

# LAW OF GEORGIA ON MORTGAGE-BACKED BONDS

## Chapter I – General Provisions

### Article 1 – Purpose and scope of the Law

1. The purpose of this Law is to increase the availability of diversified sources of funding for commercial banks and to ensure the development of the market of mortgage-backed bonds ('mortgage bonds') in Georgia.
2. This Law regulates legal relations related to the issuance of mortgage bonds, the supervision of issuers and their activities.
3. Mortgage bonds issued in accordance with the requirements of this Law may be placed on the basis of both private and public offerings.
4. It shall be prohibited to use the words 'mortgage bond', 'mortgage-backed bond' or their foreign equivalents (including 'covered bond') in the name or description of debt securities issued in Georgia, unless the debt securities are issued in accordance with the requirements of this Law.

### Article 2 – Definition of terms

1. For the purposes of this Law, the terms used herein shall have the following meanings:
  - a) mortgage bond – a debt security issued by a commercial bank (including a refinancing bank) that is backed by the assets on which the owners of the mortgage bonds, as creditors, have the right to preferential and direct satisfaction in accordance with the requirements of this Law;
  - b) cover pool – a clearly defined set of cover assets that secures the payment obligations attached to mortgage bonds issued within a mortgage bond programme, or refinancing instruments within a refinancing programme, and that is segregated from other assets of the issuer/the debtor of the refinancing bank;
  - c) programme – a mortgage bond programme or refinancing programme as defined by this Law;
  - d) mortgage bond programme – the issuer's programme consisting of the mortgage bonds of one or several issues, and of the pool of the cover assets used to secure the payment obligations attached to them;
  - e) refinancing programme – a programme of the debtor of a refinancing bank that consists of one or more refinancing instruments and a pool of cover assets used to secure the payment obligations arising from it (them);
  - f) mortgage loan – a loan issued for any purpose that includes the principal amount and interest to be received from it (if any) and that is secured by a mortgage on immovable property under the Civil Code of Georgia;
  - g) additional asset – an asset included in a cover pool as provided for by Article 3(6) of this Law that includes the principal amount and interest to be received from it (if any);
  - h) overcollateralisation – the percentage that is calculated in accordance with the procedure established by Article 7(1) of this Law and by which the sum of nominal values of mortgage loans and additional assets in the cover pool exceeds the sum of nominal values of mortgage bonds, taking into account the claims/obligations arising from registered derivatives;
  - i) default – non-fulfilment/expected non-fulfilment of a contractual payment obligation, where additional criteria for considering it as a default are established by a legal act of the National Bank of Georgia;
  - j) market value of immovable property – the amount for which the immovable property can be reasonably expected to be exchanged on the date of valuation in an arm's length transaction wherein the parties each act knowledgeably, prudently and without being under compulsion;
  - k) issuer – a commercial bank (including a refinancing bank) that can issue mortgage bonds in accordance with this Law;
  - l) debtor of a refinancing bank (debtor) – a financial institution that has undertaken a monetary obligation towards the refinancing bank by means of a refinancing instrument;
  - m) refinancing bank – a commercial bank that issues mortgage bonds secured by the claims arising from a refinancing instrument(s) in accordance with this Law;
  - n) commercial bank – a commercial bank licensed in accordance with the Law of Georgia on the Activities of Commercial Banks;
  - o) residential property – a dwelling that is in possession of the owner or user;
  - p) public-interest entity – a public-interest entity defined under the Law of Georgia on Accounting, Reporting and Audit;
  - q) special manager – a special manager as defined by Article 37 of the Law of Georgia on the Activities of Commercial Banks;
  - r) net liquidity outflow – all payment obligations arising under a mortgage bond programme or a refinancing programme falling due on the relevant day, including principal and interest payments and payments under derivative contracts, and excluding payments receivable from cover assets on the same day;
  - s) programme creditor – a mortgage bond programme creditor or a refinancing programme creditor;
  - t) mortgage bond programme creditor – an owner of a mortgage bond issued within a mortgage bond programme, or a



- party to a registered derivative contract included in a mortgage bond programme, or a party to an agreement entered into by a programme administrator;
- u) refinancing programme creditor – a refinancing bank in legal relations concerning a refinancing instrument, or a party to a registered derivative contract included in a refinancing programme, or a party to an agreement entered into by a programme administrator;
- v) registered derivative contract – a derivative contract as provided for by Article 3(8) of this Law that is entered in the register of cover assets;
- w) programme administrator (administrator) – an administrator of a mortgage bond programme as provided for by Article 19(1) of this Law, or an administrator of a refinancing programme in the case provided for by Article 25(1) of this Law;
- x) cover asset – an asset as provided for by Article 3(1) or Article 5(1) of this Law that is included in a cover pool;
- y) refinancing instrument – any financial instrument and/or agreement by means of which a refinancing bank finances the debtor of the refinancing bank with cash loans or other equivalent means, and which is used by the refinancing bank in accordance with the requirements of this Law to secure the mortgage bonds issued by it;
- z) measure for securing an obligation – a measure whose purpose is to secure the fulfilment of an obligation as provided for by the legislation of Georgia and/or an agreement by a person, including any compulsory enforcement measure (including measures to secure the execution of a claim and decision), a security for a claim (including measures to secure the payment of tax liabilities, pledges and mortgages), as well as the use of assets in accordance with this Law to secure the claims of programme creditors;
- z<sub>1</sub>) Resolution Committee – the Resolution Committee of the National Bank of Georgia as provided for by Article 16<sup>2</sup> of the Organic Law of Georgia on the National Bank of Georgia;
- z<sub>2</sub>) separation of a mortgage bond programme (separation of a programme) – the legal regime established by Chapter VI of this Law, whose purpose is to manage a programme issuer/a debtor of a refinancing bank separately from other assets and liabilities to protect the interests of programme creditors;
- z<sub>3</sub>) close-out netting – close-out netting as defined by the Law of Georgia on Financial Collateral Arrangements, Netting and Derivatives.

2. The terms that are not defined in this Law shall have the meanings assigned by the Law of Georgia on Securities Market, the Law of Georgia on the Activities of Commercial Banks, and other normative acts of Georgia.

## Chapter II – Eligibility of Cover Assets

### Article 3 – Cover assets permitted for a commercial bank

1. To secure the payment obligations attached to mortgage bonds issued by a commercial bank, the following assets owned by the commercial bank may be included in a cover pool:

- a) claims arising from mortgage loans;
- b) additional assets;
- c) claims arising from derivative contracts.

2. A commercial bank shall not include an asset in a cover pool if one of the following circumstances exists:

- a) the asset is subject to a measure for securing an obligation;
- b) the asset is in default.

3. A mortgage loan provided for by paragraph 1(a) of this article shall meet at least the following main requirements:

- a) the loan agreement gives rise to a valid and enforceable monetary claim, whose value is determinable at all times;
- b) the mortgage meets all the necessary requirements for its origin, established by the legislation of Georgia, and is enforceable;
- c) the subject of the mortgage enables the commercial bank, as a creditor, to have its claim satisfied within a reasonable period of time;
- d) the mortgage is a right of the first order.

4. At the moment of registration of cover assets in the register, the remaining principal amount of the mortgage loan (or part thereof), that is taken into account in the calculation determined by Article 7(1) of this Law, shall not exceed 60% of the market value of the immovable property used as a means of securing the mortgage loan if the subject of the mortgage is non-residential property, and 80% if the subject of the mortgage is residential property. Accordingly, the procedure established by this paragraph shall also apply to cases where more than one mortgage loan is jointly secured by one or several immovable properties. Based on the goals of the stability of the financial sector, the National Bank of Georgia may set, for mortgage bonds issued in a foreign currency, a limit for securing a loan that is stricter than that determined by this paragraph.

5. If, after the registration in the register of cover assets, the ratio of the remaining principal amount of the mortgage loan (or part thereof) to the market value of the immovable property used to secure it exceeds the limit established by paragraph 4 of this article, the principal amount of such mortgage loan (or part thereof), which is taken into consideration in the calculation determined by Article 7(1) of this Law, shall be proportionally reduced. In this case, the issuer shall add new assets to the cover pool if this is necessary to fulfil the requirements established by this Law or a legal act issued on



the basis thereof.

6. To secure the payment obligations attached to mortgage bonds, the following assets owned by a commercial bank may be included as additional assets in the cover pool:

- a) deposits;
- b) debt securities issued or guaranteed by a relevant entity (entities) provided for by a legal act of the Government of Georgia, an international financial institution or the National Bank of Georgia;
- c) other claims in respect of a relevant entity (entities) provided for by a legal act of the Government of Georgia, an international financial institution or the National Bank of Georgia.

7. The total amount of the nominal values of the remaining principal amounts of mortgage loans included in the cover pool shall not be less than 80% of the total amount of the nominal values of the remaining principal amounts of mortgage bonds. If there are circumstances that threaten the stability of the financial sector and/or the essential interests of programme creditors, the National Bank of Georgia may set a lower limit that shall not be less than 60% of the total amount of nominal values of the remaining principal amounts of mortgage bonds. For the purposes of this paragraph, when determining the nominal value of the remaining principal amount of a mortgage loan, the limitations established by Article 7(3-5) of this Law shall apply accordingly.

8. An issuer can manage market risks (including an interest rate risk and a currency risk) affecting the mortgage bond programme by means of a derivative (derivatives) if it registers the derivative(s) in the register of cover assets. A derivative may be used only for the purpose of hedging the risks provided for by this paragraph and it shall meet at least the following conditions:

- a) the derivative is entered into on the basis of a framework agreement that only allows the close-out netting of claims arising from the derivative(s) registered in the register of cover assets;
- b) the other party to a derivative contract has expressed prior consent to the registration of the derivative in the register of cover assets;
- c) the derivative contract is drawn up in writing (including in electronic form);
- d) according to the terms of the derivative, the termination of the derivative by the other party to the derivative contract and/or close-out netting is prohibited, except where there are the grounds as provided for by Article 16(3) of this Law;
- e) according to the terms of the derivative, if the creditworthiness of the other party to the derivative contract has decreased to an unacceptable level, it will be replaced by another counterparty, unless the other party to the derivative contract provides sufficient security to the issuer;
- f) the other party to the derivative contract is a financial institution.

9. Unless otherwise provided for by this Law or the terms of the issue of mortgage bonds, an issuer shall not be obliged to allocate the funds received from cover assets to programme creditors, and/or place these funds in the cover pool. This paragraph shall be without prejudice to an issuer's obligation to pay the principal amount and interest on the mortgage bond in accordance with the terms of the issue.

10. An issuer shall carry out the segregation of cover assets from its other assets in a manner that the cover assets are permanently identifiable and cannot be accessed by other creditors of the issuer than the programme creditors, to have their claims satisfied.

11. Paragraphs 1, 3-5 and 7 of this article shall not apply to cover assets used to secure the payment obligations attached to mortgage bonds issued by a refinancing bank in accordance with Article 5(1) of this Law.

#### **Article 4 – Standards for the assessment of the market value of immovable property**

1. The market value of immovable property used to secure a mortgage loan included in the cover pool shall be evaluated by an appraiser with relevant knowledge and professional background who is independent of the loan decision-making process.

2. Appraisal activities shall be carried out and the market value of immovable property shall be calculated according to internationally recognised evaluation standards.

3. The market value of immovable property shall be verified at least once a year. The market value of immovable property shall be verified more frequently if one of the following circumstances exists:

- a) the market conditions have considerably deteriorated;
- b) the price of immovable property in the immovable property market has fallen considerably or a considerable fall in the price of immovable property is expected, including if it concerns one of the types or varieties of immovable property.

4. The re-evaluation/revision of the evaluation of immovable property shall be mandatory if, within the scope of the verification carried out in accordance with paragraph 3 of this article, it is suspected that the market value of the immovable property has considerably decreased.

5. For the purpose of the verification (monitoring) and re-valuation/revision of the market value of immovable property in accordance with paragraphs 3 and 4 of this article, statistical methods may be used.

6. The requirements established by this article shall be further specified by a relevant subordinate normative act of the National Bank of Georgia.

#### **Article 5 – Cover assets used to secure payment obligations attached to mortgage bonds issued by a refinancing bank**



1. To secure payment obligations attached to mortgage bonds that are issued by a refinancing bank, the following assets owned by the refinancing bank may be included in the cover pool:
  - a) requirements arising from refinancing instruments;
  - b) additional assets provided for by Article 3(6) of this Law;
  - c) claims arising from registered derivatives as provided for by Article 3(8) of this Law.
2. The prohibition established by Article 3(2) of this Law shall also apply to the assets to be included in the cover pool of a refinancing bank.
3. In the cases provided for by Article 25(3) of this Law, the cover assets of a refinancing bank may also include those cover assets owned by the debtor of the refinancing bank that are transferred to the refinancing bank in accordance with the same paragraph.
4. The total amount of the nominal values of the remaining principal amounts of refinancing instruments included in the cover pool of a refinancing bank shall not be less than 80% of the total amount of the nominal values of the remaining principal amounts of mortgage bonds. If there are circumstances that threaten the stability of the financial sector and/or the essential interests of programme creditors, the National Bank of Georgia may set a lower limit that shall not be less than 60% of the total amount of the nominal values of the remaining principal amounts of mortgage bonds. For the purposes of this paragraph, when determining the nominal value of the remaining principal amount of a refinancing instrument, the limitations established by Article 7(3) and (5) of this Law shall apply accordingly.
5. A debtor of a refinancing bank shall secure the payment obligations arising from a refinancing instrument(s) within a refinancing programme with a sufficient amount of cover assets, to which the requirements established by Articles 3, 4 and 6-8 of this Law shall apply accordingly.
6. The provisions of this Law, which regulate the relationships concerning the issuance of mortgage bonds by a refinancing bank, shall not be applicable in the case of the independent issuance of mortgage bonds by a refinancing bank or a debtor of a refinancing bank in accordance with this Law.

### **Chapter III – Liquidity of Cover Assets and Securing Obligations**

#### **Article 6 – Requirements of a mortgage bond programme**

1. Save for the exceptions established by this Law, the cover assets included in a mortgage bond programme may only be used to satisfy the claims of programme creditors.
2. Mortgage bonds issued within a mortgage bond programme shall be secured by a single cover pool.
3. Within the same programme, an issuer may, taking into account the requirements of this Law, increase the volume of the initial issue of mortgage bonds by issuing additional mortgage bonds with the same terms, as well as issue mortgage bonds of different classes.

#### **Article 7 – Securing obligations**

1. The total amount of the nominal values of the remaining principal amounts of mortgage loans and additional assets registered in the register of cover assets shall exceed the total amount of the nominal values of the remaining principal amounts of mortgage bonds by at least 5%.
2. If a derivative is registered in the register of cover assets, the claims and obligations arising from such a derivative shall be taken into account in the calculation determined by paragraph 1 of this article.
3. Taking into account paragraphs 4 and 5 of this article, if the cover asset does not meet the requirements established by Article 3 or 5 of this Law and/or a subordinate normative act issued by the National Bank of Georgia on the basis of the same law (including if the cover asset, after being registered in the register of cover assets, no longer meets the above requirements), this asset shall not be taken into account in the calculation determined by paragraph 1 of this article. For cover assets that do not meet the requirements determined by a subordinate normative act issued on the basis of this Law, the National Bank of Georgia may establish a rule that is different from that provided for by this paragraph.
4. Only the part of a mortgage loan registered in the register of cover assets that is within the limits of loan security established by Article 3(4) and (5) of this Law shall be taken into account in the calculation determined by paragraph 1 of this article.
5. If the cover asset is found to be in default after registration in the register of cover assets, the amount of such claim that is taken into account in the calculation determined by paragraph 1 of this article may be reduced in accordance with the procedure established by a legal act of the National Bank of Georgia. Notwithstanding the above, the unsecured claim that is in default shall not be taken into account in the calculation determined by paragraph 1 of this article.
6. An issuer shall check the compliance of the amount of cover assets with the requirements established by paragraph 1 of this article and a legal act of the National Bank of Georgia issued on the basis of this Law, and notify the results of the check both to the cover pool monitor and the National Bank of Georgia. The frequency of and procedure for conducting a check provided for by this paragraph shall be established by a legal act of the National Bank of Georgia.
7. If, as a result of checking the amount of cover assets, it is found that the requirements established by paragraph 1 of this article and/or a legal act of the National Bank of Georgia on the basis of this Law are violated, an issuer shall immediately increase the cover assets to an appropriate amount.



8. The National Bank of Georgia may, by a legal act, establish a limit of overcollateralisation that is higher than that provided for by paragraph 1 of this article, and also further specify a procedure for calculating the security of obligations.

### **Article 8 – Liquidity requirements**

1. A cover pool shall include additional assets that meet the liquidity requirements established by a legal act of the National Bank of Georgia and cover the total net liquidity outflow of a mortgage bond programme within the following 180 days.

2. When calculating the amount of additional assets determined by paragraph 1 of this article, the limitations established by Article 7(3) and (5) of this Law shall be taken into account accordingly.

3. The National Bank of Georgia may establish additional liquidity requirements for unexpected net liquidity outflows during a stressful situation in the market.

### **Article 9 – Mortgage bond programmes of refinancing banks**

The provisions of this chapter shall also apply accordingly to mortgage bond programmes of refinancing banks. The National Bank of Georgia may exempt a refinancing bank and/or a debtor of a refinancing bank from fulfilling individual requirements determined by this chapter if the requirements established by the National Bank of Georgia with regard to the compatibility of the maturity of refinancing instruments and mortgage bonds, and their scheduled and early repayment regimes, are met.

## **Chapter IV – Obtaining Authorisation and Approval to Issue Mortgage Bonds; Providing Programme Creditors with Information**

### **Article 10 – Obtaining authorisation to issue mortgage bonds**

1. A commercial bank intending to issue mortgage bonds shall obtain authorisation from the National Bank of Georgia to issue mortgage bonds.

2. Authorisation to issue mortgage bonds shall be granted to a commercial bank if it meets at least the following conditions:

- a) the commercial bank has an adequate operational programme to issue mortgage bonds;
- b) the commercial bank has developed adequate policies, processes and methodology focused on the protection of investors for approving loans used as cover assets, making changes to them, and renewing and refinancing them;
- c) the members of the management body and employees of the commercial bank who participate in the implementation of a mortgage bond programme have appropriate experience and knowledge;
- d) the commercial bank has sufficient resources for the creation, management and supervision of a cover pool.

3. The National Bank of Georgia may revoke the authorisation issued to a commercial bank for the issuance of mortgage bonds in the following cases:

- a) the commercial bank obtained authorisation by submitting incorrect information or by virtue of any other illegal action;
- b) the commercial bank no longer meets the conditions on the basis of which the authorisation was issued;
- c) the commercial bank has repeatedly or grossly violated the requirement(s) determined by this Law, other laws regulating the financial sector, a legal act or instructions issued based thereon in such a way that threatened the implementation of the mortgage bond programme, taking into account the interests of the creditors;
- d) the commercial bank did not issue mortgage bonds within 3 years after obtaining authorisation.

4. An additional procedure for the granting by the National Bank of Georgia of authorisation for issuing mortgage bonds shall be established by a legal act of the National Bank of Georgia.

### **Article 11 – Obtaining approval for the implementation of a mortgage bond programme; providing information to programme creditors**

1. An issuer shall obtain approval from the National Bank of Georgia before implementing a mortgage bond programme. To obtain the said approval, an issuer shall submit to the National Bank of Georgia information about the mortgage bond programme to be implemented. The procedure and conditions for issuing this approval by the National Bank of Georgia shall be established by a legal act of the National Bank of Georgia.

2. An issuer shall provide the programme creditors with information on the progress of the mortgage bond programme. This information shall include all the details necessary for the creditors of this programme to adequately assess the profile and risks of the programme. The above information shall be provided to programme creditors at least once a quarter. It shall contain at least the following data about the programme:

- a) the nominal values of the cover pool and the mortgage bonds;
- b) the identification number(s) assigned to the mortgage bonds (if any);
- c) the distribution of the amount of cover assets according to the categories established by this Law and a legal act of the National Bank of Georgia;
- d) information on market risks (including interest risk and currency risk), and credit and liquidity risks;



- e) a description (structure) of the maturity of cover assets and mortgage bonds;
  - f) information on the programme obligations as an indicator of actual security and of security under Article 7(1) of this Law, and the overcollateralisation;
  - g) information on the counterparty and essential conditions of the registered derivative (if any);
  - h) the share of the mortgage loans with regard to which a default occurred.
3. If the issuer is a refinancing bank, programme creditors shall also be provided with the information under paragraph 2 of this article on the cover assets used to secure a refinancing instrument.
4. An additional procedure for providing programme creditors with and/or publishing the information under paragraph 2 of this article by an issuer shall be established by a legal act of the National Bank of Georgia.

## **Chapter V – Right of Programme Creditors to Preferential Satisfaction; Register of Cover Assets and Supervision**

### **Article 12 – Right of preferential satisfaction from cover assets**

1. Cover assets are a combination of the assets segregated from the other assets of the issuer. It shall be impermissible to apply any measure for securing an obligation with respect to these assets due to the claims of third parties, except for the following claims of programme creditors:
- a) claims arising from mortgage bonds and registered derivatives;
  - b) claims arising from a transaction concluded by a programme administrator.
2. Mortgage bond programme creditors (including owners of mortgage bonds of different classes issued within the programme) shall have the right to the preferential satisfaction of claims under paragraph 1(a) and (b) of this article from the assets included in a cover pool, in proportion to the volume of these claims, compared to other creditors of the issuer, for which a special agreement need not be concluded between the issuer and the mortgage bond programme creditors on the establishment of the right of a pledge or other preferential satisfaction.
3. Third parties shall be prohibited from setting off the issuer's claims arising from the cover assets. This prohibition shall not apply to the close-out netting of claims arising from a registered derivative(s).
4. Claims arising from cover assets, which are not taken into account or are only partially taken into account in the calculation determined by Article 7(1) of this Law, are a constituent part of a cover pool, and the right of a mortgage bond programme creditor to preferential satisfaction, established by this Law, shall fully apply to them.
5. Accordingly, this article shall also apply to the cover assets of the debtor of a refinancing bank and the right of preferential satisfaction of the creditors of a refinancing programme in relation to them.

### **Article 13 – Register of cover assets**

1. An asset shall be considered to be part of a cover pool from the moment of its registration in the register of cover assets in accordance with this paragraph. An asset shall be registered in the register of cover assets:
- a) in relation to claims referred to in Article 3(1)(a) and 6(c) of this Law – by registering the list of the agreements, from which these claims arise, in the Legal Entity under Public Law called the National Agency of Public Registry;
  - b) in relation to other assets – by the issuer, or in the case provided for by Article 5(5) of this Law – by registering them in the relevant register maintained by the debtor of the refinancing bank.
2. The issuer/debtor of the refinancing bank shall check that the assets to be registered in the register of cover assets meet the requirements prescribed by this Law (including that they are not subject to any measure for securing an obligation). For the failure to fulfil this obligation, the issuer/the debtor of a refinancing bank shall be liable in accordance with the legislation of Georgia.
3. The registration of a respective asset (except for claims arising from derivatives) in the register of cover assets by the debtor of the issuer/the debtor of a refinancing bank or on their initiative does not require the consent of third parties (including the borrower).
4. It shall be impermissible to remove a cover asset from the register of cover assets without the permission of the cover pool monitor, and where appropriate, without the permission of the programme administrator/programme liquidator. Any action taken or any transaction concluded contrary to the procedure established by this paragraph shall be null and void.
5. A cover asset shall not be removed from the register of cover assets if this would result in a violation of any of the requirements established by this Law or a legal act of the National Bank of Georgia on the basis of this Law.
6. The prohibition established by paragraph 5 of this article shall not apply to those agreements (transactions) concluded by the programme administrator/programme liquidator after the separation of the programme, the purpose of which is to fulfil the obligations arising from mortgage bonds/refinancing instruments and registered derivatives, or to reimburse the costs of the programme management.
7. The procedure for maintaining a register of cover assets by an issuer/debtor and providing access to the information in the register shall be established by a legal act of the National Bank of Georgia.

### **Article 14 – Appointment and dismissal of a cover pool monitor**

1. Each issuer shall have a cover pool monitor, who shall monitor a cover pool. A cover pool monitor may monitor several



cover pools of the issuer at the same time.

2. A cover pool monitor shall be a legal person that is authorised to audit a public-interest entity. The National Bank of Georgia may establish additional qualification requirements for cover pool monitors.

3. A cover pool monitor shall be appointed and dismissed by the issuer with the prior consent of the National Bank of Georgia. The issuer may appoint a cover pool monitor for a specified period. In the case of the separation of a mortgage bond programme in accordance with Article 18(1) of this Law, the authority of the cover pool monitor shall be suspended until the separation is revoked. The cover pool monitor shall provide the programme administrator with all the data/information necessary to manage the cover assets.

4. If necessary, the National Bank of Georgia may request the issuer to dismiss the cover pool monitor.

5. A cover pool monitor shall be liable for damage caused to the issuer and/or programme creditors, within the scope of the fulfilment of his/her obligations, only in the cases of intent or gross negligence. The scope of liability of a cover pool monitor to the issuer under this paragraph may be extended by an agreement concluded between them.

6. Accordingly, this article and Article 15 of this Law shall also apply to debtors of a refinancing bank and their cover assets. In this case, a debtor shall have the right to appoint the refinancing bank itself as a cover pool monitor instead of the person referred to in paragraph 2 of this article.

### **Article 15 – Duties and rights of a cover pool monitor**

1. A cover pool monitor shall be obliged to:

- a) check that the liabilities to programme creditors arising from the mortgage bond programme are always secured by an appropriate amount of cover assets in the cover pool in accordance with Article 7 of this Law;
- b) check that the cover assets are identifiable and segregated from other assets of the issuer;
- c) check that the value of immovable property securing a mortgage loan is assessed under this Law and in accordance with the procedure established by the National Bank of Georgia on the basis of this Law;
- d) monitor the prices of immovable property and, in the cases provided for by Article 4(3) and (4) of this Law, require the issuer to fulfil the obligations determined by the same paragraphs;
- e) immediately notify the issuer and the National Bank of Georgia about a violation of the requirements established by this Law or the legal acts issued on the basis thereof;
- f) fulfil other obligations (if any) assumed under an agreement concluded with the issuer and/or provided for by a legal act of the National Bank of Georgia.

2. When fulfilling an obligation under paragraph 1(c) of this article, a cover pool monitor shall not have the obligation to determine the accuracy of the assessment of the value of immovable property.

3. Prior to the issuance of mortgage bonds, a cover pool monitor shall confirm in writing that the sufficient amount of cover assets as provided for by this Law have been entered in the register of cover assets. In the case provided for by Article 6(3) of the same Law, such confirmation shall be made individually for each new issue.

4. A cover pool monitor may check and request such records and information of the issuer as are related to mortgage bonds and registered cover assets.

### **Article 16 – Obligations of issuers/debtors to programme creditors**

1. An issuer shall fulfil its obligations to the mortgage bond programme creditors, regardless of whether the obligations of third parties before the issuer, arising from the cover assets, are fulfilled or not.

2. The principal amounts and interest of a mortgage bond shall be paid (including prematurely) in accordance with the terms of the issue of the mortgage bond.

3. Mortgage bond programme creditors shall not have the right to require the immediate fulfilment of an obligation arising from a mortgage bond/registered derivative on the grounds that a resolution regime has been introduced with respect to the issuer, the issuer has become insolvent and/or liquidation proceedings have been initiated against the issuer. The programme creditors may require the immediate fulfilment of such obligation only in the following cases:

- a) the terms of the issue of the mortgage bond/the registered derivative provide for the immediate fulfilment of the obligation, and this is related to the non-fulfilment of the payment obligation attached to the mortgage bond/registered derivative or the emergence of any of the grounds for the insolvency of the programme;
- b) the National Bank of Georgia has approved the decision of a meeting of the programme creditors on the liquidation of the separated mortgage bond programme.

4. Accordingly, this article shall also apply to the obligations of debtors to the creditors of a refinancing programme.

### **Article 17 – Claims of programme creditors with respect to the issuer**

1. Mortgage bond programme creditors, whose claims arose within the same programme, shall have the following rights:

- a) to require, before the initiation of liquidation/insolvency proceedings against the issuer, that the issuer fulfil the obligation arising from a mortgage bond and/or registered derivative;
- b) to have their claims preferentially satisfied in comparison to other creditors of the issuer, after the initiation of liquidation/insolvency proceedings against the issuer, from the cover assets included in the programme, in proportion to the volume of these claims; if it is not possible to fully satisfy said claims from cover assets, to present, as unsecured



creditors, the remaining claims to the issuer.

2. The right to a claim as provided for by paragraph 1 of this article shall be valid until the full satisfaction of the mortgage bond programme creditor's claim, and it does not imply the repeated or double satisfaction of his/her claim.

3. Accordingly, this article shall also apply to the claims of the creditors of a refinancing programme to the debtor.

## **Chapter VI – Separation of a Mortgage Bond Programme, Management and Liquidation of a Separated Programme**

### **Article 18 – Separation of a mortgage bond programme**

1. A mortgage bond programme of a commercial bank shall be considered separated if one of the following circumstances exists:

- a) a licence for bank activities of the commercial bank has been revoked;
- b) in accordance with paragraph 2 of this article, a decision was made to separate the mortgage bond programme.

2. The National Bank of Georgia may, taking into account the best interests of programme creditors, make a decision on the separation of a mortgage bond programme where one of the following grounds exists:

- a) the authorisation granted to the commercial bank for the issuance of mortgage bonds has been revoked and the separation of the programme is necessary for the full and timely fulfilment of the payment obligations arising from the mortgage bonds;
- b) the fulfilment, by the commercial bank, of the obligations to the creditors is threatened, or there are reasonable grounds to believe that effective supervision over the commercial bank is impossible;
- c) the decision to separate the programme is made on the basis of Article 22(5) of this Law.

3. Taking into account the requirements established by paragraph 4 of this article, after the separation of the mortgage bond programme, the cover assets included in the programme may be used only to satisfy the claims of the creditors of the relevant programme, and to reimburse the expenses relating to the management of the mortgage bond programme. The claims of programme creditors (including owners of mortgage bonds of various classes issued within the programme) shall be satisfied from cover assets in proportion to said claims. The costs associated with the management of the programme have precedence over the claims of programme creditors. The assets remaining in the cover pool after the reimbursement of the expenses related to the management of the programme and the full satisfaction of the claims of programme creditors shall be removed from the cover pool.

4. Regardless of the requirements established by paragraph 3 of this article, if the programme administrator has pledged cover assets on the basis of a security financial collateral agreement, the collateral taker shall have the right to preferential satisfaction of his/her claim from the collateral in comparison to other persons, in accordance with the Law of Georgia on Financial Collateral Arrangements, Netting and Derivatives.

5. From the moment of the separation of a mortgage bond programme, the funds received from the cover assets (including the principal amount and interest of mortgage loans paid by the borrowers) shall be separated from other funds of the issuer and therefore shall be placed in a segregated cash account(s) opened in another commercial bank(s). These funds shall be included in the cover pool.

6. The cover assets of one programme (including monetary funds received from these assets) shall not be used to fulfil obligations to the creditors of another programme.

7. The separation of a mortgage bond programme does not affect the rights and obligations arising from the mortgage bonds and registered derivatives, including the rights of programme creditors as provided for by Articles 16 and 17 of this Law. Despite the separation of the programme, the requirements established by this Law in connection with the addition of new assets to a cover pool shall continue to be met, except where the licence for bank activities of the issuer has been revoked and liquidation/insolvency proceedings have been initiated against the issuer.

8. In the case provided by paragraph 2 of this article, the separation of a mortgage bond programme may be cancelled by a decision of the National Bank of Georgia if the circumstances that served as the basis for the separation no longer exist.

9. At all stages of the existence of a mortgage bond programme, the issuer shall have an operational plan reflecting the measures, which shall, where appropriate, ensure the unhindered delegation of functions provided for by this Law to the programme administrator and the proper implementation of the programme.

### **Article 19 – Appointment and dismissal of a programme administrator**

1. In the case of the separation of a mortgage bond programme, the National Bank of Georgia shall appoint a programme administrator. The National Bank of Georgia may appoint the same programme administrator for several separated mortgage bond programmes.

2. A programme administrator shall be accountable to the National Bank of Georgia. The National Bank of Georgia may, at any time, request from a programme administrator specific information or a report related to the management of the mortgage bond programme.

3. The National Bank of Georgia may dismiss, at any time, the programme administrator and appoint another person in his/her place.

4. A programme administrator shall be a natural person with sufficient experience and a good reputation. A programme administrator may not be a special manager or liquidator of the issuer at the same time. A programme administrator shall



ensure the avoidance of conflicts of interest, and shall not allow his/her interests to be placed above the interests of the programme creditors nor exceed his/her official powers.

5. The National Bank of Georgia may determine the amount of the remuneration of a programme administrator, which shall be in compliance with his/her qualifications and the complexity of his/her duties. The remuneration of a programme administrator and the reasonable expenses incurred by him/her shall be reimbursed by the separated mortgage bond programme.

6. A programme administrator shall be liable for his/her own action or inaction in the same manner as persons with management and representative powers in a company are liable in accordance with the Law of Georgia on Entrepreneurs. A programme administrator shall be answerable for the non-fulfilment of his/her duty to the programme creditors. A programme administrator shall not be liable for damages if he/she acted in good faith and in the best interests of the programme creditors, based on the information available to him/her.

7. The National Bank of Georgia shall send a decision appointing or dismissing a programme administrator to the registration authority for registration as soon as it adopts the decision.

## **Article 20 – Rights and duties of a programme administrator**

1. Upon the separation of a mortgage bond programme, the power to manage (including to dispose of) cover assets shall be transferred to a programme administrator. A programme administrator shall have the power to enter into transactions and perform relevant actions on behalf of the issuer (including exercising the rights arising from the mortgage, and raising funds for the timely fulfilment of the payment obligations attached to mortgage bonds), which are necessary for the proper administration of the cover pool in order to fully satisfy the claims of the programme creditors, in accordance with the terms of the issue/contractual conditions. A programme administrator shall, within the scope of exercising his/her powers, represent the issuer both in court and in out-of-court relations.

2. A programme administrator shall, within 2 weeks of his/her appointment, assess whether the mortgage bond programme meets the requirements established by Article 7(1) and Article 8(1) of this Law, and whether there are grounds for declaring the programme insolvent. A programme administrator shall immediately notify the National Bank of Georgia to this effect. As part of the assessment of the programme, a programme administrator shall consider the possibility of continuing, restructuring (including full or partial sale) or liquidating the programme.

3. If liquidation proceedings against the issuer are pending, upon the completion by a programme administrator of the evaluation provided for by paragraph 2 of this article, the issuer's liquidator may request that those assets which are part of overcollateralisation and will clearly not be necessary to secure the obligations of the programme be removed from the cover pool. A programme administrator may refuse to remove cover assets based on the results of the evaluation carried out by him/her. In the case of disagreement between the parties on this issue, the National Bank of Georgia shall make an appropriate decision.

4. A programme administrator may extend the maturity of the principal of the mortgage bonds issued within one or more issues of the programme, subject to paragraph 5 of this article. The total period of the extension of maturity shall not exceed 12 months. A programme administrator shall also have the right to extend the maturity of the interest on the mortgage bonds, which is due within a month after the appointment of the programme administrator, not later than the last day of the said one-month period. Notwithstanding Article 16(3) of this Law, the extension by a programme administrator of the maturity of the principal and/or interest of the mortgage bond in accordance with this paragraph shall not give rise to the right of the programme creditor to claim the immediate fulfilment of the obligation. A programme administrator shall exercise the powers granted to him/her under this paragraph equally with regard to all mortgage bonds within a single issue (having the same terms). If mortgage bonds of different classes are issued within a programme, the programme administrator shall exercise his/her powers in such a manner as not to change the sequence of the payment of the principal amounts of mortgage bonds within the programme. Unless otherwise provided for by the terms of the issue, interest shall be accrued on the principal of the mortgage bond for the period (term) by which its maturity has been extended in accordance with the interest rate determined by the terms of the issue effective before the extension of the maturity. Interest shall also be accrued on overdue interest (under the same terms and conditions) in the same manner as on an overdue principal amount. The exercise by a programme administrator of the powers provided for by this paragraph shall not require the consent of the holders of the mortgage bonds.

5. By the time of the extension by a programme administrator of the maturity of the principal of the mortgage bond (except where the period of the extension of the maturity does not exceed 1 month from the appointment of the programme administrator), all the following conditions shall be fulfilled:

- a) the mortgage bond programme shall not be insolvent in accordance with Article 24(1)(a) of this Law;
- b) the extension of maturity shall be necessary to prevent the insolvency of the mortgage bond programme in accordance with Article 24(1)(b) of this Law;
- c) there shall be grounds to believe that after maturity is extended for a maximum period (taking into account other and additional possibilities for extending the maturity), it will be possible to fulfil the programme obligations in a timely manner.

6. A programme administrator may offer to the programme creditors one or several proposals concerning the continuation, restructuring (including the full or partial sale of the programme) or liquidation of the programme. A



programme administrator shall submit proposals that he/she considers necessary to satisfy the claims of the programme creditors as much as possible.

7. A programme administrator shall submit to the programme creditors proposal(s) as referred to in paragraph 6 of this article if, in the case of a decision by the Resolution Committee on the application of a resolution tool in accordance with Article 22(5) of this Law, the full and timely satisfaction of the claims of the programme creditors is not expected, or the programme is declared insolvent.

8. A programme administrator shall provide the programme creditors with all the information necessary for them to make an informed decision concerning the proposal(s) offered to them. If necessary, the programme administrator may request the signing of a non-disclosure agreement with the programme creditor as a condition for providing information. The programme creditors shall make a decision concerning the submitted proposal(s) at a meeting of programme creditors, which shall be called and conducted by the programme administrator. The meeting shall be held not earlier than 5 working days and not later than 2 weeks after the submission of the proposal(s) by the programme administrator. The programme administrator shall present at the meeting both his/her proposal(s) and the proposal(s) offered by the programme creditors (if any). The meeting shall be deemed to be authorised to adopt decisions if the claims of the programme creditors present at the meeting constitute at least 75% of the total votes of the programme creditors. The voting rights of programme creditors shall be determined in proportion to their claims. The mortgage bonds owned by the issuer shall not be taken into account for the purposes of this paragraph. Programme creditors shall make a decision by a majority of votes of the programme creditors with voting rights attending the meeting. If more than one proposal has been presented at the meeting, the proposal that receives the most votes shall be considered accepted by the meeting. If the programme creditors cannot make a decision in accordance with this paragraph, the programme administrator may (and in the case provided for by paragraph 7 of this article, he/she shall) submit to them an updated proposal. In such case, the procedures established by paragraphs 6 and 7 of this article and this paragraph shall apply accordingly. The National Bank of Georgia may determine, by a subordinate normative act, a procedure for calling and conducting meetings of programme creditors.

9. A proposal approved by programme creditors shall be submitted for approval to the National Bank of Georgia. The National Bank of Georgia may refuse the approval of the proposal if it explicitly violates the principle of *pari passu* treatment of programme creditors (except where a programme creditor clearly expresses its consent to an unequal treatment) or contravenes the requirements established by the legislation of Georgia, as well as in other cases determined by a legal act of the National Bank of Georgia. The National Bank of Georgia may also refuse the approval of the proposal, if the Resolution Committee applies a resolution tool in accordance with Article 22(4), (6) or (7) of this Law and the proposal approved by the programme creditors contravenes this tool, or if, in the case of the partial sale of the mortgage bond programme, the sale contravenes the requirements established by Article 21 of this Law. If the National Bank of Georgia does not approve the proposal in accordance with this paragraph, the programme administrator may (and in the case provided for by paragraph 7 of this article, he/she shall) submit an updated proposal to the programme creditors. In such case, the provisions of paragraphs 6-8 of this article shall apply accordingly. A proposal approved by the National Bank of Georgia on the basis of this paragraph shall be mandatory for programme creditors, and its implementation shall be ensured by the programme administrator.

10. A special manager (if any), a liquidator or any other representative of the issuer shall provide the programme administrator with access to any information or documents related to the mortgage bond programme and/or necessary for the programme administrator to perform his/her functions. In addition, the programme administrator and the special manager (if any)/liquidator of the issuer shall provide each other with any information that may be relevant to the resolution/liquidation proceedings or the management of the cover assets.

11. When performing his/her own functions, a programme administrator may use the issuer's human and material resources. At the request of the programme administrator, the issuer (including the issuer's liquidator, and special manager within his/her powers) shall perform any action (transaction) required for the implementation of the programme, and shall not perform any action (transaction) which interferes with the implementation of the programme. A programme administrator shall ensure that costs incurred under this paragraph are reimbursed as costs related to the management of the programme.

12. As part of the management of the mortgage bond programme, a programme administrator shall comply with the legislation regulating the activities of commercial banks and other requirements established by the legislation of Georgia for issuers.

13. A programme administrator shall submit to the National Bank of Georgia a report on the progress of the mortgage bond programme and the performance of his/her duties with the frequency and in accordance with the procedure established by the National Bank of Georgia.

## **Article 21 – Sale of a mortgage bond programme**

1. A programme administrator may, based on the prior approval of the National Bank of Georgia, fully or partially sell a mortgage bond programme to another commercial bank authorised in accordance with this Law.

2. The full sale of a mortgage bond programme shall involve the transfer of all cover assets and all obligations related to the programme (including the obligations arising from the mortgage bonds issued within the programme) to the recipient



of the programme. The consent of the programme creditors shall not be required for the full sale of the programme.

3. The partial sale of a mortgage bond programme shall involve the partial transfer of the cover assets and obligations related to the programme (including the obligations arising from the mortgage bonds issued within the programme) to the recipient of the programme. To partially sell a programme, an appropriate decision shall be made at a meeting of programme creditors, in connection with which the provisions of Article 20(8) and (9) of this Law shall be applied.

4. In the case of the partial sale of a mortgage bond programme, the amount of cover assets remaining with the seller (issuer) shall meet the requirements established by the legislation of Georgia for securing the obligations of a programme.

5. An agreement on the sale of a mortgage bond programme shall contain at least the following information:

- a) the names, identification numbers and legal addresses of the seller and the acquirer;
- b) the agreement and the agreed price (if such price exists) on the transfer of the assets registered in the register of cover assets and the obligations to the programme creditors;
- c) a list of all the agreements, rights and obligations to be transferred, in which their nominal value is indicated;
- d) the procedure and conditions for the transfer of the rights and obligations and related documents and records.

6. In the case of the full sale of a mortgage bond programme, the proceeds from its sale (if any) shall primarily cover the costs related to the management of the programme. After the deduction of the costs, the remaining proceeds shall be disposed of by the issuer. In the case of the partial sale of a programme, the proceeds from its sale (if any) shall be included in the cover pool in the amount that is necessary to meet the requirements established by Article 7(1) and Article 8(1) of this Law.

7. After the sale of a mortgage bond programme, the recipient of the programme shall, within a reasonable period of time, provide the programme creditors with all the information required for them to exercise their rights and perform their duties properly. The requirements established by this Law concerning the management of a mortgage bond programme (including securing the obligations of a programme) and the periodic informing of programme creditors shall fully apply to the recipient of a mortgage bond programme.

8. The full or partial sale of a programme by a programme administrator shall not require the consent of persons other than those provided for by this article (including the borrower).

## **Article 22 – Mortgage bond programme during the resolution regime with respect to the issuer**

1. If a decision has been made to introduce a resolution regime with respect to the issuer, and the mortgage bond programme is separated, the Resolution Committee may, for not more than 90 calendar days after the introduction of the regime, but not later than the day of the decision on the application of a resolution tool related to a mortgage bond programme, restrict, in full or in part, the exercise by the programme administrator of the rights provided for by Article 20(1) and Article 21 of this Law (except for the extension of the maturity of the principal and/or interest of a mortgage bond and the satisfaction of claims arising from cover assets, including by enforcing a mortgage). The Resolution Committee/special manager shall have the right to exercise resolution powers with regard to a mortgage bond programme during this period, subject to the restrictions established by this Law and the Law of Georgia on the Activities of Commercial Banks.

2. After the expiry of the period established by paragraph 1 of this article, the Resolution Committee/special manager shall not have the right to exercise resolution powers with regard to a separated mortgage bond programme, except for the application of resolution tools as provided for by paragraphs 4, 6 and 7 of this article.

3. If the decision of the Resolution Committee on the application of one or more resolution tools refers to a mortgage bond programme, the programme administrator shall be notified to this effect in advance, before the decision is made, and if the programme administrator has not been appointed, the programme creditors shall be notified. The programme administrator (if any) shall immediately provide said information to the programme creditors. Information under this paragraph may be provided to programme creditors by publishing it on the website of the National Bank of Georgia instead of notifying them individually.

4. If the Resolution Committee applies a resolution tool, as a result of (or despite) the application of which the full and timely fulfilment of the obligations to programme creditors is expected, the programme creditors and the programme administrator (if any) shall endure such measures. For the purposes of this Law, it is considered that the full and timely satisfaction of the claims of programme creditors shall:

- a) be expected if the Resolution Committee makes a decision on the full sale of the assets and liabilities included in the mortgage bond programme;
- b) not be expected if the Resolution Committee makes a decision on the application of the recapitalisation tool by writing off or converting the liabilities to the programme creditors, or on the partial sale of the assets and liabilities included in the mortgage bond programme.

5. Before the Resolution Committee makes a decision on the application of a resolution tool(s), as a result of the application of which the full and timely satisfaction of the claims of programme creditors is not expected, the programme creditors shall be enabled (except in the case provided for by paragraph 7 of this article) to vote for one or more proposals concerning the continuation of the operation, the restructuring (including the full or partial sale of the programme) or the liquidation of the mortgage bond programme in accordance with Article 20(6-9) of this Law. For this purpose, the National Bank of Georgia shall make a decision on the separation of the mortgage bond programme and appoint a



programme administrator.

6. In the case provided for by paragraph 5 of this article, the Resolution Committee may apply the resolution tool(s) as defined in the same paragraph only if the programme creditors do not approve at least one of the proposals offered to them by the programme administrator at the meeting of programme creditors convened twice in a row, or the National Bank of Georgia refuses twice in a row to approve the proposal approved by the meeting.

7. Programme creditors and a programme administrator (if any) shall endure the application by the Resolution Committee of a recapitalisation tool by writing off or converting the issuer's liabilities to the programme creditors within the limits established by the Law of Georgia on the Activities of Commercial Banks.

8. If, in accordance with the provisions of this article, the Resolution Committee makes a decision on the full or partial sale of a mortgage bond programme, it shall be sold to a commercial bank authorised in accordance with this Law, and its sale shall meet the requirements established by Article 21(4-7) of this Law.

### **Article 23 – Satisfaction of unsecured claims of programme creditors during the liquidation of an issuer**

1. During the liquidation of an issuer, the mortgage bond programme creditors shall have unsecured claims against the issuer only to the extent (within the limits) that the cover assets are insufficient to fully satisfy their matured claims. A programme administrator, and in appropriate cases, a programme liquidator, may submit unsecured claims provided for by this paragraph to the issuer on behalf of programme creditors. Programme creditors may submit such claims independently and/or dispute the volume of claims submitted on their behalf.

2. If, when satisfying the claims of the creditors of a commercial bank in liquidation, which, in accordance with the Law of Georgia on the Activities of Commercial Banks, fall within the unsecured claims of programme creditors, the programme creditors have unmatured claims against the commercial bank, the issuer's liquidator shall withhold the corresponding amount of money for the claims to be potentially submitted by (or on behalf of) the programme creditors in accordance with paragraph 1 of this article. To determine the amount to be withheld by the issuer's liquidator, consideration should be given to, among other things, the amount and value of the assets belonging to the commercial bank in liquidation (except for cover assets), the amount, maturity, credit quality and overcollateralisation, and maturity of mortgage bonds. The amount of money to be withheld by a liquidator in accordance with this paragraph shall be determined by a programme administrator.

3. The registration of an issuer in the relevant registration authority shall not be revoked until the mortgage bond programme is fully transferred to another commercial bank or the claims of programme creditors are fully satisfied from the cover assets.

### **Article 24 – Insolvency of a separated mortgage bond programme**

1. The National Bank of Georgia may, on its own initiative or on the basis of an application from the programme administrator, declare as insolvent the separated mortgage bond programme of an issuer in liquidation if one of the following circumstances exists:

- a) the cover assets are not sufficient to secure the obligations to the programme creditors and cover the costs of the programme administration, and this deficiency is not temporary;
- b) it is impossible to fully satisfy the matured claim of even 1 programme creditor from the cover assets, and this impossibility is not temporary.

2. If, in accordance with Article 20(6-9) of this Law, after declaring the mortgage bond programme insolvent, at the meeting of programme creditors called twice in a row, the programme creditors do not approve any of the proposals offered to them by the programme administrator, or the National Bank of Georgia refuses to approve the proposal approved by the meeting twice in a row, the National Bank of Georgia shall make a decision to liquidate the insolvent programme. The National Bank of Georgia may make a decision on the liquidation of an insolvent programme if it is clear that the proposal concerning the restructuring of the programme approved by the programme creditors cannot eliminate the circumstances that caused the insolvency, or if it is clear that in the case of restructuring, the programme creditors will receive less than they would have received as a result of the liquidation.

3. The liquidation of an insolvent programme shall be carried out by the programme liquidator appointed by the National Bank of Georgia, who shall be granted the same powers as a liquidator of a commercial bank with respect to the assets and liabilities of the programme. The powers of the programme administrator shall be terminated upon the appointment of a programme liquidator. A programme liquidator shall, within the scope of exercising his/her powers, represent the issuer in liquidation both in court and in out-of-court relations. The provisions of Article 19 and Article 20(10) and (11) of this Law shall apply to programme liquidators accordingly. A programme administrator may also be appointed as a programme liquidator.

4. The legislation regulating the liquidation of commercial banks, taking into account the special provisions established by this Law, shall accordingly apply to the liquidation of an insolvent programme by a programme liquidator.

### **Article 25 – Financial difficulties of the debtor of a refinancing bank**

1. The provisions of Articles 18-24 of this Law concerning the separation, management and insolvency of a mortgage bond programme, as well as the exercise of resolution powers in relation thereto, shall apply to a refinancing programme



and a debtor of a refinancing bank accordingly.

2. In the case of the separation of a refinancing programme in accordance with paragraph 1 of this article, the National Bank of Georgia may appoint the refinancing bank as an administrator of the debtor's programme.

3. The refinancing bank, which performs the functions of a programme administrator in accordance with paragraph 2 of this article, may take possession of the cover assets of the debtor, the net present value of which does not exceed the amounts of payments that are due under the refinancing instrument(s), and enter them in the register of cover assets of the mortgage bond programme. Upon taking possession of the cover assets, the liabilities that are due under the refinancing instrument(s) shall be deemed discharged up to the amount of the net present value of the cover assets. The exercise by the refinancing bank of the power provided for by this paragraph shall not require the consent of the debtor.

## **Chapter VII – Regulation and Supervision of the Mortgage Bond Market**

### **Article 26 – Powers of the National Bank of Georgia**

1. The National Bank of Georgia shall have the right to exercise the following powers within the scope of the regulation and supervision of the mortgage bond market, in accordance with the Organic Law of Georgia on the National Bank of Georgia, this Law and other legislative and subordinate normative acts of Georgia:

- a) request and receive documents/information (including confidential) from any person;
- b) request the cessation of certain actions if said actions contravene the legislation of Georgia;
- c) appoint an administrator of a mortgage bond programme;
- d) appoint a liquidator of a mortgage bond programme;
- e) in line with a risk-based approach, check the issuer/debtor both on-site and through remote supervision (including checking the mortgage bond programme/refinancing programme);
- f) in accordance with the Law of Georgia on the Activities of Commercial Banks, impose one or more supervisory measures and/or sanctions (monetary fine), as provided for by the same law, on a commercial bank, an administrator of a commercial bank or a controlling person;
- g) in accordance with its procedures, publish information on the infringer and the nature of the infringement committed by him/her;
- h) grant authorisation for the issuance of mortgage bonds or revoke the authorisation granted for the issuance of mortgage bonds, and give consent to the implementation of a mortgage bond programme;
- i) issue mandatory written instructions;
- j) issue legal acts;
- k) exercise other powers granted to the National Bank by the legislation of Georgia.

2. To implement this Law, the National Bank of Georgia may issue subordinate normative acts to define additional requirements for the eligibility of cover assets, the maximum limit that the cover assets of the issuer/debtor of a refinancing bank shall not exceed in relation to its total assets, the structural characteristics of the programme, the procedure for recording cover assets, the issues of the appointment and dismissal of cover pool monitors, programme administrators and programme liquidators, and their rights and duties, as well as additional obligations of disclosure of information by the issuer/debtor of a refinancing bank.

3. The National Bank of Georgia shall, in accordance with the procedures established by and within the established limits, ensure the publication of information on the authorised issuers and their mortgage bond programmes on its website.

## **Chapter VIII – Transitional and Final Provisions**

### **Article 27 – Normative acts to be issued**

1. The National Bank of Georgia shall ensure the issuance of the following legal acts within 90 days from the entry into force of this Law:

- a) on establishing additional criteria for considering the non-fulfilment/expected non-fulfilment of a contractual payment obligation as a default, as provided for by Article 2(1)(i) of this Law;
- b) on determining a procedure specifying the requirements provided for by Article 4(6) of this Law and established by the same article;
- c) on establishing the frequency of and a procedure for checking cover assets, as provided for by Article 7(6) of this Law;
- d) on establishing a procedure for determining the liquidity requirements of additional assets provided for by Article 8(1) of this Law;
- e) on establishing a procedure for the granting by the National Bank of Georgia of authorisation for issuing mortgage bonds, as provided for by Article 10(4) of this Law;
- f) on establishing a procedure and conditions for the issuance of approval by the National Bank of Georgia for the implementation of a programme, as provided for by Article 11(1) of this Law;
- g) on establishing a procedure for providing programme creditors with and/or publishing information as provided for by Article 11(4) of this Law;
- h) on establishing a procedure for maintaining a register of cover assets and providing access to information in the



register, as provided for by Article 13(7) of this Law.

2. The additional requirements for overcollateralisation and/or liquidity of cover assets (if any) established by a legal act of the National Bank of Georgia on the basis of Article 7(8) and Article 8(3) of this Law shall not apply to a programme put in place before the entry into force of the said legal act, except in the case of an additional issuance of mortgage bonds within the mortgage bond programme or the use of a new refinancing instrument within the refinancing programme.

#### **Article 28 – Entry into force of the Law**

1. This Law, except for Articles 1-26, shall enter into force upon promulgation.

2. Articles 1-26 of this Law shall enter into force on the 90<sup>th</sup> day after its promulgation.

**President of Georgia**

**Salome Zourabichvili**

**Tbilisi**

**29 November 2022**

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