

Ordinance No 6

of the Bulgarian National Bank

of 9 January 2025

on Provision of Emergency Liquidity Assistance

(Published in the Darjaven Vestnik, issue 8 of 28 January 2025,
effective from the date of enforcement of the Law on the Bulgarian National
Bank (published in the Darjaven Vestnik, issue 13 of 2024)

Scope

Article 1. (1) This Ordinance shall lay down the terms, guarantees and procedure for the provision of emergency liquidity assistance (ELA) to a credit institution (bank) by the Bulgarian National Bank (BNB).

(2) Within the meaning of this Ordinance, emergency liquidity assistance shall be considered to be the assistance, which the BNB, in its capacity as a Eurosystem central bank and outside the scope of Eurosystem monetary policy operations, provides to a bank experiencing liquidity stress:

1. central bank money, and/or
2. any other form of assistance that may lead to an increase in central bank money.

(3) The Bulgarian National Bank may provide emergency liquidity assistance in compliance with the Treaty on the Functioning of the European Union (TFEU), the Law on the BNB, the Emergency Liquidity Assistance Agreement (ELAA), adopted by the Governing Council of the European Central Bank (ECB)¹, and other applicable acts of the ECB's Governing Council. The role of the ECB in the process of providing emergency liquidity assistance by the BNB is defined in the ELAA and other applicable acts of the ECB's Governing Council.

(4) In the cases specified in the ELAA, when a bank should provide information to the ECB in connection with emergency liquidity assistance, the information shall be provided to the BNB, which in turn shall provide it to the ECB without undue delay.

Requirements for Providing Emergency Liquidity Assistance

Article 2. (1) The Bulgarian National Bank may provide emergency liquidity assistance at its discretion under the following conditions:

1. to a solvent bank that experiences liquidity stress for which it cannot quickly provide liquidity from other sources;
2. only in exchange for collateral that meets the requirements of Article 4;
3. only in euro;

¹ Published on the website of the European Central Bank at: <https://www.ecb.europa.eu/mopo/ela/html/index.en.html>

4. for a period of up to six months, except in the cases referred to in Article 5, paragraph 1, item 2 and Article 5, paragraph 2.

(2) The Bulgarian National Bank shall not provide emergency liquidity assistance if:

1. the provision of emergency liquidity assistance infringes the prohibition on monetary financing provided for in Article 123 of the TFEU, for example the assistance takes the form of a loan, overdraft or any other form of a credit facility for the State, in particular any financing of the public sector's obligations *vis-à-vis* third parties or *de facto* assumption of government liabilities by the central bank;

2. the bank is an insolvent bank.

Solvency

Article 3. For the purposes of providing emergency liquidity assistance under Article 1, the bank shall be considered to be solvent:

1. if the Common Equity Tier 1 capital ratio, Tier 1 capital ratio and Total Capital ratio of the bank, and the leverage ratio, calculated in accordance with the requirements of Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 (Regulation (EU) No 575/2013), on an individual and consolidated (where applicable) basis, are in line with the minimum levels of the capital requirements laid down in Article 92, paragraph 1, letters (a) to (d) of this Regulation; or

2. in the event that the requirement referred to in item 1 is not met, but there is a strong likelihood of recapitalisation that would restore the regulatory capital to the levels specified in item 1 within 24 weeks after the end of the quarter for which the data show that the bank does not comply with the requirements of Article 92, paragraph 1, letters (a) to (d) of Regulation (EU) No 575/2013; in duly justified exceptional cases, the BNB may request from the ECB's Governing Council to extend the above mentioned 24-week period.

Provision of Emergency Liquidity Assistance

Article 4. (1) Emergency liquidity assistance shall be granted in exchange for collateral that is acceptable for Eurosystem monetary policy operations in accordance with BNB's Ordinance on the implementation of Eurosystem monetary policy and the provisions of European Central Bank Guidelines on the implementation of the Eurosystem monetary policy framework based on which the said Ordinance was issued.

(2) In exceptional cases, the BNB may also accept collateral that does not fall within the scope of paragraph 1 as collateral for emergency liquidity assistance, if it deems it acceptable.

(3) The Bulgarian National Bank shall establish risk control measures to be applied to the collateral referred to in paragraph 1 and paragraph 2, while respecting the collateral principles approved by the ECB's Governing Council. The received collateral shall sufficiently protect the BNB against risks, including losses.

(4) With regard to the collateral referred to in paragraph 1, the BNB shall apply as a minimum the risk control measures that apply to the same collateral when it is used as collateral for Eurosystem monetary operations pursuant to the BNB Ordinance on the implementation of the Eurosystem monetary policy.

(5) The collateral referred to in paragraphs 1 and 2 shall have, where applicable, a residual maturity longer than the date up to which emergency liquidity assistance is granted.

(6) In the event that the market value of the granted collateral falls below 110 per cent of the bank's total obligation under the granted emergency liquid assistance, and the bank fails to take the necessary actions to replenish the collateral within a three-day period or fails to repay a portion of the granted emergency liquidity assistance, this granted emergency liquidity assistance shall become accelerated in order to achieve compliance with the requirements for its provision.

Emergency Liquidity Assistance Term

Article 5. (1) Emergency liquidity assistance under Article 1 may have a term:

1. of up to six months;
2. if necessary, the maximum term may be up to twelve months; in this case, the bank shall provide information under Article 10, paragraph 4.

(2) By way of exception to paragraph 1, the term may be extended by more than twelve months only by a decision of the BNB and if the ECB's Governing Council has no objections to such an extension, and the Governing Council of the ECB may impose additional requirements and conditions on the bank that has been granted emergency liquidity assistance. In this case, the bank shall provide information under Article 10, paragraph 5.

Interest Rate

Article 6. (1) The bank shall pay to the BNB interest on the granted emergency liquidity assistance for the period of its use and an additional penalty interest margin in case of late payment.

(2) The BNB shall establish an interest rate on the granted emergency liquidity assistance that cannot be lower than the marginal lending facility rate of the Eurosystem, increased by 100 basis points.

(3) In the case of ELA reverse transactions within the day, the BNB shall establish an interest rate that cannot be lower than 1 per cent on an annual basis.

(4) The BNB Governing Council shall adopt a methodology for establishing the interest rate on emergency liquidity assistance and the additional penalty interest margin in case of late payment.

Procedure for Providing Emergency Liquidity Assistance to a Bank and Supervision

Article 7. (1) A bank which applies for emergency liquidity assistance shall submit to the BNB a written request for an approval of emergency liquidity assistance, that is addressed to the Deputy Governor in charge of the Banking Department, which shall be signed by the persons authorised to represent the bank and shall contain the following information:

1. the amount of the requested emergency liquidity assistance;
2. the period for the recovery of the received emergency liquidity assistance;
3. a statement of the circumstances that led to the need to use emergency liquidity assistance and justification of the reasons for the liquidity stress;
4. details of a contact person in relation to the documents provided.

(2) The request referred to in paragraph 1 shall be accompanied by the following documents, which shall contain updated information and shall be signed by the persons authorised to represent the bank:

1. a list and a description of the offered collateral and the method of its provision under the supervision of the BNB;
2. information on liquidity and the bank's actions from the plans referred to in Article 3, paragraph 2, items 2 and 3 of Ordinance No 11 on the Management and Supervision of Liquidity of the Banks, and on the manner by which the bank plans to deal with the liquidity stress;
3. data on the amount and source of the expected funds for the recovery of received emergency liquidity assistance within the proposed period;
4. information on the current financial situation of the bank and, in particular, on the profitability, structure of assets and liabilities, and on the identification and classification of financial instruments subject to impairment for the purpose of setting loss allowance and sufficiency of the coverage for impairment losses according to the expected loss approach;
5. information on capital adequacy, which certifies that the bank meets the solvency criteria under Article 3.

(3) The documents attached to the request shall be provided in original or in a copy certified by the bank, and upon request, the bank shall provide the original of the document.

(4) The documents and information attached to the request shall be provided in paper and/or electronic form.

(5) The Bulgarian National Bank may require the submission of additional documents and information in order to establish the circumstances needed to assess whether the conditions for providing emergency liquidity assistance are present.

(6) The bank must immediately inform in writing the BNB in the event of changes in the information contained in the request and in the documents and information

attached thereto, which occurred after the date of submission of the request, including when the information already provided is not accurate, complete or reliable.

(7) The Bulgarian National Bank may reject the request or may accept it in its entirety or in part. The decision on the request for provision of emergency liquidity assistance shall be taken by the BNB Governing Council upon a proposal of the Deputy Governor in charge of the Banking Department.

(8) The Bulgarian National Bank shall reject to provide emergency liquidity assistance when:

1. The ECB's Governing Council has established, on the basis of Article 14.4 of the Statute of the European System of Central Banks and of the European Central Bank, that the provision of emergency liquidity assistance impedes the achievement of the objectives and performance of the tasks of the European System of Central Banks;

2. the provision of emergency liquidity assistance would violate the prohibition on monetary financing provided for in Article 123 of the TFEU, according to Article 2, paragraph 2, item 1;

3. the bank is an insolvent bank;

4. the bank does not meet any of the requirements for the provision of emergency liquidity assistance;

5. the collateral offered by the bank is not acceptable for the BNB;

6. the bank has not submitted the necessary information and documents or the submitted documents contain incomplete, conflicting or false information.

Article 8. The term, amount, interest rate, collateral, risk control measures, method of reimbursement, fees and commissions and the other requirements for providing emergency liquidity assistance shall be subject of a contract approved by the BNB Governing Council upon a proposal of the Deputy Governor in charge of the Banking Department.

Article 9. During requesting, providing, absorbing and recovering emergency liquidity assistance, the bank shall provide the BNB with all the information and documentation requested by the BNB within the set time limits.

Information That the Bank Provides When Emergency Liquidity Assistance Is Granted

Article 10. (1) Within two months after providing emergency liquidity assistance, the bank shall provide a financing plan that complies with the ECB's requirements and shall update it on a quarterly basis. The Bulgarian National Bank shall provide the bank with information on the requirements for the financing plan.

(2) The bank shall provide monthly updated information on the Common Equity Tier 1 capital ratio, Tier 1 capital ratio and Total Capital ratio of the bank, and on the leverage ratio, calculated in accordance with Regulation (EU) No 575/2013, on an individual and consolidated basis (where applicable), within two months after the end of each reference month.

(3) The bank that has violated the capital requirements according to Regulation (EU) No 575/2013 shall submit a recapitalisation plan to the ECB for evaluation within a period set by the ECB's Governing Council.

(4) When emergency liquidity assistance is provided for a period longer than six months, the bank shall provide the planned strategy for ending the emergency liquidity assistance and shall update the strategy in case of any changes in the plan for overcoming the liquidity stress.

(5) If the repayment term needs to be extended, the bank shall submit to the BNB a duly reasoned request for extending the emergency liquidity assistance term over twelve months at the latest when the provided emergency liquidity assistance term exceeds nine months, along with detailed justification of the reasons for the request for extending the term. When extending the term beyond twelve months, the bank shall in advance justify in writing the further extension on a monthly basis.

Reimbursement of Emergency Liquidity Assistance

Article 11. (1) The bank shall fulfil its obligation for payment of the principal, accrued interest, fees and service commissions on the day of expiry of the emergency liquidity assistance (maturity day), providing the necessary funds to its main cash account in TARGET-BNB.

(2) If the bank has failed to provide on the maturity date the funds on the account referred to in paragraph 1 needed to recover the entire obligation, the funds shall be reimbursed in the following order: commissions, interest, and principal, while the balance remains in arrears.

(3) The Bulgarian National Bank shall be entitled to *ex officio* collect the amounts due from the account referred to in paragraph 1 until the final repayment of the obligation.

(4) If emergency liquidity assistance is not reimbursed by the bank within the agreed period, the BNB shall proceed with compulsory collection, including without initiating legal proceedings, through selling the received collateral or acquiring the ownership rights on assets pledged by the recipient bank, up to an amount satisfying all claims of the BNB arising from the granted emergency liquidity assistance.

(5) Emergency liquidity assistance may be early reimbursed by the bank in accordance with the procedure and within the periods approved by the BNB.

Additional Provision

§ 1. Within the meaning of this Ordinance, banks shall be credit institutions laid down in Article 2 of the Law on Credit Institutions, which are established in Bulgaria.

Transitional and Final Provisions

§ 2. This Ordinance is issued on the grounds of Article 48, paragraph 3 of the Law on the Bulgarian National Bank (published in the Darjaven Vestnik, issue 13 of 2024)

and adopted by Decision No 1 of 9 January 2025 of the Governing Council of the Bulgarian National Bank.

§ 3. This Ordinance shall enter into force on the date of entry into force of the Law on the Bulgarian National Bank (published in the *Darjaven Vestnik*, issue 13 of 2024).

§ 4. After entering into force, this Ordinance shall repeal Ordinance No 6 on Extending Collateralised Lev Loans to Banks (adopted by the Bulgarian National Bank on 19 February 1998, published in the *Darjaven Vestnik*, issue 28 of 1998; amended, issue 118 of 1998, issue 110 of 2003 and issue 55 of 2014).

§ 5. The BNB Deputy Governor in charge of the Banking Department may issue instructions on the enactment of this Ordinance.