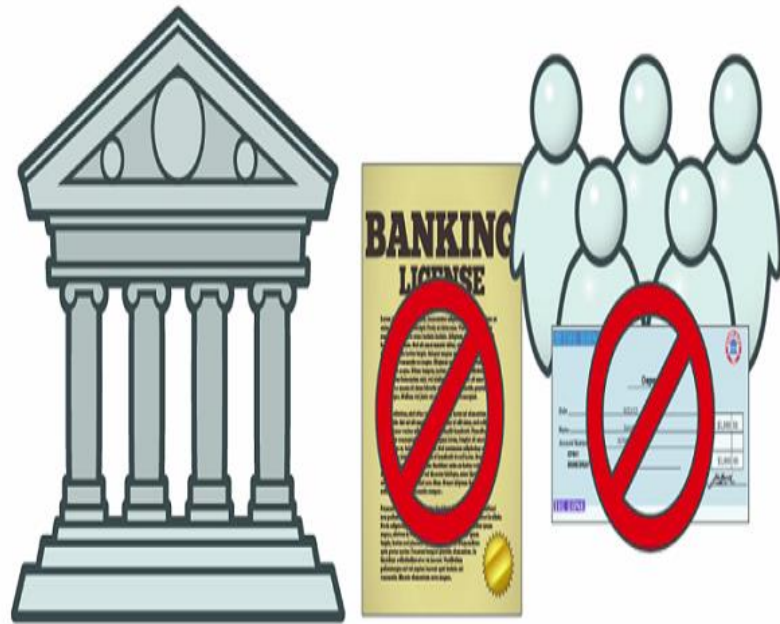


Licensing and Forming Bank Companies in Bangladesh



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Licensing of Banking Companies [U/S.31]

- (1) Save as hereinafter provided, **no banking company shall carry on banking business in Bangladesh without a licence issued in this behalf by the Bangladesh Bank.**
- (2) Whenever issuing a licence under subsection (1), the Bangladesh Bank may impose any condition it thinks fit.
- (3) Every banking Company in **existence** on the commencement of this Act, **before the expiry of six month** from such commencement, and **every other company before commencing banking business** in Bangladesh, shall apply in writing to the Bangladesh Bank for a licence under this section;

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Provided that nothing in subsection (1) shall be deemed to prohibit a banking company in existence on the commencement of this Act from carrying on banking business, if

a) its application under this section is under consideration, or

b) it has not, by notice, been informed by the Bangladesh Bank that a licence can not be granted to it;

Provided further that the Bangladesh Bank shall not give a notice as aforesaid to a banking company in existence on the commencement of this Act before the expiry of the period of two years in the case of banking companies incorporated in Bangladesh and of six month in the case of banking companies incorporated outside Bangladesh referred to in subsection (1) of section 13 or of such further period as the Bangladesh Bank may under the proviso to that subsection think fit to allow.

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(4) Before granting any licence under this section, the Bangladesh Bank may require to be satisfied by an inspection of the books of the banking company or otherwise that all or any of the following conditions are fulfilled, namely:

a) that the company is or will be in a position to pay the claims of its present or future depositors in full;

b) that the affairs of the company are not being or are not likely to be conducted in a manner detrimental to the interests of its present or future depositors;

c) that, in the case of a banking company incorporated outside Bangladesh, the Government or law of the country in which it is incorporated provides the same facilities to the company as the Government or law of Bangladesh grants to companies incorporated in Bangladesh, and that the company complies with all the provisions of this Act applicable to companies incorporated outside Bangladesh.

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(5) The Bangladesh Bank **may cancel a licence** granted to a banking company under this section on account of the following reasons, namely:-

a) if the company ceases to carry on banking business in Bangladesh;

b) if the company at any time fails to comply with any of the conditions imposed upon it under subsection (1); or

c) if at any time that company fails to fulfil any of the conditions referred to in subsection (4):

Provided that before cancelling a licence under clause b) and c) , the Bangladesh Bank, unless it is of opinion that the delay will be prejudicial to the interests of the company's depositors or the public, shall grant to the company on such terms as it may specify, an opportunity of taking the necessary steps for complying with or fulfilment of the provisions of those clauses.


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(6) Any banking company **aggrieved** by a decision cancelling a licence under this section may, **within thirty days from the date on which the decision of the Bangladesh Bank is communicated to it, appeal to the Government.**

(7) The decision of the Government where an appeal has been preferred to it under subsection (6) or of the **Bangladesh Bank where no appeal has been preferred shall be final.**

Guidelines To Establish A Banking Company In Bangladesh

According to Section 31 of the Banking Companies Act, 1991, no company shall carry out banking business in Bangladesh without obtaining a license from Bangladesh Bank. Bangladesh Bank will decide to grant licenses after considering the need and overall strategy congenial to effective monetary and financial sector policy for the country. Bangladesh Bank must be satisfied that the following terms and conditions for the establishment of a new banking company in Bangladesh have been met:



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1. Status of the new commercial bank.

1.1 Must be a public limited company incorporated in Bangladesh.

2. Paid up capital requirement for a bank to be established:

2.1. The paid up capital of new commercial bank shall not be less than

Taka 400.00 Crore as required under Bank Company Act 1991. The share capital will be formed with ordinary shares only.

3. Mode of payment:

3.1 For a banking company incorporated in Bangladesh, the capital contribution made by the sponsors and subscribers of the proposed bank shall be in a liquid, unencumbered form (such as cash or approved securities), held in a bank account that has been verified by Bangladesh Bank, and under a Bangladesh Bank lien.

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4. Sponsors and share capital contribution:

Initial minimum capital Taka 400.00 crore shall be provided by sponsors of the proposed bank.

4.1 The bank shall issue public shares within three (3) years from the date of commencement of the banking business. Public issues shall be at least equal to sponsors' share amount.

4.2 The minimum shareholding stake of each sponsor shall be

Taka 1.00 crore and the maximum shall be 10% of the proposed bank's total share capital. This ceiling of 10% applies to an individual, company or family member, either personally, jointly or both. "Family" is defined herewith to include spouse, father, mother, son, daughter, brother, sister of the individual or anyone dependent on that individual.

4.3 The ceiling of 10% may be relaxed in the case of a bank set up as a joint venture with a foreign financial institution or banking company.

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4.4 Sponsors holding 5% or more shares shall have to sign a capital maintenance agreement (CMA) stating that they would, jointly and severally inject additional capital if the bank ever fell below any minimum capital requirement. In case of failure to inject such capital within the stipulated time, the responsibility would fall on individuals within the sponsors group to bear the entire burden of the required injection.

4.5 The sponsors' shares shall not be transferred within a period of three (3) years from the commencement of the business, without permission from Bangladesh Bank.

4.6 Sponsors' contribution to the equity capital of the proposed bank will be required to be out of net worth declared to the Tax authorities in form IT10B; contribution out of borrowings from bank or non-bank financial institution shall not be acceptable.

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4.7 If an individual or any member of his/her family is or had been a loan defaulter with a bank/financial institution at any time during the past five years shall not be eligible to apply as a sponsor of the proposed bank.

4.8 An individual awaiting verdict of any undisposed lawsuit in any court/tribunal against his/her loan default status shall not be eligible to apply as a sponsor of the proposed bank.

4.9 A tax assessee shall not be eligible to be a sponsor if he/she has any unpaid undisputed arrear of income tax assessed for the current year or any past year.

4.10 A tax assessee penalized or awaiting court/tribunal verdict on any suit for offence under section 21 of Income Tax Ordinance, 1984 shall not be eligible to apply as a sponsor of the proposed bank.

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4.11 A tax assessee who has not submitted overdue tax-return for the current year or who has undisposed tax prosecution reopened under section 93 of Income Tax Ordinance, 1984 shall not be eligible to apply as a sponsor of the proposed bank.

4.12 Any assessee having unpaid liability for any undisputed customs duty, VAT, supplementary duty, excise duty or is awaiting verdict on any prosecution under Customs Act,1969; VAT Act,1991; Excise & Salt Act, 1944 in any court/tribunal shall not be eligible to be a sponsor of the proposed bank.

Fit and Proper Test for Sponsors/Directors

5. 5.1 Competence, integrity and qualifications of the Sponsors of the proposed bank becoming the first Directors shall be evaluated. The evaluation process shall include background checks on whether previous activities, including regulatory or judicial judgments, profession, raise doubts concerning their competence, sound judgment, or integrity.

5.2

The Sponsors/Directors shall qualify the Fit and Proper Test criteria applicable for the Bank Directors in Bangladesh.

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5.3 His/her inclusion in the Board of Directors shall not contravene any law for the time being in force in Bangladesh and in the country of his/her present permanent domicile. He/she has not evaded any legal proceedings of any country for any criminal offences or crime against humanity except for offences of minor traffic violations etc.

5.4 Bangladesh Bank shall evaluate proposed sponsors as to expertise and integrity (fit and proper test), and any potential for conflicts of interest. The fit and proper criteria include:

- (i) skills and experience in relevant financial operations commensurate with the intended activities of the bank; and**
- (ii) no record of criminal activities or adverse regulatory judgments that make person unfit to uphold important position in a bank.**

Management of the proposed bank

6.1 A Director or Advisor to any banking company other than the proposed bank shall not be a Director of the proposed bank.

6.2 The Member of Board of Directors shall be restricted to 13 (Thirteen).

6.3 Maximum number of directors from a family shall be restricted to two incase of the total shareholding of that family exceeds 5% and one director if the total shareholding is up to 5%.

6.4 The Chief Executive Officer (CEO) of the proposed bank shall have at least 15 (fifteen) years of experience in the banking profession.

Operation of the proposed bank.

7.1 The ratio of urban and rural bank branch has to be 1:1 or as per instruction issued by Bangladesh Bank from time to time.

7.2 New Bank has to ensure finance at least 5% of its total lending into agricultural sector or as per instruction issued by Bangladesh Bank from time to time.

**7.3 Proposed bank should take part in Corporate Social Responsibility (CSR) activity.
The new bank should spent 10% or more of its previous year's net income to CSR.**

Required documents/ information/ analysis to be submitted to Bangladesh Bank

The application for approval to establish a new banking company shall be submitted to Bangladesh Bank with all the accompanying documents and information required, in the formats given in Annex I to Annex IV. Bangladesh Bank shall only consider applications that include the following:


8.1 A bank draft in the amount of Taka 10 (Ten) lakh in favour of Bangladesh Bank, attached to the Letter of Application, that serves as a nonrefundable application processing fee;

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8.2 Name and address of the Applicant;

8.3 Name, address, telephone number of the contact person;

8.4 Feasibility Report on the proposed banking company , including an analysis of Bangladesh's macroeconomic environment, financial system, as well as a business plan for the proposed bank, financial projections and sensitivity analyses;



8.5 Biographical Reports and proof of citizenship for each promoter/director, CEO/MD and Heads of Operation, Credit, Finance, Risk Management ,Internal Control and IT of the proposed bank;

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8.6 Proposed compensation package and other terms of contract of the CEO;

8.7 Minutes of the shareholders (sponsors) meeting;

8.8 Written agreement by the shareholders to organize the banking company;

8.9 Sponsors have to submit a business plan where management strategy of following sector should be elaborately defined;

8.9.1 Risk factors relating to assets of proposed bank.

8.9.2 Strategy for reaching unbanked area specially disadvantaged locality/ group.

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8.9.3 A strategy to provide financial services to enhance Bangladesh's competitiveness by reducing trade related banking fees/charges.

8.9.4 A strategy to provide banking services which could promote export diversification as well as to provide financial services for non-traditional export sectors and small & medium entrepreneurs.

8.9.5 New bank should bring new/modern technology (e.g. mobile banking, internet banking) for providing better service to customers.

8.10 Draft Memorandum and Articles of Association;

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8.11 For a corporate promoter; Board Resolution, Articles of Incorporation and By-laws, list of directors and officers, list of shareholdings, audited financial statements for the latest two years, certified copies of the Memorandum and Articles of Association;

8.12 Joint Venture agreement, in case of foreign equity participation.

8.13 In addition, the sponsors shall: (a) having received a Letter of Intent from Bangladesh Bank, the company shall apply to Bangladesh Bank for a formal license for commencement of banking business under Section 31 of the Bank Company Act, 1991, and for a license to open a place of business under Section 32 of said Act in the manner prescribed there under;

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- (b) register the proposed company with the Registrar of Joint Stock Companies under the Companies Act, 1994, as a public limited Company, and;**
- (c) obtain a Certificate of Incorporation subject to the approval by Bangladesh Bank of the draft Memorandum and Articles of Association;**
- (d) after obtaining the license from Bangladesh Bank, the company shall apply to Bangladesh Bank for its scheduling under Article 37 of the Bangladesh Bank Order, 1972.**

Questions Session

