board of NBM No 3 of 09.01.2025, in force 16.02.2025]

102. The factor set out in paragraph 100 depends on the proportion between:

1) common equity Tier 1 capital held by the bank and which is not used to meet the own funds requirement set out in paragraph 130 of Regulation No 109/2018 and additional own funds requirement, stipulated in Article 139 paragraph (3) – (5) of Law No 202/2017, that addresses other risks than the risk associated with excessive use of leverage, expressed as a percentage of the total amount of risk exposure, and 2) the combined buffer requirement, expressed as a percentage of the total amount of risk exposure.

[Item 102 added by the Decision of Executive Board of NBM No 3 of 09.01.2025, in force 16.02.2025]

103. The factor set out in paragraph 102 is determined as follows:

1) the factor 0 applies if the proportion referred to in paragraph 102 is less than or equal to 25%;

2) the factor 0.2 applies if the proportion referred to in paragraph 102 is more than 25% and less than or equal to 50%;

3) the factor 0.4 applies if the proportion referred to in paragraph 102 is more than 50% and less than or equal to 75%;

4) the factor 0.6 applies if the proportion referred to in paragraph 102 is more than 75% and less than or equal to 100%.

Section 4
Capital conservation plan

104. In the event that a bank fails to meet the combined buffer requirement, in addition to the requirements set out in Section 2 of this Chapter, the bank shall draw up and submit for prior approval to the National Bank of Moldova a capital conservation plan approved by the management body of the bank.

105. The capital conservation plan shall be submitted to the National Bank of Moldova not later than 5 business days after it found out that the plan does not meet the mentioned requirement, unless the National Bank of Moldova, following a request from the bank with detailed arguments, authorizes a longer term of up to 10 business days.

106. The National Bank of Moldova shall authorize by letter a longer term for the submission of the conservation plan only on the basis of the individual situation of a bank and taking into account the scale and complexity of the activity of the bank.

107. The capital conservation plan of the bank shall include at least the following:

1) estimates of revenues and expenditures, asset write-downs and contingent liabilities, as well as a forecast balance sheet;

2) measures to increase the capital rates of banks;

3) a plan and timetable for increasing own funds in order to fully meet the combined buffer requirement.

The capital conservation plan of the bank shall include any other information that the bank deems necessary to submit to the National Bank of Moldova in order to carry out the assessment set out in paragraph 109.

108. In the process of assessment of the capital conservation plan, the National Bank of Moldova may demand any information which it deems necessary to conduct the assessment stipulated in paragraph 109. The request shall be submitted in written form and enclose the necessary information and the deadlines for submission. The assessment term provided in paragraph 109 shall be suspended before the submission of the requested information.

109. The National Bank of Moldova shall assess the capital conservation plan of the bank and approve it only if it considers that its realization may lead to maintaining or increasing the capital to a sufficient level to allow the bank to meet the combined buffer requirement within a period that the National Bank of Moldova deems appropriate. The assessment shall be carried out within 15 business days from the date of receipt of the conservation plan, containing all the information indicated in paragraph 107, sub-paragraph 1) to (3) and paragraph 108. In the case of requesting additional information from the bank, the National Bank of Moldova may extend the term of examination of the said plan by 10 days.

110. If the National Bank of Moldova does not approve the capital conservation plan in accordance with paragraph 109, it shall require at least one of the following measures:

1) shall ask the bank to increase its own funds to certain levels, following a precise timetable;

2) shall exercise the powers provided for in Article 139, paragraph (1) and (2) of Law No 202/ 2017 in order to impose restrictions on more stringent distributions than those provided for in this Chapter.

Annex
to the Regulation on Capital Buffers of Banks

Identification of geographical location of relevant credit exposures for the purpose of calculating the bank-specific countercyclical capital buffer rates

Section 1
Geographical location of general credit exposures

1. All general credit exposures, which do not fall under paragraphs 2 to 6 of this Annex, shall be attributed to the place where the obligor is situated.

2. General credit exposures to collective investment undertakings (UCIs) are assigned to the location of the obligor of underlying exposures. Where there are several locations corresponding to the obligors of underlying exposures required for a particular exposure to the CIU, that exposure shall be attributed to the location of the obligor of underlying exposures with the highest weight in the underlying exposures.

3. For the purposes of paragraphs 1 and 2, the location of the obligor means the country where the natural or legal person, which is the counterpart of the bank for a particular general credit exposure or the issuer of a financial instrument not included in the trading book or counterparty for an exposure outside of the trading book, is residing (in the case of individuals) or has its registered office (in the case of legal entities). For a legal entity whose effective business management centre is in a country other than that in which its registered office is located, the “location of the obligor” means the country where its actual place of business management is located.

4. For the purposes of paragraphs 1 and 2, the general credit exposure means the amount of risk exposure calculated in accordance with the regulations of the National Bank of Moldova on own funds of banks and capital requirements of an exposure referred to in paragraph 19, sub-paragraph 1) of this Regulation.

5. Exposures resulting from specialized financing shall be attributed to the income location, which is the country where the assets generating the income representing the principal source of repayment of the obligation related to an exposure from specialized financing are located.

6. For the purposes of paragraph 5, exposure arising from specialized financings is the general credit exposure which has the following characteristics:

1) exposure to an entity specifically created to finance or manage tangible assets or is an economically comparable exposure;

2) the contractual provisions give the lender a substantial degree of control over the assets and incomes it generates;

3) the main source of credit repayment is the income generated by the funded assets and not the independent repayment capacity of the company as a whole.

7. The general credit exposures to other items, stipulated by the Regulation No 111/2018, shall be assigned to the Republic of Moldova if the bank cannot identify its obligor.

8. The following general credit exposures can be attributed to the Republic of Moldova:

1) exposures to collective investment undertakings (CIUs) where the bank cannot identify the place where the obligor is located or the underlying exposures obligor based on information internally or externally available without a disproportionate effort;

2) external exposures which aggregate value does not exceed 2% of the aggregate amount of general credit exposures and exposures included in the trading book of that bank. The aggregate amount of general credit exposures and exposures included in the trading book shall be calculated excluding the general credit exposures identified in accordance with sub-paragraph 1 of this paragraph and paragraph 7 of this Annex.

9. For the purposes of paragraph 8, sub-paragraph 2), external exposure is a general credit exposure where the obligor is not located in the Republic of Moldova.

10. Banks calculate the percentage referred to in paragraph 8, sub-paragraph 2), both on a yearly basis and on an ad-hoc basis. An ad hoc calculation is necessary if an event that occurs affects the financial or economic situation of the bank.

Section 2
Geographic location of exposures included in the trading book

11. Subject to the provisions of paragraph 12 of this Annex, exposures included in the trading book shall be attributed to the place where the debtor is located. The exposure included in the trading book shall represent the amount of risk exposure calculated in accordance with the Regulation No 109/2018, of an exposure referred to in paragraph 19, sub-paragraph 2) of this Regulation.

12. For the purpose of paragraph 11, the location of the debtor refers to the country in which the individual or legal entity that is the issuer of the financial instrument included in the trading book or the counterparty for an exposure included in the trading book, resides) or has its registered office (in the case of legal entity). For a legal entity whose effective centre of business management is in a country other than that in which its registered office is located, the "location of the debtor" means the country in which its actual place of business management is located.

13. Banks, which total exposures in the trading book do not exceed 2% of the total amount of general credit exposures and exposures included in the trading book, may assign these exposures to the Republic of Moldova.

14. Banks shall calculate the percentage referred to in paragraph 13 of this Annex on a yearly basis as well as on an ad hoc basis. An ad hoc calculation is necessary if an event that occurs affects the financial or economic situation of the bank.