

Ordinance No 37
of the BNB
of 16 July 2018
on the Internal Exposures of Banks

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Chapter One

GENERAL PROVISIONS

Article 1. This Ordinance shall provide for:

1. the requirements for internal banking rules and procedures regarding the formation, identification, supervision and reporting of internal exposures;
2. the method for calculating the values of bank's internal exposures;
3. the form and content for reporting internal exposures, and the procedure for communicating them to the Bulgarian National Bank (BNB).

Article 2. (1) Decisions on internal exposure formation shall be unanimously approved by the bank's management body, the executive members of the board of directors, respectively, and upon a prior approval by its supervisory board, non-executive board members, respectively.

(2) Paragraph 1 shall not apply to the formation of exposures to persons under Article 45, paragraph 1, items 1 and 4 of the Law on Credit Institutions (LCI), where the total exposure to an individual person does not exceed relevant person's gross annual remuneration or up to the limit specified in advance by the supervisory board, the members of the board of directors that are not executive members, respectively.

(3) The limit under paragraph 2 shall be determined in accordance with the volume and scope of bank operations and internal exposures, and cannot be more than BGN 300,000 for a single person.

(4) Banks shall notify the BNB of the decisions taken by the relevant competent authority of the bank regarding the limits set under paragraph 2.

Chapter Two

**REQUIREMENTS TO INTERNAL RULES FOR INTERNAL
EXPOSURES**

Article 3. (1) Banks shall adopt and apply internal rules and procedures regarding the formation, identification, supervision and reporting of internal exposures which shall provide for:

1. the procedure and manner of formation and identification of internal exposures and calculation of their value;
 2. mechanisms to ensure compliance with the law and internal rules regarding internal exposures;
 3. the procedure for informing the bank's management board (board of directors) of the size and credit quality of internal exposures;
 4. the procedure for reporting internal exposures to the BNB.
- (2) Rules and procedures shall ensure that the bank:
1. has information at its disposal permitting it to identify in good faith and due diligence the entities under Article 45, paragraph 1 of the LCI;
 2. develops and maintains an up-to-date register of the entities under Article 45, paragraph 1 of the LCI and the internal exposures thereto;
 3. monitors and manages adequately all risks relevant to the exposures.
- (3) Rules and procedures shall include:
1. a mechanism for monitoring the line of control or qualifying holdings up to the beneficial owner of the entities under Article 45, paragraph 1 of the LCI, including effective procedures for collecting, checking and analysing the required information;
 2. a procedure for identifying major business partners of the entities under Article 45, paragraph 1 of the LCI to which the bank has exposures and regular updates of this information.
- (4) Rules and procedures shall provide for the specific duties of the specialised unit of Internal Audit to check the process of identifying, monitoring and reporting internal exposures at least annually.
- (5) In identifying qualifying holdings, the requirements of Joint Guidelines on the prudential assessment of acquisitions and increases of qualifying holdings in the financial sector (JC/GL/2016/01) shall apply.

Article 4. Banks shall submit to the BNB a copy of the rules under Article 3 within ten days of their adoption or amendments thereto.

Chapter Three

REQUIREMENTS FOR CALCULATING THE VALUE OF INTERNAL EXPOSURES

Article 5. (1) Banks shall determine the size of internal exposures on the basis of their gross carrying value.

(2) Off-balance-sheet exposures shall be reported at a nominal value using no conversion factors, except for low risk off-balance-sheet exposures set out in item 4 of Annex I 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 (OJ, L 176/1 of 27 June 2013), hereinafter referred to as Regulation (EU) No 575/2013, whose value shall be 50 per cent of the nominal value.

(3) In determining the value of internal exposures, no collateral and other credit risk mitigation techniques shall be taken into account.

(4) In calculating the value of exposures under paragraph 1, assets in the form of advances that are not loans under item 32 and item 85, letter 'g' of Annex V, Part Two of Commission Implementing Regulation (EU) No 680/2014 of 16 April 2014 laying down implementing technical standards with regard to supervisory reporting of institutions according to Regulation (EU) No 575/2013 of the European Parliament and of the Council (OJ, L 191 of 28 June 2014), hereinafter referred to as Implementing Regulation (EU) No 680/2014, as well as pre-paid amounts on rents or property rights of use shall be included.

(5) In the cases where the bank has formed an exposure to a third party representing an asset in the form of loans and advances whereon personal collateral (such as a guarantee) has been established by an administrator of the bank under § 1, paragraph 1, item 1 of the Additional Provisions of the LCI, the report shall include the amount of the guaranteed portion of the exposure, and this amount shall not be taken into account in calculating the limit under Article 45, paragraph 6 of the LCI.

Article 6. (1) Banks shall establish their total exposure to a single person under Article 45, paragraph 1 of the LCI as a sum of the values of exposures under Article 5.

(2) Paragraph 1 shall not apply to exposures to other credit institutions and investment intermediaries.

(3) In establishing the total exposure under paragraph 1, the following items shall not be included:

1. investments in the capital of the entities under Article 45, paragraph 1 of the LCI, which shall be deducted from own funds of the bank;

2. exposures to bank subsidiaries which meet the conditions under Article 113, paragraph 6, letters 'a' to 'e' of Regulation (EU) No 575/2013 upon a prior approval by the BNB.

Chapter Four

REPORTING AND NOTIFICATIONS

Article 7. (1) Within the quarterly reporting deadlines under Article 3, paragraph 1 of Regulation (EU) No 680/2014, banks shall draw up and submit to the BNB reports on internal exposures in the form and contents of the template approved by the BNB Deputy Governor heading the Banking Supervision Department.

(2) The reports under paragraph 1 shall be submitted electronically in compliance with the Law on Electronic Document and Electronic Signature.

(3) The reports under paragraph 1 shall be drawn up on both individual and consolidated basis.

Article 8. (1) Within ten days from the resolution on formation of an internal exposure or an approved limit thereof, banks shall submit to the BNB notifications of internal exposure formation pursuant to Article 71, paragraph 1, item 5 of the LCI. The notification shall be accompanied by a protocol of the resolution of the

management and supervisory board, board of directors, respectively, and a reporting form according to the template under Article 7, paragraph 1, containing data on the exposure.

(2) Banks shall immediately notify the BNB upon establishing breaches of the limits under Article 45, paragraph 6 of the LCI. In the notification, the bank shall specify the reasons for the breach and the approved plan and actions taken to bring the relevant exposure into line with statutory limits.

(3) Paragraph 1 shall not apply in case of a change in the size of the internal exposure, where this change is within the approved limit of which the BNB is notified.

Chapter Five

SUPERVISION OVER INTERNAL EXPOSURES

Article 9. (1) The BNB shall use the reports and notifications of internal exposures through incorporating them into the supervisory review and evaluation process of banks under Article 79c of the LCI.

(2) The BNB may require any additional data and documents to be submitted to verify compliance with the requirements of the LCI and this Ordinance.

ADDITIONAL PROVISION

§ 1. Within the meaning of this Ordinance:

1. 'internal exposure' shall be an exposure to an entity under Article 45, paragraph 1 of the LCI;
2. 'own funds' shall mean the sum of Tier 1 capital and Tier 2 capital within the meaning of Article 4, paragraph 1, item 118 of Regulation (EU) No 575/2013.
3. 'beneficial owner' shall mean a person within the meaning of § 2 of the Additional Provisions of the Law on the Measures against Money Laundering.
4. 'gross carrying value' shall be the account value of the exposure before relevant specific credit risk adjustments and additional adjustments in accordance with Article 34, Article 110 and other provisions of Regulation (EU) No 575/2013 regulating such adjustments are imposed.
5. 'off-balance-sheet exposure' shall be an exposure set out in Annex I of Regulation (EU) No 575/2013.

TRANSITIONAL AND FINAL PROVISIONS

§ 2. Banks shall adopt the rules and procedures under Article 3 within six months of the enactment of this Ordinance.

§ 3. This Ordinance is issued pursuant to Article 45, paragraph 8, Articles 45b and 45c of the Law on Credit Institutions and approved by Resolution No 191 of 16 July 2018 of the Governing Council of the Bulgarian National Bank.