

UNOFFICIAL TRANSLATION

In the case of any inconsistency between the English and the Arabic text, the Arabic text shall prevail.

The Central Bank of Bahrain

Resolution No (-) of the year 2019 with respect to promulgating the Regulation Pertaining to Control in Banks pursuant to the provisions of the Central Bank of Bahrain and Financial Institutions Law No. (64) of the year 2006

The Governor of the Central Bank of Bahrain:

Having reviewed the Commercial Companies Law promulgated by Legislative Decree No. 21 of 2001 as amended;

And the Central Bank of Bahrain and Financial Institutions Law No. (64) of the year 2006 as amended;

And Resolution No. 31 of 2008 with respect to promulgating the Regulation on Control in Banks in accordance with the provisions of the Central Bank of Bahrain and Financial Institutions Law No. (64) of the year 2006;

And the Rulebook issued by the Central Bank of Bahrain;

And based on the presentation of the Chairman of the Regulatory Policy Committee at the Central Bank

has resolved the following:

Article (1)

The Regulation annexed to Resolution No. 31 of 2008 with respect to promulgating the Regulation on Control in Banks in accordance with the provisions of the Central Bank of Bahrain and Financial Institutions Law No. (64) of the year 2006 shall be repealed and shall be replaced by the provisions annexed to this Resolution.

Article (2)

The relevant Directorates at the Central Bank of Bahrain shall implement this Resolution which shall come into effect on the day following the date of its publication in the Official Gazette

The Governor of the Central Bank of Bahrain

Rasheed Mohammed Al Maraj

Issued on:

Corresponding to:

Regulation Pertaining to Control in Banks

Definitions

Article (1)

In this Regulation, the following terms and expressions shall have the meanings assigned thereto, unless the context otherwise requires:

Kingdom: The Kingdom of Bahrain.

The Law: The Central Bank of Bahrain and Financial Institutions Law No. (64) of the year 2006 as amended;

The Central Bank: The Central Bank of Bahrain.

Person: Any natural or juridical person.

Regulated Entity: A juridical person that carries on any of the financial services regulated by the Central Bank or by a foreign regulatory authority as the case may be.

Bank: A bank licensed in accordance with the provisions of the Law but which is not a Foreign Bank.

Foreign Bank: The branch of a foreign bank licensed to provide financial services in the Kingdom.

Rulebook: The Rulebook issued by the Central Bank.

Controller:

1. A person who either alone or with an Associate owns 10% or more of, the share capital of a Bank or of the holding company that owns the said Bank
2. A person who, either alone or with an Associate has the power to exercise 10% or more of the voting rights exercisable by the owner 10% or more of the voting rights required for managing the Bank or to for managing a holding company that owns the Bank.
3. A person with the power to exercise material influence over the management of the Bank or of a holding company that owns the Bank.

Associate:

1. The spouse or children of the Controller.
2. Either parent of the Controller.
3. Subsidiaries of the Controller.
4. The company which owns 10% or more of the Controller.
5. An employee, partner or a member of the Board of Directors of the Controller or of any of its subsidiaries.
6. A person through which the Controller enters into an agreement or arrangement pertaining to the acquisition, ownership or disposal of shares, or under which the two together exercise their voting right in relation to the Bank.

The Current Controller: A person approved as a controller by the Central Bank prior to the effective date of this Regulation.

General Provisions

Article (2)

1. This Regulation shall not apply to a current Controller in respect of the percentages of control but shall apply to other particulars of Control as well as to any subsequent increase in ownership after the effective date of this Regulation.

2. A Foreign Bank shall notify the Central Bank of the particulars of any Person who owns more than 50% of Bank's share capital and shall attach to the said notification a copy of the particular foreign authority's approval for such ownership. Upon receipt of the said notification the Central Bank shall in its sole discretion and judgement take any action as it deems appropriate.

Article (3)

The restrictions specified in this Regulation shall apply to any changes in the legal position of a Controller in a Bank with respect to the validity of shares' ownership as well as to the extent of a Controller's voting in a Bank. Failure to observe these restrictions shall result in the appropriate administrative measures being taken against the violating Controller in accordance with the provisions of the Law.

Controller Approval Request

Article (4)

1. The applicant for control shall procure the prior approval of the Central Bank in relation to any of the following:
 - a) New Controller;
 - b) a current controller seeking to increase its ownership to more than 10% of the share capital of the particular Bank.
2. Banks shall submit to the Central Bank, within three months from the end of their respective fiscal year, a report on their Controllers, specifying all Controllers as well as the percentage of each Controller's ownership in the share capital of the particular Bank.

Article (5)

An applicant for a bank's license shall in the appropriate form specified for the purpose furnish to the Central Bank detailed information on the proposed ownership of shares as well as the proposed controllers of the bank sought to be licensed.

Considering the application

Article (6)

The Central Bank shall have the right to refer to the auditors of the Controller or of its Associates, if any as well as to their respective regulatory authorities with regards to any information provided to the Central Bank in support of an application for approval of control.

Conditions for approval of control in relation to a Natural Person

Article (7)

The following conditions must be satisfied with regards to any application for obtaining the Central Bank's approval for control by an unregulated legal person:

1. The percentage of control sought shall not directly or indirectly exceed 10% of the voting rights in the share capital of the concerned Bank.

2. The control sought will not result in any damage to the Bank, the financial or the banking sector, national interest or the legitimate interests of depositors, creditors or minority shareholders in the Bank sought to be controlled.
3. Except for traffic violations, neither the applicant for control nor any of its Associates shall have been convicted for any crime.
4. Neither the applicant for control nor any of its Associates shall have been subject to any penalties or administrative measure or investigation by a government, regulatory, professional or trade union body or authority.
5. Neither the applicant for control nor any of its Associates shall have committed a violation of any laws or regulations pertaining to financial services in any jurisdiction.
6. Neither the applicant for control nor any of its Associates shall have been refused a license, an authorization or registration, and the CBB may look into the circumstances surrounding the said refusal before making a decision on the application for approval of control.
7. Neither the applicant nor any of its Associates shall have been dismissed from an employment position or service for disciplinary reasons.
8. Neither the applicant nor any of its Associates shall have been the subject of a judgment or a resolution with regarding inappropriateness for membership of a board of directors or for a company's management.
9. Neither the applicant nor any of its Associates shall have been a member of the board of directors, a manager or shareholder of a company that had been liquidated due to mismanagement or has been placed under administration or in which one or more shareholders have become insolvent.
10. The applicant and its Associates shall demonstrate integrity and transparency in dealing with regulatory authorities.
11. Neither the applicant nor any of its Associates shall have been adjudged bankrupt or shall have been proven unable to pay or failed to pay a debt or shall have failed to pay a debt or shall have entered into an agreement with creditors in respect of inability to repay debts.
12. Neither the applicant nor any of its Associates shall have a record of misconduct or bad practices as a Controller in a financial institution or as an investor in any company.
13. The financial resources of the applicant and its Associates shall have been derived from lawful sources.
14. The motivation for the applicant and any of its Associates to control the Bank shall not be speculation or trading in the assets of the Bank sought to be controlled.

15. The control sought by the applicant shall not result in any conflict of interest.
16. The applicant and its Associates shall have the ability to engage productively with the shareholders and members of the board of directors of the Bank sought to be controlled.

Conditions for approval of control in relation to an unregulated Juridical Person

Article (8)

The following conditions must be satisfied with regards to any application for obtaining the Central Bank's approval for control by an unregulated legal person:

1. The percentage of control sought shall not directly or indirectly exceed 15% of the voting share capital of the concerned Bank.
2. The control sought will not result in any damage to the Bank, the financial or the banking sector, national interest or the legitimate interests of depositors, creditors or minority shareholders in the Bank sought to be controlled.
3. The motivation for the applicant and any of its Associates to control the Bank shall not be speculation or trading in the assets of the Bank sought to be controlled.
4. Neither the applicant nor any of its Associates shall have been adjudged bankrupt or shall have been proven unable to pay or failed to pay a debt or shall have failed to pay a debt or shall have entered into an agreement with creditors in respect of inability to repay debts.
5. The home jurisdiction of the applicant and its Associates as well as the group structure and all related parties are acceptable to the Central Bank, and the approval of the control sought will not have a negative bearing on the Central Bank's ability to supervise the licensee.
6. The control sought by the applicant shall not result in any conflict of interest.
7. Neither the applicant nor any of its Associates shall have a record of misconduct or bad practices as a Controller in a financial institution or as an investor in any company.
8. Neither the applicant for control nor any of its Associates shall have committed a violation of any laws or regulations pertaining to financial services in any jurisdiction or shall have been subject to any penalty or administrative measure or investigation by a government, regulatory or professional body or authority.
9. Neither the applicant for control nor any of its Associates shall have been convicted for any crime.
10. The applicant and its Associates shall demonstrate integrity and transparency in dealing with regulatory authorities.
11. Neither the applicant for control nor any of its Associates shall have been refused a license, an authorization or registration.
12. The applicant and its Associates shall have the ability to engage productively with the shareholders and members of the board of directors of the Bank sought to be controlled.

13. If required by the laws applicable to the applicant, the application shall be accompanied by documentary evidence of the regulatory authority's approval of the percentage of Control sought by the applicant.

Conditions for approval of control in relation to a regulated Juridical Person

Article (9)

In addition to the conditions specified in paragraphs 2 to 13 of Article 8 of this Resolution, and prior to approval by the Central Bank, the following additional conditions must be satisfied by an applicant who is regulated juridical Person:

1. The percentage of control sought shall not directly or indirectly exceed 20% of the voting share capital of the Bank listed in any stock exchange in the Kingdom. The limit specified herein shall not apply in respect of Banks that are not listed in those exchanges nor in situations of mergers or acquisitions approved by the Central Bank.
2. The regulated juridical Person must be subject to consolidated supervision by a regulated authority which implements the basic principles of effective banking supervision issued by the Basel Committee, the IOSCO Principles and/or the IAIS Principles as the case may be, in addition to FATF Recommendations on Combating Money Laundering and the Financing of Terrorism;
3. The applicant shall procure a formal written approval from the principal regulator with regards to the exchange of customer information between the Juridical Person and the Bank sought to be controlled for AML/CFT and risk management purposes;
4. There must be in place a Memorandum of Understanding between the principal regulator of the regulated juridical Person and the Central Bank in respect of supervisory responsibilities, exchange of information and mutual visits and inspection;
5. The regulated juridical Person applicant must undertake, in a form acceptable to the Central Bank, to provide the necessary support to the Bank sought to be controlled to the extent of its and its Associates' share in the capital of the Bank.

Application for Control Requirements

Article (10)

An application for approval of Control must be accompanied by the following documents:

1. An application form
2. Audited financial statements of the juridical Person applicant and its Associates.
3. Updated resumes of the applicant and all Associates.
4. List of companies in which the applicant and its Associates own 10% or more.
5. Credit reports of the applicant and all Associates from the relevant credit reference information centers.

6. A copy of the passport and ID cards of the applicant and all Associates.
7. Three references from individuals, institutions or regulatory authorities which the Central Bank can contact to inquire about the applicant and its Associates.
8. Description of the proposed method of financing the applicant and its Associates' Control of the Bank. Where the Control is proposed to be financed by personal funds, the applicant and the Associates must disclose the source of such funds as well as and the name of the bank in which the funds are deposited.

Decision on the application

Article (11)

The Central Bank shall issue its decision regarding the application for control within three months as of the date of receipt of a completed fulfilling all specified requirements. The applicant shall be notified in writing of the Central Bank's decision.

Article (12)

1. The CBB may restrict its approval by specifying any conditions it deems appropriate or necessary, including setting a maximum limit on the permissible extent of control of the share capital or of the voting rights.
2. Subject to the provisions of Article 54 of the CBB Law, the Central Bank's decision approving the Control shall specify the duration of the Control.

Article (13)

Subject to the provisions of Article 55 of the CBB Law, the CBB may decline approval of any application for control if any of the conditions stipulated in Articles (7) or (8) or (9) of this Regulation have not been met. The decision to reject an application for control shall be substantiated and shall be communicated to the applicant by a notification approved by the Executive Director of Banking Services or the person acting in place of the Executive Director.

Appeal against the decision on the application

Article (14)

1. An applicant for Control may appeal the Central Bank's decision to impose restrictions on an approval or rejection of the application on the proposed Control provided always that the appeal is submitted to the Central Bank within 30 days as of the date of notification of the decision and provided further that the appeal is substantiated and accompanied by supporting documents. The Central Bank may request any further documents it deems necessary for re-examining the appeal.
2. The Central Bank shall issue its decision on the appeal and notify the appellant within 30 days as of the date of receipt of all required.

General Provisions

Article (15)

The Central Bank may take any measure it deems appropriate with respect to Persons acting in concert to exercise control over a bank where such Persons acting jointly would form a Controller, regardless of whether such joint action is expressed in an agreement or an arrangement in writing.

Article (16)

An approval for Control granted by the Central Bank may be cancelled forthwith if it becomes apparent after the approval is granted, that the Controller and its Associates have provided false or misleading information or financial statements that are inconsistent with their true financial position.

Article (17)

Neither the Controller nor any Associate shall be indebted to the controlled bank in any manner or by any means whether through an investment or credit facility or any other business that result in debt accounts.

Article (18)

1. Each bank subject to this Regulation shall notify the Central Bank of the names of its Controllers, their Associates and the percentage of their ownership in the particular Bank as of 31 March of each year. The notification must be made within one week of the aforesaid date.
2. Each bank subject to this Regulation shall notify the Central Bank of any material information that may affect the legal or financial position of a Controller or any of its Associates in the Bank, once such information has become known to the Bank.