

**D E C I S I O N**  
**ON DOCUMENTS SUPPORTING THE REQUEST FOR GRANTING**  
**APPROVALS UNDER THE BANKING LAW**  
**(OGM 57/08 of 23 September 2008, 80/10 of 31 December 2010)**

**I. GENERAL PROVISIONS**

**Subject matter**

**Article 1**

This Decision prescribes the documents that shall be submitted to the Central Bank of Montenegro together with the request for granting approvals under the Banking Law (OGM 17/08). The approvals are requested for:

- 1) acquiring or increasing qualified participation in a bank (Article 9);
- 2) signing the shareholder's agreement (Article 19);
- 3) performing activities not specified in the decision on granting license (Article 25);
- 4) electing member of bank's board of directors (Article 32);
- 4a) electing bank's executive director (Article 37)
- 5) founding bank subsidiaries and parts of a bank abroad (Article 42);
- 6) using the debtor's rating assigned by external institutions (Article 60);
- 7) internal audit outsourcing (Article 74);
- 8) acquiring banking market concentration (Article 77);
- 9) payment of dividends above a certain amount (Article 83);
- 10) electing an auditor or an audit firm (Article 95);
- 11) excluding the information on subordinated member of the banking group from consolidated financial statements (Article 134);
- 12) founding foreign bank representative office (Article 147).

**Request and documents**

**Article 2**

The request for granting the approval shall be submitted to the Central Bank of Montenegro (hereinafter: the Central Bank) in writing, together with the documents prescribed by this Decision and the evidence on payment of fee, pursuant to the regulation of the Central Bank governing the amount of fee for the performance of the supervisory function of the Central Bank.

In the process of analysing the submitted requests, the Central Bank may request the applicant to submit, in a due time, missing documents and additional information and data which are important in the process of deciding upon the request.

If the applicant does not comply with the request under paragraph 2 above in a due time, the Central Bank shall decide upon the request on the basis of available documents.

## **2. DOCUMENTS TO BE SUBMITTED TOGETHER WITH THE REQUESTS**

### **Acquiring or increasing the qualified participation**

#### **Article 3**

The following documentation shall be submitted together with the request for acquiring and increasing the qualified participation in a bank:

1) For natural person:

- Personal information (name and last name, date and place of birth, address of permanent or temporary residence, citizenship),
- Summary of past and current working engagement (name of the employer and nature of work the person has been or is performing),
- Overview of investments of such person representing participation in capital of legal persons that are bank's shareholders,
- Overview of investments of such person representing participation in capital of legal persons other than bank's shareholders,
- Information on financial situation of that person,
- Evidence on reported and/or paid taxes for the last three years,
- evidence that the person is not sentenced for criminal offences,
- evidence on sources of funds for acquiring bank's shares;

2) For legal person:

- Certificate of registration of such legal person or other corresponding document,
- Annual financial statements (balance sheet, profit and loss statement and report on cash flows) for the last three years (and/or available financial statements if a legal person operates less than three years), with the auditor's opinion (if these statements are subject to an audit),
- Overview of the ownership structure of such legal person including the participation of bank's shareholders and other natural and legal persons in capital of that legal person,
- Overview of investments of such person representing participation of 5% or more in capital of legal persons that are bank's shareholders and participation in capital of other legal persons,
- Information on legal and natural persons, who, on the basis of ownership or otherwise, have significant influence on operations of legal persons in which that legal person has participation of 5% or more in capital,
- Information on legal and natural persons, who, on the basis of ownership or otherwise, have significant influence on operations of legal persons which have participation of 5% or more in capital of such legal persons,
- Personal information and information on qualifications and working experience for the executive director and members of the board of directors of that legal person and/or for the members of other corresponding managing body,
- Information on legal penalties against founders or executives in such legal person for the period of five preceding years.

The applicant, who acquires or increases the qualified participation up to the level which represents the controlling interest in a bank, shall also submit, together with the documents referred to in paragraph 1 above, the document incorporating the planned bank management strategy.

## **Signing the Shareholders' Agreement**

### **Article 4**

A group of bank's shareholders shall, together with the request for granting the approval for signing the shareholders' agreement, submit the following:

- 1) Proposal of the shareholders' agreement;
- 2) Information on the objectives which a group of shareholders intends to achieve by signing the shareholders' agreement;
- 3) Information, data and evidences referred to in Article 3 point 1) herein for natural person who is a member of the group of shareholders, and who does not have qualified participation in the bank;
- 4) Information, data and evidences referred to in Article 3 point 2) herein for legal person which is a member of the group of shareholders, and which does not have qualified participation in the bank.

If the Central Bank determines that a group of shareholders concluded the informal shareholders' agreement, such group of shareholders shall submit to the Central Bank the documents under paragraph 1 points 2) to 4) above, together with the request for granting the approval for acquiring a qualified participation.

## **Performing activities not specified in the decision on granting license**

### **Article 5**

The bank shall, together with the request for performing activities not specified in the decision on granting the license, submit the following:

- 1) Information and description of operations for which performance the approval is requested;
- 2) evidence on legal basis for performing such activities and/or corresponding decision of the board of directors;
- 3) Business plan referring to these activities with the projection of their impact on the balance sheet, profit and loss statement and risk management policy in a bank;
- 4) evidence on organisational, technical and staff capacities for performing these activities.

## **Election of a member of bank's board of directors**

### **Article 6**

The bank shall, together with the request for granting the approval for electing member of the bank's board of directors, submit the following:

- 1) The questionnaire (Annex 1) which is attached to this Decision and makes an integral part thereof, and which is personally filled out and signed by a person requesting the approval;
- 2) original or certified copy of the university degree acquired in accordance with the regulations governing higher education in Montenegro or degree acquired abroad that is equivalent to university degree acquired in Montenegro;
- 3) proposal of the decision on the election of the member of the bank's board of directors with a detail explanation of reasons for the election of the proposed person for the member of the bank's board of directors;

- 4) information that there are no obstacles for the election of the proposed person as member of the bank's board of directors, with regard to the structure of the board of directors prescribed in Article 30 of the Banking Law.

During the process of assessment of the fulfilment of requirements for electing member of the bank's board of directors, the Central Bank may require the bank, and/or a person for which the approval is required, to submit the following:

- 1) an evidence from the competent authority that there are no obstacles for the election of the member of the board of directors referred to in Article 31 points 4, 7 and 8 of the Banking Law;
- 2) an evidence from the competent authority that the degree acquired abroad is equivalent to the university degree acquired in Montenegro;
- 3) personal references on professional qualifications of the candidate that may be given by: the members of the board of directors of the bank or other legal person from the financial sector (except the bank that submits the request for granting approval or member of the banking group to which such bank belongs), academics, university professors or other persons that have gained professional or personal reputation from their recent successful work.

By way of exception from paragraphs 1 and 2 above, when executive director of the bank, to whom the Central Bank has granted the approval or the procedure on deciding upon the request for granting approval for the person proposed for executive director is pending, is proposed for the member of the bank's board of directors, the bank shall also submit the following documentation supporting the request for granting approval for electing such person for member of the board of directors:

- 1) Proposal of the decision on the election of the executive director of the bank for the member of the board of directors of the bank;
- 2) Information on non-existence of obstacles for electing the proposed person as member of the bank's board of directors with regard to structure of the bank's board of directors prescribed under Article 30 of the Banking Law.

### **Election of bank's executive director**

#### **Article 6a**

The bank shall, together with the request for granting approval for electing executive director of the bank, submit the following:

- 1) The questionnaire (Annex 3) which is attached to this Decision and makes an integral part thereof, and which is personally filled out and signed by a person requesting the approval;
- 2) original or certified copy of the university degree acquired in accordance with the regulations governing higher education in Montenegro or degree acquired abroad that is equivalent to university degree acquired in Montenegro;
- 3) proposal of the decision on the election of the executive director with a detail explanation of reasons for electing the proposed person as the executive director of the bank;
- 4) information on meeting the requirements under Article 36 paragraph 3 of the Banking Law referring to the proficiency level of language that is in official use in Montenegro.

During the process of assessing the fulfilment of requirements for the election of the executive director of the bank, the Central Bank may require the bank and/or a person requesting the approval to submit the following:

- 1) an evidence from the competent authority that there are not obstacles for the election of the member of the bank board of directors referred to in Article 31 points 4, 7 and 8 of the Banking Law;
- 2) an evidence from the competent authority that the degree acquired abroad is equivalent to university degree acquired in Montenegro;
- 3) personal references on professional qualifications of the candidate that may be given by: the members of the bank's board of directors or any other legal person from the financial sector (except the bank that submits the application for granting approval or member of the banking group to which such bank belongs), academics, university professors or other persons that have gained professional or personal reputation from their recent successful work.

### **Founding bank subsidiaries and parts of the bank abroad**

#### **Article 7**

The bank shall, together with the application for issuing licence for founding bank's subsidiaries and parts of the bank abroad, submit the following:

- 1) For founding bank subsidiary:
  - Basic information on bank's subsidiary and/or part of the bank to be founded abroad,
  - Business plan of bank's subsidiary for the first three business years, with the projection of impact of bank's subsidiary activities on the bank's operations,
  - Information on persons who will be managers of the bank subsidiary,
  - Projection of the organisational structure and human potential of the bank's subsidiary;
- 2) For founding organisational unit, except a representative office:
  - Basic information on organisational unit to be founded,
  - Information on the volume and type of services which a bank intends to provide through the organisational unit, with the organisational structure,
  - Projection of impact of the organisational unit activities on bank's operations,
  - Information on persons which will be managers of organisational unit operations;
- 3) For founding a representative office:
  - Basic information on bank's representative office to be founded,
  - Information on organisational capacities and human potential of the representative office and projected costs for the functioning of the representative office,
  - Information on persons who will be managers of the representative office.

## **Using debtor's rating assigned by external institutions**

### **Article 8**

The bank shall, together with the request for granting approval for the use of debtors' rating assigned by external institution, submit the following:

- 1) Bank's statement on the intention of using the rating assigned by external institution;
- 2) Documents and information from the Annex 2 which is attached to this Decision and makes an integral part thereof.

## **Internal audit outsourcing**

### **Article 9**

The bank shall, together with the request for granting the approval for internal audit outsourcing, submit the following:

- 1) For performing a full internal audit:
  - Evidence that these operations are entrusted to an audit firm or to the person who has audit licence, with information on the experience of the audit firm and/or an auditor in bank auditing;
- 2) For performing audit of specific areas:
  - Evidence under point 1) of this Article, or
  - Evidences on professional qualifications of persons who will perform the audit of a specific area, including the evidences on fulfilment of specific requirements for performing the audit of specific area, if these requirements are determined by a law or other regulation.

## **Acquiring banking market concentration**

### **Article 10**

The bank shall, together with the request for granting approval for acquiring banking market concentration, submit the following:

- 1) Documents on the manner and reasons for acquiring banking market concentration;
- 2) Study on economic viability of statutory change by which the banking market concentration is acquired;
- 3) A detail explanation of the impact of acquiring banking market concentration on balance sheet, profit and loss statement and bank's operations;
- 4) Projected business plan for the three-year period after the acquisition of the concentration.

## **Electing an auditor or an audit firm**

### **Article 11**

The bank shall, together with the request for granting the approval for the election of an auditor or audit firm, submit the following:

- 1) Decision of the board of directors on the election of an auditor or audit firm;
- 2) Basic information on auditor's performance and/or performance of audit firm;
- 3) A copy of auditor's license;

- 4) Information on auditor's experience and/or experience of a leading the audit, in the process of audit of bank's financial statements;
- 5) Evidence that there are no obstacles referred to in Article 95 points 2) to 5) of the Banking Law regulating the election of an auditor.

## **Payment of dividends**

### **Article 12**

The bank shall, together with the request for granting the approval for the payment of dividends above the level specified under Article 83 of the Banking Law, submit the following:

- 1) Annual financial statements of a bank, with the external auditor's opinion;
- 2) Decision or proposal of the decision on dividends payout;
- 3) Analysis of impact of dividends payout on bank's performance indicators.

## **Exclusion from consolidation**

### **Article 13**

The bank shall, together with the request for granting the approval for the exclusion of information on subordinated member of a banking group from the consolidated financial statements, submit the following:

- 1) Analysis of consolidated financial statements, with the analysis of financial statement of subordinated member of a banking group;
- 2) A detail explanation of reasons for the exclusion of financial statements of subordinated member of a banking group;
- 3) Risk assessment for the banking group in a case of exclusion of financial statements of subordinated member of a banking group;
- 4) Methodology for the assessment of a banking group position.

## **Founding foreign bank representative office**

### **Article 14**

The bank shall, together with the request for granting the approval for establishing foreign bank representative office, submit the following:

- 1) Statement from the court or other register in which a bank is registered;
- 2) Articles of association and strategic plan of a bank;
- 3) Financial statements of a bank for the past three years, with an external auditor's opinion;
- 4) Name and address of the representative office to be founded;
- 5) Information on person who is proposed to be a manager in a representative office;
- 6) Information on technical capacities and human potential of a representative office;
- 7) Consent for the establishment of a representative office issued by relevant state authority where the bank's head office is registered, or evidence that such consent is not needed.

### **3. TRANSITIONAL AND FINAL PROVISIONS**

#### **Initiated Procedures**

##### **Article 15**

The procedures for granting approvals under this Decision, initiated up to the day when this Decision entered the force, shall be terminated pursuant to the provisions of this Decision.

#### **Entry into force**

##### **Article 16**

This Decision shall enter into force the next day following that of its publication in the Official Gazette of Montenegro.

### **THE COUNCIL OF THE CENTRAL BANK OF MONTENEGRO**

#### **NOTE:**

The unofficially consolidated version of the Decision does not contain provisions of Articles 5, 6 and 7 of the Decision amending the Decision on documents supporting the request for granting approvals under the Banking Law (OGM 80/10), which are worded as follows:

#### **“Article 5**

The Questionnaire (Annex 1), which is attached to the Decision on documents supporting the request for granting approvals under the Banking Law (OGM 57/08) and makes an integral part thereof, shall be replaced by the Questionnaire (Annex 1), which is attached to this Decision and makes an integral part thereof.

#### **Article 6**

The approvals of the Central Bank for the membership in the bank’s board of directors issued until the day of the entry into force of this decision shall remain effective until the expiry of term of office of the persons to which the approval has been granted, unless in case of termination of their function before the expiry of term of office.

On the day of the election of new member of the bank’s board of directors, the approvals of the Central Bank for the membership in the bank’s board of directors shall be terminated to the persons to which the membership in the bank’s board of directors has been terminated due to the obligation of change in the structure of the board of directors for the purpose of its harmonisation with Article 30 of the Banking Law.

With regard to the executive directors of the bank to whom the Central Bank has granted the approval for membership in the bank’s board of directors until the day of the entry into force of the Law amending the Banking Law (OGM 44/10), the bank is not obliged to submit to the Central Bank the request for granting the approval for electing such persons as executive directors of the bank until the termination of term of office such person as member of the board or directors of such bank.

**Article 7**

This decision shall enter into force on the eighth day following that of its publication in the Official Gazette of Montenegro.”