

The Rule on recapitalization by means of issuing new shares of a bank in resolution regime

Decree №239/04; December 29, 2020

Article 1. General provisions

1. The present Rule defines the grounds, terms and procedure of issuance new shares of a bank in resolution regime.
2. The issuance of new shares in resolution regime is carried out in accordance with this Rule and is not subject to the rights of convening a general meeting of shareholders, decision-making, preferred acquisition and other relevant provisions defined by the Law of Georgia on “Entrepreneurs” and the charter of a bank.

Article 2. Issuance of new shares

1. The basis for the issuance of new shares in resolution is the decision made by the Resolution Committee to impose the tool of recapitalization through the issuance of new shares, which is executed by a special manager appointed by the National Bank of Georgia (hereinafter - the National Bank). New shares are issued after the write-down or conversion into shares of the bank's regulatory capital instruments.
2. By the Decision of imposing recapitalization tool by the issuance of new shares, the Resolution committee defines the type and amount of shares to be issued, the opportunity of offering shares to existing shareholders, the nominal value of the shares, the redemption price and the date of issue. The amount of shares to be issued as well as their purchase prices should be based on the assessment of the value of the bank's assets and liabilities. In addition, maximization of the purchase price should be ensured to a maximum extent. The National Bank is authorized, if necessary, to additionally use the assistance of an expert to resolve these issues.
3. The decision of the Resolution Committee on the issuance of new shares shall be the basis for the relevant amendment to the bank's charter and bank's share registry.

Article 3. Sale of newly issued shares through offering and direct offering to existing shareholders

1. If the existing shareholders of a bank meet the fit and proper criteria established for the shareholders established by the Georgian legislation and have not breached the requirements and instructions of the National Bank, the National Bank is entitled to offer them new shares of

a bank. If the National Bank does not offer new shares to the shareholders of the bank, they will not have the right to pre-empt these shares or otherwise purchase them.

2. If the National Bank of Georgia decides to offer new shares to existing shareholders, a notification shall be sent to the shareholders holding less than 1% of the voting shares, indicating the number and class of shares offered, the purchase price and the terms of payment. The notice shall also indicate the period of exercise of the right of purchase, which shall not exceed 10 working days. This period is calculated from the moment of notification to the shareholder. The notification is sent by insured letter or other technical means (to the addressee's current telephone and / or e-mail). A letter sent by technical means is considered to be an officially delivered to the relevant person. The other shareholders shall be notified by insured letter or other technical means or by publication on the website of the National Bank of Georgia or in the Legislative Herald of Georgia, in which case a period of 10 days shall be calculated from the moment of publication of the information.
3. The reduction of the percentage of shares of the existing shareholders of the bank as a result of the issue of new shares shall be taken into account when calculating the losses to be received by the shareholders as a result of the resolution.
4. In addition to the sale of new shares through a public offering, the National Bank is entitled to sell new shares by direct offering to one or more persons or in a different manner if otherwise the effectiveness of the resolution regime may be hampered and the objectives of the resolution threatened.

Article 4. Implementation of capital contributions

1. The relevant contributions to the capital by the acquirers shall be made as soon as possible, no later than 10 working days after the acquisition of the shares. These contributions must be paid in full. According to the decision of the National Bank, the term of fulfillment of this obligation may be extended by not more than 10 days.
2. A report on the implementation of capital contributions shall be prepared by a special manager appointed by the National Bank in order to inform the Resolution Committee.

Article 5. Acquisition of a significant share of a bank as a result of acquisition of new shares

If, as a result of the recapitalization by means of issuing new shares of a bank in resolution regime, the direct/indirect participation of the acquirer (including the beneficial owner) in the bank's capital exceeds 10, 25 or 50 percent and/or a person acquires significant influence over the bank regardless of equity and/or voting shares, the acquisition of a significant share shall be assessed in accordance with the Rule on the approval of the simplified procedure for the acquisition of a significant share of a commercial bank in resolution approved by the Order №130 / 04 of the Governor of NBG.

