

Ordinance No. 20

on the Issuance of Approvals under Article 11, Paragraph 3 of the Law on Credit Institutions

(Issued by the Bulgarian National Bank on 23 April 2009, published in the Darjaven Vestnik, issue 36 of 15 May 2009; amended; issue 10 of 2010)

Subject

Article 1. (1) This Ordinance shall establish the terms and procedure for issuance or revocation of approvals under Article 11, paragraph 3 of the Law on Credit Institutions, as well as the necessary information and documents for issuance of an approval.

(2) The Ordinance shall also lay down the criteria for ascertaining the existence of professional experience needed for bank management.

Terms on Issuance of an Approval to a Member of a Management Board or a Board of Directors of a Bank

Article 2. The persons for whom such an approval is required to be elected members of the management board or the board of directors of a bank shall meet the requirements under Article 11, paragraph 1, item 1 and items 3–9 of the Law on Credit Institutions, as well as any of the following requirements:

1. have held a management position in a banking or financial sector enterprise, or in an institution comparable to a bank for at least five years, while if the applicant has higher education in economics or law – an experience of at least three years on a management position is required;

2. have held a management position for at least ten years in the financial management of non-financial sector enterprises whose assets are comparable to the value assets of the bank, while if the applicant has higher education in economics or law, an experience of at least five years on a management position is required;

3. have held a management position for at least ten years in the financial management of state institutions, while if the applicant has higher education in economics or law – an experience of at least five years on a management position is required;

4. have an academic rank (lecturer, research scholar) in the field of economics or law.

Terms on Issuance of an Approval to a Person under Article 10, paragraph 1 of the Law on Credit Institutions

Article 3. (1) The persons for whom such an approval is required to be appointed as managers and representative members of the management board or the board of directors of a bank shall meet the requirements under Article 11, paragraph 1, item 1 and items 3–9 of the Law on Credit Institutions, as well as any of the following requirements:

1. for persons having higher education in law and economics: to have an experience of least five years on a management position in an enterprise of the banking sector or in a company or institution comparable to a bank;

2. for persons not having higher education in law and economics: to have a professional experience of at least ten years in entities of the banking sector or in a company or institution comparable to a bank, and an experience of at least five years on a management position.

(2) The requirements under paragraph 1 shall also apply on issuing an approval to a procurator or a manager of a bank branch having its registered office in a third country.

Terms on Issuance of an Approval to a Member of a Supervisory Board of a Bank

Article 4. (1) The persons for whom such an approval is required to be elected members of a supervisory board of a bank shall meet the requirements under Article 11, paragraph 1, items 3–8 of the Law on Credit Institutions as well as to cover fit and proper requirements necessary to hold the position.

(2) If a member of a supervisory board is a legal person, the requirements under paragraph 1 shall apply to the individuals representing the entity in the supervisory body.

Application for Issuance of an Approval

Article 5. (1) An approval shall be issued by the Deputy Governor heading Banking Supervision Department or by an authorized person upon submission of an application by:

1. the chairman of the supervisory board of the bank – when the election is for members of a management board;

2. the respective board or the shareholders when the proposal for election of members of management or controlling bodies is put on the agenda of the shareholders' general meeting – when the election is for members of a board of directors or a supervisory board;

3. the competent management body – in case of authorization of a procurator.

(2) The application shall be filed:

1. in cases under paragraph 1, item 1 – not later than 30 days prior to the meeting of the supervisory board;
2. in cases under paragraph 1, item 2 – not later than 45 days prior to the shareholders' general meeting;
3. in cases under paragraph 1, item 3 – not later than 30 days prior to the meeting of the respective body.

(3) The bodies (persons) under paragraph 1 shall carry on advance consultations on the application for issuance of an approval.

Documents Required for Issuance of an Approval

Article 6. (1) The following documents shall be enclosed to the application for the approval of the persons under Articles 2 and 3:

1. a verified copy of the diploma of higher education with at least master's qualification degree;
2. an application for issuance of an approval signed by the applicant;
3. documents certifying that the person has held a management position, including *inter alia*: record of service, a document of the organizational structure of the enterprise or institution, a certificate issued by the Commercial Register Office or other similar bodies;
4. documents certifying the circumstances under Article 11, paragraph 1, items 3–8 of the Law on Credit Institutions;
5. completed fit and proper question form in accordance with the appendix to this Ordinance;
6. a record on paid supervision charge under Article 11;
7. other documents required under Article 7, paragraph 2.

(2) Persons graduated from higher schools abroad shall submit a verified copy of the diploma of higher education with at least master's qualification degree in a foreign higher school acknowledged by the competent government body in the corresponding country as a part of its secular higher education. The Deputy Governor heading the Banking Supervision Department may request a certificate of acknowledgment of higher education issued under the Ordinance on state requirements for acknowledgment of higher education and complete courses of education in foreign higher schools (Darjaven Vestnik, issue 69 of 2000).

(3) The documents under Article 1, items 2, 4–7 shall be enclosed to the application on issuance of an approval for persons under Article 4 and if legal persons are elected supervisory members – a certificate issued by the respective court concerning the entry in the Commercial Register, and an extract copy of the resolution of the competent body for determining the individual who will represent the legal entity in the supervisory board of the bank.

Issuance of an Approval

Article 7. (1) The Deputy Governor heading the Banking Supervision Department shall issue or shall refuse an approval within 30 days after all required documents under Article 6 have been submitted.

(2) The Deputy Governor heading the Banking Supervision Department may interview the applicant or require additional documents (including references), where it is deemed that the submitted documents do not contain sufficient information regarding qualifications and professional experience in banking or for the fitness and probity of the person.

(3) The approvals issued under this Ordinance shall grant the right of holding the relevant position in the bank specified in the approval and shall be effective from the date of entry in the Commercial Register of the person until the date of his dismissal of the position from the competent body of the enterprise or under the rules stipulated in Article 103 of the Law on Credit Institutions.

A Refusal on Issuance of an Approval

Article 8. (1) The Deputy Governor heading the Banking Supervision Department shall refuse to issue an approval where the person does not meet the requirements under Articles 2, 3 or Article 4 respectively. A verified copy of the refusal shall be sent to the bank in which the position is applied for.

(2) The bodies (persons) under Article 5, paragraph 1 may renew the application for the issuance of an approval to the same person no earlier than a year after the entry into force of the act of the refusal.

Providing Information

Article 9. (1) Within seven days after the date of enacting the decision a person who has been issued an approval shall inform the central bank of the decision on entry, respectively on refusal of the entry of the person in the Commercial Register.

(2) Persons who have been issued approvals shall notify in writing the Deputy Governor heading the Banking Supervision Department on any change in circumstances impeding the performance of their functions as specified in the approval.

(3) The notification under paragraph 2 shall be sent up to seven days after the occurrence of the change in circumstances.

Register

Article 10. (1) Any issuance of an approval under this Ordinance shall be entered in a special public register kept by the Banking Supervision Department at the Bulgarian National Bank.

Supervisory Fee for Consideration of Documents

Article 11. (1) For considering the documents filed for issuing an approval under this Ordinance a supervisory fee of BGN 500 shall be collected.

(2) The supervisory fee under paragraph 1 shall be paid by the bank applying for the issuance of an approval and it shall not be subject to refund in case of a refusal to issue an approval.

Additional Provisions

§ 1. Within the meaning of this Ordinance:

1. 'persons holding a management position' shall be:

a) members of management, executive or controlling bodies of a legal entity specified in a law, Articles of Association or other statutory act;

b) procurators;

c) positions which according to the internal structure of an institution or other entity include management and controlling functions in structural units related directly to the implementation of the major activity and functions of the institution or to the major subject of activity of the company or entity;

2. 'banking sector enterprises' shall be: central banks, domestic and foreign banks;

3. 'financial sector enterprises' shall be:

a) (amended; Darjaven Vestnik, issue 10 of 2010) the regulated markets, the Central Depository, the investment intermediaries, the investment and management companies, and special purpose vehicles;

b) (amended; Darjaven Vestnik, issue 10 of 2010) insurers, reinsurers and health insurance companies;

c) companies carrying out activities related to supplementary social insurance;

d) specialized auditing enterprises with a registered office in Bulgaria qualified as banks' auditors;

e) (amended; Darjaven Vestnik, issue 10 of 2010) financial institutions, entered into the Register under Article 3, paragraph 2 of the Law on Credit Institutions or licensed or registered under another law;

f) (new; Darjaven Vestnik, issue 10 of 2010) electronic money companies;

g) (new; Darjaven Vestnik, issue 10 of 2010) payment systems operators;

h) (former letter f; amended; Darjaven Vestnik; issue 10 of 2010) foreign persons having a legal status of entities under items 'a' to 'g' in accordance with the legislation of the respective country;

4. (amended; Darjaven Vestnik, issue 10 of 2010) 'institutions comparable to a bank' shall be: government bodies or other public entities whose main functions include management of and control over government or international public financial

assets, or management, control and investment of financial resources or financial supervision over the entities under item 3;

5. ‘companies comparable to a bank’ shall be enterprises in the financial sector whose activity is a subject of licensing and supervision;

6. ‘enterprises in the non-financial sector’ shall be entities other than those specified under items 2–5;

7. ‘assets comparable to the value of bank assets’ shall be assets whose balance sheet value is not less than 60 percent of the balance sheet value of the bank’s assets an approval is required for management thereof.

§ 2. All documents in a foreign language as submitted under the terms and procedures of this Ordinance shall be accompanied by a Bulgarian translation made by a person authorized to translate into the respective language, and submitted official documents shall be also legalized. The Deputy Governor heading the Banking Supervision Department may request copies of some private documents of essential significance for assessment of the qualification and professional experience of the person to be provided with notary verification of the signatures of the persons who issued them.

Transitional and Final Provisions

§ 3. The certificates issued upon enforcement of this Ordinance shall remain in force unless they have been terminated under the provisions of Article 7, paragraph 3.

§ 4. This Ordinance shall also apply toward the pending proceedings on the issuance of certificates under Article 11, paragraph 2 of the Law on Credit Institutions (Darjaven Vestnik, issue 114 of 2002). The Deputy Governor heading the Banking Supervision Department may set a time limit to the persons concerned to bring the required documents in line with the provisions of this Ordinance.

§ 5. This Ordinance is issued in compliance with Article 11, paragraph 3 of the Law on Credit Institutions and shall repeal Ordinance No. 20 on the Issuance of Certificates under Article 11, paragraph 2 of the Law on Credit Institutions (Darjaven Vestnik, issue 114 of 2002).

§ 6. This Ordinance is adopted by Resolution No. 51 of 23 April 2009 of the Governing Council of the Bulgarian National Bank.

Appendix to Article 6, paragraph 1, item 5

FIT AND PROPER TEST QUESTION FORM

1. Personal Data

Natural persons:

Full name

Unified identification number/personal ID No....., Nationality

Date of birth..... Place of birth

Permanent address:

Present address:

Legal persons:

Name of the company....., UIN/BULSTAT

Registered office..... Head office address

Persons authorized to manage and represent the firm

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Name of the Bank

Position, the person applies for

2. Education

Educational school/ institution	Degree Acquired	Educational Period (from – to)
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3. Qualification Acquired/certificates received

Organization	Subject	Period of Training (from – to)
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4. Command of Foreign Languages

Language	Proficiency/Skills Degree

5. Job Experience

Place of Job	Position	Period (from – to)

6. Reputation

6.1. Have any administrative sanctions or compulsory administrative measures been imposed for violation of primary and secondary legislation applicable to the activity of a bank or a financial sector enterprise, upon a company:

6.1.1. in which you have held a management position?

Yes No

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(If 'yes', please indicate the name of the company, the registered office and head office address, the position held, legal provisions that have been violated, the date and number of the act imposing the penalty or measure and the authority that had issued it.)

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6.1.2. over which you have exercised control within the meaning of the Law on Credit Institutions?

Yes No

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(If the answer is 'yes', please indicate the name of the company, the registered office and head office address, the manner of exercising control, legal provisions that have been vio-

lated, the date and number of the act imposing the penalty or measure and the authority that had issued it.)

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6.2. Do you know of any pending penal administrative proceedings pursuant to item 6.1?

Yes No

(If the answer is 'yes', please indicate the name of the company, the registered office and head office address, the position held, legal provisions that have been violated, the date of opening the proceedings.)

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6.3. Have you ever been dismissed on the grounds of applied compulsory administrative measures from the position as a member of a management or control body of a credit institution or an investment intermediary, or another financial sector enterprise whose activity is subject to licensing and surveillance/supervision?

Yes No

(If the answer is 'yes', please indicate the name of the company, the registered office and head office address, the position held, grounds for dismissal, the date and number of the decision and the authority that had issued it.)

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6.4. Are you subject to pending criminal proceedings of indictable offences?

Yes No

(If 'yes', please indicate the legal opinion of the crime, the date and place of opening the proceedings.)

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6.5. Have you ever been imposed disciplinary sanctions for violation of labour legislation provisions?

Yes No

(If 'yes', please indicate the name of the employer, the grounds for imposition the penalty, a brief description of the violation, the date and number of the penalty act.)

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6.6. Have you been sentenced to pay a fine as a compensation for damages caused to a company as a result of your actions or disactions in your capacity as a member of that company's management or control body, or as a procurator?

Yes No

(If the answer is 'yes', please indicate the name of the company, the registered office and head office address, the position held, the date and number of the penalty act.)

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6.7. Indicate whether granting of a license for activities subject to a licensing procedure of the BNB, Financial Supervision Commission or similar authorities in other countries has been refused to a company:

6.7.1. in which you have held a management or control position, or a position as a procurator?

Yes No

(If the answer is 'yes', please indicate the subject of activity of the license, the authority competent to issue the license, the name of the company, the registered and head office address, the position held, grounds for the refusal, the number and date of the act whereby the license was refused.)

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6.7.2. in which you have hold a qualified share or over which you have exercised control?

Yes No

(If the answer is 'yes', please indicate the subject of activity of the license, the authority competent to issue the license, the name of the company, the registered and head office address, shares held, accordingly the manner of exercising control, grounds for the refusal, the number and date of the act whereby the license was refused.)

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6.8. Indicate whether the license referred to in item 6.7 has been withdrawn of a company:

6.8.1. in which you have held a position as a member of a management or control body or as a procurator?

Yes No

(If the answer is 'yes', please indicate the subject of activity of the license, the authority competent to issue the license, the name of the company, the registered and head office address, the position held, legal grounds for withdrawal of the license, the number and date of the act whereby the license was withdrawn.)

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6.8.2. in which you have held a qualified share or over which you have exercised control?

Yes No

(If the answer is 'yes', please indicate the subject of activity of the license, the authority competent to issue the license, the name of the company, the registered and head office address, shares held, and accordingly the manner of exercising control, legal grounds for withdrawal of the license, the number and date of the act whereby the license was withdrawn.)

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6.9. Indicate whether the entry into a register with the purpose of exercising activity subject to a registration regime by the Bulgarian National Bank, the Financial Supervision Commission or similar foreign authorities has been refused:

6.9.1. to you as a natural person?

Yes No

(If the answer is 'yes', please indicate the subject of registration, the authority competent to make the entry, grounds for the refusal, the number and date of the act whereby the entry was refused.)

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6.9.2. to a company in which you have held a position as a member of a management or control body, or a procurator?

Yes No

(If the answer is 'yes', please indicate the subject of registration, the authority competent to make the entry, the name of the company, the registered and head office address, the position held, grounds for the refusal, the number and date of the act whereby the entry was refused.)

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6.9.3. to a company in which you have held a qualified share or over which you have exercised control?

Yes No

(If the answer is 'yes', please indicate the subject of registration, the authority competent to make the entry, the name of the company, the registered and head office address, shares held, accordingly the manner of exercising control, grounds for the refusal, the number and date of the act whereby the entry was refused.)

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6.10. Indicate whether the entries refer to in item 6.9 has been deleted:

6.10.1. of yourself as a natural person?

Yes No

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(If the answer is 'yes', please indicate the subject of registration, the authority competent to make the entry, legal grounds for the deletion, the number and date of the act whereby the deletion has been made.)

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6.10.2. of a company in which you have held a position as a member of a management or control body, or as a procurator?

Yes No

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(If the answer is 'yes', please indicate the subject of registration, the authority competent to make the entry, the name of the company, the registered and head office address, the position held, legal grounds for the deletion of the entry, the number and date of the act whereby the deletion was made.)

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6.10.3. of a company in which you have held a qualified share or over which you have exercised control?

Yes No

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(If the answer is 'yes', please indicate the subject of registration, the authority competent to make the entry, the name of the company, the registered and head office address, shares held, accordingly the manner of exercising control, legal grounds for the deletion of the entry, the number and date of the act whereby the deletion was made.)

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6.11. Indicate whether your membership in a professional association has been revoked or whether any sanctions have been imposed by such an association in the Republic of Bulgaria or abroad:

6.11.1. on you as a natural person?

Yes No

(If the answer is 'yes', please indicate the name of the professional association, legal grounds for the revocation or for imposing a sanction, the number and date of the act for revocation or by which the sanction was imposed.)

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6.11.2. on a company in which you have held a position as a member of a management or control body?

Yes No

(If the answer is 'yes', please indicate the name of the professional association, the name of the company, the registered and head office address, the position held, legal grounds for the revocation or for imposing the sanction, the number and date of the act for revocation or by which the sanction was imposed.)

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6.12. Have you ever been a member of a management or control body, or an unlimited liability partner in a company terminated due to bankruptcy or are you such a member or a partner in a company that is currently under bankruptcy proceedings?

Yes No

(If the answer is 'yes', please indicate the name of the company, the registered and head office address, the position held, the number and date of the decision whereby the bankruptcy was declared, respectively the number and date of the decision whereby the bankruptcy proceedings were instituted.)

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6.13. Have you ever been a member of a management or control body of a company terminated due to a court decision in view of the fact that the company activity contradicts the law or the company pursues goals forbidden by the law?

Yes No

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(If the answer is 'yes', please indicate the name of the company, its registered and head office address, the position held, the number and date of the decision whereby the activity of the company was terminated.)

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7. Conflict of interests

7.1. Declare all the companies in which you hold/ have held a managerial position in the last three years:

Company's name	Subject of activity	Position	Period
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7.2. Declare all the companies in which you or the members of your family hold/ have held ten and more than ten per cent of the company's equity in the last three years:

Company's name	Subject of activity	Share held and the name of the person who held it
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7.3. Please indicate all non-profit legal persons in which you hold/ have held a position in their management bodies, or of which you are/have been a member in the last three years:

Company's name	Subject of activity	Position	Period
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7.4. Does any company referred to in item 7.1–7.3 maintain business relations with the bank you applied for a position and if 'yes', describe these relations?

Yes No

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7.5. Do you have financial obligations to the bank where you wish to take a position?

Yes No

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(If the answer is 'yes', please indicate the category/type and the pay off term of these obligations.)

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8. Tax Information

8.1. Declare whether administrative penalties for violations of the tax legislation have been imposed:

8.1.1. on you as a natural person?

Yes No

(If 'yes', please indicate the legal provisions which have been violated, the type of sanction, the number and date of the act imposing the sanction and the authority that has issued it.)

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8.1.2. on a company in which you have held a position as a member of a management or control body, or as a procurator?

Yes No

(If 'yes', please indicate the legal provisions that have been violated, the type of the sanction, the name of the company, the registered and head office address, the position held, the number and date of the act imposing the sanction and the authority that has issued it.)

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8.1.3. on a company in which you have held qualified share or over which you have exercised control?

Yes No

(If the answer is 'yes', please indicate the legal provisions that have been violated, the type of the sanction, the name of the company, the registered and head office address, shares held, accordingly the manner of exercising control, the number and date of the act imposing the sanction and the authority that has issued it.)

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8.2. Are you aware of any pending penal administrative proceedings initiated to date pursuant to item 8.1?

Yes No

(If 'yes', please indicate the legal provisions that have been violated, the name of the company, the registered and head office address, the position held, shares held, accordingly the manner of exercising control, the date of opening the proceedings.)

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8.3. Submit data/figures of the taxes you have paid over the past five years:

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9. Previous Fit and Proper Test Assessment

9.1. Have you ever been approved by a financial regulatory authority in the Republic of Bulgaria or by such an authority in another country for a member of a management or control body or for qualified holding/equity stake acquisition?

Yes No

(If 'yes', please indicate the subject of the approval, the name of the company, the registered and head office address, the number and date of the act whereby the approval has been granted, as well as the authority that has issued it.)

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9.2. Have you ever been refused approval under item 9.1 ?

Yes No

(If 'yes', please indicate the subject of the approval, the name of the company, the registered and head office address, grounds for refusal, the number and date of the act whereby the approval has been denied, as well as the authority that has issued it.)

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9.3. Have your fitness and probity together with your professional qualification and experience been assessed by another authority in the Republic of Bulgaria or abroad?

Yes No

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(If 'yes', please indicate the name of the authority that has made the assessment, as well as the result thereof.)

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10. Please give a brief summary of the main functions you will fulfill as a member of the management or control body:

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11. Please give a brief summary of the short-term strategy for operation of the bank:

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12. Attachments:

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I hereby declare that I am aware of the penal liability in case of providing false or inaccurate information.

Date:

Signature:

Ordinance

on Amendment of Ordinance No. 20 on the Issuance of Approvals under Article 11, Paragraph 3 of the Law on Credit Institutions

(published in the Darjaven Vestnik; issue 10 of 5 February 2010)

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Final Provision

§ 2. This Ordinance is issued in compliance with Article 11, paragraph 3 of the Law on Credit Institutions and is adopted by Resolution No. 8 of 21 January 2010 of the Governing Council of the Bulgarian National Bank.