

By the Banking Regulation and Supervision Agency:

**REGULATION ON MERGER, ACQUISITION, DIVISION AND CHANGES IN
SHARES OF BANKS**

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

PART ONE

Objective and Scope, Basis and Definitions

Objective

ARTICLE 1 — (1) The objective of this Regulation is to regulate the procedures and principles for a bank to merge with another or more than one bank or financial institution or to transfer all its rights and obligations along with all its assets and liabilities to another bank, to take over rights and obligations along with all its assets and liabilities or to divide or changes in shares.

Scope

ARTICLE 2— (1) This Regulation covers the merger, acquisition, division and changes in shares of banks.

(2) According to the provisions of the Article 71 of the Law, provisions of this Regulation is not applicable in merger, acquisition, division and changes in shares of banks for the banks of which shares or administration and supervision were transferred to the Fund.

Basis

ARTICLE 3 — (1) This Regulation has been prepared on the basis of the Articles 19 and 93 of the Banking Law Nr. 5411 dated October 19, 2005.

Definitions

ARTICLE 4— (1) The following terms used in this Regulation shall have the meanings expressly designated to them below:

- a) Bank: Banks defined in the Article 3 of the Law,
- b) Merger: Transfer of all rights and receivables as well as with all debts and liabilities including deposits and participation funds of a bank of which legal entity status ceased with one or more than one bank or financial institution to a bank to be newly established.
- c) Division: Full division which refers to transfer of assets of a bank by dividing into sections to more than one bank, financial institution or other joint-stock companies provided that its legal entity status ceases or partial division which refers to transfer of one or more parts of assets of a bank to a bank, financial institution or other joint-stock companies so as not to cause dissolution of the bank.
- ç) Acquisition: Transfer of all assets and liabilities as well as its rights and obligations of a bank to another bank provided that its legal entity status ceased or take over one or more than one bank with its entire assets and liabilities as well as its rights and obligations.
- d) Financial institution: Financial institution defined in the in the Article 3 of the Law.

- e) Fund: Savings Deposit Insurance Fund.
- f) Changes in shares: Taking over of shares of a bank or financial institution by a bank so as to be able to control the bank or financial institution and giving shares to the partners of the bank or financial institution in return representing its own capital.
- g) Law: Law Nr. 5411.
- ğ) Participation fund: Participation fund defined in the in the Article 3 of the Law.
- h) Control: Control defined in the in the Article 3 of the Law.
- ı) Credit institution: Credit institution defined in the in the Article 3 of the Law.
- ı) Board: Banking Regulation and Supervision Board.
- j) Agency: Banking Regulation and Supervision Agency.
- k) Deposit: Deposit defined in the Article 3 of the Law.

PART TWO

Board Permission

Board Permission

ARTICLE 5— (1) Merger, acquisition, division and change in shares transactions of banks are subject to the permission of the Board. Detailed feasibility report analyzing the expected results from merger, acquisition, division and change in shares and estimated balance-sheet and statement of profit and loss stating three-year targets following the date of merger, acquisition, division and change in shares transactions are included in the written application to be submitted to the Agency for this permission by the banks or financial institutions mentioned in merger, acquisition, division and change in shares transactions. The Agency is authorized to demand the additional information and documents, as it deems necessary.

Initiation of merger, acquisition, division and change in shares

ARTICLE 6 — (1) The permission granted renders null and void unless the related institutions do not execute merger, acquisition, division and change in shares transactions in three months following the permission by taking resolutions in their general boards, as per the Articles 7, 11, 15 and 19, these transactions cannot be proceeded without taking permission again.

PART THREE

Merger

General board permission

ARTICLE 7 — (1) Balance-sheets and draft merger contract which has been approved by external audit institution which administrative boards of bank or financial institution to participate in merger shall determine jointly is submitted to the approval of general boards and is voted according to the anticipated quorum included in general boards. Unless no quorum has been anticipated in prime contracts of banks or financial institutions, a resolution is adopted with the majority of the attendants, on condition that tier-I or tier-II is represented in general board.

(2) In the event that balance-sheets and draft merger contract subject to merger is approved, administrative boards are granted authorization by the general boards to prepare merger contract and prime merger contract of the bank to be established newly.

Merger contract

ARTICLE 8— (1) It is obligatory in merger contract to be included:

- a) Information on conditions and foreseen stages of merger.
- b) Title and centers of banks or financial institutions as well as bank to be established newly of which legal entity status shall cease subsequent to merger.
- c) Record proving the draft prime contract of the bank to be established newly has been prepared and signed.
- ç) Record concerning the capital sum of the bank to be established newly and assets of banks or financial institutions to be merged composes the capital of the new bank and in case the capital sum to be paid by founder partners of the bank to be established newly subsequent to merger is lower than the minimum capital defined as per the Article 7(1) of the Law, the difference shall be met by means of a capital increase to be made in cash in three months following the trade registry of the new bank.
- d) Record declaring all assets and liabilities as well as rights and obligations of the banks or financial institutions to be merged shall transfer to the bank to be established newly.
- e) Record declaring sum, type, partnership shares exchange ratio, nominal value and amount of privileged share, if applicable, of share to be granted to the partners of the banks or financial institutions to be merged.
- f) Record proving the merger shall take place free from collusion and losses to occur shall be compensated jointly and severally.

(2) Provisions violating the rights and receivables of customers and third parties cannot be included in the merger contract. It is not obligatory that signatures in merger contracts have to be notarized.

Post merger transactions

ARTICLE 9 — (1) Draft contract signed by administrative board, financial statements subject to merger, draft prime contract, reports on share value assessment to be prepared according to the provisions of the Regulation on Principles for Authorization and Activities of Rating Institutions to Perform Rating Activities in Banks and report including the required sum for capital increase and resources thereof, if applicable, of banks or financial institutions to be merged and which are approved by external audit institutions are submitted to the Agency in seven days following the signing. The Agency is authorized to demand the information and documents as it deems necessary.

(2) Condition of the banks demanding merger is analyzed in respect of legal and regulatory compliance, compliance to standards ratios and credit limits, efficiency of organization and branch structure, internal control, risk management and internal control systems. The Agency may demand additional measures to be taken from the requesting banks so as to implement the benefit expected from the merger and to strengthen their financial structures.

(3) Following the necessary investigations have been conducted by the Agency, merger contract approved by the Board and draft prime contract of the bank to be established newly, balance-sheet and statements of profit and loss of the banks to be merged are submitted to the approval of their general boards and voted according to the anticipated quorum included in general boards. Unless no quorum has been anticipated in prime contracts of banks or financial institutions, a resolution is adopted with the majority of the attendants, on condition

that tier-I or tier-II is represented in general board.

(4) In the merger, capital of the bank to be established newly is determined having regard to capitals of banks or financial institutions participating in the merger and shares to be given to the partners of banks and financial institutions to participate in the merger.

(5) There can be no meetings held and resolutions adopted in the general board about the merger contract and prime contract of the bank to be established newly which are not deemed appropriate by the Board.

Registration and notification

ARTICLE 10 — (1) General board resolutions of banks or financial institutions participated in the merger and prime contract of the new bank is submitted to the Agency in seven days following the general board.

(2) Approval of the Board enabling the general board resolutions to be registered, resolution concerning giving operation license according to the Article 10 of the Law, provisioning that permission is given to establish the new bank pursuant to the Article 6 of the Law and registry and notification of the newly established bank are published in the Official Gazette. General board resolutions on merger and prime contract approved by general boards and establishment of the new bank is registered and notified in the Trade Register Offices in which the banks participated in the merger are recorded in seven days following the publication of Board resolution in the Official Gazette.

(3) All assets and liabilities as well as rights and obligations of banks or financial institutions participated in registry and notification transfer to the newly established bank and legal entity status of banks or financial institutions participated in merger cease and their records in Trade Registry is deleted.

PART FOUR Acquisition

General board permission

ARTICLE 11 — (1) Balance-sheets subject to acquisition and draft acquisition contract which has been approved by external audit institution which administrative boards of external administrative boards of transferee and transferred banks in acquisition of one or more than one bank by another bank shall determine jointly is submitted to the approval of general boards and in voted according to the anticipated quorum included in general boards. Unless no quorum has been anticipated in prime contracts of banks or financial institutions, a resolution is adopted with the majority of the attendants, on condition that tier-I or tier-II is represented in general board.

(2) In the event that balance-sheets subject to acquisition and draft acquisition contract subject to acquisition is approved, administrative boards are granted authorization by the general boards to prepare and sign acquisition contract.

Acquisition contract

ARTICLE 12— (1) It is obligatory in acquisition contract to be included:

- a) Information on conditions and foreseen stages of acquisition
- b) Title and centers of banks transferred, of which legal entity status ceased and continue to exist,
- c) Record proving the capital of the transferee bank is composed of assets of transferred banks along with its own capital and in case the sum of paid-up capital subsequent to acquisition is less than minimum capital included in the Article 7(f) of the Law, the difference shall be met by bank partners by means of a capital increase to be made in cash in three months.
- ç) Record proving all assets and liabilities as well as rights and obligations of transferred banks transferred to the transferee.
- d) Record declaring sum, type, partnership shares exchange ratio, nominal value and amount of privileged share, if applicable, of share to be granted to the partners of the banks or financial institutions to be under acquisition.
- e) Record proving the merger shall take place free from collusion and losses to occur shall be compensated jointly and severally.

(2) Provisions violating the rights and receivables of customers and third parties cannot be included in the acquisition contract. It is not obligatory that signatures in acquisition contracts have to be notarized.

Post Acquisition Transactions

ARTICLE 13— (1) Draft contract signed by administrative board, financial statements subject to acquisition, draft prime contract, reports on share value assessment to be prepared according to the provisions of the Regulation on Principles for Authorization and Activities of Rating Institutions to Perform Rating Activities in Banks and report including the required sum for capital increase and resources thereof, if applicable, of banks or financial institutions to be merged and which are approved by external audit institutions are submitted to the Agency in seven days following the signing. The Agency is authorized to demand the information and documents as it deems necessary.

(2) Condition of the banks demanding acquisition is analyzed in respect of legal and regulatory compliance, compliance to standards ratios and credit limits, efficiency of organization and branch structure, internal control, risk management and internal control systems. The Agency may demand additional measures to be taken from the requesting banks so as to implement the benefit expected from the acquisition and to strengthen their financial structures.

(3) Following the necessary investigations have been conducted by the Agency, acquisition contract approved by the Board and draft prime contract including old and new texts, balance-sheet and statements of profit and loss are submitted to the approval of bank general boards and voted according to the anticipated quorum included in general boards. Unless no quorum has been anticipated in prime contracts of banks, a resolution is adopted with the majority of the attendants, on condition that tier-I or tier-II is represented in general board.

(4) In the acquisition by take over, capital of the transferee bank is increased at the rate of the share to be given to the partners of transferred bank.

(5) There can be no meetings held and resolutions adopted in the general board about the acquisition contract and prime contract which are not deemed appropriate by the Board.

Registration and notification

ARTICLE 14 — (1) General board resolutions and prime contract on acquisition are submitted to the Agency in seven days following the general board.

(2) Approval of the Board enabling the general board resolutions on acquisition to be registered is published in the Official Gazette.

(3) General board resolutions and prime contracts on acquisition are registered and notified in the Trade Register Offices in which the transferee and transferred bank participated in the acquisition are recorded in seven days following the publication of Board resolution in the Official Gazette, without requiring any application to the Ministry of Industry and Trade or Province Industry and Trade Offices.

(4) Following the registry of general board resolutions of transferee and transferred banks, all assets and liabilities as well as rights and obligations of transferee bank transfer to the transferred bank and legal entity status of the transferee banks cease and their record in Trade Registry is deleted.

PART FIVE

Division

General board permission

ARTICLE 15— (1) Balance-sheets subject to division which have been approved by external audit institution that administrative boards of bank, financial institution or other joint stock companies which are party to division operations would appoint jointly as well as draft division contract are submitted to the approval of general boards and voted according to the anticipated quorum included in general boards. Unless no quorum has been anticipated in prime contracts of banks, financial institutions or other joint stock companies a resolution is adopted with the majority of the attendants, on condition that tier-I or tier-II is represented in general board.

(2) In the event that balance-sheets subject to division and draft acquisition contract subject to division is approved, administrative boards are granted authorization by the general boards to prepare and sign division contract.

(3) In the full or partial division of credit institutions, deposit or participation fund accounts which are included in their structures can only be transferred to other credit institutions.

Division contracts

ARTICLE 16 — (1) Separate division contracts are signed with each of bank, financial

institution or other joint-stock companies to take over the assets of the bank divided into sections. It is obligatory in division contract to be included:

- a) Information on conditions and foreseen stages of division.
- b) Title and centers of banks of which divided partially or have divided fully and have legal entity status or bank or financial institutions or other joint-stock companies which took over sections.
- c) Record concerning the capital sum of the bank or financial institutions or other joint-stock companies is to be increased at the rate of the share to be given to the partners of transferred bank and in case the sum of paid-up capital in partial division is lower than minimum capital defined as per the Article 7(f) of the Law, the difference shall be met by means of increasing divided bank capital in cash by bank partners in three months.
- ç) Record declaring all assets and liabilities as well as rights and obligations concerning the part or parts of divided bank shall transfer to the transferee bank, financial institution and joint-stock companies.
- d) Record declaring sum, type, partnership shares exchange ratio, nominal value and amount of privileged share, if applicable, of share to be granted to the partners of the divided bank or partners of the bank.
- e) Record proving the division or transfer shall take place free from collusion and losses to occur shall be compensated jointly and severally.

(3) Provisions violating the rights and receivables of customers and third parties cannot be included in the division contract. It is not obligatory that signatures in division contracts have to be notarized.

Post division transactions

ARTICLE 17— (1) Draft contract signed by administrative board, financial statements subject to division, draft prime contract, reports on share value assessment to be prepared according to the provisions of the Regulation on Principles for Authorization and Activities of Rating Institutions to Perform Rating Activities in Banks and report including the required sum for capital increase and resources thereof, if applicable, of banks, financial institutions or joint stock companies to be divided and which are approved by external audit institutions are submitted to the Agency in seven days following the signing. The Agency is authorized to demand the information and documents as it deems necessary.

(2) Condition of the bank demanding division is analyzed in respect of legal and regulatory compliance, compliance to standards ratios and credit limits, efficiency of organization and branch structure, internal control, risk management and internal control systems. The Agency may demand additional measures to be taken from the requesting the bank so as to implement the benefit expected from the division and to strengthen its financial structures.

(3) Following the necessary investigations have been conducted by the Agency, division contract approved by the Board and draft prime contract including old and new texts, balance-sheet and statements of profit and loss are submitted to the approval of bank general boards and voted according to the anticipated quorum included in general boards. Unless no quorum has been anticipated in prime contracts of banks, a resolution is adopted with the majority of the attendants, on condition that tier-I or tier-II is represented in general board.

(4) In the division, capital of the transferee bank is increased at the rate of the share to be given to the partners of transferred bank.

(5) There can be no meetings held and resolutions adopted in the general board about the division contract and prime contract which are not deemed appropriate by the Board.

Registration and notification

ARTICLE 18 — (1) (1) General board resolutions and prime contract on division are submitted to the Agency in seven days following the general board.

(2) Approval of the Board enabling the general board resolutions on division to be registered is published in the Official Gazette.

(3) General board resolutions, prime contracts on division and amendments to prime contract are registered and notified in the Trade Register Offices in which the transferee and transferred bank, financial institution and joint stock company participated in the division are recorded in seven days following the publication of Board resolution in the Official Gazette, without requiring any application to the Ministry of Industry and Trade or Province Industry and Trade Offices.

(4) Following the registry of general board resolutions of transferee and transferred banks, financial institution and joint-stock company, all assets and liabilities as well as rights and obligations of transferee bank transfer to the transferred bank, financial institution and joint-stock company and legal entity status of the transferee banks cease and their record in Trade Registry is deleted.

PART SIX

Change in Shares

General board permission

ARTICLE 19 — (1) Balance-sheets subject to change in shares which have been approved by external audit institution that administrative boards of the bank which would conduct change in shares would appoint as well as draft change in shares contract are submitted to the approval of general board and voted according to the anticipated quorum included in general board. Unless no quorum has been anticipated in prime contracts of the bank, a resolution is adopted with the majority of the attendants, on condition that tier-I or tier-II is represented in general board.

(2) In the event that balance-sheets subject to change in shares and draft acquisition contract subject to change in shares is approved, administrative boards are granted authorization by the general boards to prepare and sign change in shares contract.

(3) Change in shares transactions cannot be performed against the provisions of the Article 59(4) of the Law.

Change in shares contract

ARTICLE 20— (1) It is obligatory in change in shares contract to be included;

- a) Information on conditions and foreseen stages of change in shares.
- b) Title and centers of banks or financial institutions which are party to change in shares.
- c) Record concerning the capital sum of the bank or financial institutions is to be increased at the rate of the share to be given to the partners of transferred bank or financial institutions.
- ç) Record declaring sum and type of shares, exchange rate of partnership shares, nominal value, if applicable, sum of the privileged share of the bank or financial institution of which shares have been transferred.
- d) Share change shall take place free from collusion and losses to occur shall be compensated jointly and severally.
- d) Record declaring sum, type, partnership shares change ratio, nominal value and amount of privileged share, if any, of share to be granted to the partners of the divided bank or partners of the bank.

Post change in shares transactions

ARTICLE 21 — (1) Draft contract signed by administrative board, financial statements subject to change in shares of the bank to go change in shares approved by the external audit institution, draft prime contract, reports on share value assessment to be prepared according to the provisions of the Regulation on Principles for Authorization and Activities of Rating Institutions to Perform Rating Activities in Banks and report on share value determination and sum required for capital increase and resources thereof, if applicable, are submitted to the Agency in seven days following the signing. The Agency is authorized to demand the information and documents as it deems necessary.

(2) Condition of the bank going change in shares is analyzed in respect of legal and regulatory compliance, compliance to standards ratios and credit limits, efficiency of organization and branch structure, internal control, risk management and internal control systems. The Agency may demand additional measures to be taken from the banks going change in shares so as to implement the benefit expected from the change in shares and to strengthen their financial structures.

(3) Following the necessary investigations have been conducted by the Agency, change in shares contract approved by the Board and draft prime contract including old and new texts, balance-sheet and statements of profit and loss of the bank to go change in shares are submitted to the approval of bank general boards and voted according to the anticipated quorum included in general boards. Unless no quorum has been anticipated in prime contracts of banks, a resolution is adopted with the majority of the attendants, on condition that tier-I or tier-II is represented in general board.

(4) In the change in shares, capital of the bank which will conduct share change is increased at the rate of the share to be granted to the partners of transferred bank or financial institutions.

(5) There can be no meetings held and resolutions adopted in the general board about the change in shares contract and prime contract which are not deemed appropriate by the Board.

(6) General board resolution on the share change of the bank to conduct change in shares is submitted to the Agency in seven days following the general board.

PART SEVEN

Miscellaneous and Final Provisions

Special Permissions

ARTICLE 22 — (1) In the event that at least one of bank or financial institutions is subject to the Law on Capital Markets Nr. 2499 dated July 28, 1981 in merger, acquisition, division and change in shares transactions, permission is granted within the scope of capital markets legislation for merger, acquisition, division and change in shares contracts.

Payment of debts or providing collateral not required

ARTICLE 23 — (1) In order that merger, acquisition, division and change in shares become definite, it is not obligatory that debts of banks or financial institutions which have been merged, participated to acquisition, divided or experienced change in shares to be paid or under guarantee.

(2) Unless otherwise agreed in the contracts made, debts or receivables do not fall due because of merger, acquisition, division and change in shares.

Share acquisitions and transfers

ARTICLE 24 — (1) In the event that a change occur in the partnership structure of the bank at the rates defined in the Article 18(1) of the Law, subsequent to merger, acquisition, division and changes in shares that shares which give privilege to assign members to the administrative and supervisory boards or which are granted right of usufruct are transferred, it is obligatory that these partners to document that they bear the qualifications sought in founders under the legislation in force and that a permission ought to be granted from the Board, according to Article 18 of the Law. Provisions of Article 10 (2b) and Article 130 (1c) and (1d) of the Law is not applied about the bank to be established.

Rights of privileged shareholders

ARTICLE 25 — (1) It is obligatory that resolutions of general meetings to be gathered pursuant to Articles 7, 9, 11, 13, 15, 17, 19 and 21 that may affect the rights of privileged shareholders to be approved by privileged general shareholders' meeting as well.

Abolished Regulation

ARTICLE 26 — (1) Regulation on merger, acquisition, division and changes in shares of banks published in the Official Gazette dated June 27, 2001 Nr. 24445 is abolished.

Entry into force

ARTICLE 27— (1) This Regulation enters into force in the date of publication.

Enforcement

ARTICLE 28— (1) The provisions of this Regulation are enforced by the Chairman of the Banking Regulation and Supervision Agency.