

**Ordinance No 2**  
**of the BNB**  
**of 22 December 2006**  
**on the Licenses, Approvals and Permissions Granted**  
**by the Bulgarian National Bank According to the Law**  
**on Credit Institutions**

(title amended; Darjaven Vestnik, issue 36 of 2009)

(Published in the Darjaven Vestnik, issue 6 of 19 January 2007;  
amended, issue 36 of 2009; amended, issue 48 of 2011;  
amended, issue 40 of 2014; amended, issue 63 of 2017)

*Chapter One*  
**General Provisions**

**Article 1.** (1) (previous wording of Article 1; Darjaven Vestnik, issue 63 of 2017) This Ordinance shall govern:

1. (amended; Darjaven Vestnik, issue 48 of 2011) requirements to documents and procedures for issuance by the Bulgarian National Bank (BNB) of licenses to conduct bank activities on the territory of the Republic of Bulgaria;

2. (amended; Darjaven Vestnik, issue 36 of 2009) issuance of approvals and permissions under Chapter Three and Chapter Twelve of the Law on Credit Institutions.

(2) (new; Darjaven Vestnik, issue 63 of 2017) The provisions of this Ordinance shall be applied also where the BNB participates jointly with the competent bodies of other Member States in the preparation on decisions on the authorisations and approvals under Regulation (EU) No 575/2013 of the European Parliament and of the Council on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 (OJ L 176/1 of 27 June 2013), hereinafter referred to as Regulation (EU) No 575/2013 and its implementing instruments.

Article 2. (1) The Bulgarian National Bank shall grant the following:

1. a license for a bank with a seat on the territory of the Republic of Bulgaria (hereafter referred to as 'bank');

2. a license for a bank with a seat in a third country to conduct bank activities on the territory of the Republic of Bulgaria through a branch;

3. (repealed; Darjaven Vestnik, issue 48 of 2011).

(2) A license for a bank shall be granted to a joint-stock company in the process of incorporation which meets the requirements provided for in the Law on Credit Institutions and this Ordinance.

(3) (amended; Darjaven Vestnik, issue 63 of 2017) A license for a bank with a seat in a third country to conduct bank activities on the territory of the Republic of Bulgaria through a branch shall be granted to a bank which meets the requirements provided for in the Law on Credit Institutions and in this Ordinance and has, at the time of granting the license, no less than the required paid-up capital under Article 7, paragraph 2 of the Law on Credit Institutions.

(4) (repealed; Darjaven Vestnik, issue 48 of 2011).

**Article 3.** (1) (amended; Darjaven Vestnik, issue 48 of 2011) A license for a bank confers the right to conduct only the activities, specified in the license, on the territory of the Republic of Bulgaria and on the other Member-States' territories.

(2) A license for a bank with a seat in a third country to conduct bank activities through a branch confers the right to carry out the specified activities only on the territory of the Republic of Bulgaria.

(3) (new; Darjaven Vestnik, issue 36 of 2009) Unless otherwise agreed upon, the license shall give the right to the bank to act as an intermediary in providing services the bank is licensed to, as well as insurance agency and intermediation activities.

**Article 4.** (1) (amended; Darjaven Vestnik, issue 36 of 2009) Prior to filing an application for a license, permission or approval under this Ordinance, the applicant shall hold preliminary consultations with the Deputy Governor in charge of the Banking Supervision Department.

(2) (amended; Darjaven Vestnik, issue 36 of 2009) Unless the fees required under Article 35 are duly paid in, the Bulgarian National Bank shall not consider the documents on issuance of a license, permission or approval.

## *Chapter Two*

### **Licenses**

#### Section I

#### **License for a Bank**

**Article 5.** (1) The application for a bank license shall be filed with the Governing Council of the Bulgarian National Bank through the Governor of the Bulgarian National Bank and Deputy Governor heading the Banking Supervision Department. It shall contain the name, registered office and head office address of the bank, the amount of capital and the part of it which shall be paid in with the bank incorporation, and specify exhaustively the transactions and activities under Article 2 of the Law on Credit Institutions which the bank will carry out.

(2) The documents enclosed to the application under Article 13, paragraph 2 of the Law on Credit Institutions shall satisfy the following additional requirements:

1. an applicant's Articles of Association providing for the activities that the bank will carry out, authorization to sign and represent the bank, and information concerning the internal control system;

2. besides other constitutive documents under Article 13, paragraph 2, item 1 of the Law on Credit institutions, the applicant shall enclose certified transcripts of the bank's Minutes of the Constituent containing decisions made thereof and the Minutes of Meetings of the elected managing bodies of the bank;

3. documents containing data on the paid-in and subscribed shares under Article 13, paragraph 2, item 2 of the Law on Credit Institutions shall include a list of bank shareholders, data on the amount of subscribed capital that each shareholder has paid and documents certifying that each subscribing shareholder has paid into the bank account of the incorporated company at least 25 per cent of the total nominal value or issuing value of the subscribed shares provided for in the Articles of Association.

(3) (amended; Darjaven Vestnik issue 40 of 2014) Where the applicant will conduct the activities under Article 2, paragraph 2, item 9 of the Law on Credit Institutions, he shall also submit the documents required by the Financial Supervision Commission for the issuance of a permission to conduct activities as an investment intermediary in accordance with the Law on Markets in Financial Instruments, and the ordinances on its enactment.

(4) The documents under Articles 6–10 shall be enclosed to the application.

**Article 6.** (1) Any natural person, having subscribed for three per cent or over three per cent of the voting shares, shall submit the following documents:

1. full name of the person;
2. place of birth and unified registration number (URN);
3. nationality;
4. number of the ID card, including date and place of issue;
5. permanent home address and residence of the person;
6. the person's profession or occupation;
7. description of the professional activity of the person for the last five years;
8. data on the amount of the income received by the person and taxes paid for the last five years;
9. a declaration that certifies the circumstances under Article 13, paragraph 2, item 7, letters 'a', 'b' and 'c' of the Law on Credit Institutions and information whether the person has any outstanding taxes, or has been penalized for tax evasion;
10. a declaration that certifies the existence or absence of relatedness with other persons within the meaning of § 1, item 4 of the Law on Credit Institutions with the indication of the names and addresses of related persons;
11. a certificate proving no previous conviction or, in case of a foreign person, another document to the same effect;
12. documents about the available funds in the banks, where the person has accounts, as of no longer than 30 days preceding the date of filing the application;
13. a declaration about the type and size of person's obligations, valid as of no longer than 30 days preceding the date of filing the application and a certificate for the presence of any outstanding taxes or other public obligations;
14. a list of the banks where the person has opened accounts.

(2) Any legal entity having subscribed for three per cent or over three per cent of the voting shares shall submit, in addition to the documents under Article 13, paragraph 2, items 7 and 8 of the Law on Credit Institutions, the following:

1. structure of the legal entity capital and its allocation between the shareholders (partners);
2. Articles of Association or other similar documents;
3. a certified transcript of the decision of the competent management body according to the law, a certificate from a commercial or other public register that the entity is registered therein, Articles of Association, or Memorandum of Association concerning the person's interest in the bank's capital;
4. auditor's reports and financial statements for the last three years;
5. a declaration that certifies the relatedness with other persons within the meaning of § 1, item 4 of the Law on Credit Institutions, with the indication of the names and addresses of related persons, undersigned by the persons who manage and represent the legal entity according to a law, Articles of Association, or Memorandum of Association;
6. a list of the banks where the legal entity has opened accounts;
7. balance sheets, income statements as of no longer than 30 days preceding the date of filing the application;
8. documents about the available funds in the banks, where the person has accounts, which are as of no longer than 30 days preceding the date of filing the application;
9. a certificate for the presence of any outstanding taxes or other public obligations as of no longer than 30 days preceding the date of filing the application.

**Article 7.** (1) Any natural person having subscribed for ten per cent or over ten per cent of the voting shares shall submit, in addition to the data required under Article 6, paragraph 1, the following:

1. an employment record of the person for the last ten years;
2. a statement certifying the following circumstances:
  - a) whether the person has been a member of a managing or controlling body or a general partner in a company which has been wound up due to bankruptcy, if creditors have not been paid;
  - b) whether any related person has been declared insolvent, respectively bankrupt, or has been under a forced liquidation procedure for the last ten years;
  - c) whether any civil litigations or enforcement proceedings have been instituted against him or against a person related to him for outstanding loans for the last ten years.

(2) Any legal entity having subscribed for ten per cent or over ten per cent of the voting shares, shall submit, in addition to the data required under Article 6, paragraph 2, the following:

1. a description of the business activity of the enterprise for the last ten years;

2. a letter of reference certifying good-faith performance of obligations issued by a bank servicing the business of the said person signed by the persons authorized to manage and represent the bank;

3. a declaration certifying compliance with the requirements under paragraph 1, item 2, undersigned by the persons who manage and represent the legal entity according to a law, Articles of Association, or Memorandum of Association;

4. detailed information about the structure of the group where the applicant participates;

5. information on the enterprises' financial position the applicant maintains close relations with.

(3) (amended; Darjaven Vestnik, issue 63 of 2017) Any legal entity with a seat in a third country, having subscribed for 10 per cent or over 10 per cent of the voting shares, in addition to the documents under paragraph 2, shall submit a document on the credit rating issued by a credit rating agency registered in accordance with Regulation (EC) No 1060/2009 of the European Parliament and of the Council of 2009 on credit rating agencies (OJ L 302/1 of 17 November 2009). The corresponding credit rating step shall be added to this document where this agency has mapped the ratings in line with Commission Implementing Regulation (EU) 2016/1799 of 2016 laying down implementing technical standards with regard to the allocation of credit assessments of external credit assessment institutions for credit risk in line with Article 136, paragraph 1 and Article 136, paragraph 3 of Regulation (EU) No 575/2013 of the European Parliament and of the Council (OJ L 74/8 of 14 March 2014).

**Article 8.** (1) Where a person having subscribed for 25 per cent or over 25 per cent of the voting shares is a foreign bank with a seat in a third country, or a company which has a foreign bank as a subsidiary with a seat in a third country, or is controlled by a person that also controls a foreign bank with a seat in a third country, the Bulgarian National Bank shall:

1. carry on preliminary consultations with the competent supervisory authority of the bank, where the seat of this bank is in a third country; and

2. require submission of an appropriate authorization for making the investment in relation to the incorporation of a bank in the Republic of Bulgaria, where this is required under the home country's legislation.

(2) In the cases where a person having subscribed for 25 per cent or over 25 per cent of the voting shares is a foreign bank with a seat in a third country, the applicant shall provide a statement of opinion of this bank as regards the envisaged contribution to the development of competition in the bank services market in the Republic of Bulgaria.

**Article 9.** Where the applicant shareholder is a foreign person, the Bulgarian National Bank shall require information on the effective laws and bylaws applicable in the foreign bank's country of domicile, regulating the shareholder's legal status and its activities and information regarding functions and powers of the competent banking supervisory authority, if there is such authority.

**Article 10.** (amended; Darjaven Vestnik issue 36 of 2009) Any natural person elected as a member of the management board, the board of directors or the supervisory board shall submit the information and documents required for issuance of an approval under Article 11, paragraph 3 of the Law on Credit Institutions.

**Article 11.** (repealed; Darjaven Vestnik, issue 36 of 2009)

## Section II

### **License for an Electronic Money Institution**

(repealed; Darjaven Vestnik, issue 48 of 2011)

## Section III

### **License to a Bank with a Seat in a Third Country for Conducting Bank Activity on the Territory of the Republic of Bulgaria through a Branch**

**Article 13.** (1) A bank with a seat in a third country, wishing to obtain a license to conduct bank activity on the territory of the Republic of Bulgaria through a branch, shall file a written application with the Governing Council of the Bulgarian National Bank through the Governor of the Bulgarian National Bank and the Deputy Governor heading the Banking Supervision Department. The application shall contain the following information:

1. a motivated statement of the reasons to establish a branch of the bank on the territory of the Republic of Bulgaria;
2. a detailed description of the types of bank transactions and activities, the foreign bank intends to conduct through its branch on the territory of the Republic of Bulgaria;
3. the legal form, the name, registered office, head office address of the bank and branch company; the address of the bank's head office shall be in the country where the competent supervisory authority has granted license to the bank and where the said bank actually conducts bank activity;
4. a register and the registration number of the bank, if required by the applicable law;
5. the national law that the bank applies.

(2) The following shall be attached to the application:

1. a certified transcript of the registration certificate of the bank with current information concerning the registered office and head office address, subject of activities, amount of capital, management system, and the persons who represent and manage the bank according to the register, if any, where the certificate is entered, the way of representation and data on the authorization of the persons;
2. a certified transcript of the bank license issued by the competent home supervisory authority, including a detailed description of the permitted types of bank transactions and activities;

3. (amended; Darjaven Vestnik, issue 36 of 2009) a list of the persons related to the bank within the meaning of § 1, item 4, letters 'b' – 'i' of the Law on Credit Institutions;

4. a certified transcript of the Articles of Association, respectively Memorandum of Association, and other Acts of Association of the bank;

5. a certified transcript of the decision for establishment of a branch in the Republic of Bulgaria issued by the competent management body of the bank with a seat in a third country;

6. a business plan of the branch which, in addition to the data under Article 5, paragraph 2, items 6 and 7 of this Ordinance and Article 13, paragraph 2, items 3, 4 and 5 of the Law on Credit Institutions, shall also contain a detailed description of the functions of the branch, as well as its relations with the bank's head office in respect of decision-making on its operations on the territory of the Republic of Bulgaria;

7. audited financial statements of the bank for the last three years;

8. (amended; Darjaven Vestnik, issue 36 of 2009) a certified transcript of the act of the competent managing body of the bank on the election (appointment) of at least two persons who will manage and represent the branch of the bank on the territory of the Republic of Bulgaria, along with documents for issuance of an approval to these persons in accordance with Article 11, paragraph 3 of the Law on Credit Institutions;

9. a written approval for the establishment of the branch issued by the competent home supervisory authority, if required;

10. a written statement by the competent management body of the bank to submit the annual financial statements, as well as semiannual information on the capital adequacy of the bank.

(3) In addition to the application, a written statement by the bank's home supervisory authority shall be submitted, containing the following:

1. an updated evaluation of the financial position of the bank, including the amount of the bank's own capital, capital adequacy ratios of the bank, on a consolidated basis inclusive, and the supervisory measures and sanctions taken in respect of the bank;

2. a statement that the bank is subject to supervision on a consolidated basis;

3. a commitment to duly notify the Bulgarian National Bank of:

a) any supervisory measures taken in respect of the bank;

b) any changes in the capital adequacy, liquidity or other indicators which could have a negative effect on the stability of the bank and its branch in the Republic of Bulgaria;

c) any amendments to prudential banking supervision regulations and any other conditions that could significantly affect the operations of the bank and its branch in the Republic of Bulgaria;

d) any changes in the scope of bank secrecy and requirements in relation to its security and disclosure in the bank's home country in connection with the transactions of its branches abroad;

e) any changes in the deposit insurance scheme in the bank's home country;

f) any sudden occurrence of insolvency or overindebtedness of the bank;

g) the deposit insurance scheme which will be applied to the branch depositors;

4. a commitment to cooperation with the Bulgarian National Bank in conducting on-site examinations on the premises of the branch, as well as submission of information upon request.

(4) (amended; Darjaven Vestnik, issue 40 of 2014) Where the applicant wishes to conduct the activities under Article 2, paragraph 2, item 9 of the Law on Credit Institutions, he shall also submit the documents required by the Financial Supervision Commission for the issuance of a permission to conduct activity as an investment intermediary, in accordance with the Law on Markets in Financial Instruments and the ordinances on its enactment.

(5) The applicant shall submit updated copies, in Bulgarian language, of the current legislation regulating bank activity in the country of domicile, including prudential regulations and the functions and powers of the respective competent supervisory authority.

(6) (amended; Darjaven Vestnik, issue 63 of 2017) Any person elected, respectively appointed, to manage and represent the branch of the bank with a seat in a third country shall submit the documents under Article 10, paragraph 1.

#### Section IV

### **Procedure for the Bulgarian National Bank to Come up with a Decision on an Application for a License**

**Article 14.** (1) Within three months after receipt of the application and all required documents, the Bulgarian National Bank shall come up with a decision for license issuing, provided the conditions under Article 15, paragraph 1 of the Law on Credit Institutions are met, or will refuse to grant a license.

(2) To certify that the provisions of Article 15, paragraph 1 of the Law on Credit Institutions are met, the applicant shall submit the following:

1. information on the paid in contributions, no less than the minimum required capital to conduct bank activities;

2. documents certifying that payments for subscribed shares have been deposited on a cumulative account opened with a domestic bank as agreed with the Bulgarian National Bank;

3. a curriculum vitae and documents of the appointed administrators certifying their qualifications and professional experience required in the field of activities they will perform;

4. information on the buildings and premises suitable for performing bank activities, and the necessary technical equipment;

5. a decision on the establishment of an internal control office and the rules for its activity;

6. information on:

a) the person who will be in charge of the internal control office, his curriculum vitae, a certificate proving no previous conviction, copies of diplomas and other docu-



ments certifying his professional qualification and experience, a statement of existence of any relatedness with other persons;

b) appointed internal control officers: curriculum vitae and other documents certifying the qualifications and professional experience required.

7. administrative and accounting procedures ensuring the reliable conducting of activity and control over it;

8. internal terms and procedures for:

a) credit activity (lending operations);

b) liquidity management;

c) risk management and control.

**Article 15.** The issued license is printed on a special type of paper, carrying a watermark bearing the Bulgarian National Bank logo, with the colours of the Republic of Bulgaria and a wax seal of the Bulgarian National Bank, and shall contain the following requisites:

1. the heading 'License';

2. the name of the body issuing the license;

3. the person to whom the license is issued;

4. the legal grounds for issuing the license;

5. the scope of activities covered by the license, respectively transactions restricted by the Bulgarian National Bank;

6. the signature of the Governor of the Bulgarian National Bank.

Section V

Conditions for Commencement of Bank Activity

**Article 16.** (1) The applicant who has been granted a bank license may commence conducting bank activity after he has received confirmation from the Deputy Governor of the Bulgarian National Bank heading the Banking Supervision Department and after submission of the following documents and information:

1. a certified transcript of the court decision proving that the bank, respectively the branch of the bank with a seat in a third country, has been entered in the Commercial Register;

2. (amended; Darjaven Vestnik, issue 63 of 2017) a document certifying that the bank has paid in its initial contribution to the Deposit Insurance Fund; branches of banks with a seat in a third country shall submit a document under the preceding sentence, provided that the provisions of Article 1, paragraph 3 of the Law on Bank Deposit Guaranty apply to them;

3. a certified copy of a document verifying the ownership right on the premises where bank activity will be conducted, or a lease contract;

4. a document certifying that the premises under item 3 comply with security and protection requirements;

5. a certificate of fire protection compliance of the bank premises, issued by the specialized regional fire protection authorities;

6. a detailed description of the information support system of the bank, including measures for protection and transfer of information, as well as hardware and software tools and technologies for in-house use.

(2) The funds deposited on a cumulative account may be used by the licensed person after submitting to the servicing bank a written confirmation under paragraph 1, or may be withdrawn by the applicant after entry into force of the decision for the refusal to grant a license.

### *Chapter Three*

## **Approvals and Permissions**

(Title amended; Darjaven Vestnik, issue 36 of 2009)

### Section I

## **General Provisions Regarding Approvals and Permissions Issued by the Bulgarian National Bank**

(Title amended; Darjaven Vestnik, issue 36 of 2009)

**Article 17.** (amended; Darjaven Vestnik, issue 36 of 2009) (1) This Chapter shall govern:

1. the major requirements to the applicant that are needed for the assessment of compliance with the criteria under Article 28a, paragraph 3 of the Law on Credit Institutions, as well as the form and the content of the documents indispensable for granting an approval under Article 28 or Article 31 of the Law on Credit Institutions;

2. (amended; Darjaven Vestnik, issue 63 of 2017) the terms and procedure for granting or refusal of a permission under Article 29, Article 39, paragraph 4 and Article 122 of the Law on Credit Institutions;

3. (new; Darjaven Vestnik, issue 63 of 2017) the requirements and documents necessary for granting a permission under Article 39, paragraph 5 of the Law on Credit Institutions;

4. (new; Darjaven Vestnik, issue 63 of 2017) the procedure and documents required for issuing approvals under Article 39, paragraph 6 of the Law on Credit Institutions;

5. (new; Darjaven Vestnik, issue 63 of 2017) the procedure for issuing other permissions and approvals under Regulation (EU) No 575/2013, where it has not been laid down in this Ordinance or in its implementing instruments.

(2) The Bulgarian National Bank shall grant approvals and permissions under paragraph 1 where:

1. it has established that in respect of the applicant, all requirements for the issuance provided for in the Law on Credit Institutions and in this Chapter are met;

2. it has considered that the grounds for refusal are not available.

(3) At applicant's request, the Bulgarian National Bank may exempt the applicant from submission of particular documents provided for in this Chapter where:

1. a year after submission of these documents related to granting a license, an approval or a permission under the Law on Credit Institutions or this Ordinance to the applicant has not yet passed, and

2. the applicant has submitted a confirmation, verified by a notary public, that no changes have occurred in the circumstances ascertained by these documents.

(4) The Bulgarian National Bank may discharge the applicant to submit certain documents provided for in Chapter III, Section II, if it will not prevent the assessment on the basis of the criteria under Article 28a, paragraph 3 of the Law on Credit Institutions.

(5) In making the assessment under paragraph 4, the Bulgarian National Bank shall apply the proportionality principle, taking into account whether the applicant:

1. does not intend to exercise a significant influence over the bank;
2. has been subject to a corresponding previous assessment by a Member State supervisory authority, or a third country authority applying an adequate supervision;
3. is involved in the management of a credit/financial institution which is subject of regulation by a competent authority of a Member State or a third country applying an adequate supervision;
4. is regulated by a Member State competent authority or by a third country regulator applying the adequate supervision.

(6) During the procedure of considering an application, the Bulgarian National Bank may request from the applicant to submit within the set term additional information with the purpose of ascertaining all circumstances required for assessment of available conditions for granting the respective act.

(7) (amended; Darjaven Vestnik, issue 63 of 2017) Where a request for a permission or approval under Articles 29, 39 or 122 of the Law on Credit Institutions is applied, the Bulgarian National Bank shall come up with a decision on the application for granting a permission or approval within a three-month period after its receipt.

(8) (amended; Darjaven Vestnik, issue 63 of 2017) Besides the grounds specified for respective permissions and approvals, the Bulgarian National Bank may also refuse to grant a permission and approval where it has established that:

1. (amended; Darjaven Vestnik, issue 63 of 2017) all documents required for the respective permission or approval are not attached to the application, and no later than 14 days after its receipt these documents are not presented, or
2. the applicant has not submitted within the set term all additional information and documents under Article 6, or
3. the documents submitted by the applicant contain incomplete, inconsistent, improper or untrustworthy information, or
4. the applicant bank violates requirements under Chapter Four of the Law on Credit Institutions or the ordinances on enactment of these requirements.

(9) Paragraph 8, item 4 shall not apply to the permissions under Article 29, paragraph 1, item 2 of the Law on Credit Institutions.

## Section II

**Approval for Acquisition of Bank Shares**

(Title amended; Darjaven Vestnik, issue 36 of 2009)

**Article 18.** (amended; Darjaven Vestnik, issue 36 of 2009) (1) Any person that intends to acquire holding in the capital of a bank licensed by the Bulgarian National Bank, and an approval under Article 28 or Article 31 of the Law on Credit Institutions is required for such a person, shall notify the BNB thereof by submitting an application which shall specify whether the planned acquisition is:

1. primary acquisition or an increase of the holding in the share capital, also which of the thresholds is achieved and/or exceeded;
2. direct or indirect;
3. on his own, or with other persons acting in concert.

(2) In addition to the information under paragraph 1, item 1, natural persons and legal entities shall include in their applications data on bank shares owned by them, the number of shares planned to be acquired, and the size of the bank capital on the basis of which the threshold is calculated.

(3) In case of indirect acquisition, in addition to the information under paragraph 1, item 2, data on the manner of implementing the planned acquisition shall be included, as follows:

1. by acquiring qualifying holding or its increase in the capital of a shareholder who exercises control over the bank, or

2. by acquiring control over a shareholder owning qualifying holding in the bank.

(4) In case the acquisition or part of it is implemented in concert with other persons, the application shall contain detailed information about legal and actual grounds of the actions taken in concert with other persons, and shall be filed by:

1. any person that will directly acquire qualifying holding or higher than that;
2. the person acquiring the largest qualifying holding unless any of the persons acting in concert acquires qualifying or larger holding;
3. any of the persons beyond the cases under item 1, if their shares are equal.

**Article 19.** (amended; Darjaven Vestnik, issue 63 of 2017) The Bulgarian National Bank shall issue an approval for acquisition on the grounds of the submitted application, presented documents under Article 19a – 19c and the available information, when in the course of the assessment based upon the criteria under Article 28a, paragraph 3 of the Law on Credit Institutions decided on the following:

1. the applicant/acquirer is in possession of good reputation (integrity) and professional competence in accordance with the criterion under Article 28a, paragraph 3, item 1 of the Law on Credit Institutions;

2. (amended; Darjaven Vestnik, issue 40 of 2014) in accordance with the criterion under Article 28a, paragraph 3, item 2 of the Law on Credit Institutions, the reputation, knowledge, skills and experience of any person who, as a result of the acquisition, will be elected a member of the management board (board of directors) or the super-

visory board and/or appointed to a senior management position in the bank meet the requirements; the persons under Article 18, paragraph 1 shall declare what changes they intend to make in the management bodies of the bank and in its senior management, if any, after the acquisition;

3. in accordance with the criterion under Article 28a, paragraph 3, item 3 of the Law on Credit Institutions, the applicant is in position of funding the acquisition, financially sound and can keep such a financial soundness providing for the planned development of the bank in a period of not less than three years, including a financial support to the bank if such is needed;

4. in accordance with the criterion under Article 28a, paragraph 3, item 4 of the Law on Credit Institutions all of the following conditions are available:

a) proceeding the acquisition the bank shall not break any of the supervisory regulations and in the planning development of the bank the possibility of such violation is not expected to happen;

b) if the bank becomes a part of a group, the structure of this group shall not impede the prosecution of prudential banking supervision;

c) there is no obstacle for exchanging information between the supervisory authorities and there is clear distribution of the responsibilities amongst them;

5. in accordance with the criterion under Article 28a, paragraph 3, item 5 of the Law on Credit Institutions all the collected data and documents caused no reasonable grounds for suspicion of money laundering or terrorist financing.

**Article 19a.** (new; Darjaven Vestnik, issue 36 of 2009) (1) The documents and information about the applicant/acquirer shall be attached to the application.

(2) In case the applicant/acquirer is a natural person, the following information shall be submitted:

1. the full name of the applicant, unified identity number/personal identification number of a non-resident, place of birth, nationality, identity card number, date and place of issuance, permanent and present address;

2. a certificate showing no previous conviction or relevant criminal records in the cases the applicant is not a Bulgarian citizen, issued not later than one month before filing the application;

3. data on qualifications and professional experience of the applicant, including:

a) relevant education and training, qualifications acquired and profession or activities currently performed;

b) a detailed description of the professional activity of the person for the last ten years;

4. a statement certifying whether:

a) the applicant has been a member of a managing or controlling body of an entity whose activity has been terminated by a court decision due to pursuing illegal or unlawful goals;

b) the applicant has been a member of a managing or controlling body or a general partner in a company which has been terminated by bankruptcy, if creditors have not been paid;

c) a person, over which the applicant has exercised control, was declared insolvent, respectively bankrupt or in compulsory liquidation in the last ten years;

d) a person, over which the applicant has exercised control, has been defendant/debtor in claim or execution proceedings for unpaid loans in the last ten years;

e) a company, over which the applicant has exercised control, or a company in whose managing or controlling body the applicant has been a member or a procurator:

aa) has been subjected to administrative sanctions and/or compulsory administrative measures for violation of legislative acts in the field of banking and non-banking financial sectors;

bb) has been refused issuance of a license or entry in a register kept by the BNB, Financial Supervision Commission or relevant authorities of other countries, as well as membership in commercial or professional organizations, respectively the granted license has been revoked, or the performed entry has been deleted;

f) as a result of an applied compulsory administrative measure, the applicant has been dismissed from the position as a member of a managing or controlling body of a credit or financial institution whose activity is subject to licensing;

g) the applicant has been defendant in criminal proceedings, as well as for the outcome of such proceedings;

h) a disciplinary penalty for violation of the labour legislation has been imposed on the applicant;

i) the applicant has been deprived of the right to hold positions of financial responsibilities;

5. references from a competent supervisory authority in the financial sector on the grounds of a previous identical assessment on the reputation of the applicant (financial institution), or of a person that controls the applicant, as well as the result of this assessment;

6. a reference from a competent supervisory authority, other than that under item 5, based on a previous assessment of the applicant or of a person that controls the applicant, as well as the result of this assessment;

7. a declaration of the applicant on:

a) the financial status, the property possessed, the type and size of the earnings for the last three years and their sources;

b) the type and size of obligations, established pledges, mortgages in favour of third parties, issued guarantees and other commitments;

c) the existence of financial or other interests or connections of the applicant with the bank or the group the bank belongs to; with bank shareholders or with other persons having voting rights in the general meeting of shareholders of the bank; with members of bank managing or controlling bodies, or the existence of another interest which may cause conflict of interest with the bank, respectively a plan to overcome it;

d) the names, registered offices and head office addresses of the persons that are connected with the applicant;

8. a list of the banks where the applicant has opened accounts;

9. a document certifying ratings assigned and public reports of the applicant and of the companies controlled by the applicant, if any.

(3) In case the applicant is a legal entity, the following information shall be submitted:

1. data on the name, registered office and head office address, contact persons;

2. a certified transcript of the Articles of Association, respectively Memorandum of Association, or a similar document;

3. an actual certificate from a commercial register that the entity is registered therein and the identity code of the applicant;

4. a certified transcript of the decision by the competent body according to the law, the statute or the articles of association concerning the acquisition of shares in the bank capital by the applicant;

5. a list of the shareholders (associates/partners) of the applicant up to the ultimate owner; the structure and allocation of its capital among the shareholders (associates/partners);

6. a list containing the names and addresses of the persons who manage or represent the applicant, together with detailed written data on their qualifications and professional experience;

7. a statement by the applicant certifying the circumstances under paragraph 2, item 4, letters 'a' to 'f';

8. references under paragraph 2, items 5 and 6 by the competent supervisory authority, if any;

9. a statement certifying the circumstances under paragraph 2, item 7, letters 'c' and 'd';

10. a list of banks where the applicant has opened accounts, in case the applicant is not a bank;

11. a description of the group structure if the applicant participates in a group as a subsidiary or as a parent entity, along with its organisational and intra-group corporate structure, specifying relevant participation shares of the other persons in the group (based on what capital shareholding is calculated), as well as a description of the business activity of the group;

12. information on the persons in the group over whom supervision is exercised along with the home supervisory body of the respective persons;

13. annual financial statements of the applicant for the last three years after an audit, if such is obligatory, including balance sheets and income statements for the same period;

14. a document certifying credit ratings assigned to the applicant and the group he belongs to, if such ratings are assigned.

(4) In case the applicant is a trust that already exists or will be established after the acquisition, the following documents and information shall be submitted:

1. the names and addresses of the persons who will manage the assets of the trust under the terms and procedure of the contract establishing the trust and their respective shares in distribution of the asset management income;
2. the names and addresses of the persons up to the ultimate owner who are beneficial owners of the legal entity.

**Article 19b.** (new; Darjaven Vestnik, issue 36 of 2009) (1) The following documents and information concerning the target bank shall be attached to the acquisition application:

1. data on the overall aim of the acquisition, the total number of shares acquired; the nominal and total value of the shares, the single and total acquisition price of the shares and their amount in the total capital, in percentage;
2. a written declaration concerning the origin of the financial funds for the acquisition;
3. a declaration and documents on the financing of the acquisition specifying:
  - a) the source of the funds which will be used for the acquisition;
  - b) the means used to provide (transfer) funds for the acquisition (the respective documents to be attached) in case it is financed:
    - aa) as a result of access to and transactions on capital and financial markets;
    - bb) as a result of use of borrowed funds contracted with banks, including issuance of financial instruments (terms under the agreements/issues, pledges constituted for this purpose, guarantees, other commitments, security), other fundings;
    - cc) due to agreements with other shareholders (terms, deadlines under the agreements, pledges constituted for the purpose, guarantees, other commitments, security), other business transactions or a network of transactions for financing the acquisition;
    - dd) sale of the applicant's personal property, shares and other liquid assets (conditions of sale, terms);
    - ee) other means of funding.

(2) In case of qualifying shareholding acquisition – individually or in concert with other persons – of less than 20 per cent of the voting shares of the bank capital, in addition to the information and documents under paragraph 1, the applicant/acquirer shall also submit:

1. data on the intentions of the acquirer regarding the acquisition and the period for which the applicant/acquirer intends to:
  - a) hold his shareholding after the acquisition;
  - b) increase, reduce the level of his shareholding in the period of three years ahead;
2. a description of the intentions of the applicant/acquirer towards the target bank, especially whether or not he intends to act as an active minority shareholder, and the rationale for this action;



3. information on the financial position and ability, as well the willingness of the applicant/acquirer to support the target bank with additional own funds if needed for the development of its activities or in case of financial difficulties.

(3) In case of qualifying shareholding acquisition – individually or in concert with other persons – between 20 and 50 per cent of the voting shares of the bank capital, but without exercising control over it, in addition to the information and documents under paragraphs 1 and 2, the applicant/acquirer shall submit the following additional information on:

1. details on the influence that the applicant/acquirer intends to exercise on the financial position (including dividend policy), the strategic development, and the allocation of resources of the bank;

2. intentions and expectations of the applicant/acquirer in respect to the target bank in the medium-term, covering all the elements under paragraph 4, item 1.

(4) Where as a result of the acquisition, the applicant/acquirer shall individually or in concert with other persons exercise control over the bank, in addition to the information and documents under paragraphs 1–3, the applicant/acquirer shall submit the following additional information:

1. a strategic development plan indicating, in general terms, the main goals of the acquisition and the main ways for reaching them, including:

- a) the rationale/arguments of the acquisition;
- b) medium-term financial goals;
- c) the possible redirection of activities, products, targeted customer groups and the possible reallocation of funds within the target bank;
- d) the main synergies to be pursued within the target bank;
- e) the general modalities for including and integrating the bank in the group structure of the applicant/acquirer, including a description of the main synergies to be pursued with other companies in the group, as well as a description of the policies governing intra-group relations;

2. estimated financial statements of the target bank, on both a solo and consolidated basis, for a period of three years, including:

- a) a forecast balance sheet and profit and loss account;
- b) a forecast of prudential ratios;
- c) information on the level of risk exposures (credit, operational, market, etc.);
- d) a forecast of provisional intra-group transactions;

3. the impact of the acquisition on the corporate governance and general organisational structure of the bank, including the impact on:

a) the composition and duties of the corporate governance board and the main committees created by the decision-taking body (an audit committee, etc.);

b) administrative and accounting procedures and internal controls as: planned principal changes in procedures and systems related to accounting, audit, internal control, anti-money laundering measures, including the appointment of key staff members as an auditor, an internal controller;

c) the overall IT systems architecture of the bank which includes any changes concerning the sub-contracting policy, the in-house and external software used and the essential data and systems security procedures and tools;

d) the policies governing sub-contracting and outsourcing.

**Article 19c.** (new; Darjaven Vestnik, issue 36 of 2009) The requirements for the applicant/acquirer, the application and the attached documents and information under Articles 18–19b shall also apply in the cases under Article 31 of the Law on Credit Institution.

### Section III

#### **Permission of a Bank for Opening a Branch in a Third Country**

**Article 20.** (1) A bank wishing to obtain a permission to establish a branch in a third country shall file a written application with the Bulgarian National Bank which shall contain:

1. the name of the country where the bank intends to open a branch, and the registered office thereof;
2. the names of at least two persons appointed to manage the branch and represent the bank abroad.

(2) The following documents shall be submitted with the application under paragraph 1:

1. a certified transcript of the decision of the bank's competent management body for the establishment of the overseas branch in the respective country;
2. a certified transcript of the decision of the bank's competent management body for the appointment of the persons who will manage the branch and represent the bank abroad;
3. a business plan, which shall, in addition to the information under Article 13, paragraph 2, items 3, 4 and 5 of the Law on Credit Institutions, contain economic substantiation of the need to open a branch of the bank in the respective country.

(3) Any person appointed to manage the branch of the bank abroad shall submit:

1. a certificate proving no previous conviction for a premeditated crime of a public character, or in case of non-residents, another document to the same effect;
2. information on:
  - a) full name, URN, date and place of birth, permanent address;
  - b) education, including the names of educational institutions where it was acquired, and length of study;
  - c) attended qualification training courses and seminars stating place and years of training;
  - d) command of foreign languages (both written and spoken) stating the proficiency level;
  - e) professional experience with details on the occupied positions by year;
  - f) current employment and a detailed job description of the present position;

g) a certified transcript of a diploma, or any other similar document of completed higher education;

3. a statement certifying the following circumstances:

a) that the person is not and has not been deprived of the right to hold a position of material liability;

b) that the person has not been a member of a managing or controlling body, or a general partner in a company which has been wound up due to bankruptcy, if creditors have not been paid;

c) that the person is not a spouse or a relative, in direct or lateral lineage up to the third degree, of another person who manages and represents the branch, or of a member of an internal control office of the branch;

d) that the person has not been a member of a managing or controlling body of a bank in the last five years prior to the date of the ruling on declaring the bank bankrupt;

e) the amount of taxes paid for the last three years, containing information whether the person has been penalized for tax evasion, and whether the person has any outstanding taxes.

(4) The Bulgarian National Bank shall refuse to grant a permission where:

1. there is a risk that the financial position of the bank may deteriorate as a result of opening a branch abroad;

2. the business plan submitted includes bank transactions or activities beyond the scope of the license granted to the bank;

3. the proposed organisational structure of the branch does not ensure its reliable and stable management;

4. the bank supervision exercised in the host country is not sufficiently effective;

5. an agreement of supervisory cooperation between the Bulgarian National Bank and the respective host supervisory authority of the branch has not been concluded and there are some legal or administrative impediments to the bank supervision exercised over the branch by the Bulgarian National Bank.

**Article 21.** Having received the permission by the competent supervisory authority in the host country, the bank shall send within ten days a copy of the permission to the Bulgarian National Bank.

## Section IV

### Permission for a Change in the Name Specified in the License

**Article 22.** (1) A bank wishing to obtain a permission to change its name as specified in the license shall file a written application with the Bulgarian National Bank, attaching the following documents thereto:

1. a certified transcript of the decision of the bank's competent body;

2. a statement of motivated reasons for changing the present name of the bank.

(2) A foreign bank wishing to change the name specified in its license for conducting bank activity through a branch on the territory of the Republic of Bulgaria shall

file a written application with the Bulgarian National Bank, attaching the documents certifying the change in the bank's name in its home country.

(3) Where necessary, the Bulgarian National Bank shall request a statement of opinion of the Competition Protection Commission.

(4) The Bulgarian National Bank shall refuse to grant a permission for changing the name specified in the license, if the requirement stipulated in Article 6, paragraph 3 of the Law on Credit Institutions is not met.

## Section V

### Permission for Transformation

**Article 23.** (1) A permission for transformation of a bank through takeover or merger can be granted only if corporations participating in transformation are banks.

(2) A permission for transformation of a bank, licensed by the Bulgarian National Bank, is not granted by means of legal form change or through assignment of the entire property to the sole proprietor.

(3) A permission for transformation through merger of banks is granted only if the new established company has already obtained a bank license.

(4) In case of bank takeover, the right to conduct activities for which the acquiring bank has not been licensed, does not pass over the acquiring bank.

(5) For granting a permission for splitting or spinning off through acquisition, acquiring companies shall possess the respective license, if as a consequence of the succession, they acquire the rights and the obligations raised in conducting their activities, for which the license is requested.

(6) For granting a permission for splitting or spinning off through establishment or in case of spinning off the sole commercial company, the new established companies shall have received the license, if as a consequence of the succession, they acquire the rights and the obligations raised in conducting their activities for which the license is requested.

(7) In the cases under paragraphs 3, 5 and 6, the application for granting a license, for which the Bulgarian National Bank is competent, shall be considered simultaneously with this permission.

(8) Where as a consequence of the transformation there are circumstances, which demand granting other permission under this Ordinance, the application for granting this permission shall be considered simultaneously with the permission for transformation.

(9) In the cases under paragraph 5, prior to come up with a decision, the Bulgarian National Bank shall take into consideration the statement of opinion of the Financial Supervision Commission regarding the company participating in the transformation and supervised by the Commission.

**Article 24.** (1) To obtain a permission for transformation, the bank shall submit:

1. a statement of motivated reasons substantiating the need of transformation and the respective form of transformation;

2. a certified transcript of the decision by the competent bodies of the banks participating in the transformation;

3. a certified transcript of the contract or the plan for transformation;

4. detailed information on rights and obligations passing over acquiring and/or new established companies;

5. forecasted reports of the banks participating in the transformation, including balance sheet, income statement, capital adequacy, liquidity, large exposures, holdings and investments reports under Article 47, paragraphs 1 and 2 of the Law on Credit Institutions, where the effect of transformation has been reflected;

6. reports by the managing bodies of the transformed and acquiring companies;

7. reports by the examiners (specialized auditing companies under Article 76 of the Law on Credit Institutions) under Article 262m of the Commercial Code which consist of conclusion related to the following:

a) authenticity of the presentation of financial and property position of the banks participating in the transformation and their financial result;

b) the reliability of internal control systems of the acquiring bank;

c) the compliance of the forecasted supervisory reports, completed by the banks, participating in the transformation, with the requirements of the Law on Credit Institutions and the bylaws of its enactment;

8. an opinion by the examiner under Article 76 of the Law on Credit Institutions whether there are circumstances under Article 77, paragraph 1 of the Law on Credit Institutions during the audit;

9. a certified transcript of the licenses granted by other bodies outside the Bulgarian National Bank, if there is such requirement under Article 23;

10. in the cases of takeover, splitting or spinning off through acquisition, a business plan of the acquiring bank;

11. a draft announcement to the creditors of the banks, participating in the transformation, which will be published in two central daily newspapers after granting of the permission;

12. any other documents necessary for conducting the assessment whether the permission shall be granted.

(2) The Bulgarian National Bank shall grant the permission for transformation where it has established that:

1. the interests of the depositors and other creditors of the bank, participating in the transformation, should not be threatened or impaired;

2. the passing assets and liabilities should not bring to the violation of the Law on Credit Institutions or the bylaws on its enactment by the bank, participating in the transformation;

3. the respective licenses and permissions have already been granted or will be granted simultaneously with the permission, provided such licenses and permissions are required under Article 23;

4. the positive statement of opinion by the Financial Supervision Commission has been received, provided such statement is required under Article 23.

(3) Besides non-compliance with the requirements under paragraph 1, the Bulgarian National Bank shall refuse to grant the requested permission:

1. for takeover, splitting through acquisition or spinning off through acquisition:
  - a) if there is a risk for deterioration of the financial position of the bank participating in the transformation;
  - b) if in Bulgarian National Bank's judgment, a bank participating in the transformation may not continue to reliably and steadily exercise its bank activities after the transformation;
  - c) if in Bulgarian National Bank's judgment, a bank participating in the transformation can not be able to continue performance of all its current and/or acquired after the transformation obligations without delay;
2. if the applicant has not submitted all necessary information and documents in a due term or if submitted documents contain incomplete, inconsistent, improper or untrustworthy information.

## Section VI

### Permission for Changing the Scope of a Granted License

**Article 25.** (1) A bank wishing to obtain a permission for changing the scope of a granted license by adding activities under Article 2, paragraph 2 of the Law on Credit Institutions, shall file an application with the Bulgarian National Bank, attaching the following thereto:

1. the modified Articles of Association, including the new form of bank transactions or activities, together with a copy of the decision of the General Meeting on amending the Articles;
2. substantiation of the reasons for expanding the bank's scope of activities;
3. information on the professional experience and qualification of the staff that will directly make the new form of bank transactions;
4. information on the availability of appropriate hardware and software for the execution of the new form of bank transactions.

(2) A bank with a seat in a third country wishing to make a new form of bank transactions or activities through its branch on the territory of the Republic of Bulgaria shall file a written application with the Bulgarian National Bank, attaching the following thereto:

1. documents certifying authorization to make such transactions in its country of domicile;
2. the information under paragraph 1, items 3 and 4.

(3) The Bulgarian National Bank shall refuse to grant a permission where:

1. it has established that the professional qualification and experience of the persons under paragraph 1, item 3, as well as the financial position of the applicant does not ensure a reliable conduct of the new form of bank transactions or activities;

2. it has established that the foreign bank is not authorized to carry out the transactions or activities specified in the application in its home country.

(4) A bank may start making the allowed bank transactions or activities after it has submitted to the Deputy Governor heading the Banking Supervision Department a certified transcript of the said changes as entered in the Commercial Register.

## Section VII

### **Permission to Increase the Capital through Non-cash Contributions**

**Article 26.** (1) A bank wishing to obtain a permission to increase its capital through non-cash contributions shall file a written application with the Bulgarian National Bank, attaching the following thereto:

1. a certified transcript of the decision of the competent body of the bank to increase its capital through non-cash contributions and respective amendment to its Articles of Association, the decision describing in detail the property provided as non-cash contributions, the persons making them, and the nominal value of the new shares issued against these contributions;

2. a valuation made by experts in accordance with Article 72 of the Commercial Code;

3. the modified Articles of Association containing full description and valuation of the property provided as non-cash contributions.

(2) (amended; Darjaven Vestnik, issue 63 of 2017) The Bulgarian National Bank shall refuse to grant a permission where:

1. the provisions of the Commercial Code have not been complied with;

2. (amended; Darjaven Vestnik, issue 36 of 2009) the approval under Article 28 or Article 31 of the Law on Credit Institutions has not been issued, provided that such approval is required;

3. the bank violates or by a contribution will violate the requirements of the Law on Credit Institutions or the bylaws on its enactment;

4. (repealed, Darjaven Vestnik, issue 63 of 2017);

5. rights which are not directly related to the bank's activity are the subject of the contribution.

(3) (new; Darjaven Vestnik, issue 63 of 2017) The Bulgarian National Bank may also refuse to grant a permission if it considers that where a quick sale is necessary, there is a risk for the bank not to receive the price for the assets that are the subject of the contribution matching the price as set forth in the Statute.

(4) (former paragraph 3; Darjaven Vestnik, issue 63 of 2017) After obtaining the permission, the bank shall submit to the Deputy Governor heading the Banking Supervision Department a certified transcript of the said changes entered in the Commercial Register.

## Section VIII

### Permission for Buyback of Shares Issued by a Bank

**Article 27.** (1) A bank wishing to obtain a permission to buy back shares issued by the bank itself shall file a written application with the Bulgarian National Bank attaching the following:

1. a certified transcript of the decision of the bank's General Meeting of Shareholders for the buyback of shares issued by the bank, indicating the purpose of the buyback;

2. (amended; Darjaven Vestnik, issue 63 of 2017) data and documents under Articles 29 and 30 of Commission Delegated Regulation (EU) No 241/2014 of 2014 supplementing Regulation (EU) No 575/2013 of the European Parliament and of the Council with regard to regulatory technical standards for own funds requirements for institutions (OJ L 74/8, 14.3.2014) hereinafter referred to as Commission Delegated Regulation (EU) No 241/2014.

(2) The Bulgarian National Bank shall refuse to grant a permission where:

1. the provisions of Article 187a of the Commercial Code have not been complied with;

2. (amended; Darjaven Vestnik, issue 63 of 2017) the buyback of the bank's shares would result in noncompliance with the provisions of the Law on Credit Institutions and the ordinances on its enactment, Regulation (EU) No 575/2013 or Commission Delegated Regulation (EU) No 241/2014.

(3) After obtaining the permission, the bank shall submit to the Deputy Governor heading the Banking Supervision Department a certified transcript of the said changes as entered in the Commercial Register.

## Section IX

### Permission to Reduce the Capital of a Bank

**Article 28.** (1) A bank wishing to obtain a permission to reduce its capital shall file with the Bulgarian National Bank a written application attaching the following:

1. a certified transcript of the decision of the bank's General Meeting of Shareholders on the capital reduction, indicating the purpose of the reduction;

2. (amended; Darjaven Vestnik, issue 63 of 2017) data and documents under Articles 29 and 30 of Commission Delegated Regulation (EU) No 241/2014.

(2) The Bulgarian National Bank shall refuse to grant a permission under this Article where:

1. the capital reduction is in violation of the provisions of Articles 199–203 of the Commercial Code;

2. (amended; Darjaven Vestnik, issue 63 of 2017) the capital reduction would result in noncompliance with the provisions of the Law on Credit Institutions and the ordinances on its enactment, Regulation (EU) No 575/2013 or Commission Delegated Regulation (EU) No 241/2014.



(3) After obtaining the permission, the bank shall submit to the Deputy Governor heading the Banking Supervision Department a certified transcript of the said changes as entered in the Commercial Register.

(4) (new; Darjaven Vestnik, issue 63 of 2017) Paragraphs 1 and 2 shall apply also to share premium accounts related to capital instruments and subordinated loans.

## Section X

### **Permission for Establishing or Acquiring a Control over a Bank with a Seat Abroad**

**Article 29.** (1) For granting a permission for establishing or acquiring control over a foreign bank, the bank shall submit an application to the Bulgarian National Bank.

(2) In the cases of a bank's establishment, an application shall be attached by the following:

1. a certified transcript of the bank's Minutes of the Constituent Meeting or another document to the same effect;
2. a bank's Articles of Association (Act of Association);
3. information on the capital of the established bank, on the type, number, nominal value and issuing value of the subscribed shares and a document of the paid-in contributions;
4. data about the persons who shall manage the bank;
5. information on the relatedness of the applicant with the members of governing bodies;
6. a detailed information on the conditions and provisions for licensing and conducting of bank activity in the country where the bank is established, address and name of the licensing and supervisory authority, specific supervisory requirements and applicable regulations;
7. an economic substantiation of the reasons for a bank's establishment;
8. a business plan of the bank (description) containing information about the managerial structure, including segregation of responsibilities among managing directors and other administrators, organization and management of the bank's information system, including information security mechanism.

(3) In the cases of acquiring control over a bank with residence abroad, the application shall be attached by the following:

1. data about the type, number, single and total nominal value of the shares that will be acquired, their portion in the bank's capital and acquisition price;
2. data about the type, number, single and total nominal value of the shares, already possessed, their portion in the bank's capital and acquisition price;
3. documents and data about the bank in which the control is taken:
  - a) a certified transcript issued by the respective Commercial Register with current information concerning the name, registered office and head office address of the bank, its legal organisational structure and the persons who represent and manage the bank;

- b) audited financial statements of the foreign bank for the last two years;
- c) a certified transcript of the Articles of Association (Act of Association) of the bank;
- d) information about bank's related persons;
- e) information about applicant's relatedness with other shareholders and with the persons participating in the managing bodies;
- f) a certified transcript of the bank license, including detailed information about permitted transactions and activities of the foreign bank;
- g) an economic substantiation of the reasons to acquire a bank with residence abroad;
- h) information under paragraph 2, items 6 and 8.

**Article 30.** (1) The Bulgarian National Bank may permit the acquisitions under Article 29, only when the investment's size is fully covered by own funds of the applicant bank and if these funds shall not reduce the bank's capital base under the required minimum.

(2) The Bulgarian National Bank shall refuse to grant a permission where:

1. acquired participation in the bank with residence abroad would result in violation of the requirements of the Law on Credit Institutions and the bylaws on its enactment by the acquiring bank or may lead to deterioration of the bank's assets quality;
2. there is a possibility for a significant increase in the risk of loss for the applicant bank due to the subject of activity, financial position or persons related to the bank in which the shares will be acquired;
3. the applicant doesn't have funds necessary for the planned acquisition in a foreign bank;
4. the applicable law and regime for conducting bank activity in the residence of the bank shall not enable the Bulgarian National Bank to exercise effective consolidated supervision.

## Section XI

### Permission for Voluntary Liquidation

**Article 31.** For granting a permission for voluntary liquidation, the bank shall submit to the Bulgarian National Bank a liquidation plan approved by the bank's management body and comprised of:

1. a starting date and deadline for completing the liquidation;
2. a balance sheet as of no longer than 30 days preceding the date for submission of the application certified by the auditors;
3. a detailed report on assets, subject to cashing, and planned terms for their cashing;
4. terms and way of settlement of the monetary and non-monetary applicant's liabilities;
5. a list of the persons who will be appointed for liquidators and their substitutes with identification for segregation of responsibilities, detailed information about their

education, qualification and professional experience, related party declaration and declaration for existence of business interests with the bank;

6. a draft announcement to the creditors, which will be published in at least two central daily newspapers.

**Article 32.** In the case of sale of a bank enterprise, in addition to the documents under Article 131, paragraph 4 of the Law on Credit Institutions, the documents under Article 31, items 1, 2, 4–7 necessary for granting a permission for voluntary liquidation shall also be attached.

## Section XII

### **Issuing a Certificate under Article 25 of the Law on Credit Institutions**

(repealed; Darjaven Vestnik, issue 36 of 2009)

**Article 33.** (repealed; Darjaven Vestnik, issue 36 of 2009)

## Section XIII

(new; Darjaven Vestnik, issue 40 of 2014)

### **Permission for Performing Activities under Article 2, paragraph 6 of the Law on Credit Institutions**

**Article 33a.** (1) Any bank seeking a permission to perform activities under Article 2, paragraph 6 of the Law on Credit Institutions shall submit to the BNB a written application which shall be accompanied by the following documents:

1. a bank's programme of activities including a detailed description of the activities which the bank intends to perform and of the bank's internal organisation;
2. general terms and conditions applicable to contracts with customers;
3. other information and documents certifying compliance with the requirements of Article 59 of Regulation (EU) No 1031/2010 of the Commission of 12 November 2010 on the timing, administration and other aspects of auctioning of greenhouse gas emission allowances pursuant to Directive 2003/87/EC of the European Parliament and of the Council establishing a scheme for greenhouse gas emission allowances trading within the Community (OJ, L 302/1, 18 November 2010), hereinafter Regulation (EU) No 1031/2010.

(2) The Bulgarian National Bank shall examine the application and the documents appended thereto and shall issue or refuse to issue a permission within one month of submission of the application and all relevant documents.

(3) The Bulgarian National Bank shall refuse to issue a permission under paragraph 2 if not all relevant documents have been submitted, if these documents are incorrect or their content is contradictory or if other requirements under Regulation (EU) No 1031/2010 have not been met.

## Section XIV

**Permission for Inclusion of Capital Instruments in Common Equity Tier 1 Instruments**

(new; Darjaven Vestnik, issue 63 of 2017)

**Article 33b** (new; Darjaven Vestnik, issue 63 of 2017) (1) A bank wishing to obtain a permission to include capital instruments under Article 26, paragraph 1, point 'a' of Regulation (EU) No 575/2013 in Common Equity Tier 1 instruments shall submit a written application to the BNB, enclosing thereto:

1. a verified copy of the resolution issued by the competent body of the bank on issuance of capital instruments and amendment of the Statute;

2. a list of the persons having acquired capital instruments, data on the amount of the instruments acquired by each person and documents verifying that each person acquired capital instruments has deposited their value on the accumulation account of the bank, as well as documents proving the origin of funds;

3. a declaration by the bank that it has not directly or indirectly funded the acquisition of the instruments;

4. data and documents under Articles 6 and 7 on the persons who will, as a result of the capital increase, acquire directly or indirectly three or more than three per cent, ten or more than ten per cent, respectively, of the voting shares;

5. a certificate issued by the Central Depository AD on registration of the issue of capital instruments;

6. the amended Statute stating the new amount of the capital;

7. a table on assessment of compliance of the capital instruments with the requirements of Regulation (EU) No 575/2013 and Delegated Regulation (EU) No 241/2014, according to Appendix No 1; the table shall be prepared by the bank to provide information on compliance of the capital instruments with relevant requirements of the Regulations under the previous sentence in view of their classification as Common Equity Tier 1;

8. a declaration that capital instruments are of the type of instruments in the Republic of Bulgaria which are included in the list of the European Banking Authority (EBA) under Article 26, paragraph 3 of Regulation (EU) No 575/2013;

9. a declaration that the information provided is precise and complete, and that the capital instruments meet the criteria for qualifying them as Common Equity Tier 1.

(2) The Bulgarian National Bank shall refuse to issue a permission to include capital instruments in Common Equity Tier 1 where the conditions under Regulation (EU) No 575/2013, Delegated Regulation (EU) No 241/2014 and this Ordinance are not met.

## Section XV

**Permission for Inclusion of the Interim or Year-end Profit in  
Common Equity Tier 1**

(new; Darjaven Vestnik, issue 63 of 2017)

**Article 33c.** (new; Darjaven Vestnik, issue 63 of 2017) (1) A bank wishing to obtain a permission to include the interim or year-end profit in Common Equity Tier 1 shall submit a written application to the BNB, enclosing thereto:

1. a document verified by the auditor of the bank confirming the profit:

a) regarding the year-end profit, an audit report or a certifying letter shall be submitted to indicate that the audit has not yet been completed, and auditors have not identified anything giving reasons to believe that the final report would contain a modified opinion;

b) regarding the interim profit, an audit report shall be submitted (if an audit was carried out), a review report within the meaning of ISRE 2400 'Engagements to Review Financial Statements' or a certifying letter in line with the conditions of letter 'a' if the confirmation submitted by the bank is an audit report;

2. a declaration signed by the persons managing and representing the bank that the profit is reported in line with the principles provided for in the applicable accounting framework, and the scope of prudential consolidation is not significantly broader than the scope of confirmation contained in the auditor's document under item 1;

3. a declaration signed by the persons managing and representing the bank to indicate the main elements of the interim or year-end profit, including deductions of foreseeable charges under Article 2 of Regulation (EU) No 241/2014 or dividends in accordance with Appendix No 2;

4. a certified copy of the decision/proposal of the bank's competent body for inclusion of the interim or year-end profit in Common Equity Tier 1.

(2) In the cases where the interim or year-end profit is included on a consolidated or sub-consolidated basis, the requirements under paragraph 1, items 2 and 3 shall apply by the consolidating authority.

(3) The amount of dividends to be deducted shall be based on an official decision/proposal by the competent body of the bank, and in cases where there is no such decision/proposal, on the highest of the following:

1. the maximum amount of dividends calculated in accordance with the dividend policy;

2. the amount of dividends calculated on the basis of the average dividend pay-out ratio over the last three years;

3. the amount of dividends calculated on the basis of the dividend pay-out ratio of the previous year.

(4) The Bulgarian National Bank shall refuse to issue a permission to include the interim or year-end profit in Common Equity Tier 1 where the conditions under Regu-

lation (EU) No 575/2013, Delegated Regulation (EU) No 241/2014 and this Ordinance are not met.

## Section XVI

### **Approval for Inclusion of Capital Instruments and Subordinated Loans in Additional Tier 1 or Tier 2 Capital**

(new; Darjaven Vestnik, issue 63 of 2017)

**Article 33d.** (new; Darjaven Vestnik, issue 63 of 2017) (1) A bank wishing to obtain an approval to include capital instruments and subordinated loans in Additional Tier 1 or Tier 2 capital shall submit a written application to the BNB, enclosing thereto:

1. a contract or another document on issuance of a capital instrument or on raising a subordinated loan and a verified copy of the resolution issued by the competent body of the bank on conclusion of the contract or on issuance of the instrument;

2. regarding capital instruments and subordinated loans with new or complex characteristics: a reasoned independent legal opinion confirming that capital instruments or subordinated loans meet the criteria for qualifying them as Additional Tier 1 or Tier 2 capital;

3. regarding capital instruments for which an approval is requested in order to include them in Additional Tier 1 capital: indication of the minimum amount of Common Equity Tier 1 that would be generated if the principal amount of the instruments were fully written down or converted into Common Equity Tier 1 instruments (Article 54, paragraph 3 of Regulation (EU) No 575/2013) after deducting any foreseeable tax liabilities or payments resulting from the conversion or write-down or stemming from and related to the instrument at the moment of its conversion or write-down, and the bank shall assess and explain this amount on the basis of the tax treatment applicable as of the date of assessment and structure of the group;

4. a table on assessment of compliance of the capital instrument or subordinated loan with the requirements of Regulation (EU) No 575/2013 and Delegated Regulation (EU) No 241/2014, according to Appendix No 3; the table shall be prepared by the bank to provide information on compliance of the capital instrument or subordinated loan with the requirements of the Regulations under the previous sentence in view of their classification as Additional Tier 1 or Tier 2 capital, taking into account EBA's questions and answers (Q&A) and the EBA Report on the Monitoring of Additional Tier 1 (AT1) instruments;

5. a declaration by the bank that it has not directly or indirectly funded the acquisition of instruments;

6. a declaration that information supplied is accurate and complete, the capital instruments meet the conditions qualifying them as Additional Tier 1 or Tier 2 capital and that there are no implicit agreements which would influence their eligibility;

7. a bank document for receiving funds on a bank's account;

8. other documents necessary for assessment whether to issue or not the requested approval.

(2) The application under paragraph 1 shall specify the reasons for issuing the capital instrument and planning the loan, as well as their compliance with the capital plan (on an individual and consolidated basis). It shall also include a description of the impact on own funds (Common Equity Tier 1 capital, Additional Tier 1 capital and total capital) and the leverage ratio/leverage (for the Additional Tier 1 capital) for all application levels in accordance with Part One, Title II of Regulation (EU) No 575/2013 for a three-year period based on a capital plan projection and paragraph 1, item 3 shall be taken into account.

3) Banks may use EBA standard templates on the terms and conditions of issuing capital instruments, as well as the EBA Report on the Monitoring of Additional Tier 1 (AT1) instruments.

(4) The bank shall inform the BNB of any change in a contract or document for issuing the instrument or raising the subordinated loan, or of any circumstances that may have an impact on qualifying them as Additional Tier 1 or Tier 2 capital.

(5) The Bulgarian National Bank shall refuse to issue an approval to include capital instruments and subordinated loans in Additional Tier 1 capital and Tier 2 capital accordingly, where the conditions under Regulation (EU) No 575/2013, Delegated Regulation (EU) No 241/2014 or this Ordinance have not been met.

## Section XVII

### **Other Permissions and Approvals under Regulation (EU) No 575/2013**

(new; Darjaven Vestnik, issue 63 of 2017)

**Article 33e.** (new Darjaven Vestnik, issue 63 of 2017) (1) A bank wishing to obtain a permission or approval under Regulation (EU) No 575/2013, other than those in cases under Articles 33b–33d, shall file a written application to the BNB, enclosing data and documents certifying the compliance with the relevant requirements of Regulation (EU) No 575/2013 and the acts on its implementation.

(2) The Bulgarian National Bank shall refuse to issue a permission or approval under paragraph 1, where not all documents have been submitted, where they contain inaccurate or contradictory information, or where other requirements of the Law on Credit Institutions, Regulation (EU) No 575/2013 or of the acts on its implementation have not been satisfied.

## *Chapter Four*

### **Registration of the Granted Licenses and Permissions. Supervisory Fees**

**Article 34.** (1) (amended; Darjaven Vestnik, issue 48 of 2011) Licenses issued in accordance with this Ordinance, as well as permissions issued in accordance with Articles 20, 22, 23, 25 and 31 shall be entered in a public register maintained by the Bulgarian National Bank.

(2) Entry of a granted license shall be made after submission of the documents under Article 16.

**Article 35.** The Bulgarian National Bank shall charge the following fees for administrative expenses connected with consideration of applications and documents for the issuance of licenses or permissions pursuant to this Ordinance:

1. for issuance of a license to a bank – BGN 100,000;
2. (repealed; Darjaven Vestnik, issue 48 of 2011);
3. for issuance of a license to a bank with a seat in a third country to conduct bank activity on the territory of the Republic of Bulgaria through a branch – BGN 80,000;
4. (amended; Darjaven Vestnik, issue 36 of 2009) for issuance of an approval to acquire or increase qualifying shareholding in a domestic bank – BGN 10,000;
5. for issuance of a permission to open an overseas branch of a domestic bank – BGN 50,000;
6. for issuance of a permission for changing the name specified in the license – BGN 3000;
7. for issuance of a permission for transformation of a bank – BGN 50,000;
8. (amended; Darjaven Vestnik, issue 63 of 2017) for issuance of a permission to change the scope of the issued licence – BGN 10,000;
9. for issuance of a permission to increase the capital of a bank through non-cash contributions – BGN 20,000;
10. for issuance of a permission to reduce the capital of a bank – BGN 20,000;
11. for issuance of a permission to buy back shares issued by a domestic bank – BGN 20,000;
12. for issuance of a permission to acquire control or to establish a bank with residence abroad – BGN 80,000;
13. for issuance of a permission for voluntary liquidation – BGN 100,000;
14. (deleted; Darjaven Vestnik, issue 36 of 2009)
15. (new; Darjaven Vestnik, issue 63 of 2017) for issuance of a permission to include capital instruments in Common Equity Tier 1 capital – BGN 5000;
16. (new; Darjaven Vestnik, issue 63 of 2017) for issuance of a permission to include the interim or year-end profit in Common Equity Tier 1 capital – BGN 5000;
17. (new; Darjaven Vestnik, issue 63 of 2017) for issuance of an approval to include capital instruments and subordinated loans in Additional Tier 1 or Tier 2 capital – BGN 5000;
18. (new; Darjaven Vestnik, issue 63 of 2017) for issuance of other permissions and approvals under Regulation (EU) No 575/2013 – BGN 1000.

### **Additional Provisions**

(title amended; Darjaven Vestnik, issue 53 of 2017)

§ 1. (new; Darjaven Vestnik, issue 63 of 2017) Within the meaning of the Ordinance:



1. 'Consolidating authority' shall be a credit institution which shall observe the requirements laid down in Regulation (EU) No 575/2013 on a consolidated or sub-consolidated basis as applicable under Article 11 and 18 of Regulation (EU) No 575/2013.

2. 'Interim profit' shall be the profit determined in accordance with the applicable accounting framework calculated for a reference period shorter than the full business year, before the bank has formally taken a decision confirming this profit or loss of the bank;

3. 'Year-end profit' shall be the profit determined in accordance with the applicable accounting framework calculated for a reference period equal to the full business year, before the bank has formally taken a decision confirming this profit or loss of the bank.

4. 'Pay-out ratio on a consolidated basis' shall be the ratio between:

a) dividends distributed to owners of the consolidating entity, with the exception of dividends paid in a form that does not reduce the amount of Common Equity Tier 1 capital (e.g dividends in the form of shares); and

b) the profit after tax distributed to owners of the consolidating entity.

Where the ratio between letters (a) and (b) for a particular year is negative or higher than 100 per cent, the pay-out ratio shall be considered 100 per cent.

Where the profit under letter (b) for a particular year is equal to zero, the pay-out ratio shall be considered 0 per cent if dividends under letter (a) are equal to zero, and 100 per cent if dividends under letter (a) are higher than zero.

5. 'Pay-out ratio on an individual basis' shall be the ratio between:

a) dividends distributed to owners of the entity, with the exception of dividends paid in a form that does not reduce the amount of Common Equity Tier 1 capital (e.g dividends in the form of shares); and

b) the profit after tax.

Where the ratio between letters (a) and (b) for a particular year is negative or higher than 100 per cent, the pay-out ratio shall be considered 100 per cent.

Where the profit under letter (b) for a particular year is equal to zero, the pay-out ratio shall be considered 0 per cent if dividends under letter (a) are equal to zero, and 100 per cent if dividends under letter (a) are higher than zero.

**§ 1a.** (former § 1, amended; Darjaven Vestnik, issue 63 of 2017) The documents and data in a foreign language required under the terms and procedure of this Ordinance shall be submitted to the BNB with a verified Bulgarian language translation, and official documents supplied shall be legalized. In case of inconsistency between texts, data in the Bulgarian translation shall be deemed accurate. The BNB Deputy Governor heading the Banking Supervision Department may request copies of some private documents of essential significance for the assessment of the compliance with the statutory requirements to be provided with notarial verification of the signatures of the persons who issued them.

## **Transitional and Final Provisions**

§ 2. Updating of the banks' licenses pursuant to § 6 of the Law on Credit Institutions is free of fees.

§ 3. (1) This Ordinance is issued on the grounds of § 13 of the Law on Credit Institutions, and is adopted by Resolution No 167 of 22 December 2006 of the Governing Council of the Bulgarian National Bank, and shall repeal Ordinance No 2 of 2000 on the Permissions (Licenses) Granted by the Bulgarian National Bank (published in Darjaven Vestnik, issue 14 of 2000; amended, issue 76 of 2002, issues 19 and 108 of 2003; amended, issue 44 of 2004).

(2) The Deputy Governor heading the Banking Supervision Department shall give instructions on the enactment of this Ordinance.

## **Ordinance on Amendment of Ordinance No 2 of 2006 on the Licenses and Permissions Granted by the Bulgarian National Bank According to the Law on Credit Institutions**

(published; Darjaven Vestnik, issue 36 of 15 May 2009)

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### **Final Provision**

§ 18. This Ordinance is issued on the grounds of § 13 of the Law on Credit Institutions and is adopted by Resolution No 52 of 23 April 2009 of the Governing Council of the Bulgarian National Bank.

## **Ordinance on Amendment of Ordinance No 2 of 2006 on the Licenses and Permissions Granted by the Bulgarian National Bank According to the Law on Credit Institutions**

(published; Darjaven Vestnik, issue 48 of 24 June 2011)

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### **Final Provision**

§ 18. This Ordinance is issued on the grounds of § 13 of the Transitional and Final Provisions of the Law on Credit Institutions and is adopted by Resolution No 51 of 9 June 2011 of the BNB Governing Council.

## **Ordinance**

### **on Amendment of Ordinance No 2 of 2006 on the Licenses and Permissions Granted by the Bulgarian National Bank According to the Law on Credit Institutions**

(published; Darjaven Vestnik, issue 40 of 13 May 2014)

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#### **Final Provision**

§ 4. This Ordinance is issued on the grounds of § 13 of the Transitional and Final Provisions of the Law on Credit Institutions and is adopted by Resolution No 45 of 24 April 2014 of the BNB Governing Council.

## **Ordinance**

### **on Amendment of Ordinance No 2 of 2006 on the Licenses, Approvals and Permissions Granted by the Bulgarian National Bank According to the Law on Credit Institutions**

(published in the Darjaven Vestnik, issue 63 of 4 August 2017)

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#### **Final Provision**

§ 15. This Ordinance is issued on the grounds of § 13 of the Transitional and Final Provisions of the Law on Credit Institutions, and is adopted by Resolution No 104 of 20 July 2017 of the Governing Council of the Bulgarian National Bank.

Appendix No 1  
to Article 33b, paragraph 1, item 7  
(new; Darjaven Vestnik, issue 63 of 2017)

**Table on Assessment of Compliance of the Capital Instruments with the Requirements of Regulation (EU) No 575/2013 and Commission Delegated Regulation (EU) No 241/2014 on Their Qualification as Common Equity Tier 1 Capital**

Provision of Regulation (EU) No 575/2013	Terms and Conditions for the Issuance of Capital Instruments	Applicable Provisions Pursuant to the Statute and Local Legislation	Self-assessment
Article 28			
1. Capital instruments shall qualify as Common Equity Tier 1 instruments only if all of the following conditions are met:			
a) the instruments are issued directly by the institution with the prior approval of the owners of the institution or, where permitted under applicable national law, the management body of the institution;			
b) the instruments are paid up and their purchase is not funded directly or indirectly by the institution;			
c) the instruments meet all the following conditions as regards their classification:			
i) they qualify as capital within the meaning of Article 22 of Directive 86/635/EEC (OJ L 176/37, 27.6.2013);			
ii) they are classified as equity within the meaning of the applicable accounting framework;			
iii) they are classified as equity capital for the purposes of determining balance sheet insolvency, where applicable under national insolvency law;			
d) the instruments are clearly and separately disclosed on the balance sheet in the financial statements of the institution;			
e) the instruments are perpetual;			
f) the principal amount of the instruments may not be reduced or repaid, except in either of the following cases:			
i) the liquidation of the institution;			

Provision of Regulation (EU) No 575/2013	Terms and Conditions for the Issuance of Capital Instruments	Applicable Provisions Pursuant to the Statute and Local Legislation	Self-assessment
ii) discretionary repurchases of the instruments or other discretionary means of reducing capital, where the institution has received the prior permission of the competent authority in accordance with Article 77;			
g) the provisions governing the instruments do not indicate expressly or implicitly that the principal amount of the instruments would or might be reduced or repaid other than in the liquidation of the institution, and the institution does not otherwise provide such an indication prior to or at issuance of the instruments, except in the case of instruments referred to in Article 27 where the refusal by the institution to redeem such instruments is prohibited under applicable national law;			
h) the instruments meet the following conditions as regards distributions:			
i) there is no preferential distribution treatment regarding the order of distribution payments, including in relation to other Common Equity Tier 1 instruments, and the terms governing the instruments do not provide preferential rights to payment of distributions;			
ii) distributions to holders of the instruments may be paid only out of distributable items;			
iii) the conditions governing the instruments do not include a cap or other restriction on the maximum level of distributions, except in the case of the instruments referred to in Article 27;			
iv) the level of distributions is not determined on the basis of the amount for which the instruments were purchased at issuance, except in the case of the instruments referred to in Article 27;			
v) the conditions governing the instruments do not include any obligation for the institution to make distributions to their holders and the institution is not otherwise subject to such an obligation;			
vi) non-payment of distributions does not constitute an event of default of the institution;			

Provision of Regulation (EU) No 575/2013	Terms and Conditions for the Issuance of Capital Instruments	Applicable Provisions Pursuant to the Statute and Local Legislation	Self-assessment
vii) the cancellation of distributions imposes no restrictions on the institution;			
i) compared to all the capital instruments issued by the institution, the instruments absorb the first and proportionately greatest share of losses as they occur, and each instrument absorbs losses to the same degree as all other Common Equity Tier 1 instruments;			
j) the instruments rank below all other claims in the event of insolvency or liquidation of the institution;			
k) the instruments entitle their owners to a claim on the residual assets of the institution, which, in the event of its liquidation and after the payment of all senior claims, is proportionate to the amount of such instruments issued and is not fixed or subject to a cap, except in the case of the capital instruments referred to in Article 27;			
l) the instruments are not secured, or subject to a guarantee that enhances the seniority of the claim by any of the following:			
i) the institution or its subsidiaries;			
ii) the parent undertaking of the institution or its subsidiaries;			
iii) the parent financial holding company or its subsidiaries;			
iv) the mixed activity holding company or its subsidiaries;			
v) the mixed financial holding company and its subsidiaries;			
vi) any undertaking that has close links with entities referred to in points (i) to (v);			
m) the instruments are not subject to any arrangement, contractual or otherwise, that enhances the seniority of claims under the instruments in insolvency or liquidation.			
The condition set out in point (j) of the first subparagraph shall be deemed to be met, notwithstanding the instruments are included in Additional Tier 1 or Tier 2 by virtue of Article 484, paragraph 3, provided that they rank <i>pari passu</i> .			

Provision of Regulation (EU) No 575/2013	Terms and Conditions for the Issuance of Capital Instruments	Applicable Provisions Pursuant to the Statute and Local Legislation	Self-assessment
2. The conditions laid down in point (i) of paragraph 1 shall be deemed to be met notwithstanding a write down on a permanent basis of the principal amount of Additional Tier 1 or Tier 2 instruments.			
The condition laid down in point (f) of paragraph 1 shall be deemed to be met notwithstanding the reduction of the principal amount of the capital instrument within a resolution procedure or as a consequence of a write down of capital instruments required by the resolution authority responsible for the institution.			
The condition laid down in point (g) of paragraph 1 shall be deemed to be met notwithstanding the provisions governing the capital instrument indicating expressly or implicitly that the principal amount of the instrument would or might be reduced within a resolution procedure or as a consequence of a write down of capital instruments required by the resolution authority responsible for the institution.			
3. The condition laid down in point (h)(iii) of paragraph 1 shall be deemed to be met notwithstanding the instrument paying a dividend multiple, provided that such a dividend multiple does not result in a distribution that causes a disproportionate drag on own funds.			
4. For the purposes of point (h)(i) of paragraph 1, differentiated distributions shall only reflect differentiated voting rights. In this respect, higher distributions shall only apply to Common Equity Tier 1 instruments with fewer or no voting rights.			

Appendix No 2  
to Article 33c, paragraph 1, item 3  
(new, Darjaven Vestnik, issue 63 of 2017)

## DECLARATION

by ..... ,  
URN (BULSTAT code)..... ,  
Address for correspondence ..... ,  
represented by .....

Net profits of (interim/annual) financial statements as at (balance sheet date) of (name of the bank) to be included in the Common Equity Tier 1 capital is calculated as follows:

- a) retained earnings before tax [BGN 0];
- b) taxes [BGN 0];
- c) other charges imposed by the supervisory authority [BGN 0];
- d) other expected charges not included in the profit and loss account [BGN 0];
- e) total amount of charges (b + c + d) [BGN 0];
- f) amount of dividend which has been decided upon or proposed [BGN 0/empty field]<sup>1</sup>;
- g) maximum dividend amount in accordance with the dividend policy [BGN 0];
- h) dividend amount as per the average pay-out ratio (last three years) [BGN 0];
- i) dividend amount as per the pay-out ratio for the previous year [BGN 0];
- j) dividend amount to be deducted (maximum amount for letters 'g', 'h' and 'i', if no data for letter 'f' is available, otherwise the amount for letter 'f') [BGN 0.];
- k) normative restrictions impact [BGN 0];
- l) profit which may be included in Common Equity Tier 1 capital (a – e – j + k) [BGN 0].

With a view to the inclusion of the net profit in the bank's Common Equity Tier 1 capital and compliance with the requirements of Regulation (EU) No 241/2014 and this Ordinance we herewith declare that:

1. To the best of our knowledge, the above figures are correct.
2. Those profits have been verified by persons independent of the bank that are responsible for the auditing of its accounts in line with the requirements of Article 26, paragraph 2 of Regulation No 575/2013 and this Ordinance;
3. Those profits have been evaluated in accordance with the principles set out in the applicable accounting framework.
4. Any foreseeable charges or dividends have been deducted from the profit amount as specified above.

<sup>1</sup> Where there is a decision or proposal not to distribute dividend this ratio should be equal to zero. Where there is no such decision or proposal, the field shall not be completed.



5. The dividend amount to be deducted is evaluated in accordance with Ordinance No 2 of 2006 on the licenses, approvals and permissions, issued by the Bulgarian National Bank under the Law on Credit Institutions.

6. The management body of [name of the bank/bank group] shall be obliged to make a proposal on the dividend distribution which is fully compliant with the above calculation of the net profit.

We are aware of the responsibility under Article 313 of the Criminal Code for any declaration of false data.

SIGNATURES:

Appendix No 3  
to Article 33d, paragraph 1, item 4  
(new; Darjaven Vestnik, issue 63 of 2017)

**Table on Assessment of Compliance of the Capital Instrument or of  
the Subordinated Loan with the Requirements of Regulation (EU)  
No 575/2013 and Commission Delegated Regulation (EU) No 241/2014 on  
Their Qualification as Additional Tier 1 or Tier 2 Capital, Respectively**

Provision of Regulation No 575/2013	Indicating provisions of an agreement or other document on the issuance of the instrument or on the receipt of the loan	EBA's questions and answers (Q&A) and EBA Report on the monitoring of Additional Tier 1 (AT1) instruments	Self-assessment
Article 52			
1. Capital instruments shall qualify as Additional Tier 1 instruments only if the following conditions are met:			
a) the instruments are issued and paid up;			
b) the instruments are not purchased by any of the following:			
i) the institution or its subsidiaries;			
ii) an undertaking in which the institution has a participation in the form of ownership, direct or by way of control, of 20% or more of the voting rights or capital of that undertaking;			
c) the purchase of the instruments is not funded directly or indirectly by the institution;			
d) the instruments rank below Tier 2 instruments in the event of the insolvency of the institution;			
e) the instruments are not secured, or subject to a guarantee that enhances the seniority of the claims by any of the following:			
i) the institution or its subsidiaries;			
ii) the parent undertaking of the institution or its subsidiaries;			
iii) the parent financial holding company or its subsidiaries;			
iv) the mixed activity holding company or its subsidiaries;			

Provision of Regulation No 575/2013	Indicating provisions of an agreement or other document on the issuance of the instrument or on the receipt of the loan	EBA's questions and answers (Q&A) and EBA Report on the monitoring of Additional Tier 1 (AT1) instruments	Self-assessment
v) the mixed financial holding company and its subsidiaries;			
vi) any undertaking that has close links with entities referred to in points (i) to (v);			
f) the instruments are not subject to any arrangement, contractual or otherwise, that enhances the seniority of the claim under the instruments in insolvency or liquidation;			
g) the instruments are perpetual and the provisions governing them include no incentive for the institution to redeem them;			
h) where the provisions governing the instruments include one or more call options, the option to call may be exercised at the sole discretion of the issuer;			
i) the instruments may be called, redeemed or repurchased only where the conditions laid down in Article 77 are met, and not before five years after the date of issuance except where the conditions laid down in Article 78(4) are met;			
j) the provisions governing the instruments do not indicate explicitly or implicitly that the instruments would or might be called, redeemed or repurchased and the institution does not otherwise provide such an indication, except in the following cases:			
i) the liquidation of the institution;			
ii) discretionary repurchases of the instruments or other discretionary means of reducing the amount of Additional Tier 1 capital, where the institution has received the prior permission of the competent authority in accordance with Article 77;			
k) the institution does not indicate explicitly or implicitly that the competent authority would consent to a request to call, redeem or repurchase the instruments;			
l) distributions under the instruments meet the following conditions:			
i) they are paid out of distributable items;			

Provision of Regulation No 575/2013	Indicating provisions of an agreement or other document on the issuance of the instrument or on the receipt of the loan	EBA's questions and answers (Q&A) and EBA Report on the monitoring of Additional Tier 1 (AT1) instruments	Self-assessment
ii) the level of distributions made on the instruments will not be amended on the basis of the credit standing of the institution or its parent undertaking;			
iii) the provisions governing the instruments give the institution full discretion at all times to cancel the distributions on the instruments for an unlimited period and on a non-cumulative basis, and the institution may use such cancelled payments without restriction to meet its obligations as they fall due;			
iv) cancellation of distributions does not constitute an event of default of the institution;			
v) the cancellation of distributions imposes no restrictions on the institution;			
m) the instruments do not contribute to a determination that the liabilities of an institution exceed its assets, where such a determination constitutes a test of insolvency under applicable national law;			
n) the provisions governing the instruments require that, upon the occurrence of a trigger event, the principal amount of the instruments be written down on a permanent or temporary basis or the instruments be converted to Common Equity Tier 1 instruments;			
o) the provisions governing the instruments include no feature that could hinder the recapitalisation of the institution;			
p) where the instruments are not issued directly by an institution, both the following conditions shall be met:			
i) the instruments are issued through an entity within the consolidation pursuant to Chapter 2 of Title II of Part One;			
ii) the proceeds are immediately available to the institution without limitation and in a form that satisfies the conditions laid down in this paragraph.			

Provision of Regulation No 575/2013	Indicating provisions of an agreement or other document on the issuance of the instrument or on the receipt of the loan	EBA's questions and answers (Q&A) and EBA Report on the monitoring of Additional Tier 1 (AT1) instruments	Self-assessment
The condition set out in point (d) of the first subparagraph shall be deemed to be met notwithstanding the instruments are included in Additional Tier 1 or Tier 2 by virtue of Article 484(3), provided that they rank <i>pari passu</i> .			
Article 53			
For the purposes of points (l)(v) and (o) of Article 52(1), the provisions governing Additional Tier 1 instruments shall, in particular, not include the following: a) a requirement for distributions on the instruments to be made in the event of a distribution being made on an instrument issued by the institution that ranks to the same degree as, or more junior than, an Additional Tier 1 instrument, including a Common Equity Tier 1 instrument;			
b) a requirement for the payment of distributions on Common Equity Tier 1, Additional Tier 1 or Tier 2 instruments to be cancelled in the event that distributions are not made on those Additional Tier 1 instruments;			
c) an obligation to substitute the payment of interest or dividend by a payment in any other form; the institution shall not otherwise be subject to such an obligation,			
Article 63			
Capital instruments and subordinated loans shall qualify as Tier 2 instruments provided the following conditions are met:			
a) the instruments are issued or the subordinated loans are raised, as applicable, and fully paid-up;			
b) the instruments are not purchased or the subordinated loans are not granted, as applicable, by any of the following:			
i) the institution or its subsidiaries;			
ii) an undertaking in which the institution has participation in the form of ownership, direct or by way of control, of 20% or more of the voting rights or capital of that undertaking;			

Provision of Regulation No 575/2013	Indicating provisions of an agreement or other document on the issuance of the instrument or on the receipt of the loan	EBA's questions and answers (Q&A) and EBA Report on the monitoring of Additional Tier 1 (AT1) instruments	Self-assessment
c) the purchase of the instruments or the granting of the subordinated loans, as applicable, is not funded directly or indirectly by the institution;			
d) the claim on the principal amount of the instruments under the provisions governing the instruments or the claim of the principal amount of the subordinated loans under the provisions governing the subordinated loans, as applicable, is wholly subordinated to claims of all non-subordinated creditors;			
e) the instruments or subordinated loans, as applicable, are not secured, or subject to a guarantee that enhances the seniority of the claim by any of the following:			
i) the institution or its subsidiaries;			
ii) the parent undertaking of the institution or its subsidiaries;			
iii) the parent financial holding company or its subsidiaries;			
iv) the mixed activity holding company or its subsidiaries;			
v) the mixed financial holding company or its subsidiaries;			
vi) any undertaking that has close links with entities referred to in points (i) to (v);			
f) the instruments or subordinated loans, as applicable, are not subject to any arrangement that otherwise enhances the seniority of the claim under the instruments or subordinated loans respectively;			
g) the instruments or subordinated loans, as applicable, have an original maturity of at least five years;			
h) the provisions governing the instruments or subordinated loans, as applicable, do not include any incentive for their principal amount to be redeemed or repaid, as applicable by the institution prior to their maturity;			

Provision of Regulation No 575/2013	Indicating provisions of an agreement or other document on the issuance of the instrument or on the receipt of the loan	EBA's questions and answers (Q&A) and EBA Report on the monitoring of Additional Tier 1 (AT1) instruments	Self-assessment
i) where the instruments or subordinated loans, as applicable, include one or more call options or early repayment options, as applicable, the options are exercisable at the sole discretion of the issuer or debtor, as applicable;			
j) the instruments or subordinated loans, as applicable, may be called, redeemed or repurchased or repaid early only where the conditions laid down in Article 77 are met, and not before five years after the date of issuance or raising, as applicable, except where the conditions laid down in Article 78, paragraph 4 are met;			
k) the provisions governing the instruments or subordinated loans, as applicable, do not indicate explicitly or implicitly that the instruments or subordinated loans, as applicable, would or might be called, redeemed, repurchased or repaid early, as applicable by the institution other than in the insolvency or liquidation of the institution and the institution does not otherwise provide such an indication;			
l) the provisions governing the instruments or subordinated loans, as applicable, do not give the holder the right to accelerate the future scheduled payment of interest or principal, other than in the insolvency or liquidation of the institution;			
m) the level of interest or dividend payments, as applicable, due on the instruments or subordinated loans, as applicable, will not be amended on the basis of the credit standing of the institution or its parent undertaking;			
n) where the instruments are not issued directly by an institution, or where the subordinated loans are not raised directly by an institution, as applicable, both of the following conditions shall be met:			

Provision of Regulation No 575/2013	Indicating provisions of an agreement or other document on the issuance of the instrument or on the receipt of the loan	EBA's questions and answers (Q&A) and EBA Report on the monitoring of Additional Tier 1 (AT1) instruments	Self-assessment
i) the instruments are issued or subordinated loans are raised, as applicable, through an entity, which is part of the consolidation pursuant to Chapter 2 of Title II of Part One;			
ii) the proceeds are immediately available to the institution without limitation in a form that satisfies the conditions laid down in this paragraph.			