



NATIONAL BANK OF THE REPUBLIC OF MACEDONIA

Pursuant to Article 69 of the Law on the National Bank of the Republic of Macedonia ("Official Gazette of the Republic of Macedonia" no. 3/2002, 51/2003, 85/2003, 40/2004, 61/2005 and 129/2006), Article 143 paragraph 4 of the Banking Law ("Official Gazette of the Republic of Macedonia" no. 67/2007 and 90/2009) and item 18 paragraph 1 indent 12 and item 20 paragraph 1 indents 1, 4, 5 and 6 of the Decision on the terms and the procedure for implementing the rehabilitation plan and the assets and liabilities transfer plan ("Official Gazette of the Republic of Macedonia" no. 31/2008 and 61/2010), the Governor of the National Bank of the Republic of Macedonia adopted the following

Procedures for performing the transfer of assets and liabilities of a bank under administration (*) ("Official Gazette of the Republic of Macedonia" no. 69/2010)

I. GENERAL PROVISIONS

1. The Procedures for performing the transfer of assets and liabilities of a bank under administration (hereinafter referred to as: the Procedures) shall set forth the procedure for performing the transfer of assets and liabilities, which shall be made according to the steps prescribed in item 18 of the Decision on the terms and the procedure for implementing the rehabilitation plan and the assets and liabilities transfer plan (hereinafter referred to as: the Decision). These Procedures shall also prescribe the following:

- the criteria for determining qualified bidders;
- the procedure for conducting closed bid;
- the contents of the standard agreement for confidentiality of the data related to the transfer of assets and liabilities;
- the method of selection of the most favorable bid, i.e. the purchasing bank;
- the contents of the agreement for transfer of assets and liabilities of the bank under administration to the purchasing bank (hereinafter referred to as: the agreement for transfer of assets and liabilities).

II. PERFORMANCE OF THE TRANSFER OF ASSETS AND LIABILITIES OF A BANK UNDER ADMINISTRATION

1. Development of the plan for transfer of assets and liabilities

2. The administrator shall develop the Plan for transfer of assets and liabilities of a bank under administration (hereinafter referred to as: transfer plan) on the basis of the analysis of the condition of the bank under administration. Hence, it shall have into consideration the following:

- economic and market conditions the bank under administration operates in;
- the previous experience in the performance of the transfer of assets and liabilities of other banks under administration in the Republic of Macedonia;
- other adequate information.

* This bylaw (act) shall enable compliance with the regulation of the European Union (Directive 2001/24/EC of the European Parliament and of the Council of April 04, 2001 on the reorganization and the winding up of credit institutions. corrected by 32001L0024R(01). no. 32001L0024).

3. The administrator shall be required to identify the assets and liabilities of the bank under administration to be transferred and give proposal for transfer of all or part of the assets and liabilities of the bank under administration, pursuant to items 12 and 13 of the Decision.

4. Pursuant to item 13 of the Decision, the administrator shall be required to include in the transfer as much as possible bigger amount of insured deposits to be indemnified, under the regulations, by the Deposits Insurance Fund, (hereinafter referred to as: deposits subject to indemnification).

The Governor of the National Bank of the Republic of Macedonia (hereinafter referred to as: the National Bank), together with the administrator, shall submit information to the Fund on the manner of performing transfer of deposits subject to indemnification. Together with the information, the Governor and the administrator can submit proposal to the Fund for its inclusion in the transfer plan, pursuant to the regulations in the Republic of Macedonia.

Despite the deposits subject to indemnification, the transfer plan can envisage also a transfer of other liabilities of the bank, if the amount and the quality of the assets of the bank under administration allow that.

The items which are components of the core capital of the bank under administration pursuant to the Banking Law and the bylaws adopted thereof, can not be part of the transfer plan, except the items that are deductible items of the core capital.

5. When determining the assets to be transferred, the administrator should include the amount of assets adequate to the amount of the deposits and liabilities that are transferred, having in mind the quality of those assets, in accordance with item 13 of the Decision.

6. Besides the identification of the assets and liabilities to be transferred, the administrator shall be required to determine their value on the date of adoption of the decision on introduction of administration in the bank.

For determining the value of the assets and the liabilities to be transferred, the administrator should use and fill-in the **Annex no. 1 - List of assets and liabilities to be transferred**, with Annexes 1a and 1b as its integral part. The list shall be used as a basis for the preparation of the package of documents and it shall not be submitted to the qualified bidders.

7. The value of the assets to be transferred shall be presented through their net accounting value and their current value.

The value of the liabilities to be transferred shall be presented through their net accounting value.

The net accounting value shall denote the accounting value of the asset/liability impaired by the adequate depreciation amount, the impairment, premium, discount and the effects of the change in the fair value.

The current value of the asset shall be the discounted value of the future cash inflows and outflows related to the collection/sale of the asset, including also the inflows and outflows related to the collection of the collateral (in instances when the assets are transferred together with their collateral).

In instance when it is necessary to determine the current value of large number of credits to be transferred, the administrator can divide the credits in groups, according to their

similarity (for example, the households' credits can be divided into: housing credits, consumer credits etc.). From each group of similar credits representative sample, of at least 5% of the total number of credits in the group is selected, for which the current value shall be determined, which should include also the costs for collection of individual exposures. The obtained current value of the representative sample shall be applied to the entire group of similar credits.

2. Approval to the transfer plan

8. Within the deadlines prescribed in the Banking Law, the administrator shall submit the transfer plan to the Governor of the National Bank (hereinafter referred to as: the Governor).

If the Governor approves the transfer plan, pursuant to the deadlines prescribed in the Banking Law, the administrator shall undertake further activities for its implementation, i.e. activities for the implementation of the steps envisaged with these procedures.

9. If the Governor fails to approve the transfer plan, s/he shall adopt a decision on revocation of the founding and operating license and on meeting the conditions for initiating a bankruptcy procedure against the bank under administration.

3. Selection of audit company

10. The transfer plan can envisage an audit of the assets and the liabilities to be transferred by the audit company.

The selection of the audit company under paragraph 1 of this item shall be made by the administrator, who will be obliged to adhere to the criteria under Article 105 paragraph 2 of the Banking Law.

The audit company shall be obliged to make the audit in line with the auditing regulations, estimating at least the following: the level and the variations in the amount of the impairment and the write-offs, the evaluation of the fixed assets and the assumed assets on the basis of uncollected claims (if these assets are transferred) and the evaluation of the on-balance sheet assets and liabilities.

4. Identification and selection of the qualified bidders

11. Within five days after the approval of the transfer plan, the Governor shall submit to the administrator the data for the qualified bidders that should be invited to participate in the closed bid for transfer of assets and liabilities of a bank under administration.

The Governor shall determine the qualified bidders pursuant to items 12 and 13 of these Procedures.

12. For the needs of these Procedures, qualified bidders shall be deemed the banks in the Republic of Macedonia, which in accordance with the internal acts of the National Bank have low, or moderate risk with stable and downward trend and which are not subject to additional measures undertaken by the Governor of the National Bank, pursuant to the Banking Law.

For the needs of these Procedures, the National Bank shall make and regularly update the list of qualified bidders that meet the criteria under paragraph 1 of this item.

13. The Governor shall select, from the list of qualified bidders, the qualified bidders that will be invited to participate in the closed bid for transfer of assets and liabilities of the bank under administration. In the selection of the qualified bidders, the Governor shall be governed by the following:

- the amount of the own funds and the capital adequacy ratio the qualified bidder would have after the assets and liabilities transfer.
- the undertaken measures and the identified irregularities in the operations of the qualified bidder;
- the risk profile of the qualified bidder and the adequacy of its risk management systems relative to the assets and liabilities to be transferred.

5. Determining of the closed bid date and informing of the qualified bidders for the closed bid date

14. Within three days after the receiving the data under item 11 of these Procedures, the administrator shall send an invitation to the qualified bidders for participation in the closed bid, which contains the basic data on the intention on performing transfer of assets and liabilities and the deadline until when the qualified bidders are required to express their interest for participation.

15. The qualified bidders the invitation under item 14 of these Procedures is sent to shall be required, within the deadline stated on the invitation, to express their interest for participation in the closed bid through submission of filled-in application form (**Annex no. 2**), and a photocopy of the signed standard agreement for confidentiality of the data related to the transfer of assets and liabilities (**Annex no. 3**).

16. The administrator shall set the date of the closed bid conduct, sending a written notification about that to the qualified bidders, which in line with item 15 of these Procedures, expressed an interest to participate in the closed bid.

The administrator shall be obliged to inform the qualified bidders under item 15 of these Procedures about the date under paragraph 1 of this item, at least two days before conducting the close bid.

6. Preparation of the set of documents

17. The administrators shall be obliged to prepare the set of documents that is submitted to the qualified bidders under item 15 of these Procedures, on the date of conducting of the close bid.

18. The set of documents shall contain at least the data and the information defined in item 22 of the Decision, depending on the type of transfer of assets and liabilities (all or just part of the assets and liabilities of the bank under administration).

In the set of documents, the individual assets and liabilities that are transferred can be grouped according to their similarity, especially if having an exposure to credit risk (according to the characteristics of the claims or the debtors, the terms of payment, the type of collateral, the geographic location, etc.).

In the preparation of the set of documents, the administrator shall take into consideration the guidelines stated in the standard form given in the **Annex no. 4**.

19. The set of documents shall contain the value of the assets and liabilities at which they are recorded in the bank's accounting (on a gross basis), not the value determined by the

administrator during the preparation of the transfer plan, in accordance with item 7 of these Procedures.

7. Conducting of the closed bid

20. Before the closed bid begins, the qualified bidders shall be required to submit the signed standard agreement for confidentiality of the data related to the transfer of assets and liabilities of a bank under administration (Annex no. 3) in original.

The standard agreement for confidentiality of the data related to the transfer of assets and liabilities must be signed by all members of the Management Board of the bank - qualified bidder.

The qualified bidder shall be required to appoint a person, or persons as its representatives in the conducting of the closed bid. The identity of the person/persons that will represent the qualified bidder shall be stated in the application form that is submitted prior to the commencement of the closed bid.

21. After determining of the identity of the qualified bidders and their representatives, the administrator shall sign the standard agreement for confidentiality of the data related to the transfer of assets and liabilities, giving a set of documents to each qualified bidder.

22. With the finalization of the activities under items 20 and 21 of these Procedures, it shall be considered that the conditions for commencement of the closed bid are met.

The closed bid shall be held in the premises of the National Bank, which should be fully psychically protected during the closed bid conduct. Only the following persons shall have the right to enter these premises:

- administrator;
- representatives of the qualified bidders under item 20 of these Procedures; and
- persons employed in the National Bank, who will be included in the closed bid conduct.

23. The closed bid shall be conducted according to the following order:

- the administrator shall give a short introduction about the planned transfer of assets and liabilities to be a subject of the transfer (whether all assets and liabilities of the bank under administration are going to be transferred, or just a part of them);
- the administrator shall inform the qualified bidders on accepting only those bids that encompass transfer of all assets and liabilities offered for a transfer;
- the administrator or other person appointed by the Governor shall give a description of the legal framework for performing transfer of assets and liabilities;
- the administrator shall set a timeframe (in hours) within which the qualified bidders can review the set of documents;
- after the expiration of this period, the administrator and the persons under item 22 paragraph 2 indent 3 shall answer on the potential questions related to the assets and liabilities transfer.

24. During the closed bid conduct, the administrator may assess that in order to provide a successful performance of the transfer, the qualified bidders should pay a visit to the bank under administration. In that case, the administrator shall inform the qualified bidders on the possible visit and undertake all activities for its organization, in line with part 8 of this Section.

If the administrator estimates that the visit to the bank under administration is not necessary, the transfer of assets and liabilities shall continue by performing the activities stipulated in part 9 of this Section.

8. Visiting the bank under administration

25. In instances under item 24 paragraph 1 of these Procedures, the administrator shall be obliged to undertake all activities for successful realization of the visits to the bank under administration by all qualified bidders.

The administrator shall set the timeframe for visiting the bank under administration.

26. By visiting the bank under administration, the qualified bidders can make an analysis of the assets and liabilities to be transferred.

During the visit to the bank under administration, all qualified bidders should be enabled an access to the same data and given the same period for analysis, with the efficient and the fast finalization of the procedure for transfer of assets and liabilities being taken into consideration.

The administrator shall appoint persons employed in the bank under administration that will be responsible for giving information and data to the qualified bidders related to the transfer realization.

27. Every qualified bidder that visits the bank shall appoint a responsible person of the group (with contact data: telephone number, fax, e-mail etc.) and a list of the group members. The number, the names and other data about the responsible person and the group members, as well as the dates of the visit paid by each individual qualified bidder shall be strictly confidential and must not be disclosed to the other qualified bidders, or to any other person/entity.

28. The administrator, or other person appointed by him/her, shall constantly monitor the visit of every qualified bidder. The administrator, or the other person, shall keep a record for both the entry and the exit of all members of the groups of each individual qualified bidder.

29. In order to provide secrecy and confidentiality, if possible, the data on the individual depositors of the bank under administration shall be given only according to the number of the deposit account.

Regarding the analysis of the credit portfolio, more detailed access to the data for every credit-user of the bank under administration can be enabled, if it is of interest for successful performance of the assets and liabilities transfer.

30. Copying, photographing, recording and taking out of the documentation of the bank under administration shall be forbidden. Only paper notes, or lap-tops notes shall be allowed. The qualified bidders shall not have access to:

- minutes from the meeting of the Supervisory Board of the bank under administration;
- on-site examination reports performed by the National Bank, or other competent body;
- data on the employees in the bank under administration;

- other sensitive data that do not refer to the assets and liabilities subject to transfer.

31. During the closed bid conduct and the visit paid to the bank under administration, the representatives of the qualified bidders shall be required to adhere to the provisions of the standard agreement for confidentiality of the data related to the transfer of assets and liabilities.

The qualified bidders must not exchange information and data with the employees (except to the employees under item 26 paragraph 3 of these Procedures), the fiduciaries, other business partners of the bank under administration, or with other qualified bidders, about the performance of the transfer of assets and liabilities, the problems of the bank under administration, or other similar information and data.

9. Submission of bids by the qualified bidders

32. At the end of the closed bid conduct, i.e. one day after finalizing all visits to the bank under administration, the administrator shall inform the qualified bidders on the deadline for submission of the bids for assets and liabilities assumption (hereinafter referred to as: the bid).

33. Every interested qualified bidder shall be required to submit the bid in original, signed by all members of the Management Board of the bank-qualified bidder, based on the decision of the Supervisory Board of the bank-qualified bidder, until the deadline set by the administrator. These bids shall be considered final bids and they can not be subject to changes and supplements.

34. The bid (Annex no. 5) should contain at least the following elements:

- description of the bid for assets and liabilities assumption (form 1)
- list of assets and liabilities to be undertaken (form no. 2);
- proof for the paid guarantee deposit.

Together with the submission of the bid under paragraph 1 of this item, the qualified bidder shall be required to paid guarantee deposit on a special account with the National Bank in the amount of 10% of the amount of the assets it is willing to assume.

10. Selection of the most favorable bid, i.e. purchasing bank

35. The administrator shall be obliged to review all received bids, to make their assessment and to select the most favorable bid within five days after the expiration of the deadline pertaining to the bids submission.

The bids not including the assumption of all assets and liabilities that are subject to the transfer shall be deemed incomplete and they shall not be taken into consideration in the selection of the most favorable bid.

36. The selection of the most favorable bid shall be made according to the following procedure:

- 1) On the basis of the received bids **Annex no. 6** shall be filled in, determining the amount of:
 - the liabilities subject to the transfer (column no. 3);
 - the total bid value of the assets that are transferred (column no. 4);

- the current value of the assets that are transferred, determined in accordance with item 7 of these procedures (column no. 5);
 - Difference 1 (column no. 6), as a difference between the amount of the total bid value (column no. 4) and the liabilities that are transferred (column no. 3) for each individual bid;
 - Difference 2 (column no. 7) as a difference between the total bid value of the assets that are transferred and their current value (a difference between the columns no. 4 and 5);
- 2) The most favorable bid shall be considered the bid where the difference 1 has the biggest positive value (premium), i.e. the smallest negative value.
 - 3) If two or several bids have the same difference amount 1, the next step shall be to determine the difference 2 under column no. 7. For all bids that remain in the selection (bids having an equal difference 1), the difference between the total bid value of the assets and their current value shall be determined. The most favorable bid shall be considered the bid where the difference 2 has the biggest positive value, i.e. the smallest negative value.
 - 4) If the negative value of the sub-items 2) and 3) is in the amount that does not provide accomplishment of the objectives of the transfer of assets and liabilities, the administrator shall cease the procedure for transfer of assets and liabilities.

37. As purchasing bank shall be selected the qualified bidder the bid of which is assessed as the most favorable bid, in line with item 36 of these Procedures.

If the purchasing bank under paragraph 1 of this item until the signing of the agreement for transfer of assets and liabilities withdraws from the transfer, the bid assessed as the second after the bid of the purchasing bank that withdrew will be selected. This bid shall be deemed as the most favorable, while the qualified bidder that submitted it shall be considered as a purchasing bank.

The bank under paragraph 2 of this item that withdrew from the transfer of assets and liabilities shall have no right on return on the guarantee deposit under item 34 paragraph 2 of these Procedures.

11. Signing of the agreement for transfer of assets and liabilities

38. The administrator shall prepare a report on the selection of the most favorable bid which shall contain an explanation for the selection and the contents of the received bids.

For the selection made, the administrator shall send a written notification to the Governor, containing the report on the selection and the filled-in Annex no. 6.

39. The administrator shall notify the purchasing bank about the selection as soon as possible and call it on a meeting, at which the final agreement for the transfer of assets and liabilities of the bank under administration to the purchasing bank is signed (**Annex no. 7**) taking care for the confidentiality of the entire process.

Within the deadline under paragraph 1 of this item, the administrator shall inform also the participants the bids of which were not accepted and state the deadline within which they will have their guarantee deposit returned. In order to preserve the confidentiality of the process, the name of the purchasing bank shall not be disclosed to them.

12. Bank closure

40. After the signing of the agreement for the transfer of assets and liabilities and finalization of the transfer to the purchasing bank, the Governor shall adopt a decision on revocation of the founding and operating license and fulfillment of the conditions for initiating a bankruptcy procedure in the bank.

41. The fiduciaries and debtors of the bank under administration shall become fiduciaries and debtors of the purchasing bank. The remuneration deposits, and that are not transferred to the purchasing bank, shall be paid by the Fund.

For the needs of the fund, the administrator shall prepare a list of remuneration deposits that are not transferred to the purchasing bank.

42. After the signing of the agreement for transfer of assets and liabilities and adoption of the decision on the revocation of the founding and operating license, the Governor and the purchasing bank shall notify the public for the performed transfer of assets and liabilities. The notification should contain a short review of the undertaken activities, the transfer objective (minimization of the influence of the bankruptcy of the bank under administration on the depositors and the banking system as a whole), emphasizing that the assumed deposits are instantly on the disposal of the depositors, with the purchasing bank.

The purchasing bank shall announce additional notification to the public, which contains the data stipulated in Article 7 of the agreement for transfer of assets and liabilities, elaborating the rights of the depositors whose deposits it assumed and the rights and liabilities of the credit users whose claims it assumed.

The administrator shall be required to submit notification to each depositor/credit user of the bank under administration individually, whose deposits/credits are transferred to the purchasing bank.

III. CESSATION OF THE PROCEDURE FOR TRANSFER OF ASSETS AND LIABILITIES

43. During the performance of the transfer of assets and liabilities, the administrator may determine that its realization is not possible (if no bids are received, the bids do not provide accomplishment of the transfer plan, the realization of the transfer would cause serious problems with the qualified bidders etc.). In that instance, the administrator shall prepare a report proposing a cessation of the procedure for transfer of assets and liabilities, which contains the reasons for such proposal. The administrator shall be required to submit the report to the Governor as soon as possible, but no longer than five business days from the determining of the inability to perform the transfer.

The Governor shall review the report under paragraph 1 of this item and decide on the received proposal. In the instances when the Governor accepts the proposal, the Governor shall adopt a decision on the revocation of the founding and operating license and accomplishment of the conditions for initiating a bankruptcy procedure in the bank under administration.

In instances when the Governor finds that there are still conditions to continue with the transfer, s/he shall hold a meeting with the administrator at which it is decided on the future activities related to the (dis)continuance of the transfer of assets and liabilities of the banks under administration. If no consent is reached at the meeting, the Governor shall pronounce in accordance with the procedure set forth in the Decision.

IV. TRANSITIONAL AND CLOSING PROVISIONS

44. The process of transfer of assets and liabilities should last within the timeframe defined in **Annex no. 8**. This timeframe shall encompass the period from the approval of the plan for transfer of assets and liabilities and the adoption of the decision on entitling the administrator for undertaking additional activities for realization of the plan, until the signing of the agreement for transfer of assets and liabilities, i.e. appointing the purchasing bank and the adoption of the decision on revocation of the founding and operating license of the bank under administration.

The timeframe shall depend on the size, the nature and the characteristics of the bank under administration, as well as on the need for faster and efficient performance of the transfer of assets and liabilities.

45. The Annexes from no. 1 to no. 8 shall represent an integral part of these Procedures.

46. These procedures shall enter into effect on the eighth day from the day of their publishing in the "Official Gazette of the Republic of Macedonia".

No. 3346
May 12, 2010

Governor
Petar Goshev, M.Sc.

Annexes:

Annex no. 1 - List of assets and liabilities to be transferred

Annex no. 1a - List of each credit to be transferred

Annex no. 1b - List of the group of similar credits

Annex no. 2 - Application form

Annex no. 3 - Agreement for confidentiality of the data related to the transfer of assets and liabilities

Annex no. 4 - Standard form of the set of documents for credits and deposits to be transferred

Annex no. 5 - Bid for assumption of assets and liabilities

Annex no. 6 - Data for each individual bid in the transfer of assets and liabilities of the bank under administration

Annex no. 7 - Agreement for transfer of assets and liabilities of the bank under administration to the purchasing bank

Annex no. 8 - Timeframe for performing transfer of assets and liabilities