



November 2008

Regulatory Policy

Major Acquisitions or Investments by Banks

1. Statement of Objectives

- 1.1. To set out the manner in which the Authority will exercise its powers of approval pursuant to section 14(2) of the Banks and Trust Companies Law (2007 Revision), amended by section 4 of the amending Law¹ ("BTCL").

2. Introduction

- 2.1. Pursuant to the BTCL "a licensee incorporated under the Companies Law (2007 Revision) holding a license for the carrying on of banking business shall not acquire or hold a beneficial interest in an entity whether directly or indirectly, so that the value of the interest at any time exceeds twenty percent of the net worth of the licensee:
 - a) Except with prior written approval from the Authority; or
 - b) Except insofar as may be necessary with respect to any interest acquired by the licensee in satisfaction of debts due to it, but any such interest acquired in the satisfaction of debts shall be disposed of within a period not exceeding five years, unless permission to extend such period has been given by the Authority."
- 2.2. The BTCL seeks to impose limits on a bank's investments or acquisitions that could result in corporate affiliations or structures which may expose the bank to undue risks or hinder effective consolidated supervision.

¹ Banks and Trust Companies Law (Amendment) Law, 2008



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2.3. The Law and proposed Regulatory Policy is consistent with Core Principle 5 of the Core Principles for Effective Banking Supervision issued by the Basel Committee on Banking Supervision, which stipulates that the supervisor (i.e. the Authority) should review major acquisitions or investments by a bank against *prescribed criteria*, and confirm that the acquisition or investment does not expose the bank to undue risks nor hinder effective consolidated supervision.

3. Definition:

3.1. For the purposes of this Regulatory Policy:

3.1.1 “major acquisition or investment” means an acquisition or investment of an interest in an entity, whether legal or beneficial and whether directly or indirectly, that exceeds 20% of the bank’s net worth;

3.1.2 non-admitted assets pursuant to section 2 of the BTCL that defines “net worth”, means goodwill and other intangible assets.

4. Application

4.1. This regulatory policy:

- a) applies to the banking business of a locally incorporated bank licensed under the BTCL; and
- b) does not apply to large exposures within the Bank’s trading activities that are dealt with under the Rules and Statement of Guidance *Large Exposure and Credit Risk Concentration for banks*.

5. Documents/Information to be submitted

5.1. The following information and documents should be submitted to the Authority and accompany a formal request for the approval of an acquisition or investment that exceeds the statutory limit:

- a) the name of the entity being acquired;
- b) its place of incorporation or establishment;
- c) the dollar value of the acquisition, and the value of the acquisition as a percentage of the bank’s net worth;
- d) the impact of the acquisition or investment on the bank’s solo and consolidated capital adequacy ratios;



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- e) the percentage of the entity's shares that will be held by the bank;
- f) how the acquisition or investment will fit into the bank's group structure;
- g) how the acquisition or investment will be funded;
- h) the nature of the business of the entity and its internal control systems and risk management processes for the entity's key risk areas;
- i) financial information on the entity (balance sheet, income statement, liquidity and capital ratios, etc.) for the immediate preceding three consecutive years;
- j) the management structure and corporate affiliations of the entity;
- k) the proposed degree of involvement of the Bank in the direction and management of the entity's affairs, including representation on the Board of Directors, reporting lines from the entity to the bank and any limits established over the entity's activities;
- l) the proposed business plan for the entity as it relates to the operations of the Bank; and
- m) whether the entity is subject to any formal regulation or supervision in its place of incorporation or establishment, e.g. by stock exchanges or financial services regulators and if so, the names of the regulators or supervisors concerned.

6. Conditions for Approval

6.1.1 The Authority, in making its decision, will evaluate the proposal to determine whether the interests of depositors or potential depositors of the Bank would be negatively impacted by the proposed acquisition. In forming this view, the following factors will be considered:

- a) the impact on the capital adequacy of the Bank and its ability to fund the acquisition;
- b) the financial capacity and ability of the Bank to make the acquisition;
- c) the present financial condition and the possible future requirements of the entity in terms of injections of capital and liquidity and any potential drain on the financial resources of the Bank;
- d) the managerial capacity of the Bank to ensure that the activities of the entity are conducted in a prudent and reputable manner; and



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- e) any undue risks to which the Bank may be exposed arising from the acquisition.

6.2. Consolidated Supervision

6.2.1 The Authority will assess whether the Bank and its acquisition are subject to effective consolidated supervision. In its assessment, the Authority will consider whether the Bank:

- a) is adequately organized;
- b) has adequate risk management systems to appropriately identify, limit and monitor risks inherent in its business activities;
- c) can comply with capital adequacy and risk management requirements; and
- d) can observe reporting duties and other requirements of the Authority and the host supervisory authority.

6.2.2 If the acquisition is carried out in another jurisdiction, effective consolidated supervision of the Bank and its acquisition may necessitate the host regulator's cooperation to facilitate the exchange of supervisory and other information. In this instance, the Authority may request that a Memorandum of Understanding is in place, as a condition of final approval.

6.3. Other Conditions

6.3.1 The Authority may attach conditions to an approval granted under the BTCL. Such conditions may be attached when the initial consent to acquire an entity is given or subsequently, when the Authority is of the view that such conditions are necessary to safeguard the interests of depositors or potential depositors of the relevant Bank. In deciding whether to attach conditions, the Authority will take into account the same factors as those set out in section 6.1.1 above.

7. Branches

7.1. A branch of a foreign bank licensed under the BTCL seeking to acquire equity interest (through its parent bank) should submit copies of approval from its parent bank.



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- 7.2. As part its prudential supervision of branches, the Authority will seek confirmation from the parent bank's regulator that:
- a) it is aware of the proposed acquisition; and
 - b) the entity will be subject to consolidated supervision together with the parent bank.