

# **REGULATION ON “BANK’S INVESTMENTS IN THE EQUITY OF COMMERCIAL COMPANIES”**

**Approved with the Supervisory Council Decision No. 42, dated 06.06.2001.**

Based on Law No. 8269, dated 23.12.1997 “On the Bank of Albania”, article 12, paragraph a, and Law No. 8365, dated 02.07.1998 “On banks in the Republic of Albania”, article 31, paragraph 4 and article 33, the Supervisory Council of the Bank of Albania approved the regulation “On the bank’s investments in the equity of commercial companies” (hereinafter it will be referred to as “regulation”).

## **ARTICLE 1**

Subject to this regulation are banks and branches of foreign banks that exercise banking activities in the Republic of Albania. Hereinafter, these entities will be referred to as “banks”.

## **ARTICLE 2**

The purpose of this regulation is to establish a balance between the bank’s free activity to invest in the equity of commercial companies and its obligation to comply with certain prudential ratios.

## **ARTICLE 3**

For purposes of this regulation, bank’s investment in the equity of commercial companies shall mean the purchase of shares of commercial companies that are non-banks or financial institutions, participation as a shareholder in commercial companies for more than 10% of their capital, participation in a joint venture or merging with other companies.

The approval of the Bank of Albania shall not be required for the following:

- a) participation in a bank’s capital;
- b) participation in the capital of a non-bank financial institution, either licensed or not by the Bank of Albania;

## **ARTICLE 4**

The purpose of establishing these prudential ratios is to restrict bank from investing unlimitedly in the capital of commercial companies, in order to prevent the bank’s uncontrolled exposure to inherent risks.

## **ARTICLE 5**

Banks are allowed to invest in the equity of commercial entities:

- 5.1 Without the approval of the Bank of Albania:
  - a) when the investment in equity is no greater than 10% of the capital of such companies;
  - b) when each of investments in equity does not exceed 15% of the bank’s regulatory capital;
  - c) when the total investments in equity does not exceed 60% of the bank’s regulatory capital
- 5.2 With the approval of the Bank of Albania:

- a) when the equity investment is greater than 10% but less than 50% of the capital of the commercial company;
  - b) when the equity investment is greater than 15% but less than 25% of the bank's regulatory capital;
- 5.3 The equity investment exceeding the percentage described in paragraph 5.1.b shall be deducted from the regulatory capital.

## **ARTICLE 6**

The Bank of Albania approves investments in capital, provided in paragraph 5.2, when all the following conditions are met:

- a) commercial companies have shown a profit at least for the last two years, and their capital is not lower than the initial minimal capital;
- b) the bank's capital adequacy ratio after the investment in a commercial company's capital is not lower than 12%.
- c) when commercial companies are resident shareholders' companies, listed at the Shares Register Center.

## **ARTICLE 7**

For purposes of compliance with the ratios provided in Article 5 of this regulation:

- a) as regulatory shall serve the one being defined as described in the guideline "On the regulatory capital" after the deductions provided in paragraph 5.3 are made;
- b) each participation shall be evaluated based on its net accounting value.

## **ARTICLE 8**

When banks do not meet the obligations provided in Articles 5 and 6, the Bank of Albania shall take measures against them pursuant to Law No. 8365, dated 02.07.1998 "On banks in the Republic of Albania", Chapter VII "Infractions and Penalties".

## **ARTICLE 9**

- 9.1 The approval for investment on equity, according to conditions prescribed in paragraph 5.2, shall be given by the administrators of the Bank of Albania. The Supervision Department is charged to prepare the proposal for the rejection or approval of the request. For this purpose:
- 9.2 Each bank is obliged to send a request to the Supervision Department. The request will include:
- a) the company's name, date of foundation and its activities;
  - b) supporting documentation:
    - the balance sheet and income statement for the last two years and the current year, and a statement from the external auditor stating that the conditions provided in paragraph 5.2.a are fulfilled;
    - the balance sheet, income statement, regulatory capital, risk weighted assets and off-balance sheet items that certify the conditions provided in paragraph 5.2.b are fulfilled;
    - any other additional information required by the Supervision Department.
- 9.3 By command of the director of the Supervision Department of the Bank of Albania, a working group consisting of the following shall be established:
- a) the respective responsible examiner for the bank;
  - b) the examiner in charge during the last limited or full scope inspection;

- c) an analyst appointed by the director.

The working group is entitled to require any additional information no later than 3 days from the day of its assignment.

9.4 The Bank of Albania shall respond within 10 days following the receipt of the complete documentation, but no latter than 30 days from the receipt of the request.

9.5 For companies listed at the stock exchange, the response will be given within 5 days.

## **ARTICLE 10**

The regulation "On participation in the equity of commercial companies by banks and branches of foreign banks", approved by the Supervisory Council Decision no.107, dated 03.11.1999 shall be repealed.

## **ARTICLE 11**

This regulation shall enter into force 15 days following its publication in the Official Bulletin of the Bank of Albania.

CHAIRMAN OF THE SUPERVISORY COUNCIL

Shkëlqim CANI