

Pursuant to Article 44 paragraph 1 item 3 of the Central Bank of Montenegro Law (OGM 40/10, 06/13, 70/17) and Article 45 paragraph (11) of the Law on Resolution of Credit Institutions (OGM 72/19), the Council of the Central Bank of Montenegro, at its meeting held on 14 December 2020, passed the following

**DECISION
ON CONDITIONS TO BE MET BY AN INDEPENDENT VALUER OF ASSETS AND
LIABILITIES OF A CREDIT INSTITUTION UNDER RESOLUTION**

Subject matter

Article 1

This Decision shall govern the conditions to be met by an independent valuer carrying out the valuation of assets and liabilities of a credit institution or legal persons referred to in Article 3 items 2), 3), and 4) of the Law on Resolution of Credit Institutions (OGM 72/19) – (hereinafter: the Law).

Definitions

Article 2

The terms used in this decision shall have the following meanings:

- 1) “relevant entity” is a credit institution and a legal person referred to in Article 3 items 2), 3), and 4) of the Law;
- 2) “relevant public authorities” are the Central Bank of Montenegro (hereinafter: the Central Bank), Ministry of Finance, Deposit Protection Fund, other countries’ authorities responsible for the supervision of members of the group to which the credit institution belongs, including the body responsible for the supervision on a consolidated basis of the group of parent institutions and institutions under control of parent financial holding companies or parent mixed financial holding companies from the country in which they have their head offices, and bodies responsible for the supervision of credit institutions in the country in which a credit institution’s branch operates.

Elements of independence

Article 3

A valuer shall be deemed to be independent from any relevant public authority and the relevant entity if the valuer:

- 1) possesses the qualifications, experience, ability, knowledge and resources referred to in Article 4 of this Decision, required to carry out the valuation

- effectively, without undue reliance on any relevant public authority or the relevant entity;
- 2) is legally or structurally separated from the relevant public authorities and the relevant entity in accordance with Article 5 of this Decision; and
 - 3) has no material common or conflicting interest within the meaning of Article 6 of this Decision.

Qualifications, experience, ability, knowledge and resources

Article 4

- (1) The independent valuer shall possess the necessary qualifications, experience, ability and knowledge in all matters considered relevant by the Central Bank.
- (2) The independent valuer shall hold, or have access to, such human and technical resources that the central Bank considers appropriate to carry out the valuation, and the assessment of adequacy of resources shall take into account the nature, size and complexity of the valuation to be performed.
- (3) In relation to the conduct of the valuation the independent valuer shall not:
 - 1) seek nor take instructions or guidance from any relevant public authority or the relevant entity;
 - 2) seek nor accept financial or other advantages from any relevant public authority or the relevant entity.
- (4) Paragraph (3) of this Article shall not prevent:
 - 1) the provision of instructions, guidance, premises, technical equipment or other forms of support where, in the assessment of the Central Bank, this is considered necessary for achieving the goals of the valuation;
 - 2) the payment to the independent valuer of such remuneration and expenses which they are entitled to in connection with the conduct of the valuation.

Structural separation

Article 5

- (1) The independent valuer shall be a person separate from any relevant public authority and the relevant entity.
- (2) The condition set out in paragraph (1) of this Article shall be considered to be met where:
 - 1) in relation to natural persons, the independent valuer is not an employee or contractor of any relevant public authority or the relevant entity;
 - 2) in relation to legal persons, the independent valuer does not belong to the same group as any relevant public authority or the relevant entity.

Material common or conflicting interests

Article 6

- (1) The independent valuer shall not have an actual or potential material interest in common or in conflict with any relevant public authority or the relevant entity.
- (2) An actual or potential interest referred to in paragraph (1) of this Article shall be deemed material whenever, in the assessment of the Central Bank, it could influence, or be reasonably perceived to influence, the independent valuer's judgement in carrying out the valuation.
- (3) When assessing the interests referred to in paragraph (1) of this Article, interests in common or in conflict with the following persons in particular shall be relevant:
- 1) the senior management and the members of the management body of the relevant entity;
 - 2) the legal or natural persons who control or have a qualifying holding in the relevant entity;
 - 3) the creditors identified by the Central Bank to be significant on the basis of the information available to the Central Bank;
 - 4) each group entity.
- (4) For the purposes of assessment referred to in paragraph (1) of this Article the following matters in particular shall be relevant:
- 1) the provision by the independent valuer of services, including the past provision of services, to the relevant entity and the persons referred to in paragraph (3) of this Article, and in particular the link between these services and the elements relevant for the valuation;
 - 2) personal and financial relationships between the independent valuer and the relevant entity and the persons referred to in paragraph (3) of this Article;
 - 3) investments or other material financial interests of the independent valuer;
 - 4) in relation to valuers that are legal persons, any structural separation or other arrangements that shall be put in place to address any threats to independence of the valuer (such as self-interest, advocacy, familiarity, trust or intimidation, including arrangements to differentiate between those staff members who may be involved in the valuation and other staff members).
- (5) By way of derogation from paragraphs (3) and (4) of this Article, a person shall be deemed to have an actual material interest in common or in conflict with the relevant entity where the independent valuer, in the year preceding the date on which that person's eligibility to act as independent valuer is assessed, has completed a statutory audit of the relevant entity pursuant to the law governing the establishment and operations of credit institutions or other relevant regulations.
- (6) Any person that is a candidate for the position of independent valuer, or appointed as an independent valuer shall:

- 1) implement, in accordance with all applicable codes of ethics and professional standards, policies and procedures to identify any actual or potential interest which may be considered to constitute a material interest in accordance with paragraph (2) of this Article;
- 2) without delay notify the Central Bank of any actual or potential interest which the independent valuer considers may, in the assessment of the Central Bank, be considered to amount to a material interest within the meaning of paragraph (2) of this Article;
- 3) take appropriate steps to ensure that none of the staff members or other persons involved in carrying out the valuation have any material interest within the meaning of paragraph (2) of this Article.

Article 7

This Decision shall enter into force on the eighth day following that of its publication in the Official Gazette of Montenegro, and it shall apply from the date of application of the Law on Resolution of Credit Institutions (OGM 72/19).

THE COUNCIL OF THE CENTRAL BANK OF MONTENEGRO

CHAIRMAN

Decision number: 0101-7418- 3/2020
Podgorica, 14 December 2020

G O V E R N O R,

Radoje Žugić, m.p.