NRB Unified Directives for Class A, B and C Licensed Institutions

Directive 18

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Contents

Directive 18: Provisions Relating to Upgrading, Expansion or Contraction of Area of Operation, and Merger/Acquisition

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Controlled English translation

Provisions Relating to Upgrading, Expansion or Contraction of Area of Operation, and Merger/Acquisition

Preamble

Controlled English translation

Under the Bank and Financial Institution Act, 2073, the following provisions are prescribed for Class "A", "B" and "C" licensed institutions applying to this Bank to upgrade from a lower class to a higher class, for two or more licensed institutions to merge with one another, for an institution to upgrade after merger, or to expand its area of operation while remaining in the existing class. This Directive is issued in exercise of the authority conferred by Section 79 of the Nepal Rastra Bank Act, 2058.

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क(१) Definition

Controlled English translation

For the purpose of this Directive, "upgrading" means the conversion of a nationally operating Class "C" or Class "B" licensed financial institution that meets the criteria in Clause (2) into a Class "B" or Class "A" institution respectively.

क(२) Criteria for Upgrading

Controlled English translation

A Class "B" or "C" licensed financial institution seeking upgrading under Section 38 of the Bank and Financial Institution Act, 2073 shall meet the following eligibility criteria:
(a) at least five years have elapsed since it was licensed to conduct business in the relevant class;
(b) it has remained continuously profitable for the preceding five fiscal years;
(c) it has no accumulated loss;
(d) its average total Non-performing Loan ratio for the preceding five years is below 5 percent;
(e) it has met the minimum paid-up capital prescribed by this Bank for the higher class;
(f) it has fully complied with this Bank's directives on capital adequacy, single-obligor limits, credit-deposit ratio, loan-loss provisioning and resource mobilisation and has continuously maintained the minimum capital adequacy ratio for the preceding five years;
(g) where the institution or its Board/office holders had been subject to action by this Bank for governance or similar non-compliance, three years have elapsed since the action was lifted;
(h) where it was subject to Prompt Corrective Action, three years have elapsed since release from such action;
(i) audit up to the previous fiscal year has been completed and the auditor expressed an unqualified opinion;
(j) a nationally operating Class "B" institution seeking Class "A" status had, in the immediately preceding fiscal year,

business size (aggregate deposits and loans) of at least fifteen times the minimum paid-up capital of its current class and at least 25,000 customers (depositors and borrowers);
(k) a nationally operating Class “C” institution seeking Class “B” status had business size of at least fifteen times the minimum paid-up capital of its current class and at least 10,000 customers.

क(३) Application for Upgrading

Controlled English translation

An institution meeting the criteria in Clause 2 may apply to this Bank for in-principle consent to upgrade, with the following documents and particulars:
(a) application in the format of Schedule 18.1;
(b) certification by an auditor listed by this Bank that the minimum paid-up capital prescribed by this Bank has been met;
(c) copy of the annual general meeting resolution approving upgrading;
(d) Business Plan and Projection for at least the next five years;
(e) personal and institutional details of promoters holding two percent or more of shares, in the formats of Schedules 18.2 and 18.3;
(f) declaration by promoters that they have not taken credit from the concerned institution;
(g) declaration that credit taken by promoters from other banks and financial institutions is not overdue and that they are not blacklisted by the Credit Information Centre;
(h) current share-capital structure and ownership details for promoter and public groups;
(i) declaration that promoters do not hold more than 15 percent of paid-up capital in any one bank or financial institution and more than 1 percent in other banks and financial institutions, as applicable;
(j) evidence that non-performing loans are below 5 percent of total loans at the date of application;
(k) evidence that all pre-operating expenses incurred at establishment have been fully written off;
(l) audited financial statements for the previous five years evidencing continuous profitability;
(m) plan and Board commitment to fully implement the New Capital Adequacy Framework;
(n) letter from the securities exchange confirming suspension of share trading;
(o) declaration and evidence of full compliance with capital adequacy, single-obligor, credit-deposit, loan-loss provisioning and resource-mobilisation directives;
(p) declaration that no Prompt Corrective Action occurred during the preceding three years;
(q) evidence from the audited financial statements of the immediately preceding fiscal year that business size and customer numbers meet this Directive.

क(४) In-Principle Consent

Controlled English translation

The application submitted under Clause 3 shall be evaluated under Section 38 of the Bank and Financial Institution Act, 2073, the eligibility criteria in Clause 2 and the supporting documents, and this Bank shall follow the process for granting permission to conduct higher-class financial business. In-principle consent may be granted subject to conditions including:
(a) payment of an application amount equal to 0.02 percent of issued capital into the prescribed Nepal Rastra Bank account and application in the format of Schedule 18.4;
(b) submission of amended memorandum and articles, certified by the Office of the Company Registrar, incorporating the activities of the higher class;
(c) submission of amended credit policy, financial-administration regulations, employee-administration regulations and loan-write-off regulations;
(d) submission of the organisational structure and particulars of office holders for the higher-class institution;
(e) submission of information-technology and software details.
(2) A special inspection report prepared in coordination with the concerned Supervision Department shall be considered by the upgrading recommendation committee, and approval shall be granted only on that committee’s recommendation.
(3) The institution shall apply to commence higher-class financial operations within six months from the date of in-principle

consent; failure to apply within that period may result in cancellation of the in-principle consent.

क(५) Refusal of In-Principle Consent

Controlled English translation

Notwithstanding anything else in this Directive, this Bank may refuse in-principle consent for upgrading where: further licensing of higher-class business is not appropriate in view of conditions and prospects in the banking/financial sector; refusal is necessary to protect depositors; upgrading could create unhealthy competition, monopoly or control; or the prescribed conditions and standards are not met. Where consent is refused, the institution shall be informed of the reasons within 120 days of the application, or within 90 days after receipt of additional information requested during that period.

क(६) Final Approval for Upgrading

Controlled English translation

After receiving an application to commence higher-class business following upgrading, this Bank shall examine the documents and inspect physical infrastructure. If satisfied, approval shall be granted within three months from the application date; where additional documents are requested, approval shall be granted within a maximum of three months from receipt of those documents. All conditions imposed at the in-principle-consent stage shall have been fulfilled before final approval.

ख(१) Expansion of Area of Operation

Controlled English translation

A provincial-level Class “B” or Class “C” financial institution wishing to become a national-level institution may apply with a business plan after fulfilling the prescribed minimum paid-up capital, regular audit/AGM, no accumulated loss for the preceding three years, adequate Capital Adequacy, adequate Loan Loss Provision, NPA not exceeding five percent, five completed years of provincial operations, ability to implement the New Capital Adequacy Framework 2008, completion of the regulatory-action cooling-off period where applicable, and all licensing conditions. The application shall include promoter/director details, a five-year projected financial/business plan and the policies required for national-level operations. After interaction with the Board, the process shall be concluded within 60 days after documents are complete.

ग(१) Merger and Acquisition

Controlled English translation

Where licensed institutions merge/acquire one another under Section 70 of the Bank and Financial Institution Act, 2073 and subsequently apply for upgrading under Section 38, consent to the merger/acquisition shall first be processed and upgrading shall proceed after completion of that process. Such applications shall receive priority.

ग(२) Documents for Merger/Acquisition

Controlled English translation

When applying under sub-clause (1), the institution shall mandatorily inform the Office of the Company Registrar, Securities Board of Nepal and the securities exchange.

ग(३) Concession for Provincial Institutions Becoming National

Controlled English translation

Where provincial-level financial institutions merge or are acquired and seek national-level status, special priority and relaxation in other arrangements may be granted provided the paid-up capital and capital fund of the resulting institution meet the requirements prescribed by this Bank.

ग(४) Direction to Merge with Another Institution

Controlled English translation

This Bank may direct a licensed institution to merge with or be acquired by another licensed institution where any or all of the following apply: failure to meet prescribed capital within the prescribed period; continuous losses for five years; repeated violation of Nepal Rastra Bank directives resulting in action; or failure to maintain the risk-bearing fund prescribed by this Bank.

ग(५) Merger of Institutions with Common Business Interests

Controlled English translation

Commercial banks and other institutions promoted by the same person/group, under direct or indirect ownership/control of the same family or business group, or having established business relationships may be directed to merge with one another.

ग(६) CEO Vacancy Relief

Controlled English translation

Where this Bank has already granted in-principle consent to a merger/acquisition, relaxation may be granted from the requirement to fill a vacant Chief Executive Officer position within three months.

ग(७) Additional Facilities after Merger/Acquisition

Controlled English translation

Where commercial banks participate in merger/consolidation or acquisition and commence integrated operations by Poush-end 2079, additional facilities include: one-year extension of prescribed-sector lending time; 0.5 percentage-point CRR concession for one year; 1 percentage-point SLR concession for one year; 5 percentage-point increase in the per-institution deposit-mobilisation limit; relaxation of the six-month association restriction for Board/senior employees; 1 percentage-point spread concession; one year to regularise excess CD ratio; branch merger/closure without NRB approval where branches are within one kilometre; no Fit and Proper Test for sale of promoter shares of 0.10 percent or less; director candidacy from only one shareholding group after merger/acquisition; and specified corporate/liaison-office concessions for provincial development banks.

ग(८) Facilities on Acquisition of Problematic Development Bank/Finance Company

Controlled English translation

A licensed bank or financial institution acquiring a development bank or finance company declared problematic by this Bank shall receive the facilities and concessions under Clause 7.

ग(९) Branch Opening Outside Kathmandu Valley after Merger

Controlled English translation

Where commercial banks complete merger/acquisition and commence integrated operations by Poush-end 2079, they need not obtain this Bank’s approval for one year from the integration date to open branch offices in Metropolitan and Sub-Metropolitan Cities outside Kathmandu Valley.

ग(१०) Relaxation of Three-Branch Condition

Controlled English translation

Where commercial banks merge/consolidate or participate in acquisition and commence integrated operations by Poush-end 2079, for one year approval of this Bank shall not be required under the existing provision that a Kathmandu

Valley branch may be opened only after three branches outside Kathmandu Valley have been opened and brought into operation.

ग(११) Period for Appointment of CEO after Merger

Controlled English translation

Where two or more commercial banks participate in merger/consolidation or acquisition with a view to completing the process and commencing integrated operations by Poush-end 2079, as a one-time facility, a person who is short of the otherwise applicable age condition by up to six months shall not be prevented from being appointed or reappointed as Chief Executive Officer.

ग(१२) Deposit Limit for Government Institutions and Funds

Controlled English translation

Where commercial banks merge/consolidate or participate in acquisition and commence integrated operations by Poush-end 2079, the permitted share within total deposits of Government bodies/public enterprises, public limited companies, savings and credit cooperatives and funds under such bodies shall be increased by 10 percentage points.

ग(१३) Debenture-Issuance Period after Merger

Controlled English translation

For commercial banks completing merger/acquisition and integrated operations by Poush-end 2079, the deadline to issue debentures equal to the prescribed minimum 25 percent is extended by one year from the integrated-operation date.

ग(१४) Time for Provincial Scope Adjustment

Controlled English translation

In the case of institutions that participate in merger/consolidation or acquisition and commence integrated operations by Ashadh-end 2079, the period under the existing provision requiring financial institutions operating branch offices in more than one Province to sell, close or relocate those branches and limit their entire area of operation to one Province by Ashadh-end 2079 shall instead be Ashadh-end 2080.

ग(१५) Facilities where Integrated Operation Is Delayed

Controlled English translation

Where commercial banks participate in merger/consolidation or acquisition but cannot commence integrated operations by Poush-end 2079 and subsequently commence by Ashadh-end 2080, the facilities include: one-year extension for prescribed-sector lending; relaxation of the six-month association restriction for Board/senior employees; six months to regularise excess CD ratio; one year to bring an excessive interest-rate spread within the prescribed limit; 5 percentage-point increase in the per-institution deposit limit for one year; and one-year permission to merge/close branches within one kilometre without NRB approval.

१६ Repeal and Saving

Controlled English translation

(1) The following directives previously issued to licensed banks and financial institutions are repealed: Directive No. 18/081 under the Unified Directives, 2081 relating to merger and upgrading, and all circulars on the same subject issued thereafter up to Magh 2, 2082.
(2) Acts/actions carried out under the repealed directives and circulars shall be deemed to have been carried out under this Directive.

Forms 18.1: Application for In-Principle Consent to Convert into a Higher-Class Licensed Institution

Source Image: image131.png

Fields

1. applicant institution/class
2. resolution/decision details
3. attached documents
4. authorised person name/address/telephone/fax/email/date/seal

Human Review Required: True

Forms 18.2: Personal Details of Persons in the Promoter Group of the Financial Institution

Source Images

1. image132.png
2. image133.png
3. image134.png

Fields

1. full name
2. date/place of birth
3. citizenship
4. permanent/current address and contacts
5. profession/business
6. marital and family details
7. parents
8. education
9. professional licences
10. inspection/supervision work
11. financial interests
12. investment/shareholding
13. criminal/regulatory questions
14. public position
15. declarations and signature

Human Review Required: True

Forms 18.3: Details of Institutions in the Promoter Group (Firm, Company, Organised Institution)

Source Images

1. image135.png
2. image136.png

Fields

1. entity name/registration
2. foreign investor details
3. latest five years inspection-related service details
4. professional licences
5. profitability and audit
6. financial interests and investments
7. borrowings
8. criminal/regulatory questions
9. public-office issues
10. declaration and signature

Human Review Required: True

Forms 18.4: Application for Approval to Conduct Higher-Class Financial Business

Source Image: image137.png

Fields

1. reference to in-principle consent
2. confirmation conditions met
3. attached documents
4. authorised person/contact/date/seal

Human Review Required: True

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