



NATIONAL BANK OF THE REPUBLIC OF MACEDONIA

Pursuant to Article 64 paragraph 1 item 22 of the Law on the National Bank of the Republic of Macedonia ("Official Gazette of the Republic of Macedonia" no. 3/02, 51/03, 85/03, 40/04, 61/05 and 129/06) and Article 143 paragraph 4 of the Banking Law ("Official Gazette of the Republic of Macedonia" no. 67/2007), the National Bank of the Republic of Macedonia Council adopted the following

DECISION

on the terms and procedure for implementing the rehabilitation plan and the assets and liabilities transfer plan

("Official Gazette of the Republic of Macedonia" no. 31/2008)

I. GENERAL PROVISIONS

1. This Decision sets forth the terms and procedure for implementing the rehabilitation plan and plan for transfer of assets and liabilities of a bank in which administration has been instituted (hereinafter: bank under administration) to another bank.
2. Primary objective of the plans referred to in item 1 of this Decision is to ensure protection of the interests of creditors of the bank under administration and the overall banking system.
3. The plans referred to in item 1 of this Decision shall be worked out by the administrator appointed by the Governor of the National Bank of the Republic of Macedonia (hereinafter: the National Bank) and shall be an integral part of the report on the condition of the bank under administration.

When defining the plans referred to in item 1 of this Decision, the administrator shall adhere to the provisions of the Banking Law and this Decision.

II. REHABILITATION PLAN

4. When the administrator considers that there are conditions for improving the financial position of the bank under administration and for reaching the necessary solvency and/or liquidity level, he/she shall work out a rehabilitation plan for the bank under administration.

For accomplishing the primary objective referred to in item 2 of this Decision, the administrator shall include measures in the rehabilitation plan, aimed at:

- improving the operations of the bank under administration,
 - strengthening the financial position of the bank under administration,
 - achieving compliance with the supervisory standards defined under the Banking Law and the by-laws resulting thereof.
5. The rehabilitation plan shall include the following general components:
 - evaluation of the amount of bank's own funds, solvency and liquidity position,

- assessment of the willingness of the bank's shareholders to invest additional capital for covering the bank's losses,
- description of the method of instituting bank rehabilitation, and
- evaluation of costs incurred in the performance of administration-related activities.

In addition to the components referred to in paragraph 1 of this item, the rehabilitation plan shall at least include the following general components:

- reasons behind the institution of administration,
- determining of objectives to be achieved within a certain timeframes and actions to be undertaken for achieving such objectives,
- establishment of indicators to be achieved during the administration, including definition of the level of planned indicators to be achieved by the bank under administration upon effectuation of the rehabilitation plan.

6. Depending on the reasons behind the institution of bank administration, the rehabilitation plan shall also include the following specifics:

- achievement of adequate level of own funds and/or capital adequacy ratio,
- removal of the loss-making part of bank's portfolio by adequate impairment, i.e. allocation of special reserve,
- diversification of assets and liabilities for achieving an adequate liquidity level,
- cessation of branches or other loss-making organizational units,
- termination of loss-making financial activities of the bank,
- undertaking enforced actions for collection of non-performing loans,
- timely payment of deposits, according to their maturity,
- appointing persons with adequate skills and knowledge to manage material risks the bank under administration has been exposed to,
- undertaking actions for establishing and/or improving the internal control system and the Internal Audit Department,
- respective changes in the information system,
- deferral of dividend payment to shareholders of the bank under administration.

7. The rehabilitation plan shall not include actions and solutions which:

- induce an increase in the assets of the bank under administration over the growth rate suitable to the level of its own funds and financial power,
- imply acquisition of capital holdings in other legal entities, or

- imply approval of credits and other type of exposure to persons/entities connected to the bank and the persons/entities connected thereto, under conditions more favorable than those applied to other clients of the bank under administration.

8. The rehabilitation plan of the bank may be implemented by one or more of the following:

- selling the bank's assets,
- increasing the bank's own funds by issuing shares for the creditors or new investors in consistence with this Law,
- selling the shares, or
- status changes of the bank.

Activities referred to in paragraph 1 of this item shall be conducted under the Banking Law. The Governor of the National Bank shall define procedures for implementing the activity referred to in paragraph 1 indent 1 of this item.

9. In case the Governor approves the rehabilitation plan, as specified by the Banking Law, the administrator shall implement the plan and undertake all necessary actions for its effectuation.

10. The administrator shall, not later than the fifteenth day of the current month, submit to the Governor of the National Bank, a report on the progress of implementation of the rehabilitation plan for the preceding month.

Along with the report referred to in paragraph 1 of this item, the administrator shall also submit monthly reports on the level of generated income and expenses of the bank under administration, as a whole and by organizational unit.

11. When during the administration certain events occur that might have adverse effects on the implementation of the rehabilitation plan, the plan may be respectively amended so as to be adjusted to the new circumstances, which requires approval of the Governor of the National Bank.

III. PLAN FOR TRANSFER OF ASSETS AND LIABILITIES

12. The plan for transfer of assets and liabilities of the bank under administration to another bank shall specify the assets and liabilities of the bank under administration intended to be transferred to another bank or banks (hereinafter: purchasing bank).

The administrator may recommend transfer of all or part of the bank's assets and liabilities.

13. The plan for transfer of assets and liabilities of the bank under administration shall include transfer of at least all insured deposits required, under the regulations, to be indemnified by the Deposit Insurance Fund (hereinafter: deposits subject to indemnification).

If the value of assets that may be transferred to another bank is below the value of deposits subject to indemnification, the amount of deposits that may be transferred shall be determined by proportionate inclusion of the deposits subject to indemnification, by individual person/entity.

If the value of assets that may be transferred to another bank exceeds the value of deposits subject to indemnification, but is below the total liabilities of the bank under administration,

the amount of liabilities that may be transferred shall be determined by proportionate inclusion of each liability.

If the assets and liabilities are transferred through premium payment by the purchasing bank (the assets value exceeds the liabilities value), the premium shall remain within the bank under administration.

14. The assets and liabilities of the bank under administration may be transferred only to banks which are qualified bidders.

Qualified bidders shall be banks that meet the criteria specified by the Governor of the National Bank.

15. Persons/entities involved in the transfer of assets and liabilities of the bank under administration shall ensure that the confidentiality of the overall transfer of assets and liabilities is observed.

As an exception to paragraph 1 of this item, the purchasing bank and the Governor of the National Bank shall make the transfer of assets and liabilities of the bank under administration to the purchasing bank public, upon completion of the transfer.

16. The administrator and the qualified bidders shall follow the procedures for implementation of the transfer of funds and liabilities, defined by the Governor of the National Bank.

17. The plan for transfer of assets and liabilities of the bank under administration to the purchasing bank shall include at least:

- evaluation of the bank's own funds, solvency and liquidity position,
- estimation of the value of bank's total assets and determination of bank's liabilities,
- evaluation of the bank's assets and liabilities that would be transferred to another bank and
- transfer effects.

18. The transfer of assets and liabilities of the bank under administration shall include the following steps:

- development of the transfer plan by the administrator,
- endorsement of the transfer plan by the Governor of the National Bank,
- appointment of an audit company to audit the assets and liabilities subject to transfer and their value, if required by the assets and liabilities transfer plan,
- identification of qualified bidders,
- determination of date on organizing a meeting between the qualified bidders and the administrator (hereinafter refer to as: closed bid) and the date on informing the qualified bidders on the bid for transfer of assets and liabilities,
- preparation of the required documentation referred to in item 22 of this Decision (hereinafter refer to as: set of documents) which shall be delivered to the qualified bidders on the date of the closed bid,

- informing the qualified bidders on the date of the closed bid,
- ensuring that only those qualified person which signed the standard data and procedure confidentiality agreement (hereinafter refer to as: standard confidentiality agreement) will be present on the closed bid. The standard confidentiality agreement shall provide data and procedure confidentiality, through defining the rights and responsibilities of all persons included in the transfer,
- carrying out the closed bid,
- organizing eventual visits to the bank under administration by the qualified bidders,
- determining the deadline for bid submission by the qualified bidders,
- selecting the purchasing bank, in accordance with the procedures stipulated by the Governor of the National Bank,
- signing final agreement on transfer of assets and liabilities of the bank under administration to the purchasing bank (hereinafter refer to as: final agreement).

19. When transferring the assets and liabilities of the bank under administration to the purchasing bank, the administrator shall perform the following activities:

- identification of assets and liabilities of transfer and determination of their value, in accordance with the regulations on accounting and accounting standards, stipulated in accordance with the Banking Law,
- preparation and submitting of the plan for transfer of assets and liabilities to the Governor of the Republic of Macedonia,
- selection of an audit company, if required by the plan on transfer of assets and liabilities,
- preparation of the set of documents,
- determination of the date of the closed bid,
- performing all technical preparations for implementation of the bid, including the submission of the standard confidentiality agreement to all qualified bidders. The list of qualified bidders is provided by the Governor of the National Bank,
- carrying out the closed bid,
- deciding on the need of organizing visits to the bank under administration by the qualified bidders, which can help them to analyze the assets and liabilities of transfer,
- organization of eventual visits to the bank under administration by the qualified bidders,
- determination of the deadline on bid submission by the qualified bidders,
- review of the bids submitted by the qualified bidders,
- informing the Governor on the content of the received bids,

- suggesting a purchasing bank,
- signing the final agreement.

During the full transfer of assets and liabilities of the bank under administration, the administrator shall cooperate with the National Bank. The administrator shall submit to the Governor of the National Bank a report on the course of implementation of the plan for transfer of assets and liabilities of the bank under administration on the previous month, by the 15th day of the current month, and shall also submit all data and information required by the Government of the National Bank, in any other moment.

20. When transferring the assets and liabilities of the bank under administration to purchasing bank, the Governor of the National Bank shall perform the following:

- stipulate the criteria on determining qualified bidders,
- determine the qualified bidders in accordance with the stipulated criteria,
- review the plan for transfer of assets and liabilities and adopt a decision on its approval, in accordance with the deadlines specified with the Banking Law,
- stipulate detailed procedures on implementation of the closed bid,
- stipulate standard confidentiality agreement, as a precondition for participation in the closed bid,
- stipulate the final agreement,
- give an approval on the selected purchasing bank.

21. When transferring the assets and liabilities of the bank under administration to purchasing bank, the qualified bidder shall reply to the invitation for participation in the closed bid, expressing interest, i.e. disinterest. If the qualified bidder is interested in participating in the closed bid, it shall perform the following,

- submit all data and information required by the administrator,
- sign the submitted standard confidentiality agreement and send a copy of the signed agreement before the bid date, within a deadline determined by the Governor of the National Bank. The qualified bidder shall submit the original agreement on the bid date, based on which it can obtain the set of document,
- determine a person who shall be responsible on submitting the required data and information, participation in the closed bid, review of the set of documents and representing the qualified bidder when carrying out the closed bid,
- perform analyses of the assets and liabilities of transfer, in the bank under administration, if needed,
- submit a bid to the administrator including its terms for transfer of assets and liabilities,
- sign the final agreement, if it is selected as a purchasing bank.

22. Set of documents shall include at least the following data and information:

- a) in case of transfer of all assets and liabilities of the bank under the administration (sale of a bank):
 - number of branches, windows and other business units,
 - location of the bank under administration and of branches, windows and business units,
 - number of employees on every location,
 - data on fixed assets of the bank and fixed assets used under lease, stating the bookkeeping value or the amount of the rent,
 - data on the information system,
 - data on credits: number and value of credits on every location, name and amount of exposure to the largest clients, credits to the persons related to the bank, aggregate data on classification of the credit risk exposure, aggregate data on classification of exposure by credit products, by sector, by activity, by currency, etc.,
 - data on the deposits: number and value of deposits on every location, amount of deposits by their residual maturity, amount and number of deposits insured by the Deposit Insurance Fund, name and amount of the largest depositors, deposits of the persons related to the bank,
 - data on the cases when the same person is both, credit borrower and depositor with amount of net exposure or net indebtedness in the bank under administration,
 - amount of borrowings,
 - data on off-balance claims and liabilities of the bank under administration,
 - general data on all subsidiaries of the bank under administration and on all holdings of the bank in non-financial institutions,
 - Share structure of the bank under administration,
 - undertaken measures against the bank under administration and imposed penalties,
 - basic data on court actions against the bank under administration or undertaken by it,
- b) in case of transfer of a part of the assets and liabilities of bank under administration:
 - type, number and bookkeeping value of assets of transfer,
 - location of assets and liabilities of transfer,
 - data on credits of transfer: number and value of credits, type and amount of exposure to the largest clients, credits to persons related to the bank, aggregate data on classification of credit risk exposure, aggregate data on classification of exposure by credit product, by sector, by activity, by currency, etc.,
 - type and bookkeeping value of liabilities of transfer,

- data on deposits of transfer: number and value of deposits, amount of deposits by their residual maturity, amount and number of deposits insured by the Deposit Insurance Fund, name and amount of the largest depositors, deposits of persons related to the bank.

23. Purchasing bank takes over the liabilities and assets of transfer by the bank under administration, in accordance with the terms agreed between the bank under administration and the client, which are valid at the day of the transfer.

24. If the transfer of assets and liabilities of the bank under administration proves to be impossible to implement, or if there are no bids at all, or if there are bids which do not fulfill the purposes of the plan for transfer of assets and liabilities of the bank under administration, the Governor of the National Bank shall adopt a decision on revocation of founding and operating license and on fulfilling the terms for opening bankruptcy proceeding in the bank under administration.

IV. CLOSING PROVISION

25. This Decision shall enter into force on the eight days from the day of its publishing in the "Official Gazette of the Republic of Macedonia".

D. no. 02-15/II-3/2008
February 28, 2008
Skopje

Petar Goshev, MSc.
Governor
President of the National Bank
of the Republic of Macedonia Council