

**From the Banking Regulation and Supervision Agency:**

**REGULATION ON OPERATIONS OF BANKS SUBJECT TO PERMISSION AND INDIRECT SHAREHOLDING<sup>1</sup>**

*(Published in Official Gazette Nr. 26333, dated November 1, 2006)*

**PART ONE**

**Objective and Scope, Basis and Definitions**

**Objective and Scope**

**ARTICLE 1 –** (1) The objective of this Regulation is to regulate the procedures and principles for operations of and indirect shareholding in banks subject to permission.

(2) The provisions of this Regulation cover the procedures and principles for:

- a) issues of permissions for establishment of banks in Turkey and opening up by overseas based banks of initial branches in Turkey
- b) Banks' opening up of branches and representation offices, establishment of partnerships and participation in already established partnerships in the country and abroad including off-shore banking zones
- c) Conditions for overseas based banks to open up representation offices in Turkey
- ç) Indirect shareholding
- d) Acquisition and transfer of shares
- e) Capital expansion

**Basis**

**ARTICLE 2 –** (1) This Regulation has been prepared based on the Articles 5, 6, 7, 10, 13, 14, 17, 18 and 93 of Banking Law Nr. 5411, dated October 19, 2005.

**Definitions**

**ARTICLE 3 –** (1) The following terms used in this Regulation shall have the meanings expressly designated to them below:

- a) Bank(s): Bank(s) which are defined by Article 3 of the Law
- b) Financial institutions: Financial institutions as defined by Article 3 of the Law
- c) Financial reports: Financial reports as defined by the Regulation on the Procedures and Principles for Accounting Practices and Retention of Records by Banks
- ç) Fund: Saving Deposit Insurance Fund
- d) Law: Banking Law Nr. 5411
- e) Participation funds: Participation funds as defined by Article 3 of the Law
- f) Off-shore banking: Off-shore banking as defined by Article 3 of the Law
- g) Control: Control as defined by Article 3 of the Law
- ğ) Credit institutions: Deposit banks and participation banks as defined by Article 3 of the Law

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<sup>1</sup> As amended pursuant the Regulations published in the Official Gazettes Nr. 26592 dated July 24, 2007; Official Gazette Nr. 26838 dated April 5, 2008; Official Gazette Nr. 26958 dated August 5, 2008 and Official Gazette Nr. 27119 dated January 23, 2009.

- h) Board: Banking Regulation and Supervision Board
- i) Agency: Banking Regulation and Supervision Agency
- i) Deposit: Deposit as defined by Article 3 of the Law
- j) Qualified shares: Qualified shares as defined by Article 3 of the Law
- k) Branch(es): Branch(es) as defined by Article 3 of the Law
- l) **(Annex: OG-5/4/2008-26838)** Representative Office: Contact offices in Turkey of the banks established abroad which are conducted and managed by a representative.
- m) Law Nr. 3568: Law Nr. 3568 dated June 1, 1989 on Independent Accounting, Independent Accounting and Financial Advising, Certified Public Accounting.

## **PART TWO**

### **Operations Subject to Permission**

#### **Establishment of a bank**

**ARTICLE 4 – (1)** The following must be annexed to an application to be submitted to the Agency for the purpose of establishing a bank in Turkey:

- a) An operational program, which analyzes benefits expected from establishment of the bank, indicates operations to be carried out and operational plans containing methods of achieving internal supervision, internal control and risk management and incorporates the financial structure of the organization in a manner also containing the capital adequacy of the relevant projections thereof,
- b) Declarations to be individually signed by the founders and certified by a notary public as per the models in Annex 1 and Annex 2,
- c) Partnership articles of association signed by the partners,
- ç) Documents to be received from the Commercial Courts of First Instance and Execution Courts attesting that the bank's shareholders as natural persons and legal entities and shareholders as natural persons, who hold qualified shares in its founders as legal entities directly or indirectly, are not declared bankrupt and that they have not declared any debt rescheduling, respectively,
- d) Documents to be received from the Commercial Courts of First Instance and Execution Courts attesting that applications for restructuring through reconciliation by the bank's shareholders as natural persons and legal entities and shareholders as natural persons, who hold qualified shares in its founders as legal entities directly or indirectly, have not been endorsed and that no ruling for postponement of bankruptcy have been given about them, respectively,
- e) Criminal records containing the archive records which have been received by the bank's shareholders as natural persons and legal entities and shareholders as natural persons, who hold qualified shares in its founders as legal entities directly or indirectly, in the last six months,
- f) Copies of resolutions adopted by the authorized organs regarding admission of the founders as legal entities to the bank as partners,
- g) Declarations by the bank's shareholders as natural persons and legal entities and shareholders as natural persons, who hold qualified shares in its founders as legal entities directly or indirectly, as per Annex 3 that they have not held or been in control of any qualified shares in the brokerage houses / bankers forced into liquidation and in the financial organizations forced into liquidation other than voluntary liquidation

and those investment and development banks, the operating permissions of which have been cancelled and in the credit organizations in which the partnership rights of their partners excluding dividends and their management and supervision have been transferred to the Fund or their permissions and authorizations to practice banking and receive deposits and participation funds have been lifted before transfer to the Fund or the lifting of their permissions and authorizations to practice banking and receive deposits and participation funds, as well as certificates to be received by them from the Fund regarding such facts,

ğ) Declarations as per Annex 3 that the bank's shareholders as natural persons and legal entities and shareholders as natural persons, who hold qualified shares in its founders as legal entities directly or indirectly, have not held or been in control of any qualified shares in those banks for which Article 71 of the Law were applied or in those banks transferred to the Fund before entry into force of the Law, well as certificates to be received by them from the Fund regarding such facts,

h) Copies of the relevant issues of the Turkish Trade Registry Gazette regarding the founders as legal entities, lists indicating their partners holding any qualified shares directly or indirectly, rates and sums of their shareholdings including any privileged shares if any, detailed explanations on the fields of operation, investment and operational areas and last three years' balance sheets and revenue sheets certified by sworn financial consultants licensed as per Law Nr. 3568 and reports prepared by rating agencies for any founders as legal entities, which have a status of a bank or a financial organization, if any,

ı) Last three years' consolidated or non consolidated balance sheets and income statements of the capital groups of which the founders as legal entities are a part and also of the partnerships, in which such groups are included, as certified by an independent auditing company,

ı) Sheets indicating the partnership compositions of founders as legal entities with such details allowing information on their partners as legal entities and lists indicating their privileged shares and declarations if there are no such privileged shares,

ı) Documents to be received from the relevant tax offices and the Social Security Institution that the bank's shareholders as natural persons and legal entities and shareholders as natural persons, who hold qualified shares in its founders as legal entities directly or indirectly, currently have no overdue tax and premium debts,

k) Founders' declarations of income and / or corporate tax for the last five years as certified by the tax offices and real estate tax declarations regarding any real estate owned by them, which are certified by the relevant units of the municipalities and title deeds registrations to be received from the title deeds departments concerning such real estate as well as documents indicating any reservations and restrictions on them if deemed necessary by the Agency,

l) Information on the accounts of deposit and credit of those banks committing to subscribe ten per cent or more of capital as stated in their declarations of founders and documents to be issued by the relevant banks and addressed to the Agency, which certify that certify such accounts in a manner also containing dates of opening such accounts, with such accounts bearing the same date,

m) Reports on the financial status of those founders committing to subscribe ten per cent or more of capital, which are certified by sworn financial consultants who are licensed under Law Nr. 3568,

n) Information and documents concerning Executive Board members and general manager to be appointed if they are already assigned, which must be submitted to the Agency as per Articles 4 and 6 of the Regulation on the Procedures and Principles for Notices for Officers to Be Appointed for Top Management in Banks, Administration of Oaths of Office and Declaration of Personal Assets and Maintenance of Books of Resolutions,

o) Copies of powers of attorney issued to the persons authorized to represent the founders who are natural persons and legal entities,

ö) Provision of information by those founders, who pledge to provide ten per cent or more of capital, as regards the method of securing necessary resources for this purpose and a letter of commitment to be completed and signed as per Annex 4 that they have provided such sums as a result of their own commercial, industrial and any other legal operations free of any colored and fictitious transactions,

p) In case founders are an overseas based bank or financial organization:

1) An operational program, which analyzes benefits expected from establishment of the bank, indicates operations to be carried out and operational plans containing methods of achieving internal supervision, internal control and risk management and incorporates the financial structure of the organization in a manner also containing the capital adequacy of the relevant projections thereof,

2) Articles of association

3) Copies of resolutions by their authorized organs regarding establishment of a bank in Turkey

4) Last five years' balance sheets and profit / loss schedules also including any subsidiaries as well as independent auditing reports thereof

5) Documents received from their authorized councils that their banking operations involving receipt of deposits or participation funds in the countries of establishment or operation have not been banned and / or such activities have not been restricted in any manner,

6) Organizational structures, organizational charts for operations outside the country of establishment and also for the country of establishment, detailed information and documents about its operations in the international financial markets and reports issued by a rating agency on such banks or financial organizations, which also includes the envisaged rating thereof,

7) A letter of commitment that reports concerning audits to be conducted by independent auditing companies authorized as per the legislation in the country where their head office is located shall be submitted to the Agency annually,

8) Minutes of their last general assembly meeting as well as a list of partners holding more than ten per cent of capital, which is duly certified by competent authorities in the countries where their head offices are located.

(2) The Agency is entitled to request any additional information and documents if deemed necessary. The Board is entitled to institute any operations / procedures on the basis of different information and documents received.

#### **Establishment by overseas based banks of their initial branches in Turkey**

**ARTICLE 5 – (1)** Overseas banks intending to open their first branches in Turkey must annex the following to their applications to be submitted to the Agency:

a) Their articles of association

b) Copies of resolutions adopted by their competent organs for opening up branches in Turkey

c) An operational program, which analyzes benefits expected from opening up a branch in Turkey, indicates operations to be carried out and operational plans containing methods of achieving internal supervision, internal control and risk management and incorporates the financial structure of the organization in a manner also containing the capital adequacy of the relevant projections thereof,

ç) Past five years' balance sheets and profit / loss schedules as well as independent audit reports thereof

d) Their partners / shareholders, organizational structures, organizational charts for operations outside the country of establishment and also for the country of establishment, detailed information and documents about its operations in the international financial markets and reports issued by a rating agency on such banks or financial organizations, which also includes the envisaged rating thereof,

e) Documents received from their authorized councils that their banking operations involving receipt of deposits or participation funds in the countries of establishment or operation have not been banned and / or such activities have not be restricted in any manner,

f) Minutes of their last general assembly meeting as well as a list of partners holding more than ten per cent of capital, which is duly certified by competent authorities in the countries where their head offices are located,

g) A letter of commitment that reports concerning audits to be conducted by independent auditing companies authorized as per the legislation in the country where their head office is located shall be submitted to the Agency annually

(2) The Agency is entitled to request any additional information and documents if deemed necessary and similarly the Board is entitled to institute any operations / procedures on the basis of different information and documents received.

**(3) (Annex Paragraph: OG-5/4/2008-26838)** Information relating to the amendments occurred in the partnership structure of a bank established abroad and operating in Turkey by branch opening shall be given to the Agency to be evaluated within the scope of Article 9 (1/f) of the Law.

### **Permissions for establishment or branch opening in Turkey of banks established abroad**

**ARTICLE 6** – (1) Permissions for establishment or branch opening in Turkey of banks established abroad are granted pursuant to a resolution adopted by affirmative votes of minimum five members of the Board. Resolution concerning permission is adopted within three months from the date of application or completion of any required information and documents in case of omissions in the application. In case of failure to make up for any omissions within six months, application is rendered null and void.

(2) Any permission granted is issued in the Official Gazette as well as in the Agency's weekly bulletin. It is obligatory that an operating permission has to be obtained additionally for commencement of operations after the procedures for establishment or opening up branches are concluded.

### **Operating permissions**

**ARTICLE 7 –** (1) Upon completion the procedures for establishment or opening up branches in Turkey in line with the provisions of the applicable legislation and subsequent conclusion of the procedures for registration with and public announcement by the Trade Registry Office, an application is made to the Agency with a declaration to be completed as per Annex 5 to receive an operating permission. The application for operation permission has to be made until the end of the ninth month from the date of publication of the Agency resolution regarding the issue of establishment permission in the Official Gazette at the latest.

(2) The Agency examines if the capital of the bank applying for an operation permission has been paid in cash in a manner free of any fictitious and colorful transactions and if it is of such a level capable of achieving the operations defined by Article 4 of the Law, if it has technical equipment / hardware and adequate staff capable of performing such operations, if its staff in managerial positions meet the conditions sought under the provisions governing corporate management covered by Section Three of the Law and if necessary arrangements have been made to ensure compliance of its operations with the principles of corporate management. Operating permissions are granted to those, which are considered appropriate following evaluation made, within maximum three months from the date of the initial permission application. Permissions granted take force as of the date of publication in the Official Gazette.

(3) In the event that operating permissions granted by the Board are limited to certain subjects of operation, the justification for such a limitation is also notified to the applying bank in writing.

(4) Pursuant to a notification to be made by the Agency, the following must be submitted to the Agency prior to the publication of an operating permission in the Official Gazette:

a) Documents that minimum one fourth of the system entrance share, which is at a rate of ten per cent of the minimum capital indicated by paragraph (b) of the second sub-paragraph of Article 10 of the Law, has been deposited by the founders with the Fund and a letter of commitment that the balance will be deposited with the Fund account in three quarterly installments,

b) Documents that the obligation for the financial operating permission charges indicated by Tariff (8) attached to Act of Fees Nr. 492 dated July 2, 1964.

(5) An additional time limit of up to six months from a notice by the Agency thereof is granted to those not meeting the conditions in the Law and this Regulation to make necessary corrections and complete any omissions. Establishment permissions of those not considered appropriate as a result of examination about new applications made during this period are cancelled by a resolution of the Board, which is adopted by affirmative votes of minimum five members of the Board and such a resolution is notified accordingly and the establishment permission issued is rendered null and void as of the receipt of the notice thereof. Any such establishment permissions rendered null and void are published in the Official Gazette as well as in the Agency's weekly bulletin.

(6) **(Annex Paragraph: OG-5/4/2008-26838)** In case of a bank which have granted the permission to open branches and operate in Turkey is turned over to an other bank established abroad which have not granted these permissions; it is obligatory that the bank transferee takes permission to open branches from the Board in order to continue their activities. The bank transferee shall apply for opening branch to the Agency within six months with the documents determined within the Article 5. Until that the bank

transferee grants the required permissions, the permissions granted to the bank turned over are valid. If the required application is not made within this period, the operation permission granted to the bank turned over becomes invalid.

### **Opening up overseas branches by the banks operating in Turkey**

**ARTICLE 8 – (1)** All kinds of stationery or mobile offices of the banks, which are involved in admission of deposits or participation funds, except for their cashier's offices, liaison offices or change offices, which consist of any devices for electronic operations only, to be opened up in locations such as fairs, conference halls and exhibition halls under one of their branches for a period of not more than sixty business days in a calendar year provided that they are limited to collection and payment operations, are treated as branches.

(2) Those banks, which cannot meet the standard rates put into force as per the safeguarding provisions of the law or fails to submit plans incorporating measures for elimination of all kinds of inadequacies after they have been established as having internal systems preventing opening up of branches as a result of audits conducted may not open up new branches in any manner or methods whatsoever.

(3) The Board may require additional conditions for the banks to open up branches if necessary.

(4) **(Amended paragraph: OG-05/08/2008- 26958)** Banks are free to open up branches provided that they notify the Agency of any such branches to be opened up at least thirty business days in advance and further that no negative opinion has been expressed as a result of evaluation to be conducted as per the second sub-paragraph. The actual date of opening up is considered for implementation of the time limit of thirty business days. In the event that it is again raised to open up any branches which were not opened up within six months after a notice thereof, a new application is made to the Agency. Addresses of any branches which are opened up are notified to the Agency within fifteen business days after the date of opening them up. It is obligatory that a document be annexed to any notifications to be made in this respect, certifying that the obligation for the financial operating permission certificate charges as per Act on Fees Nr. 492 has been met. Banks take security measures predicted by the related special provincial security commission for their branches.<sup>2</sup>

(5) Relocation by a bank of a present bank in a province to another province is subject to the principles for opening up branches. There is no need to lodge applications in advance for transfer branches on a provincial basis, change titles of branches and combine or close them down. However, it is essential to provide information to the

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<sup>2</sup> Before amended pursuant the Regulation; Banks are free to open up branches provided that they notify the Agency of any such branches to be opened up at least thirty business days in advance and further that no negative opinion has been expressed as a result of evaluation to be conducted as per the second sub-paragraph. The actual date of opening up is considered for implementation of the time limit of thirty business days. In the event that it is again raised to open up any branches which were not opened up within six months after a notice thereof, a new application is made to the Agency. Addresses of any branches which are opened up are notified to the Agency within fifteen business days after the date of opening them up. It is obligatory that a document be annexed to any notifications to be made in this respect, certifying that the obligation for the financial operating permission certificate charges as per Act on Fees Nr. 492 has been met.

Agency thereof within fifteen business days upon completion of the procedures initiated for transfer of branches, changes to titles and combination or closure of branches.

(6) The principles for opening up branches locally apply for the banks operating in Turkey intending to open up branches in the free zones and for overseas based banks to open up their branches in Turkey other than their initial branches.

**Opening up of overseas branches or representation offices, establishment of partnerships or participation in already established partnerships by the banks operating in Turkey**

**ARTICLE 9 – (1) (Amended paragraph: OG-5/4/2008-26838)** Opening up of overseas branches or representation offices not depending to the limitations of the definition within the third paragraph, establishment of partnerships or participation in already established partnerships by the banks operating in Turkey are subject to permission by the Board provided that the principles of corporate management and safeguarding provisions covered by the Law are adhered to. Applications for permission are made to the Board with a report providing detailed justification for opening up of overseas branches or representation offices, establishment of partnerships or participation in already established partnerships<sup>3</sup>.

(2) It is essential that the regulations and practices in the countries where branches or partnerships are located have no hindrances for the Agency to obtain any information and documents needed as part of its auditing and supervision operations and conduct audits in such branches and partnerships so that permissions may be issued to opening up of overseas branches or representation offices, establishment of partnerships or participation in already established partnerships by the banks operating in Turkey. The Board may require the presence of a memorandum of understanding signed as per the Law for cooperation and exchange of information with the competent authorities of the countries in connection with the requests concerning the off-shore banking zones so that auditing and supervision can be conducted effectively.

(3) **(Amended paragraph: OG-23/01/2009-27119)** It is essential that the provisions the first sub-clause and second sub-paragraph are reserved, the standard rate of consolidated and non consolidated capital adequacy of the banks, which are opening up of overseas branches or subsidiaries or jointly controlled partnerships or affiliates, to be calculated as defined by the arrangements enacted in connection with capital adequacy of the banks pursuant to Article 43 of the Law, has realized and been maintained at a rate which will be determined by the Banking Regulation and Supervision Board.<sup>4</sup>

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<sup>3</sup> Before amended pursuant the Regulation; Opening up of overseas branches or representation offices, establishment of partnerships or participation in already established partnerships by the banks operating in Turkey are subject to permission by the Board provided that the principles of corporate management and safeguarding provisions covered by the Law are adhered to. Applications for permission are made to the Board with a report providing detailed justification for opening up of overseas branches or representation offices, establishment of partnerships or participation in already established partnerships.

<sup>4</sup> Before amended pursuant the Regulation; It is essential that the provisions the first sub-clause and second sub-paragraph are reserved, the standard rate of consolidated and non consolidated capital adequacy of the banks, which are opening up of overseas branches or representation offices, establishing partnerships or having participation in already established partnerships, to be calculated as defined by the arrangements enacted in connection with capital adequacy of the banks pursuant to Article 43 of the Law, has realized and been maintained at a minimum rate of twelve per cent.

(4) It is obligatory that a detailed feasibility study indicating sums of necessary funds and an analysis of costs and benefits concerning opening up branches in the off shore banking zones or having participations and estimated balance sheets, cash flows and profit / loss schedules which set forth targets for three years from foundation be submitted to the Agency.

(5) The balance sheet size of the branch in an off shore banking zone may not be in excess of twenty per cent of the bank's total balance sheet. Any credits extended to the Treasury or pursuant to Treasury guarantees are not considered in calculation of this limit. Transactions between the branch and bank head office are offset in calculation of the balance sheet size of the branch.

(6) Banks have to submit annual financial reports of their branches or participations established in the off shore banking zones to the Agency. Any financial sheets not audited by an independent auditing company and other additional information and documents requested by the Agency concerning their operations in this respect have to be submitted to the Agency as per the reporting model to be designated by the Agency within the time limits to be set forth on a quarterly basis in a manner also covering operations related to Turkey in detail.

(7) All kinds of information and documentation are made available during audits to be conducted by the Board locally and any information concerning the creditors and debtors of any participation in the off shore banking zones is made available by the banks whenever requested.

(8) Banks post an easily readable public notice in visible locations inside their branches, which specifically contains information that any accounts opened with their overseas branches and branches including those in the off shore banking zones are not covered by the savings deposits insurance, providing information on their branches and participations in the off shore banking zones.

(9) The following operations by the banks are treated as unauthorized operations under the provisions of Article 150 of the Law: For the purpose of receiving deposits or participation funds from locally resident persons on behalf of their overseas based participations or financial organizations including those in the off shore banking zones; making formulas available, employing staff exclusively for such operations, paying fees, commissions, premiums or the like to staff on the basis of deposits or participation funds to be collected on behalf of these participations or other financial institutions or channeling their customers into their overseas participations by making their staff to promote and publicize such participations or collecting deposits or participation funds on behalf of their overseas participations or other financial institutions by using these methods as well as any other methods.

(10) Banks based in Turkey may not engage in the operations listed above to channel their deposits or participation funds into their overseas branches including those in the off shore banking zones and neither may the branches of foreign banks operating in Turkey divert their deposits and participation funds to any branches or other financial institutions in their groups by conducting such operations.

(11) Overseas branches and participations of the banks including those in the off shore banking zones have to carry out and maintain operations for arrangement of deposit cards and relevant documentation in the countries of operation. No deposit cards and documentation may be arranged or issued locally for such branches or partnerships in any manner whatsoever.

**Opening up representative offices in Turkey (Amended Article:OG-5/4/2008-26838)<sup>5</sup>**

**ARTICLE 10 –** (1) Opening up a representative office in Turkey is subject to the Board's permission. The representative offices cannot accept deposit nor participation fund, cannot provide loan facilities and cannot conduct any activities determined within the Article 4 of the Law or be intervene to these acts. Principles and procedures relating to the activities of representative offices are determined by the Board.

(2) Only one person entitled as representative can work in the representative offices. It is essential for any banks applying to establish representation offices to ensure

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<sup>5</sup> Before amended pursuant the Regulation;

**“Opening up representative office in Turkey**

**ARTICLE 10-** (1) Establishment by overseas based banks of representation offices in Turkey is subject to permission by the Board provided that such offices may not involve in admission of deposits and participation funds and banking operations.

(2) It is essential for any banks applying to establish representation offices to ensure that they have a sound financial structure, that as of the date of application, their equity in the head offices is not less than the minimum paid up capital required to be held by any banks to be established in Turkey and that there are no restrictions imposed on their operations and that they are operational for the last three years.

(3) Overseas based banks intending to open up representation offices in Turkey must attach the following to their petitions of application to be submitted to the Agency:

a) Financial reports and operational reports passing independent audits certifying that they are operational for minimum three years,

b) Documents received from the official authorities in the countries of the bank's incorporation or operation certifying that there has been no ban on the bank's operations of admission of deposits or banking operations there and that there have been no restrictions imposed on such operations,

c) Copies of resolutions adopted by their competent organs for establishment of representation offices in Turkey,

ç) A detailed report indicating justification for establishment of a representation office in Turkey, which is prepared in a comprehensive manner also indicating types and volumes of operations conducted with the banks and other natural persons and legal entities based in Turkey,

d) A report prepared by a rating agency about the bank, if any,

e) Information and documents on the bank's organizational chart and operations in international money markets

Detailed CV's of representatives intended to be appointed, including information if they have been involved in any financial organizations in the last ten years.

(4) **(Annex paragraph: OG-24/07/2007- 26592)** In case of a major amendment occurred in the partnership structure of a bank established abroad having the permission to open up representative office in Turkey or title amendments in case that another bank is turned over to this bank, giving information to the Agency related to these amendments is sufficient.

(5) **(Annex paragraph: OG-24/07/2007- 26592)** In case of a bank established abroad having the permission to open representative office in Turkey is turned over to another bank which does not have the permission to open up representative office in Turkey with all of its rights, receivables, debts and liabilities, the bank transferee shall submit the documents determined within the paragraph three to the Agency within six months. If these documents are not submitted to the Agency within six months, the permission to open up representative office of the bank is annulled by the Board Decision.

(6) **(Annex paragraph: OG-24/07/2007- 26592)** If, within the six months following the permission granted by the Board, the opening up of the representative office is not notified to the Agency, the permission to open up representative office granted to the bank is considered as invalid.

(7) **(Annex paragraph: OG-24/07/2007- 26592)** Information relating to closed representative offices shall be given to the Agency. If the bank which had notified that its branch is closed would re-open a branch in Turkey it is obligatory that it re-apply to the Agency.”

that they have a sound financial structure, that as of the date of application, their equity in the head offices is not less than the minimum paid up capital required to be held by any banks to be established in Turkey and that there are no restrictions imposed on their operations and that they are operational for the last three years.

(3) Overseas based banks intending to open up representation offices in Turkey must attach the following to their petitions of application to be submitted to the Agency:

a) Financial reports and operational reports passing independent audits certifying that they are operational for minimum three years,

b) Documents received from the official authorities in the countries of the bank's incorporation or operation certifying that there has been no ban on the bank's operations of admission of deposits or providing loan facilities, or conducting banking operations, including the ones determined within the Article 4 of the Law and that there have been no restrictions imposed on such operations,

c) Copies of resolutions adopted by their competent organs for establishment of representation offices in Turkey,

ç) A detailed report indicating justification for establishment of a representation office in Turkey, which is prepared in a comprehensive manner also indicating types and volumes of operations conducted with the banks and other natural persons and legal entities based in Turkey,

d) A report prepared by a rating agency about the bank, if any,

e) Information and documents on the bank's organizational chart and operations in international money markets

f) Detailed CV's of representatives intended to be appointed, including information if they have been involved in any financial organizations in the last ten years,

g) On condition that the legislation of the country in which the bank is established allows; a guarantee taken from the bank assuming that the documents requested will be provided.

(4) In case of major amendment of the partnership structure of the bank established abroad having permission to open representative office in Turkey or in case of turn over of that bank to another bank and in title amendments thereof, the Agency shall be notified about these amendments.

(5) In case of a bank established abroad having the permission to open representative office in Turkey is turned over to another bank which does not have the permission to open up representative office in Turkey with all of its rights, receivables, debts and liabilities, the bank transferee shall have the permission of the Board to proceed its activities. The bank transferee shall apply to the Agency with the documents determined within the paragraph three within six months. Until that the bank transferee obtains the permission required, the permission of the bank turned over is valid. If within this period the required application is not made, the permission given to the bank for opening representative office becomes invalid.

(6) The address, phone and fax numbers of the representative office permitted shall be notified to the Agency within fifteen days following its opening date. This obligation is valid in case of changes in this information.

(7) The Agency shall be notified in case of closures of representative offices. If the bank which notified its representative office closure wants to re-open a representative office in Turkey, it shall re-apply to the Agency.

(8) The permission for opening a representative office is annulled if any of the following is realized; if the opening of representative office is not notified to the Agency within the six months following the permission, if the permission is granted based on false statements, if the activities of bank to which the representative office is attached are limited because of any reason, or if its bankruptcy or liquidation is adjudicated or it effects a composition in its home country, if it's ascertained that the representative office conducts banned activities, if the documents and information demanded by the Agency are not sent within the requested periods by the representative office or by the bank attached.

### **Acquisition and transfer of shares**

**ARTICLE 11 – (1)** The following must be annexed to any applications to be made to the Agency in connection with any acquisition and transfer of shares pursuant to Article 18 of the Law:

a) Declarations to be individually completed as per Annex 1 and Annex 2 and signed at a notary public by share transferees,

b) Documents to be received by share transferees as natural persons and legal entities from the Commercial Courts of First Instance and Execution Courts that they are not declared bankrupt and that they have not declared any debt rescheduling, respectively,

c) Documents to be received by transferees as natural persons from the Commercial Courts of First Instance attesting that applications for restructuring through reconciliation have not been endorsed in connection with them and that no ruling for postponement of bankruptcy have been given about them,

ç) Criminal records of transferees as natural persons containing the archive records received in the last six months,

d) Declarations by share transferees as natural persons and legal entities as per Annex 3 that they have not held or been in control of any qualified shares in the brokerage houses / bankers forced into liquidation and in the financial organizations forced into liquidation other than voluntary liquidation and those investment and development banks, the operating permissions of which have been cancelled and in the credit organizations in which the partnership rights of their partners excluding dividends and their management and supervision have been transferred to the Fund or their permissions and authorizations to practice banking and receive deposits and participation funds have been lifted before transfer to the Fund or the lifting of their permissions and authorizations to practice banking and receive deposits and participation funds, as well as certificates to be received by them from the Fund regarding such facts,

e) Declarations as per Annex 3 that share transferees as natural persons and legal entities have not held or been in control of any qualified shares in those banks for which Article 71 of the Law were applied or in those banks transferred to the Fund before entry into force of the Law, well as certificates to be received by them from the Fund regarding such facts,

f) Copies of the relevant issues of the Turkish Trade Registration Gazette regarding the establishment of the share transferees as legal entities, lists indicating their partners holding any qualified shares directly or indirectly, rates and sums of their shareholdings including any privileged shares if any, detailed explanations on the fields of operation,

investment and operational areas and last three years' balance sheets and revenue sheets certified by sworn financial consultants licensed as per Law Nr. 3568 and reports prepared by rating agencies for any founders as legal entities, which have a status of a bank or a financial organization, if any,

g) Last three years' consolidated or non consolidated balance sheets and revenue sheets of the capital groups of which the share transferees as legal entities are a part, as certified by an independent auditing company,

ğ) Reports on the financial status of share transferees as natural persons and legal entities, which are certified by sworn financial consultants who are licensed under Law Nr. 3568,

h) Documents to be received from the relevant tax offices and the Social Security Institution that the share transferees as natural persons and legal entities currently have no overdue tax and premium debts,

ı) Declarations by the share transferees as natural persons and legal entities of income and / or corporate tax for the last five years as certified by the tax offices and real estate tax declarations regarding any real estate owned by them, which are certified by the relevant units of the municipalities and title deeds registrations to be received from the title deeds departments concerning such real estate as well as documents indicating any reservations and restrictions on them if deemed necessary by the Agency,

ı) Information on the accounts of deposit and credit of the share transferees as natural persons and legal entities as stated in their declarations of founders and documents to be issued by the relevant banks and addressed to the Agency, which certify that certify such accounts in a manner also containing dates of opening such accounts, with such accounts bearing the same date,

j) Detailed CV's of partners as natural persons holding qualified shares in the share transferees as natural persons and legal entities also containing information if they have not been involved in any financial organizations in the last ten years,

k) Copies of powers of attorney issued to the persons authorized to represent the share transferees as natural persons and legal entities,

l) Explanation on the funds to be utilized for purchase of shares,

m) Copies of contract concluded for the purpose of transferring shares,

n) Provision of information by the share transferees as natural persons and legal entities as regards the method of securing necessary resources for this purpose and a letter of commitment to be completed and signed as per Annex 4 that they have provided such sums as a result of their own commercial, industrial and any other legal operations free of any colored and fictitious transactions,

o) Sheets indicating the shareholding compositions of the share transferees as legal entities up to a level also revealing their partners as natural persons and legal entities including their privileged shares and also declarations in case there are no such privileged shares,

ö) Copies of resolutions adopted by the bank's competent organs for admission of the share transferees as natural persons as shareholders

p) In case shares are taken over by overseas based banks or financial organizations:

1) An operational program, which analyzes benefits expected from take over of shares, indicates operations to be carried out and operational plans containing

methods of achieving internal supervision, internal control and risk management and incorporates the financial structure of the organization in a manner also containing the capital adequacy of the relevant projections thereof,

2) Articles of association  
3) Copies of resolutions by their authorized organs regarding purchase of shares of an existing bank

4) Last five years' balance sheets and revenue sheets including independent auditing reports thereof

5) Documents received from their authorized institutions that their banking operations involving receipt of deposits or participation funds in the countries of establishment or operation have not been banned and / or such activities have not been restricted in any manner,

6) Organizational structures, organizational charts for operations outside the country of establishment and also for the country of establishment, detailed information and documents about its operations in the international financial markets and reports issued by a rating agency on such banks or financial organizations, which also includes the envisaged rating thereof,

7) A letter of commitment that reports concerning audits to be conducted by independent auditing companies authorized as per the legislation in the country where their head office is located shall be submitted to the Agency annually,

8) Minutes of their last general assembly meeting as well as a list of partners holding more than ten per cent of capital, which is duly certified by competent authorities in the countries where their head offices are located.

(2) The Agency is entitled to request any additional information and documents if deemed necessary. The Board is entitled to institute any operations / procedures on the basis of different information and documents received.

(3) Establishment of privileges on present shares, lifting of privileges or establishment of usufruct on them are subject to permission by the Board in line with the procedures and principles indicated by the present article even if they do not involve any share transfers.

(4) The afore mentioned provisions are also applicable for purchase of any banks, the shares of which are traded in the exchange, through such exchange operations and also for purchase of a bank's shares from an execution office as per Law Nr. 2004 on Execution and Bankruptcy dated June 9, 1932.

### **Capital increase**

**ARTICLE 12 – (1)** It is obligatory that capital increases be paid for in cash without resorting to any internal funds and any fictitious and colorful transactions except for those funds which are permitted to be supplemented to capital as per the applicable legislation. The Agency's opinion in favor is sought for registration of any amendments to the articles of association with regard to capital increase with the Trade Registrar's Office.

(2) Any sums to be used in capital increase may be included in calculation of capital depending on permission to be issued by the Agency following confirmation that the funds forming such sums meet the conditions sought under the applicable legislation.

(3) The portion of capital, which has been found out as having been increased contrary to the applicable legislation, is not considered in calculation of equity within the framework of the procedures and principles indicated by the fifth sub-clause of Article 4 of the Regulation on the Equity of Banks.

### **PART THREE Indirect shareholding**

#### **Indirect shareholding**

**ARTICLE 13 –** (1) The procedures and principles applicable for determination of indirect shareholding by any natural persons or legal entities based in Turkey in the capital of any banks already established or to be established in Turkey are stipulated below:

a) Partners as legal entities which hold shares or take over shares in the bank and the partnership structures of their partners as legal entities, if any, are determined in a chain manner until any natural persons involved are reached if necessary.

b) The rates of indirect shareholding in the capital of a bank through legal entities are calculated multiplying the shares of participation. In the event that the same person has participation in the legal entities in the intermediate levels, such a direct participation rate is added up to the rate reached up to that level prior to the subsequent operation of multiplication.

(2) Determination and evaluation of indirect changes of owners and similar indirectness, which will be made as per the Law in connection with the capital of legal entities in the capital of a bank, are made pursuant to the provisions of the first sub-clause by taking as a basis the capital of the legal entities concerned rather than the bank capital, except for the considerations expressly regulated by the legislation.

### **PART FOUR Miscellaneous and Final Provisions**

#### **Documents to be obtained from abroad**

**ARTICLE 14 –** (1) Of the documents to be requested from persons of a foreign nationality in connection with applications covered by this Regulation, those deemed necessary, which are possible to be obtained as per the legislation of the relevant countries are requested.

(2) In the event that criminal records and certificates of non bankruptcy and non involvement in debt rescheduling to be submitted by persons of a foreign nationality cannot be obtained due to the lack of any authorities or systems in the relevant countries where records of bankruptcy, debt rescheduling and criminal records are maintained, this situation must be certified by a document to be received from the relevant authorities in such countries, with such a document being submitted to the Agency.

(3) It is essential that documents to be received from abroad in connection with applications covered by this Regulation are certified by the competent authorities of the relevant countries and by the Turkish embassies and consulates in such countries or as per the provisions of the Convention on Lifting Requirement for Certification of Foreign Official Documents drawn up as part of the Conference of the Hague on States

Particular Law, as applicable, and notarized translation of such documents must accompany applications as well.

**Entry into force**

**ARTICLE 15** – (1) The provisions of this Regulation enter into force on the date promulgation hereof.

**Enforcement**

**ARTICLE 16** – (1) The provisions of this Regulation are enforced by the Chairman of the Banking Regulation and Supervision Agency.

**[Click for annexes hereto.](#)**

**DECLARATION ON COMPANY FOUNDERS / SHARE TRANSFEREES  
(LEGAL ENTITIES)**

<b>OF THE LEGAL ENTITY :</b>						
<b>TITLE :</b>						
<b>HEAD OFFICE AND DATE OF ESTABLISHMENT :</b>						
<b>CAPITAL :</b> (In detail)						
<b>ADDRESS :</b>						
<b>FIELD OF OPERATION :</b>						
<b>SOME BALANCE SHEET HIGHLIGHTS FOR THE LAST FIVE YEARS (YTL MILLION)</b>						
<b>YEAR</b>	<b>NET PROFIT (LOSS) (1)</b>	<b>EQUITY</b>			<b>TOTAL ASSETS</b>	
<b>SUBSIDIARIES (2)</b>						
	<b>COMPANY TITLE</b>	<b>TYPE OF OPERATION</b>	<b>CAPITAL</b>	<b>SUM OF SHARES</b>		
1						
2						
3						
4						
5						
6						
7						
8						
<b>REAL ESTATE OWNED (3)</b>						
	<b>LOCATION</b>	<b>TYPE</b>	<b>MAP SECTION</b>	<b>ISLAND</b>	<b>PARCEL</b>	<b>RESTRICTIONS</b>
1						
2						

3						
4						
5						
6						
7						
8						

**SECURITIES (Total sums in respect of types) (4) (5)**

**DETAILED BREAKDOWN OF RESOURCES BY WHICH SUBSCRIBED CAPITAL IS TO BE MET**

1	
2	
3	
4	
5	

<b>BANKS COOPERATED WITH (6) (7)</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>
--------------------------------------	----------	----------	----------	----------	----------

<b>BANK TITLE</b>					
<b>DEPOSITS (YTL MILLION)</b>					
<b>TIME SIGHT</b>					
<b>CREDIT (YTL MILLION)</b>					
<b>SUM GUARANTEES</b>					
<b>TYPE TERM</b>					

	<b>6</b>	<b>7</b>	<b>8</b>	<b>9</b>	<b>10</b>
--	----------	----------	----------	----------	-----------

<b>BANK TITLE</b>					
<b>BRANCH TITLE</b>					
<b>DEPOSITS (YTL MILLION)</b>					
<b>TIME SIGHT</b>					
<b>CREDIT (YTL MILLION)</b>					

<b>SUM</b>					
<b>GUARANTEES</b>					
<b>TYPE</b>					
<b>TERM</b>					

<b>LIABILITIES / PAYABLES TO NATURAL PERSONS AND LEGAL ENTITIES OTHER THAN BANKS (8)</b>					
	<b>CREDITOR NAME</b>	<b>TITLE /</b>	<b>OF CLAIMS / RECEIVABLES</b>		
			<b>TYPE</b>	<b>SUM</b>	<b>TERM</b>
1					
2					
3					
4					
5					

**IF LEGAL PROCEEDINGS HAVE BEEN INSTITUTED ON GROUND OF CREDITS DRAWN BY THE COMPANY OR BY NATURAL PERSONS AND LEGAL ENTITIES HOLDING A SHARE OF MORE THAN 10 PER CENT IN THE COMPANY CAPITAL FROM LOCAL OR FOREIGN BANKS IN THE LAST FIVE YEARS:**

**DETAILED EXPLANATION ON ANY MAJOR LEGAL DISPUTES IN WHICH THE COMPANY IS PRESENTLY INVOLVED:**

SIGNATURE :  
DATE :  
...../...../.....

**EXPLANATIONS:**

- (1) Sum less the reserves for taxes shall be inserted.
- (2) Rate of participation shall be inserted if it is five per cent or more of the company capital participated.
- (3) Any real estate owned including any restrictions thereof shall be inserted here.
- (4) Any holdings of bonds, bills, gold, precious stones and metals, etc., including any restrictions thereof, shall be inserted in this section.
- (5) Shares concerning subsidiaries shall be excluded.
- (6) If credit of several types is used from the same bank, such shall be indicated separately.
- (7) If there is business conducted with several branches of the same bank, such shall be indicated separately.

(8) Any liabilities / payables with a sum five per cent or more of the company capital shall be inserted.

Insurance coverage sums of insured assets shall be indicated separately.

**NOTE:** Additional forms may be used if the sections available on the form are not adequate.

**ANNEX 2(Amended:OG-24/07/2007-26592)**

**DECLARATION FOR COMPANY FOUNDERS / SHARE TRANSFEREES (NATURAL PERSONS)**

<b>NAME &amp; SURNAME :</b>		Photo	
<b>PLACE AND DATE OF BIRTH :</b>			
<b>NATIONALITY :</b>			
<b>MOTHER'S NAME :</b>			
<b>FATHER'S NAME :</b>			
<b>ADDRESS OF DOMICILE :</b>			
<b>EDUCATION STATUS :</b> (In detail)			
<b>TITLE AND ADDRESS OF CURRENT EMPLOYER :</b>			
<b>PROFESSION AND TITLE :</b>			
<b>TAX ID NO :</b>			
<b>PREVIOUS EMPLOYERS :</b>			
	<b>TITLE OF EMPLOYER (1)</b>	<b>DATES OF START &amp; END OF EMPLOYMENT</b>	<b>POSITION TITLE</b>
1			
2			
3			
4			
<b>LAST FIVE YEARS' ANNUAL INCOME TAXES AND INCOME TAX PAID (YTL THOUSAND)</b>			
<b>YEAR</b>	<b>NET INCOME</b>	<b>INCOME TAX PAID</b>	

**COMPANIES IN WHICH HE / SHE HAS PARTNERSHIP (2)**

	<b>COMPANY TITLE</b>	<b>FIELD OF OPERATION</b>	<b>CAPITAL</b>	<b>SUM OF SHARES</b>
1				
2				
3				
4				

<b>REAL ESTATE OWNED (3)</b>						
	<b>LOCATION</b>	<b>TYPE</b>	<b>MAP SECTI ON</b>	<b>ISLA ND</b>	<b>PARCEL</b>	<b>RESTRICTIONS</b>
1						
2						
3						
4						
5						
6						
7						
8						
<b>SECURITIES (Total Sums In Respect of Types) (4) (5)</b>						
<b>DETAILED BREAKDOWN OF RESOURCES BY WHICH SUBSCRIBED CAPITAL IS TO BE MET</b>						
1						
2						
3						
4						
5						
<b>OTHER ASSETS OWNED</b>						
<b>BANKS COOPERATED WITH (6) (7)</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	
<b>BANK TITLE</b>						
<b>DEPOSITS (YTL MILLION)</b>						
<b>TIME SIGHT</b>						
<b>CREDIT (YTL MILLION)</b>						
<b>SUM</b>						

<b>GUARANTEES</b>					
<b>TYPE</b>					
<b>TERM</b>					
	<b>6</b>	<b>7</b>	<b>8</b>	<b>9</b>	<b>10</b>
<b>BANK TITLE</b>					
<b>DEPOSITS (YTL MILLION)</b>					
<b>TIME</b>					
<b>SIGHT</b>					
<b>CREDIT (YTL MILLION)</b>					
<b>SUM</b>					
<b>GUARANTEES</b>					
<b>TYPE</b>					
<b>TERM</b>					
<b>LIABILITIES / PAYABLES TO NATURAL PERSONS AND LEGAL ENTITIES OTHER THAN BANKS</b>					
	<b>CREDITOR</b>	<b>TITLE</b>	<b>OF CLAIMS / RECEIVABLES</b>		
	<b>NAME</b>	<b>/</b>	<b>TYPE</b>	<b>SUM</b>	<b>TERM</b>
1					
2					
3					
4					
5					
<p><b>BY WHICH FIELDS OF OPERATION AN APPLICATION HAS BEEN MADE TO OPERATE IN THE FINANCIAL SECTOR IN TURKEY OR ANOTHER COUNTRY PREVIOUSLY AND REASONS IF THE APPLICATION HAS BEEN REJECTED OR PERMISSION RECEIVED HAS BEEN CANCELLED (8):</b></p>					
<p><b>IF LEGAL PROCEEDINGS HAVE BEEN INSTITUTED AGAINST HIM / HER ON GROUND OF CREDITS OR ANY OTHER FINANCIAL RESOURCES RECEIVED FROM LOCAL OR FOREIGN BANKS OR OTHER FINANCIAL ORGANIZATIONS IN THE LAST FIVE YEARS:</b></p>					

**IF ANY OF THE COMPANIES IN WHICH THERE IS A PARTNERSHIP HAS BEEN SUBJECT TO LEGAL PROCEEDINGS ON GROUND OF CREDITS RECEIVED FROM LOCAL OR FOREIGN BANKS OR ANY OTHER FINANCIAL ORGANIZATIONS IN THE LAST FIVE YEARS:**

**IF THERE ARE ANY PUBLIC SUITS FILED AGAINST HIM / HER, THE SUBJECT MATTER OF SUIT(S) IF ANY:**

**IF THERE ARE ANY SUITS FILED AGAINST HIM / HER OTHER THAN PUBLIC SUITS, THE SUBJECT MATTER OF SUIT(S) IF ANY:**

**DETAILED EXPLANATION ON ANY MAJOR DISPUTES IN WHICH HE / SHE IS PRESENTLY INVOLVED :**

SIGNATURE :  
DATE :

.../.../.....

**EXPLANATIONS:**

- (1) Name or commercial title of the organization, employer or company of previous employment shall be inserted.
- (2) Rate of participation shall be inserted if it is five per cent or more of the company capital participated.
- (3) Any real estate owned including any restrictions thereof shall be inserted here.
- (4) Any holdings of bonds, bills, gold, precious stones and metals, etc., including any restrictions thereof, shall be inserted in this section.
- (5) Shares of the companies indicated in the part, "Companies Where There Is A Partnership", shall be excluded.
- (6) If he / she uses credit of several types from the same bank, such shall be indicated separately.
- (7) Banks, insurance companies, financial leasing companies, factoring companies, authorized houses and similar other Organizations, etc, operating pursuant to the Capital Market Law shall be inserted as applicable.  
Insurance coverage sums of insured assets shall be indicated separately.

**NOTE:** Additional forms may be used if the sections available on the form are not adequate.

i The tax ID Number here shall be filled by foreign national natural persons, and Turkish citizen natural persons shall fill the Turkish identity part.

**COMMITMENT LETTER**

**TO THE BANKING REGULATOION AND SUPERVISION AGENCY**

I hereby declare that they I have not held any qualified shares in or control of the banks for which Article 71 of Banking Law Nr. 5411 are applicable or which have been transferred to the Saving Deposit and Insurance Fund prior to the entry into force of Banking Law Nr. 5411 or brokerage houses forced into liquidation and finance houses / organizations forced into liquidation other than voluntary liquidation, development and investment banks the operating licenses of which have been discontinued, credit organizations for which partnership rights other than dividends and management and control have been transferred to the Saving Deposit and Insurance Fund or for which powers and permissions to do banking and receive deposits and participation funds have been discontinued before transfer to the Saving Deposit and Insurance Fund or lifting of powers and permissions to practice banking and receive deposits and participation funds.

...../...../.....

NAME :  
SIGNATURE

**LETTER OF COMMITMENT**

**TO THE BANKING REGULATION AND SUPERVISION AGENCY**

We hereby declare and pledge that the foundation capital of / costs of purchase of shares of ..... Bank stated by our request of takeover thereof are generated from our own operations in the industrial, commercial and services sectors and that such shall be secured and provided in a manner free of any colorful and fictitious transactions.

.... / .../ ....

NAME  
SIGNATURE

**Declaration Concerning the Permission for ..... Bankası AŞ for Receipt of Deposits and / or Performance of Banking Operations, the Establishment of Which Has Been Permitted Under Decision No ..... of ..... By the Banking Regulation and Supervision Agency**

<b>Title of the Bank</b>	
<b>Address of the Bank</b>	
<b>Sum of the Paid Up Capital</b>	
<b>Date of Registration of the Articles of Association</b>	

**Authorized Signatures**

**Appendices:**

1. Balance of sheet on the date of incorporation (certified by a notary public)
2. Articles of association (certified by a notary public)
3. Certificate of registration with a company registration office (certified by a notary public)
4. A copy of the Company Registration Gazette in which the formation of the company was published (certified by a notary public)
5. Names and CVs of directors, general manager and assistant general managers
6. A copy of the receipt substantiating that the fee related to the certificate of authorization to carry out financial activities has been paid (certified by a notary public)
7. A copy of the receipt substantiating that the contribution required for admission to the system has been paid