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REPUBLIC OF ALBANIA  
BANK OF ALBANIA  
SUPERVISORY COUNCIL

**DECISION**  
**No. 6, dated 5.2.2020**

**ON**  
**APPROVAL OF REGULATION “ON DETERMINING THE CONDITIONS FOR GRANTING**  
**THE PRIOR APPROVAL TO THE INTRA-BANKING GROUP FINANCIAL SUPPORT**  
**AGREEMENT”**

In accordance with Article 12 and Article 43 of the Law No. 8269, dated 23.12.1997 on the Bank of Albania, as amended, with Article 6, paragraph 6 and with Article 16, paragraph 6 of Law No. 133/2016, dated 22.12.2016, on the recovery and resolution of banks in the Republic of Albania; having regard to the proposal from Supervision Department, the Supervisory Council of the Bank of Albania,

**DECIDED:**

1. To approve the Regulation on determining the conditions for granting the prior approval to the intra-banking group financial support agreement, as provided therein.
2. The Supervision Department at the Bank of Albania shall implement this Decision.
3. The Governor's Office and the Research Department shall be responsible for publishing this Decision respectively in the Official Journal of the Republic of Albania and in the Official Bulletin of the Bank of Albania.

This Decision shall enter into force 15 days after the publication in the Official Journal of the Republic of Albania.

**SECRETARY**

**CHAIR**

**Elvis ÇIBUKU**

**Gent SEJKO**

## **CHAPTER I**

### **GENERAL PROVISIONS**

#### **Article 1 Subject matter**

This Regulation lays down the conditions for granting the prior approval to the financial support agreement, that may be granted only by banks that are part of a banking group that falls under the consolidated supervision of Bank of Albania, and the requirements for documentation and its content for acquiring this approval from the Bank of Albania.

#### **Article 2 Scope of application**

This Regulation shall apply on banks licensed to carry out banking and financial activity in the Republic of Albania, in accordance with the licence granted from the Bank of Albania.

#### **Article 3 Legal grounds**

1. This Regulation is issued pursuant to:
  - a) Article 12 and Article 43 of the Law No. 8269, dated 23.12.1997 "On the Bank of Albania", as amended; and
  - b) Article 16 of Law no. 133/2016, dated 22.12.2016 "On the recovery and resolution of banks in the Republic of Albania" (following referred as the Law "On the recovery and resolution").

#### **Article 4 Definitions**

1. The terms used in this Regulation shall have the same meaning with those defined in the Law "On the banks in the Republic of Albania" and in the Article 4 and Chapter III of the Law "On the recovery and resolution".
2. In addition to point 1, for the purposes of the implementation of this Regulation, the following terms have these definitions:
  - a) "providing bank" means the group bank providing the financial support;
  - b) "receiving bank" means the group bank receiving the financial support.

## CHAPTER II

### CONDITIONS FOR GRANTING THE PRIOR APPROVAL TO THE INTRA-BANKING GROUP FINANCIAL SUPPORT AGREEMENT

#### Article 5

##### General requirements and procedures for granting the prior approval

1. The bank shall provide intra-banking group financial support in the form of a loan, guarantee or as a combination of them, for one or more banks or entities of the banking group, with the aim to preserve or redress the financial situation of the bank, entity and of the banking group as a whole.
2. The bank may not provide intra-banking group financial support without the prior approval from the Bank of Albania. Other common forms of financial agreements or relationships between banks or banking group entities (which are concluded during the exercise of their normal activity) shall not be subject to prior approval referred to in this Regulation.
3. Bank of Albania shall grant, refuse or restrict the prior approval for the agreement, on the basis of which the intra-banking group financial support shall be provided, after assessing the following:
  - a) the suitability of the documentation submitted by the bank to the Bank of Albania;
  - b) the contents of the elements of the intra-banking group financial support agreement;
  - c) the potential impacts on the financial situation and sustainability of the providing bank; and
  - d) the potential impacts on the country's financial stability.
4. The bank that shall provide the financial support, submits to the Bank of Albania the application for acquiring the prior approval to the intra-banking group financial support agreement and the related documentation, as set out in the Article 6 of this Regulation.
5. The procedure of assessing the documentation related to the granting of the prior approval for the financial support agreement shall be performed in two different phases:
  - a) **during the first phase**, Bank of Albania expresses its lack of objection for the proposed (draft) agreement of the financial support, when after assessing the documentation submitted, in accordance to letters ð and ð of paragraph 1 of Article 6, acquires the conviction that the agreement includes all elements set out in Article 7 of this Regulation;
  - b) **during the second phase**, when the providing bank shall offer the actual support for the receiving bank, Bank of Albania shall grant the prior approval. This approval shall be granted only after the fulfilment and the assessment of

the documentation set out in letter òö of paragraph 1 of Article 6 of this Regulation, as well as after the assessment of the Bank of Albania.

6. Bank of Albania, within 2 (two) months, shall express or not the lack of objection and, within 10 (ten) business days of submission of complete documentation for the concrete provision of the financial support, shall grant, refuse or restrict the prior approval to the financial support. The expression, or not, of its lack of objection, the granting, refusal, or restriction of the prior approval of financial support shall be given by decision of the Administrator in charge of Supervision.
7. The Bank that shall provide the financial support shall notify the Bank of Albania in cases when the financial support agreement, for which the lack of objection or prior approval has been given, is closed, suspended or terminated. .
8. The Bank shall notify the Bank of Albania, in cases when the terms and conditions of the agreement, for which the lack of objection or prior approval has been given, change. The Bank shall submit the amended documentation for review and evaluation to the Bank of Albania.

### **Article 6**

#### **Documentation to be submitted to the Bank of Albania**

1. The application for the prior approval to the financial support agreement is submitted to the Bank of Albania, accompanied with the following documentation:
  - a) text of the proposed intra-group financial support agreement approved by the Steering Council;
  - b) data on the business name and head office of the banks and/or banking group members, intending to conclude the intra-banking group financial support agreement; and
  - c) the analysis of effects of implementation of the proposed intra-banking group financial support agreement, stating in particular all direct and indirect benefits and risks, including the impact on capitalization and liquidity values, for the applicant and the financial group, in case of provision of financial support in accordance with this agreement, as set out in Articles 8 and 9 of this Regulation.
2. Bank of Albania may require from the applicant to submit additional documentation, if based on the documents submitted in accordance with the paragraphs above, it is not possible to determine all facts important for decision making. In this case, the deadline for the Bank of Albania to issue a decision on the intra-group financial support agreement, shall be extended until the submission of the additional documentation required.
3. The documentation submitted shall be in the Albanian language, either in original or a legalized copy. It shall be submitted to the Bank of Albania in a closed envelope or sent via registered mail.

**Article 7**  
**The assessment of the elements of the intra-banking group financial support agreement**

The Bank of Albania, pursuant to Article 5, paragraph 3 (b) of this Regulation, analyses and assesses whether the proposed (draft) agreement of the financial support envisages the following elements:

- a) clear statements that the support shall be provided only if, after its provision, the regulatory requirements of the providing bank shall not be infringed (minimal regulatory requirement and a combined macroprudential capital buffer);
- b) the providing bank is not obligated to offer the support and does not suffer any penalty for not observing the agreement, if the bank cannot meet the requirements of this Regulation, in case the provision/allocation of the financial support is requested; and
- c) the support is provided only if the providing bank assesses that there is a reasonable prospect for the financial difficulties of the receiving bank to be redressed.

**Article 8**  
**The assessment of the benefits and risks for the group and for the providing bank**

1. The providing bank, in order to prove to the Bank of Albania that the provision of the financial support has the objective of preserving or restoring/improving the financial stability of the group as a whole, should analyse and compare:
  - a) the direct and indirect overall benefits **for the group as a whole** (i.e. the benefits for any bank of the group), resulting from a restoration/improvement of the financial soundness of the receiving bank and the overall risks for the financial position of the group to be expected should the support not be provided, and the risk of a default of the receiving bank in this case, with
  - b) the risks for **the group** resulting from the provision of financial support, including the default risk of the receiving bank and the loss to the group, given default after receiving the support.
2. The providing bank, in order to prove to the Bank of Albania that the provision of the financial support is in the interest of the providing bank, should analyse and compare:
  - a) the direct and indirect overall benefits for the providing bank resulting from a restoration/improvement of the financial soundness of the receiving bank and the overall risks for the financial position of the providing bank to be expected should the support not be provided, and the risk of a default of the receiving bank in this case, with
  - b) the risks for the providing bank resulting from provision of financial support, including the default risk of the receiving bank and the loss to the providing bank, given default of the receiving bank after receiving the support.

The analysis and the assessment of the prospect to redress the financial difficulties of the receiving bank shall be based upon the elements set out in the Article 9 of this Regulation.

3. The analysis under paragraphs 1 and 2 of this Article should take into account the requirements of sound capital and liquidity management, at individual bank and banking group level and any existing internal policies and procedures that manage or restrict intra-banking group transactions.
4. The providing bank, when the provision of financial support is assessed to create a threat to the financial stability of the country, should analyse at least the following factors:
  - a) the significance of the providing bank for the financial stability of the country, taking into account interdependencies between the providing bank and other banks, which are significant for the financial stability;
  - b) the financial conditions of the providing bank and of the group entities, which are significant for its stability;
  - c) the probability of future developments having a negative impact on the providing bank or on group members, which are significant for the financial situation of the providing bank, or on the financial stability of the country; and
  - d) the risk that the provision of the financial support will divest the providing bank of the liquidity or assets, which will be necessary to support other banks of the banking group, that are important for the stability of the banking group and the financial stability in the near future.

If the providing bank is not fully informed about the potential impacts on the country's financial stability, the assessment shall be based on the available information.

5. The providing bank assesses:
  - a) if the provision of the financial support undermines the resolvability of the providing bank, and
  - b) if the provision of the financial support makes the implementation of the resolution strategy for the providing bank, as set out in the resolution plan, less feasible or less credible.

That assessment shall take into account the impact of the provision of the financial support on:

- i. the potential absorption of losses within the group, after the resolution conditions have been met;
- ii. the interconnectedness of the providing bank with the receiving bank;
- iii. the risk of contagion within the group;
- iv. the group's complexity as a consequence of the provision of the financial support

If the providing bank is not fully informed about the preferred resolution strategy, the assessment shall be based on the information available in the resolution plan.

6. The providing bank, in order to ensure compliance with the Bank of Albania requirements about regulatory capital and capital adequacy, as well as the combined macroprudential capital buffer, liquidity risk management and large exposures risk management, as well as to avoid infringement of these requirements, potentially arising from the provision of financial support, should submit to Bank of Albania, in the second phase, the statement that the bank shall continually meet the requirements on capital adequacy and the combined macroprudential capital buffer, liquidity and large exposures, and that the provision of the support would not result in their infringement in the foreseeable future.

## **Article 9**

### **Prospect to redress financial difficulties**

1. In compliance with the requirements of the Article 7, letter òö, of this Regulation, the expectation that the support provided shall significantly redress the financial difficulties of the group bank receiving the financial support (receiving bank), shall be considered as reasonable, only if the following criteria/terms are met:
  - a) capital and liquidity needs of the receiving bank, actual and projected, are covered for a sufficient period of time, that covers from 3 (three) months to 1 (one) year, depending on the nature of the indicators, taking into account all the other financial sources from which these needs could be met, the timescale required to redress the financial difficulties and the term of the support;
  - b) the analysis of the financial situation and of the internal and external causes for the financial difficulties, in particular of the nature and complexity of the receiving bank activity and of the risk management of the receiving bank, and the dynamic analysis of market conditions, supports **the prospect of redress**.
  - c) **an action plan describing measures for the redress of the financial situation of the receiving bank**, including where necessary, a revision of the nature and complexity of its activity and of its risk management; and
  - d) the assumptions based on the descriptions and projections mentioned in letters òä, òb and òö of this article, are coherent and plausible, as well as take into account the stressed conditions of the receiving bank, the current market conditions and potential adverse developments.

**Article 10**  
**Requirements for disclosure of information on concluded intra-group financial support agreement**

1. The bank shall disclose the terms and general conditions of the intra-group financial support agreement, for which prior approval has been granted, and in particular the following information:
  - a) business names of banking group entities, that have concluded the financial support agreement;
  - b) forms in which such support may be provided, and individual limitations for each of such forms;
  - c) the principles for calculation of the consideration for the provision of the intra-banking group financial support and how they relate to market conditions at the time of the support;
  - d) information on whether the reciprocity of financial support has been envisaged among the parties to the intra-banking group financial support agreement, and/or information on different conditions applied to different support recipients and/or providers, if such reciprocity does not exist;
  - e) information on the ranking, maturity and final due date of the obligation to repay the receivables arising from the provision of support;
  - f) information on circumstances and/or indicators relating to operations of support recipient and/or provider, representing the basis for the provision of such support; and
  - g) information on collateral envisaged for the provision of financial support.
2. The bank shall clearly disclose on the homepage of its website the information mentioned above, with the designation "Information on the intra-banking group financial support agreement", and shall update this information at least once a year, and/or without delay in case of amendments to the intra-group financial support agreement.

**Chapter III**  
**FINAL PROVISIONS**

**Article 11**  
**Penalties**

The Bank of Albania shall impose the penalties set out in Article 81, Chapter XI of the Law "On the Recovery and Resolution", when the bank does not notify on the intra-banking group financial support agreements.

**CHAIRMAN OF THE SUPERVISORY COUNCIL**

**Gent SEJKO**