

**THE EXECUTIVE BOARD
OF THE NATIONAL BANK OF MOLDOVA**

**DECISION No 3
of _09_ January_ 2025**

**To amend the Regulation on Capital Buffers of Banks, approved by the Decision of the
Executive Board of the National Bank of Moldova No 110/2018**

Pursuant to Article 44 letter a) and 46 of Law No 548/1995 regarding the National Bank of Moldova (republished in the Official Monitor of the Republic of Moldova, 2015, No 297-300, art.544), along with art. 63 of Law No 202/2017 on the activity of banks (Official Monitor of the Republic of Moldova, 2017, No 434-439, art.727), Executive Board of the National Bank of Moldova.

DECIDES:

This decision transposes the art.1 (paragraphs 45-47 and paragraphs 49-52) of the Directive (EU) 2019/878 of the European Parliament and the Council of the 20 May 2019 on amending the Directive 2013/36/EU regarding the exempted entities, the financial holding companies, mixed financial holding companies, remuneration, measures and supervisory powers and capital conservation measures, published in the Official Journal of the European Union No L 150 of 7 June 2019, No CELEX: 32019L0878, as it was amended by the Directive (EU) 2021/338 of the European Parliament and the Council of 16 February 2021 on amending the Directive 2014/65/EU regarding the information requirements, product governance and the position limits, as well as the Directives 2013/36/EU and (EU) 2019/878 on application of these in investment firms, to contribute to the recovery from the crisis after COVID-19.

1. The Decision of the Executive Board of the National Bank of Moldova No 110/2018 on the approval of Regulation on capital buffers of banks (Official Monitor of the Republic of Moldova, 2018, No 183-194, art.900), registered at the Ministry of Justice of the Republic of Moldova under No 1333/2018, shall be amended as follows:

1) In the clause adopting the decision, the text ‘Law No 548-XIII of 21 July 1995’ and the text ‘Law No 202 of 6 October 2017’ is replaced with the text ‘Law No 548/1995’ and respectively ‘Law No 202/2017’, and the words ‘and completions’ shall be excluded.

2) In the harmonization clause the words ‘and investment firms’ shall be excluded, and the text ‘Directive (EU) 2015/2366 of 25 November 2015 on payment services in the internal market, amending Directives 2002/65 / EC, 2009/110 / EC and 2013/36 / EU and Regulation (EU) No 1093/2010 and repealing Directive 2007/64 / EC, published in the Official Journal of the European Union No L 337/35 of 23 December 2015’ shall be replaced with the text ‘The Directive (EU) 2023/2864 of the European Parliament and of the Council of 13 December 2023 on 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.’.

- 3) Paragraph 2, after the text ‘art.727)’, is completed with the text ‘(hereinafter: Law No 202/2017)’.
- 4) In paragraph 6, the text ‘by the normative acts of the National Bank of Moldova on own funds of banks and capital requirements.’ is replaced with the text ‘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)’.
- 5) Throughout the Regulation, the words ‘normative acts of the National Bank of Moldova on own funds of banks and capital requirements’ and the text ‘Law No 202 of 6 October 2017 on the activity of banks’, to any grammatical form, is replaced with the text ‘Regulation No 109/2018’ and respectively ‘Law No 202/2017’, to the appropriate grammatical form.
- 6) Add paragraphs 6¹and 6² to read as follows:
‘6¹. 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.
6². 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’.
- 7) In paragraph 8, the words ‘in accordance with’ are completed with the text ‘paragraph 132 of’.
- 8) Paragraph 9 is completed with the text ‘on an individual /consolidated basis’.
- 9) Paragraph 13 is completed with the text ‘on an individual /consolidated basis. This buffer consists of common equity Tier 1 capital.’.
- 10) In paragraph 14, the words ‘normative acts of the National Bank of Moldova’ are replaced with the text ‘Regulation No 109/2018’.
- 11) Paragraph 18 shall read as follows:
‘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).’.
- 12) In paragraph 19, subparagraphs 1) and 2) shall read as follows:
‘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.’.

13) Paragraph 30 shall read as follows:

‘**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.’.

14) In paragraph 58, the text ‘of up to 2%’ is replaced with the text ‘of up to 3%’.

15) Add paragraph 58¹ to read as follows:

‘**58¹.** 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.’.

16) Paragraph 63 will read as follows:

‘**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 58¹.’.

17) Name of Section 4 ‘Information on the O-SII buffer’ of Chapter IV is supplemented with words ‘and correlation with the systemic risk buffer’.

18) Section 4 of Chapter IV is completed with paragraph 65¹ below:

‘**65¹.** 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.’.

19) Section 5 ‘Correlation between the O-SII buffer and the systemic risk buffer’ from Chapter IV shall be repealed.

20) Paragraph 70 shall read as follows:

‘**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.’.

21) Paragraph 71 shall read as follows:

‘**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 ;

E_i = 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.’.

22) Paragraph 75, in the first statement, after the words ‘systemic risk buffer’ it is completed with the text ‘all exposures or a subset of exposures, as it was mentioned in paragraph 76, of’. The second statement is completed with the words ‘and of exposures’.

23) Paragraph 76 shall read as follows:

‘**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.’.

24) Paragraph 77 is completed with the subparagraph 3) as follows:

‘3) the systemic risk buffer shall not be used to address risks covered by the provisions of Chapters III and IV of this Regulation.’.

25) Paragraph 78 is supplemented by subparagraph 6) as follows:

‘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.’.

26) Paragraph 80,

Subparagraph 1), after the word ‘rate’, is supplemented with words ‘or rates’;

is supplemented with subparagraph 2¹) as follows: ‘2¹) the exposures to which the systemic risk buffer rate(s) applies;’;

in subparagraph 3) the word ‘buffer’ is replaced with words ‘buffer rate or rates’;

in subparagraph 4) the words ‘the established or restored rate of’ are replaced with the words ‘the established or restored rates of’.

27) Add paragraph 83¹ to read as follows:

‘83¹. 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.’.

28) Add paragraph 87¹ to read as follows:

‘87¹. 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.’.

29) In paragraph 101, subparagraphs 1) and 2),

the words ‘which were generated after the most recent profit distribution decision or after taking any of the’ are replaced with the words ‘less any distribution of profits or any payment resulting from’;

in subparagraph 2) the word ‘requirements’ is excluded;

in subparagraph 3) the word ‘tax’ is replaced with words ‘taxes and duties’.

30) In paragraph 102, subparagraph 1) shall read as follows:

‘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’.

31) In the Annex to the Regulation,

in paragraph 7 the words ‘stipulated by the National Bank of Moldova normative acts related to the treatment of credit risk for banks according to the standardized approach’ is replaced with the text ‘in Regulation No 111/2018’;

in paragraph 11 the words ‘with the regulations on own funds of banks and capital requirements’ are replaced with the text ‘Regulation No 109/2018’.

2. This Decision shall enter into force one month after the date of its publication in the Official Journal of the Republic of Moldova.