

“Approved by”
the Financial Markets Supervisory
Authority
Resolution No. 1951100013

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Acting Chairman of the
Management Board

Ibrahim Alishov

Regulations

on inspection of bank activities

1. General provisions

1.1. These Regulations have been prepared in accordance with Article 46.2 of the Law of the Republic of Azerbaijan “On Banks” and Article 3 of the Law of the Republic of Azerbaijan No. 140-VQD dated 4 March 2016 “On Amendments to the Law of the Republic of Azerbaijan On Banks” and determine procedures for organization and implementation of examinations in banks and local branches of foreign banks (hereinafter - the banks).

1.2. The main purpose of the FIMSA’s inspection of banks is to assess their compliance with the banking legislation of the Republic of Azerbaijan, including normative acts of the FIMSA, accuracy of accounting, risk management, efficiency of the internal control system, financial condition and prospects of the bank, as well as detection of violations of interests of creditors and depositors.

1.3. The FIMSA takes into account the requirements of Article 2.2 of the Law of the Republic of Azerbaijan “On Regulation of Inspections in the Field of Entrepreneurship and Protection of the Interests of Entrepreneurs” during the inspection in banks.

2. Definitions

2.1. The terms used in these Regulations shall have the following meanings:

2.1.1. comprehensive (complex) inspection – a comprehensive examination covering all areas of banking activities to assess the general condition of the bank, including the components of capital, assets, management, income, liquidity and risk sensitivity, as well as to determine the compliance of its activities with banking legislation;

2.12. Targeted (thematic) inspection - an examination of specific segments or types of the bank's activity.

2.13. Other terms used in these Regulations has the meanings given in the Law.

3. Types of inspection

3.1. Banks are conducted regular or extraordinary examinations on a periodic basis, and comprehensive (complex) or targeted (thematic) inspections on the scope. The regular examination is comprehensive, and the extraordinary examination - comprehensive or targeted.

3.2. The FIMSA conducts regular examinations of banks once a year. The schedule of the next examinations for the next year is approved by the Chairman of the Management Board of the FIMSA by 30 November of each year.

3.3. The FIMSA conducts extraordinary examinations in banks in the following cases:

331. in the event of a threat of loss of bank assets based on prudential reports submitted to the FIMSA and other information of known source;

332. if there is a need to investigate the facts of violation of the legislation;

333. on the basis of inquiries of foreign banking regulation and supervision bodies in accordance with the principles of interaction, as well as court decisions that have entered into force.

3.4. In case of one or more of the cases provided for in Para 3.3 herein, the Chairman of the Management Board of the Authority makes a decision to conduct extraordinary examinations on the basis of the application of the head of the structural unit of the Authority performing banking supervisory functions.

3.5. Inspections shall be carried out by the structural unit of the Authority, which performs the function of banking supervision. If necessary, specialists of other structural units of the Authority may be involved in the inspection.

4. Organization of inspections

4.1. Prior to the inspection of the bank, the type of inspections to be carried out in the bank and the areas to be covered, as well as the date of commencement, the period covered and other issues related to the inspection is determined.

4.2. Extraordinary examinations by the Authority may be carried out with or without informing the bank about the preliminary examination.

4.3. Extraordinary examinations related to withdrawal of assets in the bank, sharp deterioration of indicators characterizing the quality and financial condition of bank assets, non-fulfillment of obligations and payments, as well as investigation of cases like legalization of criminally obtained money or other property, financing of terrorism and compliance with the regime of special election accounts may be held by the Authority without prior notice to a bank.

4.4. An inspection team is formed to examine the bank and is provided with an inspection certificate. The composition of the team and the number of team members depend on the type of inspection, bank's assets and the amount of work to be done. The inspection

team may also include employees of the banking regulation and supervision authority of another country, with which the Authority has entered into cooperation agreement on inspection on a reciprocal basis.

4.5. Persons included in the inspection team should not have direct or indirect close relationships with persons related to the inspected bank and have no interest in obtaining income from the activities of the inspected bank. Close relatives include parents, grandparents, siblings, adoptive parents, spouses, children, and grandchildren.

4.6. Prior to or during the inspection, persons with such relationships and interests inform the responsible member or Chairman of the Management Board of the Authority and is excluded from the inspection team, as well as the part of the inspection report prepared in their presence is considered invalid.

4.7. The substitution of a member of the inspection teams shall be formalized through the appendices to the inspection certificate by the Chairman of the Management Board of the Authority and shall be immediately submitted to the bank.

4.8. The inspection team is governed by its head. The head of the inspection team is appointed at least 15 (fifteen) calendar days prior to the start of the next examination, and in case of extraordinary examinations, immediately.

4.9. The head of the inspection team prepares the inspection assignment and the work plan of the team. The inspection assignment identifies the areas of the bank to be inspected. The team's work plan reflects division of responsibilities of each team member and the team's program of activities during the inspection. The work plan shall plan and allocate the time needed to address these or other issues.

4.10. The inspection assignment and the work plan of the team are approved by the head of the structural unit of the Authority, which performs the function of banking supervision. The head of the inspection team or a person authorized by him shall contact the head of the bank's executive body or a person supervising the relevant field that will be inspected on the following issues (except for inspections conducted without notice):

4.10.1. providing information on the inspection schedule, the number of employees to participate in the inspection, as well as the period of the inspection team's stay in the bank and the areas to be inspected;

4.10.2. obtaining information on major personnel changes, changes in banking products and services, as well as information on the presence of responsible and authorized employees (relevant members of the Management Board supervising the inspected structural unit, heads of the inspected structural unit, etc.) in the bank during the inspection team's stay in the bank;

4.10.3. preparation of certain information (financial statements, list of loans, opinion of internal and external inspectors, etc.) before the inspection.

4.11. At least 10 (ten) business days prior to the start of the next inspection , a written notice is sent to the bank, and in case of an extraordinary inspection, such written notice is submitted to the bank immediately (except for inspections conducted without notice). The notice shall indicate the date, type and period covered by the inspection. The bank is inspected on the basis of the inspection certificate specified in Annex 1 herein.

4.12. The head of the inspection team submits the inspection certificate to the head of the bank's executive body or to the person supervising the relevant field. This person makes a note on the certificate confirming his / her acceptance, signs it and submits a copy to the head of the inspection team.

4.13. The head of the inspection team submit 2 copies of the inspection acceptance act to the bank for collection of fees for extraordinary examinations in accordance with the "Rules on Regulation of Fees Paid to the Financial Markets Supervision Authority of the Republic of Azerbaijan by Supervised Financial Market Entities" and such acceptance act shall be signed by the relevant authorized person of the bank. A copy of the signed act is returned to the head of the inspection team and an invoice is submitted by the Authority to the inspected bank on the basis of the said act.

4.14. The frequency of the next examination is the period from the date of completion of the last examination in the bank to the next examination.

4.15. The process of inspection of the bank is deemed to have started from the date of submission of the inspection certificate and the extract on registration of the inspection in the single information register to the bank administrator.

4.16. The bank is inspected within the period up to 45 (forty five) business days. The period of examinations may be extended by the Chairman of the Management Board of the Authority up to 30 (thirty) working days.

4.17. Inspections are held during working days and working hours of the bank.

4.18. Taking into account Para 4.16 herein, the inspection process of the bank is considered completed on the day of submission of the inspection report signed by the inspection team to the bank in accordance with Para 7.8 herein.

4.19. The bank's administrators, including heads of internal structural units create conditions for the inspection from the moment the inspection certificate is presented. On the first day of the inspection the bank administrator receives the members of the inspection team, get acquainted with their powers and introduce them to the bank's executives.

4.20. The inspection team ensures that the inspection is carried out within the timeframe and authorities specified herein.

5. Rights and responsibilities of inspection team members

5.1. Members of the inspection team:

5.1.1 have access to any bank, its branches, divisions and representative offices, as well as its subsidiaries and obtain, review their reports, accounting books, documentation, including regulations (regulations, rules and procedures) and other records and require explanations thereon from the administrator and employees of the bank and its subsidiaries;

5.1.2 require from administrators, employees and agents of the bank submission of all necessary information related to the management and current activities of these institutions,

as well as information on any issue related to operations of customers, persons with a significant stake and persons associated with the bank;

5.13 have access to the automated operating and management information systems of the bank in the review mode without the possibility of conducting operations;

5.14 hold discussions with the bank's administrators and employees on the issues under review.

5.2. The members of the inspection team perform the following duties during the examination:

521. conduct inspections in accordance with the assignments reflected in the work plan of the team;

522 submit to the head of the bank an inspection certificate and an identity document in connection with the inspection ;

523 not allow the abuse of authority during the examination;

524 not interfere with the current activities of the bank with its activities during the examination;

525 ensure the protection of bank documents, banking secrecy, state and commercial secrets, as well as confidentiality;

526 formalize the results in its field in writing;

527 bear personal responsibility for the quality and timeliness of his / her duties;

528 create necessary conditions for the bank's employees to explain the reasons for their actions;

529. avoid any conflict.

6. Rights and obligations of the bank

6.1. During the examination of its activities, the bank, in the person of its legal representative:

6.11 demands from the members of the inspection team the document that is the basis for the inspection , and gets acquainted with the documents confirming their identities;

6.12 refuses admission to examination of persons not related to the examination;

6.13 discusses the results of the inspection with the members of the inspection team and express opinions thereon;

6.14 appeals the results of inspection in accordance with the legislation.

6.2. The bank's administrators promptly (as soon as possible) provide all necessary materials and documents to the members of the inspection team and perform the following duties in the inspection process:

621. allocate a separate place in the bank to ensure the work of the inspection team and ensure the protection of inspection documents, as well as access to copy machine and other equipment required for the inspection team;

622. appoint one of the bank's administrators as a coordinator for the inspection team and promptly resolve all issues arising during the inspection ;

623. take other necessary measures for the members of the inspection team to exercise their rights and fulfill their duties established by these Regulations.

7. Registration of inspection findings

7.1. Upon completion of the inspection, the inspection team holds a final discussion with the head of the bank's executive body, as well as with the employees responsible for the area covered by the inspection regarding the facts revealed as a result of the inspection.

7.2. The final discussion focuses on minimizing and effectively managing the risks identified during the inspection , as well as eliminating shortcomings and deficiencies.

7.3. Findings of each inspection carried out in the bank are reflected in a written inspection report in two copies. The inspection report is prepared within 30 (thirty) calendar days after the expiration of the period specified in Para 4.16 herein.

7.4. The inspection report should be legible and clear. Findings should be based on accurate facts and figures.

7.5. The inspection report contains the areas covered by the inspection, changes in these areas during the period under examination, detailed and summary information on violations, deficiencies and shortcomings, the results of the bank's financial and operational activities and areas to be considered by the bank's management.

7.6. The inspection report may include proposals on measures to be taken by the bank to eliminate shortcomings and deficiencies, deadlines and persons responsible for such measures.

7.7. The inspection report is signed by all members of the inspection team. All pages of the inspection report are numbered and signed by the head of the inspection team.

7.8. A copy of the inspection report is submitted by the head of the inspection team to the relevant administrator of the bank or delivered by mail. Another copy of the inspection report is kept by the Authority.

7.9. The bank reviews the inspection report within 10 (ten) business days and submits it to the Authority upon signing. If the bank refuses to receive and/or sign the inspection report within this period, the inspectors make relevant entries in the inspection report.

7.10. Signing of the inspection report by an authorized representative of the bank confirms the fact that the bank is familiar with the content of the inspection report. The fact that the inspection report is signed by an authorized representative of the bank does not indicate that the bank agrees with the content of the inspection report.

7.11. If the bank does not agree with the content of the inspection report, it may express its explanation, remark and objection by signing the inspection report and making an appropriate note.

7.12. In case of disagreement between the inspection team and the bank on inspection findings and the bank's objection, the Authority may organize discussions in this regard.

Additions and changes can be made to the inspection report as a result of these discussions.

7.13. The Authority makes a final decision on inspection findings within 30 (thirty) calendar days after the expiration of the period as specified in Para 7.9 herein and sends a written notice to the bank.

7.14. Except for the cases when inspection findings are appealed to the court and there are court decisions, the inspection report may be read only by the bank's administrators and employees of the inspected structural unit.

8. Final provisions

External inspectors involved in the inspection of banking activities by the Authority conduct the inspection in accordance with the inspection certificate submitted by the Authority and the requirements of these Regulations.

Annex 1 to the Regulations on
inspeciton of bank
activities

Inspection Certificate

No. _____

“ ___ ” _____ 20 __ - __ year

To the head of the Inspection Team

(1st, last, middle names)

To the members of the Inspection Team

(name, surname, patronymic name)

Pursuant to Article 46.2 of the Law of the Republic of Azerbaijan “On Banks”, it is instructed to conduct (comprehensive or thematic) _____ (regular or extraordinary)

_____ inspection in the (full name of the bank) _____.

The inspection covers the period from “ ___ ” _____ 20__ - __ to “ ___ ” _____ 20__ .
_____ and this Inspection Certificate is valid for 20 years.

Chairman of the Management Board of the
Financial Markets Supervisory Authority of the
Republic of Azerbaijan

(1st, last, middle names)

L.S.