

“Approved”
Financial Markets Supervisory Authority
of the Republic of Azerbaijan
Resolution № 1951100004
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Acting Chairman of the Management Board

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Regulation on review of materials related to imposition of sanctions on dismissal of bank administrators and revocation of banking licenses and documentation of review results

1. General provisions

1.1. This Regulation has been developed in accordance with Article 50.1 of the Law of the Republic of Azerbaijan on Banks (hereinafter – the Law) and determines the order for review of materials related to imposition of sanctions on dismissal of administrators of banks and local branches of foreign banks (hereinafter – bank) functioning in the Republic of Azerbaijan from their positions and revocation of banking licenses (hereinafter – sanction) and documentation of its results by the Financial Markets Supervisory Authority of the Republic of Azerbaijan (hereinafter – Authority).

1.2. The definition ‘administrator’ used herein bears the meaning specified in the Law.

1.3. For the purposes of this Regulation, with respect to the sanction related to dismissal of a bank administrator an ‘authorized person’ is the Chairman of the Management Board of the Authority (hereinafter – the Management Board), and with respect to revocation of banking licenses – the Management Board.

2. Review of materials on imposition of sanctions

2.1. Under the grounds specified in Article 47.1 of the Law a decision on dismissal of a bank administrator, and under the grounds specified in Article 16 of the Law a decision on revocation of a banking license is taken by the relevant authorized person.

2.2. A decision on imposition of a sanction is taken based upon an investigation report (hereinafter – the report) developed by the structural unit of the Authority engaged in banking supervision (hereinafter – structural unit) and documents and information attached therewith. The structural unit starts investigation related to imposition of a sanction, that implies occurrence of one or some of the cases specified in Article 47.1 of the Law related to the dismissal of the administrator and in Article 16 related to the revocation of the banking license based upon the information obtained through the following sources:

2.2.1. information obtained when exercising supervisory authorities;

2.2.2. a substantiated written appeal by the Central Bank of the Republic of Azerbaijan on the issues within its competence;

2.2.3. complaints from consumers or investors;

2.2.4. information disseminated in mass media;

2.2.5. appeals by public authorities and other institutions;

2.2.6. other information the source of which is known.

2.3. The structural unit informs the member of the Management Board responsible for the structural unit in writing within 5 (five) working days from the date it becomes aware of the information provided for in Item 2.2 herein.

2.4. The member of the Management Board responsible for the structural unit analyzes the information specified in Item 2.3 herein and decides to initiate an investigation into imposing the sanction and the relevant authorized person is informed in writing accordingly within 3 (three) working days.

2.5. The investigation process is completed within 30 (thirty) calendar days for the dismissal of bank administrators and 90 (ninety) calendar days for the revocation of a banking license. This period covers all stages up to the moment the results of the investigation are submitted to the relevant authority.

2.6. For the purposes of the investigation, a request may be sent to the bank to obtain information and (or) documents, indicating the deadline.

2.7. For the purposes of the investigation, the administrator of the bank who has the relevant information may be required to provide a written or verbal explanation on the matter. The refusal of the bank's administrator to provide an explanation does not preclude the imposition of sanctions against him/her in accordance with the results of the investigation.

3. Documentation of results of the investigation on imposition of sanctions

3.1. Upon completion of the investigation, a report on results of the investigation is prepared within the period specified in Item 2.5 herein and submitted to the member of the Management Board responsible for the structural unit together with collected materials.

3.2. If the member of the Management Board responsible for the structural unit determines that collected materials are sufficient and reasonable for the imposition of the sanction, the materials collected together with the relevant report are submitted to the relevant authority for final decision within 5 (five) working days.

3.3. If the Management Board member responsible for the structural unit determines that collected materials are not sufficient and reasonable for the imposition of the sanction, the investigation is terminated and the relevant authorized person is notified in writing.

3.4. The following factors are taken into account when deciding whether to impose a sanction:

3.4.1. on imposition of sanctions in connection with the dismissal of administrators:

3.4.1.1. the nature and consequences of the violation committed;

3.4.1.2. the degree of participation in the violation committed;

3.4.1.3. the degree of responsibility of the person in respect of whom the decision was taken on the area violated;

3.4.1.4. the cases, characterizing the personality (sincere regret, positive or negative characterization at the place of employment, etc.);

3.4.2. imposition of sanctions in connection with the revocation of a banking license:

3.4.2.1. the nature and consequences of the violation committed;

3.4.2.2. prompt and full notification of the Authority on the violation;

3.4.2.3. previous violations committed by the bank and measures taken to implement the Authority's instructions to eliminate these violations, as well as measures taken to eliminate their consequences.

3.5. When a sanction is imposed on an administrator, the administrator on whom a decision will be taken is invited before the decision is made and the meeting is recorded. In this case, the administrator may provide documents, information and other grounds related to the issue.

3.6. One of the following decisions is made after review of the materials collected by the relevant authorized person on the imposition of the sanction:

3.6.1. if the investigated cases and submitted documents are considered incomplete, the information and (or) documents required to be added, as well as the return of the report for completion, indicating the deadline for execution;

3.6.2. on dismissal of the administrator or revocation of the banking license respectively based on the investigated cases and the submitted documents;

3.6.3. on termination of the investigation initiated on the imposition of the sanction on the basis of the investigated cases and submitted documents.