How to open a commercial bank in Georgia
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List of Abbreviations

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<th>Abbreviation</th>
<th>Description</th>
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<tbody>
<tr>
<td>AML/CFT</td>
<td>Anti-Money Laundering/Combating the Financing of Terrorism</td>
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<td>BoD</td>
<td>Board of Directors</td>
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<tr>
<td>JSC</td>
<td>Joint Stock Company</td>
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<td>NAPR</td>
<td>National Agency of Public Registry</td>
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<td>NBG</td>
<td>National Bank of Georgia</td>
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<tr>
<td>SB</td>
<td>Supervisory Board</td>
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</table>
Introduction

A commercial bank is a financial institution licensed by the NBG to carry out banking activities. Under Georgian Law only a commercial bank may attract deposits.

License on banking activities can be obtained by Georgian incorporated Joint Stock Company or branch/subsidiary of a foreign bank.

1. Commercial banking activities

Under the Commercial Banking Law of Georgia, banks in Georgia may engage only in the following activities:

- soliciting interest-bearing and interest-free deposits;
- grant loans including consumer loans, mortgage loans, unsecured and other credits; factoring operations with or without right of recourse; financing commercial deals, issuing guarantees, letters of credit and acceptances, including forfaitings;
- sales, with its own and customers means, of monetary instruments, securities, debt instruments or interest rates of futures and options, currency and interest rate instruments, debt documents, foreign currency, precious metals and gems;
- performing monetary and non-monetary payment transactions and cash-collection services;
- issuing means of payment and organising their circulation;
- providing interest-free banking services;
- rendering intermediary financial services;
- performing trust transactions, soliciting and placing funds by order of customers;
- storing and registering valuables, including securities;
- providing credit reference services;
- conduct central depositary activities;
- leasing property;
- providing payment services, operating payment system, performing the functions of a payment agent;
- providing services related to all of the above activities.

2. Corporate governance of commercial banks

Each Bank shall have a charter and internal regulation.

**Charter** is a key constituting document, defining key corporate governance matters, governing bodies, distributions of dividends, etc. The NBG shall be notified regarding any amendment on the charter.

**Internal regulation** defines bank’s operational and administrative structure with its respective subdivisions. Constituent units and functions of each subdivision; administrative positions and accountability; duties of each department director, and of each division under his/her subordination and control; audit committee functions; authority of administrators and other employees of a bank to conduct bank transactions on behalf of and for the account of the bank.
Under the Commercial Banking Law, a bank should have two tier governance system with Supervisory and Management Board.

A) **SB** – is elected by the General Meeting of Shareholders and comprised from 3 to 21 members. One-third of the board members shall be comprised of independent persons from the Bank. The main function of board is supervision of banks activities.

The SB member is elected for four years and can be re-appointed without limitation. General Meeting of Shareholders sets the compensation scheme for SB members. The Bank is not allowed to provide additional benefits to the members of the Board. SB members are not eligible to hold executive functions in the bank.

Director(s) can be the member(s) of the Supervisory Board without making the majority of the board members.

B) **BoD** – carries out representation and daily management of the bank. The BoD consists of at least 3 individuals appointed by the Supervisory Board for the term of four years and may be re-appointed without limitation. CEO of a bank is a member of the BoD and is a top executive responsible for the institution with ultimate executive responsibility for the institution’s operations, compliance and performance.

Each bank irrespective of its size, complexity and scope of activity, is required to set up at least audit and risk management committees from members of the Supervisory Board. Systemically important banks are required to set up remuneration and corporate governance committees as well. Other committees (e.g. nomination committee), may be set up according to Bank’s own decision.

C) **Audit Committee** is mainly comprised by the independent members of the Supervisory Board. Main function of this committee is support of internal and external Auditors in their work. Audit Committee is accountable to the Supervisory Board.

D) **Risk Management Committee** determines risk (both aggregated and individual) management strategies and provides recommendations to SB; reports risk policies and risk management culture in Bank to the Supervisory Board; monitors directors and compliances of their actions to risk policies; monitors liquidity and capital management strategies to ensure their compliance with risk appetite of the bank.

E) **Remuneration Committee** is mandatory for systemically important Banks and recommended for other Banks. Its main function is supporting the Supervisory Board to oversee the compensation system’s design and operations and providing the compliance between compensation system of a bank and bank risk culture, long-term business strategy and risk appetite, bank’s activities and control as well as legislative/supervisory requirements. This Committee shall be comprised by at least 3 independent members of the Supervisory Board.

F) **Corporate Governance Committee** is mandatory for systemically important Banks and recommended for other Banks. This committee ensures compliance of bank’s internal governance structure with the requirements and bank’s internal rules/documents related to corporate governance.
3. Obtaining bank license for Georgian company

The NBG issues banking licence, which has indefinite term and is non-transferable. Banking license may be obtained by a JSC registered under the laws of Georgia. The process of obtaining banking license is as follows:

- **Registration of JSC**
  - *Joint Stock Company is registered in the National Agency of Public Registry*

- **Submission of the Application to NBG on obtaining License**
  - *For the list documents please view Annex 1 of the present Guide*

- **Request of Additional Information by NBG**
  - *NBG if deems appropriate and necessary may request additional information/documents. Please view Annex 2 or the present Guide*

- **Issuance of License by NBG**

NBG shall issue license on banking activities or provide a grounded refusal within 3 (three) months from the submission of application. If the documents submitted by an applicant does not correspond the requirements as provided in the respective annexes of this guide, the NBG shall establish an additional deadline for submission of corrected documents.

4. Obtaining license for the branch/subsidiary of foreign banks

Foreign bank may obtain a banking license in Georgia via its subsidiary or a branch. In this regard Georgian law differentiates trusted foreign bank and foreign bank. Trusted foreign bank may obtain a banking license through a simplified procedure, meaning that it shall not be required to submit certain documents such as Audits reports of the parent company (please refer to Annex 3 of the present guide).

A trusted bank is the one that is characterized by strong reputation, high credit rating, years of experience in the financial sector, sustainable financial performance and high level of transparency.

Bank operating in the developed countries, which has a high rating as assessed by competent international organizations (such as Fitch, Moody’s and Standard&Poor’s).

Foreign banks that do not fall under “trusted” category may as well obtain banking license in Georgia via their branches or subsidiary companies. In this case the simplified procedure does not apply, and the license seeker shall submit all the documents listed in the Annex 3 of the present guide.
5. Capital requirements

Georgian capital requirements for banks are in accordance with Basel III standards, namely Regulation 575/2013 adopted on 26 June 2013 by the European Parliament and Commission, and Directive 2013/36/EU.

Regulatory capital is comprised of Tier 1 and Tier 2 (liquidator) capitals and shall be minimum of GEL 50 mln.

**Tier 1** capital is a bank’s core capital and includes instruments that are able to cover losses immediately after their occurrence so that the bank continues its operation without any interruption. Tier 1 capital instruments should allow the Bank to make payments only at its own discretion and to fully utilize loss coverage. Tier 1 is comprised from primary capital and additional capital.

**Tier 2** capital is a bank’s supplementary capital which ensures coverage of Bank debt towards creditor during Bank’s liquidation or significant financial problems.

Each bank in Georgia is required to maintain the level of regulatory capital, which is greater than or equal to the following minimum capital requirements:

A. **Coefficient for Tier 1 primary capital** - the ratio of commercial bank’s core capital to risk-weighted positions should be greater than or equal to 4.5%;

B. **Coefficient of Tier 1 capital** - the ratio of a commercial bank’s risk capital to risk-weighted positions should be greater than or equal to 6%;

C. **Coefficient of regulatory capital** - The ratio of commercial bank’s regulatory capital to risk-weighted positions should be greater than or equal to 8%.

6. Fit and proper criteria for administrators of the bank

Administrator of a bank is any member of the supervisory board, or board of directors of a commercial bank, as well as any other person authorised represent the bank and enter into commitments separately or jointly on behalf of the bank.

The following persons may not become bank’s administrator:

- is declared legally incapable by a court;
- has criminal records for a serious or particularly serious crime; of financing terrorism, and/or of legalising illicit income, or other economic offences;
- does not have appropriate education and/or knowledge;
- is an administrator of another commercial bank, except when holding the position of an administrator in a bank under control of this bank, or in a bank that controls this commercial bank.
- the number of shares beneficial owners of the acquiring persons in case such beneficial owner’s shares exceed either 10, 25 or 50 per cent in the bank;
- beneficial owner’s declaration (if submitted) to certify that the information in the declaration is accurate.
7. Declaration of conformity

In case a person, or group of stockholders acting jointly¹, intend(s) to acquire shares in a Bank so that their/its own or the beneficial owner’s (owners’) shares exceed either 10, 25 or 50 per cent in the Bank capital, such person(s) shall be obliged to submit a declaration of conformity to the NBG. Declaration shall include:

- identification data;
- information that purchaser (as well as beneficial owner if any) has no criminal records for a serious or particularly serious crime; crimes related to AML/CFT or other economic offences;
- identification data on their beneficial owner(s), or a statement that, there will not be any beneficial owner (owners) as a result of acquisition of the shares;
- number of acquired shares;

8. Supervisory role of NBG

All commercial banks registered and operating under Georgian legislation fall under NBGs’ authority, regulates the banking sector using “risk-based supervision” methods. Within the supervision framework, the principles and standards of the Basel Committee on Banking Supervision have been adopted for commercial banks.

Banks report to the NBG on daily, weekly, biweekly, monthly, quarterly and yearly basis, depending on the type of report. NBG requirements include Pillar 3 disclosure in accordance with the Basel Committee standards.

Some of the regulations enacted by the President of NBG for the banking supervision include the following:

- Order 26/04 concerning conflict of interest management

  Sets requirements for banks on avoidance of conflict of interest in case of transactions with related parties; requires from the banks to carry out transactions on “arm’s length basis, monitor related party transactions, determine policies and procedures and take appropriate measures to control and mitigate risks.

- Order 92/04 setting disclosure requirements by commercial banks under Pillar 3

  Is based on the Basel Committee Pillar 3 Disclosure Requirements and requires from the Banks to disclose quantitative and qualitative information on capital adequacy, corporate governance and risk management. Publication of information is required on a quarterly and annual basis.

- Order 215/04 on corporate governance code of commercial banks

  Defines the core principles of corporate governance for Banks as effective and sound corporate governance in a bank by which it largely supports effective functioning and stability of the financial and banking sectors respectively.

²A group of closely related partners (shareholders) or partners (shareholders) connected to each other by commercial interests in addition to the bank interests – shall be regarded as group of shareholders acting jointly.
- **Order №56/04 related to Cybersecurity Framework**

Requires from each Bank to have a cybersecurity framework integrated in the whole risk management process of the bank, determines the issues to be covered by cybersecurity, incident reaction process as well as measures to ensure effectivity of the system.

- **Order №32/04 Rule on General Risk Assessment Program (GRAPE)**

GRAPE is a continuous cycle of risk-based supervision aimed at assessing the risk levels of commercial banks and elaborating relevant supervisory actions. The rule includes requirements towards risk assessment; supervisory actions; process of determination and approval of the risk assessments as well quantitative assessment of risks and the corresponding level of supervisory attention.
## Annex 1 – Documents to be submitted for obtaining License (JSC)

<table>
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<tr>
<th>#</th>
<th>Document/Information</th>
<th>Comment</th>
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<tbody>
<tr>
<td>1</td>
<td>Extract from the NAPR for the legal entity intending to obtain the license</td>
<td>Available publicly on the NAPR webpage.</td>
</tr>
<tr>
<td>2</td>
<td>company constituting and related documents, such as Charter, resolution on incorporation, appointment of administrators, etc.</td>
<td>For more information please view Section 6 of the present guide</td>
</tr>
<tr>
<td>3</td>
<td>Information on administrators of the bank and their compliance with “fit and proper” Criteria</td>
<td>For more information on capital requirements please refer to Section 5 of the present guide</td>
</tr>
<tr>
<td>4</td>
<td>Certificate of applicant on the declared charter capital as well as its subscribed part thereof, as well as information on the ownership and origin of the charter capital and the regulatory capital</td>
<td>Submitted in case of significant number of shares. For more information please view Section 7 of the present guide</td>
</tr>
<tr>
<td>5</td>
<td>Declaration of Conformity on the significant number of shares for both direct as well as beneficial owners.</td>
<td>An extract from the public registry confirming ownership or notarized lease agreement on the premises</td>
</tr>
<tr>
<td>6</td>
<td>Documents confirming ownership or lease of the immovable property where the bank will be operating</td>
<td>License fee payment receipt</td>
</tr>
<tr>
<td>7</td>
<td>License fee payment receipt</td>
<td>confirmation of capital contribution</td>
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</tbody>
</table>

All documents submitted to the NBG for obtaining a license shall be original or notarized copy. If a document is issued outside of Georgia such document shall be properly legalized or apostilled as applicable.
b) Branches/subsidiaries of foreign banks

For obtaining banking license for the Branch/Subsidiary of Foreign bank the following documents need to be submitted to NBG together with the application:

- Letter of consent on opening the branch or establishment of the subsidiary in Georgia, issued by the regulatory body of the country where the parent company is registered
- Extract on the branch/subsidiary from the NAPR webpage
- Notarized and apostilled/legalized resolution issued by the authorized body of the parent company on establishment of branch/subsidiary in Georgia
- Audit report on the financial condition of the parent company for the last three years
- Information on Compatibility Criteria of the administrators of the branch
- Information on allocated resources by the parent company for the branch/subsidiary
- Receipt of license fee

Bank extract confirming the capital contribution

Annex 2 - Additional Documents that may be requested by NBG

The NBG may request any additional information/documents, such as business plan, ownership structure etc. for the purposes of issuance of license.

Business plan shall contain:

- Business strategy;
- Potential influence of Georgian macroeconomic situation on the business strategy;
- Description of target market as well as its own competitiveness;
- Financial projections and indicators;
- Description of IT infrastructure.

Documents adopted the Supervisory Board that includes:

- Corporate governance policy/code;
- Description of organizational structure and management authorities;
- Credit, market, operational and other relevant risk management frameworks;
- Internal model of capital adequacy assessment;
- Calculation of capital adequacy according to the requirements of the NBG based on the budget presented in the business plan;
- Accounting policy.

If the legal entity seeking to obtain a banking license is a member of the group of companies – detailed description of such group shall be submitted to the NBG. The group structure shall not be too complex not to hinder supervising of the Bank by the NBG, otherwise the latter may refuse to issue the license. Low level of group complexity shall be maintained for the whole period of existence of the Bank.
### Annex 3 – Documents to be submitted for obtaining license (Branch/subsidiary)

**a) Branches of foreign trusted banks**

For obtaining banking license for the branch trusted foreign bank the following documents need to be submitted to NBG together with the application:

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<td>1</td>
<td>Extract on the branch/subsidiary from the NAPR webpage</td>
</tr>
<tr>
<td>2</td>
<td>Letter of consent on opening the branch in Georgia, issued by the regulatory body of the country where the parent company is registered</td>
</tr>
<tr>
<td>3</td>
<td>Notarized and apostilled/legalized resolution issued by the authorized body of the parent company on establishment of branch/subsidiary in Georgia</td>
</tr>
<tr>
<td>4</td>
<td>Document confirming that the parent company is considered as a trusted bank in accordance with the international ratings;</td>
</tr>
<tr>
<td>5</td>
<td>Resolution on appointment of branch administrators</td>
</tr>
<tr>
<td>6</td>
<td>Receipt on payment of license fee</td>
</tr>
</tbody>
</table>

### b) Branches/subsidiaries of foreign banks

For obtaining banking license for the Branch/Subsidiary of Foreign bank the following documents need to be submitted to NBG together with the application:

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<td>Audit report on the financial condition of the parent company for the last three years</td>
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<td>Receipt of license fee</td>
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<td>8</td>
<td>Bank extract confirming the capital contribution</td>
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