

**“Approved”**

Financial Markets Supervisory Authority  
of the Republic of Azerbaijan

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**Chairman of the Board of Directors**

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## **Regulations on reorganization of banks**

### **1. General provisions**

These Regulations have been developed in accordance with Article 29 of the Law of the Republic of Azerbaijan on Banks and determine procedures for banks' merger, acquisition and transformation.

### **2. Definitions**

2.0. The definitions used herein bear the following meanings:

2.0.1. merger – reorganization of banks resulting in transfer of rights and duties (assets and liabilities) of two or more banks to a newly established bank (successor) in accordance with a handover act;

2.0.2. acquisition – reorganization of banks resulting in transfer of rights and obligations (assets and liabilities) of one or more banks to another bank (successor) operating in accordance with a handover act;

2.0.3. transformation – reorganization of a bank resulting in transfer of rights and obligations (assets and liabilities) to a newly established non-bank credit institution (hereinafter - NBCI) (successor) in accordance with the handover act changing bank's organizational and legal form;

2.0.4. reorganized bank – a bank that intends to reorganize in the form of a merger, an acquisition or transformation;

2.0.5. merged bank – a bank whose rights and obligations (assets and liabilities) are transferred to a reorganized bank (successor) by termination of its activity.

### **3. Reorganization of banks**

3.1. Reorganization of bank(s) consists of the following main phases:

3.1.1. appeal in writing to the Financial Markets Supervisory Authority of the Republic of Azerbaijan (hereinafter - the FIMSA) for prior consent to reorganization;

3.1.2. holding a joint general meeting of shareholders of reorganized banks to make a relevant decision after obtaining the consent of the FIMSA (during the transformation a general meeting of shareholders of the bank, which became an NBCI);

3.1.3. informing creditors of the reorganized bank (s) on the decision on reorganization in accordance with Article 58 of the Civil Code of the Republic of Azerbaijan;

3.1.4. state registration of a legal successor bank or an NBCI created as a result of reorganization;

3.1.5. revocation of the banking license of the reorganized bank(s) after state registration and issuance of a relevant special permit (license) to the legal successor bank or the established NBCI.

3.2. To obtain a prior consent of the FIMSA for reorganization, bank(s) apply to the FIMSA in writing at least 90 calendar days prior to the date of the general meeting of shareholders under sub-item 3.1.2 herein. The application is prepared under the requirements of Article 30 of the Law of the Republic of Azerbaijan on Administrative Proceedings, signed and stamped by the chairman(men) of Supervisory Board(s) of reorganized bank(s).

3.3. An application for consent to reorganize a bank(s) is considered in accordance with the Law of the Republic of Azerbaijan on Administrative Proceedings.

3.4. A joint general meeting of shareholders of reorganized banks (general meeting of shareholders of the bank transformed into an NBCI) should be held within 3 months after the date of the FIMSA's consent to the reorganization and a decision on reorganization be made.

3.5. A copy of minutes of the joint general meeting of shareholders of reorganized banks (general meeting of shareholders of the bank transformed into an NBCI) is submitted to the FIMSA within 5 working days after the meeting. In case of transformation of the bank into an NBCI, a plan of fulfillment of obligations to bank's depositors and other deposit account holders approved by the general meeting of shareholders is attached with the copy of the minutes of the general meeting of shareholders submitted to the FIMSA.

3.6. If a joint general meeting of shareholders of reorganized banks (general meeting of shareholders of the bank transformed into an NBCI) is not held or a decision on reorganization is not made within the period specified in Item 3.4 herein, the FIMSA revokes the prior consent to reorganization of the bank(s).

#### **4. Terms and conditions for prior consent**

4.1. The following conditions should be met to give prior consent to reorganization of a bank(s):

4.1.1. a legal successor bank should have minimum aggregate capital set by the FIMSA for banks, and the newly established NBCI the minimum authorized capital set for NBCIs;

4.1.2. In the event of a merger or an acquisition, financial indicators of the legal successor bank should comply with prudential standards set by the FIMSA for banks on aggregate and Tier 1 capital adequacy and leverage ratios;

4.1.3. financial statements of the bank intending to transform to an NBCI should allow to identify sufficient funds or sources of additional funds to fully meet bank's liabilities before depositors and other deposit account holders;

4.1.4. Candidates nominated for administrative positions of a legal successor bank or an NBCI should comply with the requirements of the Laws of the Republic of Azerbaijan on Banks and on Non-Bank Credit Institutions.

## **5. Special requirements for reorganization in the form of mergers or acquisitions**

5.1. The following information and documents are attached with the application submitted to the FIMSA for prior consent to reorganization as a merger or an acquisition:

5.1.1. the date of the joint general meeting of shareholders of reorganized banks and a draft agenda of the meeting;

5.1.2. information on the date of completion of reorganization;

5.1.3. information on an organizational structure of the legal successor bank, indicating branches, divisions and representative offices (if envisaged);

5.1.4. information and documents on compliance of the candidates nominated for administrative positions of the legal successor bank with the requirements of the Law of the Republic of Azerbaijan on Banks;

5.1.5. information on the capital structure of the legal successor bank;

5.1.6. information on new owners of qualifying holding in capital of the legal successor bank in accordance with the Law of the Republic of Azerbaijan on Banks and information on changes in the weight of significant shareholders in authorized capital (if any).

5.2. At least the following issues should be included in the agenda of the joint general meeting of shareholders of reorganized banks:

5.2.1. making a decision on reorganization of banks;

5.2.2. approval of combined and consolidated financial statements (balance sheet) and the handover act;

5.2.3. approval of the charter or changes to the charter of the legal successor bank, as well as statutes of branches, divisions and representative offices (if any) of the legal successor bank;

5.2.4. appointment of legal successor bank's officers (except for the cases related to the powers of other governing bodies of the bank).

5.3. Acquisition of a bank that has lost its solvency to another healthy bank within the framework of the resolution is carried out in accordance with Article 57-7 of the Law of the Republic of Azerbaijan on Banks.

## **6. Special requirements for reorganization in the form of transformation**

6.1. The following information and documents are attached with the application for prior consent to the reorganization in the form of transformation:

6.1.1. the date of the general meeting of shareholders and a draft agenda of the meeting;

6.1.2. a plan for fulfillment of obligations to depositors and other deposit account holders before establishment of an NBCI, as well as documents on attraction of funds if it is planned to attract additional funds to meet these liabilities;

6.1.3. draft charter and organizational structure of the NBCI to be established;

6.1.4. information and documents on compliance of the candidates nominated for administrative positions of the NBCI to be established with the requirements set by the Law of the Republic of Azerbaijan on Non-Bank Credit Institutions;

6.1.5. information on capital of the NBCI to be established.

6.2. At least the following issues should be included in the agenda of the general meeting of shareholders of the bank, which has become an NBCI:

6.2.1. making a decision on reorganization of the bank;

6.2.2. from the date of the decision on transformation to the NBCI until completion of the reorganization, making a decision confirming the commitment of the bank on non-payment of dividends to bank's shareholders, and dividends on preferred shares, non-renewal of existing savings (deposits), non-acceptance of new savings (deposits) from individuals and legal entities, as well as non-issuance of new loans and non-conduction of other investment operations;

6.2.3. approval of the charter of the newly established NBCI, as well as statutes of branches and representative offices (if any);

6.2.4. approval of the plan on coverage of bank's liabilities to depositors and other deposit account holders;

6.2.5. approval of the list of claims (with information on the terms of bank's obligations to the creditor and the bank) and their payment plan in case of claims by other creditors for termination or premature coverage of bank's debts and compensation for losses;

6.2.6. appointment of officers of the newly established NBCI.

6.3. From the date of approval by the general meeting of shareholders of the plan to meet liabilities to depositors and other deposit account holders, the bank, which has become an NBCI, submits a report on implementation of the plan signed by the Chairman of the Management Board and the chief accountant on a monthly basis within 5 business days of the next month.

6.4. If the bank fails to meet liabilities to holders of savings and other deposit accounts within the period specified in the execution plan, it immediately notifies the Chamber in writing accordingly.

6.5. In case of non-fulfillment by the bank of obligations to depositors and other deposit account holders in accordance with the execution plan, as well as violation of obligations under the decision made by the bank in accordance with sub item 6.2.2 herein, the FIMSA revokes its prior consent and the reorganization process is stopped.

## **7. Final provision**

Except for the prudential norms specified in sub items 4.1.1 and 4.1.3 herein, if as a result of the merger or acquisition there is a violation of other prudential standards in the bank that is the legal successor, the bank that is the legal successor should eliminate these violations within 6 months from the date of obtaining the banking license.