LOVĆEN BANKA AD
NADZORNI ODBOR
Broj 02-112
Podgorica, 7. 9. 2023 god.

U skladu sa članom 151 stav 1 Zakona o privrednim društvima ("Službeni list Crne Gore", br. 65/20 od 03.07.2020, 146/21 od 31.12.2021), na osnovu člana 46 stav 1 tačka 6 Zakona o kreditnim institucijama ("Službeni list Crne Gore", br. 072/19 od 26.12.2019, 082/20 od 06.08.2020, 008/21 od 26.01.2021) i člana 81 stav 1 tačka 6 Statuta Lovćen banke AD Podgorica, a u vezi člana 189 stav 1 tačka 4 Zakona o privrednim društvima ("Službeni list Crne Gore", br. 65/20 od 03.07.2020, 146/21 od 31.12.2021), Nadzorni odbor Lovćen banke AD Podgorica na prvoj vanrednoj sjednici drugog saziva Nadzornog odbora Banke održanoj dana 7. septembra 2023. godine, utvrđuje

In accordance with Article 151, paragraph 1 of the Law on Business Organizations ("Official Gazette of Montenegro" No. 65/20 of 03.07.2020, 146/21 of 31.12.2021), pursuant to Article 46, paragraph 1, item 6 of the Law on Credit Institutions ("Official Gazette of the of Montenegro" No. 072/19 of 26.12.2019, 082/20 of 06.08.2020, 008/21 of 26.01.2021) and Article 81, paragraph 1, item 6 of the Articles of Association of Lovćen Bank JSC Podgorica, and in connection with Article 189, paragraph 1, item 4 of the Law on Business Organizations ("Official Gazette of Montenegro" No. 65/20 of 03.07.2020, 146/21 of 31.12.2021), the Supervisory Board of Lovcen Bank JSC Podgorica, at the first extraordinary meeting of the second composition of the Supervisory Board of the Bank held on 7 September 2023 determins the following

PREDLOG ODLUKE O USVAJANJU IZMJENA I DOPUNA STATUTA KOJU DONOSI XXVII (DVADESET SEDMA) VANREDNA SKUPŠTINA AKCIONARA LOVĆEN BANKE AD PODGORICA

PROPOSAL OF THE DECISION ON ADOPTION ON ADOPTION OF THE AMENDMENTS TO THE ARTICLES OF ASSOCIATION TO BE ADOPTED AT XXVII (THE TWENTY-SEVENTH) EXTRAORDINARY GENERAL MEETING OF SHAREHOLDERS OF LOVĆEN BANK JSC PODGORICA

NADZORNI ODBOR LOVĆEN BANKE AD PODGORICA / SUPERVISORY BOARD OF LOVĆEN BANK JSC PODGORICA

NADZORNI ODBOR LOVĆEN BANKA AD

MIRKO MAROJEVIĆ, PREDSJEDNIK / CHAIRMAN

Na osnovu člana 41 stav 1 tačka 1 Zakona o kreditnim institucijama ("Službeni list CrneGore", br. 072/19 od 26.12.2019, 082/20 od 06.08.2020, 008/21 od 26.01.2021) i člana 39 stav 1 tačka 2) Statuta Lovćen banke AD Podgorica i člana 155 stav 4 Statuta Lovćen banke AD Podgorica broj 01-XXV-v/5-1 od 15.3.2023. godine, na XXVII (slovima: dvadeset sedmoj) vanrednoj sjednici, održanoj dana 28. septembra 2023. godine, Skupština akcionara Lovćen banke AD Podgorica donosi:

ODLUKU

O USVAJANJU IZMJENA I DOPUNA STATUTA LOVĆEN BANKE AD PODGORICA

Član 1

1) U Statutu Lovćen banke AD Podgorica broj 01-XXV-v/5-1 od 15.3.2023. godine (u daljem tekstu: Statut) u članu 22, poslije stava 3 dodaje se novi stav 4 koji glasi:

„4) Akcije kao instrumenti koji ispunajvaju uslove za kapital raspoređuju se kao kapital u skladu sa propisima kojima se uređuje važeći računovodstveni okvir i moraju biti jasno i odvojeno prikazani u bilansu stanja Banke; "

Član 2

U članu 24 Statuta ispred postojećih stavova dodaje se novi stav 1 koji glasi:

„Banka može emitovati akcije samo na osnovu odluke Skupštine akcionara Banke."

Postojeći stavovi 1 i 2 postaju stavovi 2 i 3.

Poslije stava 3 dodaju se četiri nova stava 4, 5, 6 i 7 koji glase:

"4) Akcionarski kapital mora biti u potpunosti uplaćen u novcu prije registracije u Centralnom registru privrednih subjekata i ne smije biti finansiran od strane Banke, direktno ili indirektno.

Banka neće prilikom izdavanja finansijskih instrumenata kreditirati ili zaključivati pravne poslove sa sličnim ekonomskim ciljem i namjenom kojim se omogućava da prilikom emisije instrumenata redovnog osnovnog kapitala emituje iste na način da:

- direktno ili indirektno, daje kredite, izdaje garancije i jemstva za sticanje akcija odnosno udjela i drugih instrumenata regulatornog kapitala i/ili finansijskih instrumenata,
- direktno ili indirektno, daje kredite, izdaje garancije i jemstva za sticanje akcija odnosno udjela, u društvu u kojem ima 20% ili više učešća u kapitalu i/ili finansijskih instrumenata koje emituje ovo društvo, osim ako tim sticanjem akcija odnosno udjela prestaje kapitalna povezanost kreditne institucije sa tim društvom,
- direktno ili indirektno, kreditira sticanje ili da izdaje garancije ili druga jemstva za sticanje drugih finansijskih instrumenata koje emituje, ili koje emituje društvo u kom ima učešće u kapitalu od 20% ili više, a koji se uključuju u izračun regulatornog kapitala te kreditne institucije.

5) Akcije Banke ne smiju biti emitovane kao akcije sa pravom otkupa i/ili povlačenja istih.

6) Akcije banke izdaju se kao akcije sa utvrđenom nominalnom vrijednošću. Nominalna vrijednost akcije može biti smanjena u slučaju likvidacije banke i/ili diskrecionog otkupa ili drugih diskrecionih načina smanjenja kapitala, ako je kreditna institucija dobila prethodno odobrenje Centralne banke u skladu sa propisima;

7) Akcionarima Banke ne može se izvršiti povraćaj uplaćenih, odnosno unijetih uloga, niti im se može platiti kamata na ono što su uložili u Banku."

Član 3

U članu 25 Statuta, poslije postojećeg stava 2 dodaju se četiri nova stava 3, 4, 5 i 6 koja glase:

3) Vlasnici običnih akcija nemaju:

- povlašćeni tretman raspodjele u vezi sa isplatom niti povlašćena prava u vezi sa redosljedom isplate, u odnosu na druge instrumente redovnog osnovnog kapitala;
- raspodjele se mogu vršiti imaocu običnih akcija samo iz stavki raspoloživih za raspodjelu, u skladu sa zakonom;
- uslovi koji se primjenjuju u vezi sa emitovanjem običnih akcija ne uključuju gornju granicu ili drugu vrstu ograničenja maksimalnog nivoa raspodjela po osnovu akcija;
- nivo raspodjela nije određen na osnovu iznosa za koji je akcija kupljena pri emitovanju;
- uslovi koji se primjenjuju u vezi sa akcijama ne uključuju obavezu Banke da izvrši raspodjele njihovim imaocima, niti kreditna institucija na bilo koji drugi način podliježe takvoj obavezi;
- neisplaćivanje raspodjela ne predstavlja slučaj nastanka statusa neispunjavanja obaveza kreditne institucije;
- otkazivanje raspodjela kreditnoj instituciji ne nameće ograničenja;

4) Obične akcije Banke apsorbuju prvi i srazmjerno najveći udio nastalih gubitaka u istoj mjeri kao i ostali instrumenti redovnog osnovnog kapitala Banke
5) Obične akcije Banke su podređena odnosu na sva druga potraživanja u slučaju i nesolventnosti ili likvidacije Banke, a vlasnici običnih akcija imaju pravo na potraživanje preostale imovine Banke koja je u slučaju likvidacije kreditne institucije i nakon isplate svih nadređenih potraživanja srazmjerna iznosu takvih emitovanih akcija i nije fiksna ili podložna gornjoj granici,
6) Obične akcije Banke ne mogu biti obezbijeđene, niti pokrivene garancijom koja poboljšava podređeni status potraživanja u skladu sa propisima Centralne banke, niti su akcije predmet bilo kakvih ugovora ili sporazuma kojima se poboljšava podređeni status potraživanja imaoca obične akcije u slučaju nesolventnosti ili likvidacije Banke.

Član 4

U članu 27 Statuta Banke, poslije stava 1 dodaju se četiri nova stava koji glase:

„Ukupan iznos akcionarskog kapitala koji se odnosi na povlašćene akcije ne smije preći jednu četvrtinu iznosa akcionarskog kapitala kreditne institucije.

Visina učešća povlašćenih akcija u akcionarskom kapitalu iz stava 2 ovog člana izračunava se u odnosu na ukupan broj akcija nakon registrovanja povećanja kapitala po osnovu povlašćenih akcija u Centralnom registru privrednih subjekata.

Povlašćene akcije koje emituje Banka kao finansijski instrument imaju sljedeće karakteristike koje se bliže utvrđuju odlukom o emisiji finansijskoj instrumenta – povlašćenih akcija, a na osnovu sljedećih principa:

1) Povlašćene akcije moraju biti direktno emitovane od strane Banke i u potpunosti uolaćene prije registrovanja na računu imaoca;
2) Povlašćene akcije se ne emituju u korist, i njihov upis i uplatu ne mogu vršiti Banka ili njena zavisna društava niti društva u kojem. Banka ima učešće u obliku vlasništva, direktnog ili putem kontrole, 20% ili više glasačkih prava ili kapitala tog društva;
3) sticanje vlasništva nad instrumentima upis i uplatu istinih, direktno ili indirektno, ne finansira Banka;
4) Emitovane povlašćene akcije kao instrumenti su podređeni u odnosu na instrumente dopunskog kapitala u slučaju nesolventnosti Banke;
5) Emitovane povlašćene akcije kao instrumenti nijesu obezbijeđeni, niti pokriveni garancijom koja poboljšava podređeni status potraživanja od strane bilo kojeg subjekata:
6) Emitovane povlašćene akcije kao instrumenti nijesu podložni bilo kakvim ugovorima ili sporazumima kojima se poboljšava podređeni status potraživanja na osnovu instrumenata u slučaju nesolventnosti ili likvidacije;
7) Emitovane povlašćene akcije kao instrumenti nemaju rok dospijeća i odredbe kojima se uređuju ti instrumenti ne uključuju podsticaj Bani da ih otkupi;

8) Ako emitovane povlašćene akcije kao instrumenti uključuju jednu ili više opcija prijevremenog otkupa, uključujući opcije kupovine, opcije se mogu izvršiti isključivo na osnovu diskrecionog prava Banke kao emitenta;
9) nad instrumentima može da se izvrši opcija kupovine, mogu da se otkupe ili ponovo kupe samo ako su ispunjeni uslovi iz podzakonskih propisa Centralne banke, a najranije pet godina od dana emisije, osim kada su ispunjeni dodatni uslovi iz člana 86 stav 4 Odluke o adekvatnosti kapitala kreditnih institucija ("Službeni list Crne Gore", br. 128/20, 140/21) – (OAK);
10) odluka o emisiji povlašćenih akcija kojima se uređuju prava iz instrumenta i osnovni elementi istih ne smije direktno, niti implicitno, dati pravo imaocima i utvrditi obaveza kreditne institucije da zavisno od slučaja, kupila, otkupi ili ponovo kupi instrumente, osim u slučaju nesolventnosti ili likvidacije kreditne institucije i kreditna institucija ne daje takve navode na bilo koji drugi način;
11) odluka o emisiji povlašćenih akcija kojima se uređuju prava iz instrumenta i osnovni elementi istih ne smije direktno, sadržati navod da bi Centralna banka odobrila izvršenje opcije kupovine, otkupa ili ponovne kupovine instrumenata;
12) odluke o emisiji povlašćenih akcija kojima se uređuju prava iz instrumenta i osnovni elementi istih regulišu raspodjelu u vezi sa instrumentima na način ispunjavaju sljedeće uslove: isplaćuju se iz stavki raspoloživih za raspodjelu; nivo raspodjela po instrumentima ne mijenja se u odnosu na kreditnu sposobnost Banke ili njenog matičnog društva; odredbe kojima se uređuju instrumenti daju Banci puno diskreciono pravo da u bilo kom trenutku otkaže raspodjelu po instrumentima na neograničeni period i na nekumulativnoj osnovi, a Banka ta otkazana plaćanja može da koristi bez ograničenja za ispunjavanje dospjelih obaveza; otkazivanje raspodjela ne predstavlja slučaj nastanka statusa neispunjavanja obaveza Banke; otkazivanje raspodjela ne nameće ograničenja Banci;
13) instrumenti se ne uzimaju o obzir pri utvrđivanju da li su obaveze Banke veće od njene imovine, ako se takvo utvrđivanje vrši u skladu sa propisima kojima se uređuje nesolventnost;
14) odluka o emisiji povlašćenih akcija kojima se uređuju prava iz instrumenta i osnovni elementi istih zahtijevaju da se, nakon nastanka događaja koji je utvrđen kao pokretač, privremeno ili trajno smanji vrijednost glavnice instrumenta ili da se instrumenti transformišu u instrumente redovnog osnovnog kapitala;
15) odredbe kojima se uređuju instrumenti ne uključuju odredbe koje bi mogle biti prepreka za dokapitalizaciju Banke;
16) odluka o emisiji povlašćenih akcija kojima se uređuju prava iz instrumenta i osnovni elementi istih i/ili ugovornim odredbama kojima se uređuju instrumenti zahtijeva se trajan otpis ili konverzija glavnice instrumenata u instrumente redovnog osnovnog kapitala, u skladu sa odlukom Centralne banke koju donese u ostvarivanju funkcije organa za sanaciju kreditnih institucija, u izvršavanju ovlašćenja koja se odnose na otpis i konverziju instrumenata kapitala, utvrđenih zakonom kojim se uređuje sanacija kreitnih institucija;
17) instrumenti nijesu predmet sporazuma o prebijanju ili netiranju kojima bi se umanjila njihova sposobnost za apsorpciju gubitaka.

Povlašćene akcije koje emituje Banka, koje se izdaju kao zamjenljive za obilčne akcije , tj. koje daju pravo konvertovanja u obične akcije kao instrument redovnog osnovnog kapitala, priznaju se kao dodatni kapital ako se emitiju po sljedećim uslovima:

1) podređene su u odnosu na instrumente dopunskog kapitala definisane OAK-om u slučaju nesolventnosti Banke;
2) nisu obezbijeđene, niti pokrivene garancijom koja poboljšava podređeni status potraživanja od strane Banke ili njenog zavisnog društva i bilo kog društva koje je blisko povezano sa Bankom ili sa njenim zavisnim društvom;
3) nisu podložne bilo kakvom ugovoru ili sporazumu kojima se poboljšava podređeni status potraživanja na osnovu povlašćene akcije u slučaju nesolventnosti ili likvidacije Banke;
4) nemaju rok dospijeća i ne uključuju podsticaj Banci da ih otkupi;
5) daju pravo Banci da, u bilo kojem trenutku, otkaže raspodjelu po povlašćenim akcijama na neograničeni period i na nekumulativnoj osnovi te da otkazana plaćanja može koristiti bez ograničenja za ispunjavanje

dospjelih obaveza, pri čemu se ima smatrati da otkazivanje raspodjela ne predstavlja slučaj nastanka statusa neispunjavanja obaveza Banke i ne nameće ograničenja Banci;

6) ne uzimaju se u obzir pri utvrđivanju da li su obaveze Banke veće od njene imovine, ako se takvo utvrđivanje vrši u skladu sa propisima kojima se uređuje nesolventnost;
7) mogu biti konvertovane se u obične akcije Banke ukoliko nastupi događaj kod Banke koji je pokretač (eng. trigger event), tj. ako stopa redovnog osnovnog kapitala Banke iz člana 101, stav 1, tačka 1 OAK padne ispod 5,125% ili nivoa višeg od 5,125% koji Banka odredi i bliže definiše u odredbama kojima se uređuje emisija instrumenta;
8) Banka odlukom o emisiji definiše još jedan ili više događaja koji su pokretači (eng. trigger event) pored pokretača iz tač. 7) ovog stava;
9) U slučaju nastupanja događaja kod Banke koji je pokretač (eng. trigger event) primjenjuje se stopa konvertovanja, ograničenje dozovljenog iznosa za konvertovanje i raspom u okviru kojeg će instrument konvertovati u instrumente redovnog osnovnog kapitala utvrđena odlukom o emisiji tog instrumenta;
10) Iznos čiju je vrijednost potrebno konvertovati u slučaju nastupanja događaja kod Banke koji je pokretač (eng. trigger event), Banka utvrđuje što je prije moguće od dana kad je Banka utvrdila da je nastao događaj koji je pokretač. Na broj povlašćenih akcija koje se konvertuju u obične akcije Banke nastupanjem događaja kod Banke koji je pokretač (eng. trigger event), vlasnik povlašćenih akcija nema pravo na isplatu prioritetne dividende.
11) ako odredbe kojima se uređuju instrumenti zahtijevaju da se po nastanku događaja koji je pokretač smanji iznos njihove glavnice, smanjenjem iznosa umanjuje se: potraživanje imaoca instrumenta u slučaju nesolventnosti ili likvidacije kreditne institucije, iznos koji treba platiti u slučaju izvršenja opcije kupovine ili otkupa instrumenta, i
12) raspodjele po instrumentu nijesu predmet bilo kojeg sporazuma o prebijanju ili netiranju kojima bi se umanjila njihova sposobnost za apsorpciju gubitaka."

Član 5

U članu 28 stav 1 tačka a) Statuta se tačka na kraju briše i dodaju riječi „izuzev u slučaju propisanim zakonom".

U članu 28 Statuta poslije stava 1 dodaje se novi stav 2 koji glasi: „Za potrebe stava 1 tačke 2 ovog člana razlike u raspodjelama između imaoca običnih i povlašćenih akcija Banke odražavaju samo razlike u glasačkim pravima i s tim u vezi, veće raspodjele se primjenjuju samo na povlašćene akcije bez prava glasa ili sa manjim glasačim pravima, u skaldu sa zakonom.."

Član 6

U članu 29 Statuta dodaje se novi stav 2 koji glasi: „Banka može emitovati pokrivene obveznice koje ispunjavaju propisane uslove za pokrivene obveznice u pogledu uslova izdavanja i obezbijeđenje priznatom aktvom u skladu podzakonskim propisima Centrlane banke Crne Gore."

Član 7

U članu 81 stav 1 tačka 12) Statuta briše se.

Član 8

Član 119 Statuta briše se.

Član 9

U članu 135 Statuta u stavu 2, tačka na kraju se briše i dodaju riječi: "u skladu sa uslovima i ograničenjima propisanim Zakonomi podzakonskim aktima Centralne banke".

Poslije stava 2 dodaju se dva nova stava 3 i 4 koji glase:

„3) Banka može, samo uz prethodno odobrenje Centralne banke, da uključi dobit ostvarenu tokom tekuće poslovne godine ili na kraju tekuće poslovne godine u redovni osnovni kapital prije donošenja formalne odluke kojom se potvrđuje konačna godišnja dobit ili gubitak kreditne institucije.

4) Banka nije zavisno društvo drugog društva i ne zaključuje ugovore o prenosu dobiti ili gubitka sa drugim društvima."

Član 10

Prečišćen tekst Statuta Lovćen banke AD u skladu sa članom 1 - 9 ove Odluke priložen je uz ovu odluku i čini njen sastavni dio.

Član 11

Ova Odluka stupa na snagu danom donošenja, a primjenivaće se od dana registracije ove Odluke u Centralnom registru privrednih subjekata u Podgorici.

Stupanjem na snagu ovog Statuta prestaje da važe odredbe Statuta Lovćen banke AD Podgorica broj 01-XXV-v/5-1 od 15.3.2023. godine koje se mijenjaju ovom odlukom.

U Podgorici, 28. septembar 2023. godine
Odluka broj: 01-XXVII-v/4

PREDSJEDAVAJUĆI SKUPŠTINE,

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Obrazloženje:

U članu 1 Odluke o izmjenama i dopunama Statuta Lovćen banke AD (u daljem tekstu: Odluka), mijenja se Statut Banke broj 01-XXV-v/5-1. Izmjene u članu 22 Statuta sadržane su u dodatom stavu 4 kojim se propisuje da akcije kao instrumenti koji ispunajvaj uslove za kapital raspoređuju se kao kapital u skladu sa propisima kojima se uređuje važeći računovodstveni okvir i moraju biti jasno i odvojeno prikazani u bilansu stanja Banke.

Ove izmjene ne mijenjaju postojeći status akcija niti njihovo evidentiranje u pogledu računovodstvenog tretmana ili prikazivanja u bilansu stanja Banke, a koje je usklađeno sa zakonskim propisima, već se vrši samo nomotehničko usklađivanje radi implementiranja člana 8 stav 1 tačka 3) i 4) Odluke o adekvatnosti kapitala kreditnih institucila ("Službeni list Crne Gore", br. 128/20 od 30.12.2020, 140/21 od 30.12.2021, 144/22 od 26.12.2022.) – (u daljem tekstu: odluka CBCG).

U članu 2 Odluke mijenja je član 24 Statuta, a ova izmjena vrši se radi usklađivanja sa članom 8 stav 1 tačka 3 Odluke CBCG kojom je propisano da instrument kapitala ispunjava uslove za instrumente redovnog osnovnog kapitala samo ako su instrumenti su u potpunosti uplaćeni, a sticanje vlasništva nad tim instrumentima ne finansira kreditna institucija direktno ili indirektno

U skladu sa članom 8 stav 2 Odluke CBCG samo onaj dio instrumenta kapitala koji je u potpunosti plaćen prihvatljiv je kao instrument redovnog osnovnog kapitala. Sve akcije koje je Banka izdala do dana donošenja izmjena Statuta su izdate kao akcije koje su potpunosti uplaćene, a što je utvrđeno rješenjima Komisije za tržište kapitala tako da ova izmjena nema uticaja na prava glasa ili imovinska prava akcionara po već izdatim akcijama.

Izmjene u drugoj rečenici u stavu 4) vrše se radi usklađivanja odredbe o zabrani izdavanja jemstva ili garancija sa članom 20 Zakoan o kreditnim institucijama u kojem je ova zabrana detaljnije propisana u odnosu na zabranu sadržanu u članu 8 stav 1 tačka 3) Odluke CBCG, a kojom je potrebno implementirati zabranu izdavanja garancija tvrdnjom banke da instrument finansiranje emisije nijesu insstrumenti povezanog

Izmjene u stavu 5 i 7 kojim je propisano da akcije Banke ne smiju biti emitovane kao akcije sa pravom otkupa i/ili povlačenja istih, vrše se radi usklađivanja sa članom 8 stav 1 tačka 5 Odluke CBCG kojom je propisano da instrument kapitala ispunjava uslove za instrumente redovnog osnovnog kapitala samo ako emitovani instrumenti nemaju dospijeće. Kako je akcija instrument koji se emituje po pravilu bez roka dospijeća kao sastavnog elementa odluke o emisiji, to primjena ove odredbe podrazumijeva da akcionar ne može imati pravo da po proteku izvjesnog vremena zahtijeva otkup akcija ili njihovo povlačenje, a što bi bila prava koja bi kršila navedenu odredbu Odluke CBCG.

Izmjene u stavu 6 ovog člana kojom je propsiano da se akcije banke izdaju kao akcije sa utvrđenom nominalnom vrijednošću, a da nominalna vrijedost može biti smanjena u slučaju likvidacije banke i/ili diskrecionog otkupa ili drugih diskrecionih načina smanjenja kapitala, ako je kreditna institucija dobila prethodno odobrenje Centralne banke u skladu sa propisima, vrše se radi uksladivanja sa članom 8 stav 1 tačka 6 Odluke CBCG kojom je propisano da glavnica instrumenata ne smije biti smanjena ili otplaćena, sa tim da se pojam "glavnice" vezuje za nominalnu vrijednost prilikom izdavanja akcije, a time i za nužne zabrane smanjenja nominalne vrijednosti osim po prethodnoj dozvoli Centralne banke Crne Gore.

U članu 3 Odluke mijenja je član 25 Statuta. Izmjene u dodavanju stava 3 vrše se radi usklađivanja sa članom 8 stav 1 tačka 8 Odluke CBCG kojom su navedeni uslovi propisani kao obavezni uslovi za ispunjenje da bi akcije bile priznate kao instrument osnovnog kapitala. Ovim izmjenama se ne utiče na izmjenu postojećih prava akcionara, jer su sve akcije banke emitovane kao obične akcije, koje shodno Zakonu o privrednim društvima u skladu sa kojim su emitovane i to kako sa zakonom o privrednim društvima koji je važio prije 2020. godine, tako i sa trenutno važećim zakonom, nije davao imaocima običnih prava bilo koja od povlašćenih tretmana raspodjele niti obavezivao na raspodjele iz kapitala Banke. Ni odlukama o emisiji akcija takva prava nijesu sadržana u bilo kojoj do sada emitovanoj akciji, tako da izmjene predstavljaju samo usaglašavanje sa zakonskim odredbama koje su do sada bile sadžrane u imperativnim odredbama Zakona o privrednim društvima i Zakona o tržištu kapitala, a sada se decidno regulišu i Statutom Banke u ovoj odredbi.

Izmjene u dodavanju stava 4 vrše se radi usklađivanja sa članom 8 stav 1 tačka 9 Odluke CBCG kojom su navedeni uslovi propisani kao obavezni uslovi za ispunjenje da bi akcije bile priznate kao instrument osnovnog kapitala, a to je obične akcije apsorbuju prvi i srazmjerno najveći udio nastalih gubitaka u istoj mjeri kao i ostali instrumenti redovnog osnovnog kapitala Banke. Ovim se vrši tehničko usklađivanje, a prava postojećih imaoca akcija ne diraju budući da je zakonodavnim okvirom u Crnoj Gori, i to bez izuzetka, propisano da akcionari pripadaju poslednjem isplatnom redu kod stečaja ili sanacije i da sve akcije učestvuju u raspodjeli dobiti ili gubitaka srazmjerno svom učešću u kapitalu, tj. u jednakoj mjeri. Iz istog razloga vrši se dodavanja stava 5 i 6 radi usklađivanja sa članom 8 stav 1 tačka 10 i 11 Odluke CBCG.

U članu 4 Odluke izmjene u članu 27 Statuta vrše se u dodavanju stava 2 i 3 i odnose se na usklađivanje sa članom 21 Zakona o kreditnim institucijama, a kojim je propisano ograničenje izdavanje povlašćenih akcija. Ova izmjena je potrebna da bi se statutom preciziralo kako se ograničenje izračunava budući da se uzima kapital koji bi banka imala nakon izdavanja i registracije emitovanih povlašćenih akcija, a ne u vrijeme izdavanje povlašćenih akcija, što je potrebno za primjenu ove zakonske odredbe.

Poslije stava 3 dodaju se dva nova stava (4 i 5) kojima se bliže utvrđuju uslovi emitovanja povlašćenih akcija i uslovi konvertovanja povlašćenih akcija u obične akcije. Kako je Centralna banka svojim zahtjevom zahtijela usklađivanja sa članom 8 Odluke CBCG, a kako se uslovi izdavanje povlašćenih akcija i njhovog priznavanja u dodatni kapital, Odlukom CBCG definišu različito u odnosu na obične akcije, kako bi se sprovelo razlikovanje običnih i povlašćenih akcija regulisano članom 8, a u vezi sa članom 42,43 i 44 Odluke CBCG, to je bilo neophodno definisati uslove izdavanja i elemenata dodatnog kapitala, ako se za istim ukaže potreba, a što je ostavljeno kao staturarna mogućnost.

U članu 5 Odluke vrše se izmjene u članu 28 stav 1 tačka a) Statuta tako što se tačka na kraju briše i dodaju riječi „izuzev u slučaju propisanim zakonom". Ova izmjena je nužna jer Zakon o privrednim društvima u članu 208 stav 2 propisuje izuzetne slučajeve u kojima akcionar koji je imalac povlašćene akcije ima pravo glasa, pa bi usvajanje odredbe kojom akcionar vlasnik povlašćene akcije nema prava glasa bilo protivnu članu 208 stav 2 Zakona o privrednim društvima.

U članu 28 poslije stava 1 dodaje se novi stav 2 koji glasi: „Za potrebe stava 1 tačke 2 ovog člana razlike u raspodjelama između imaoca običnih i povlašćenih akcija Banke odražavaju samo razlike u glasačkim pravima i s tim u vezi, veće raspodjele se primjenjuju samo na povlašćene akcije bez prava glasa ili sa manjim glasačim

pravima, u skaldu sa zakonom.." Ova izmjena je potrebna prvenstveno radi usklađivanja sa članom 8 stav 9 Odluke CBCG, a njime se implementira osnovno pravilo da se povlašćeni imovinski tretman akcionara u pogledu prvenstva raspodjele može vezati samo za povlašćene akcije koje su izdate bez prava glasa ili sa manjim glasačkim pravima, a to znači da se ne može povlašćeni tretman dati akciji koja je izdata sa pravom glasa.

U članu 6 Odluke vrše se izmjene u članu 29 Statuta tako što se dodaje novi stav 2 kojim je propisano: „Banka može emitovati pokrivene obveznice koje ispunjavaju propisane uslove za pokrivene obveznice u pogledu uslova izdavanja i obezbijeđenje priznatom aktvom u skladu podzakonskim propisima Centrlane banke Crne Gore."

Ova izmjena je neophodna kako bi se Banka koristila mogućnošću da emituje pokrivene obevznice, i tu mogućnost da pokrivene obevzenice budu priznate kao izloženost u skladu sa članom 146 Odluke CBCG. Precizniji uslovi se pri tome ne moraju regulisati Statutom, već bi se direktno, pozivom na novounijetu statutarnu odredbu, primjenjivao propis CBCG.

U članu 7 Odluke vrše se izmjene na način da se u članu 81 stav 1 tačka 12) Statuta briše. iz razloga što je Centralna banka svojim dopisom jasno ukazala da navedena odredba Statuta, kao ni odredba člana 119 Statuta nije u skladu sa članom 47 stav 1 i stav 2 Zakona o kreditnim institucijama (,Sluzbeni list CG", broj 72/19 i 8/21), kao i u skladu sa članom 4, 6 stav 3 i stav 5, kao i članom 21 Odluke o sistemu upravljanja u kreditnim institucijama („Službeni list Crne Gore" broj 119/20).

Izričito se u dopisu – mišljenju Centralne banke Crne Gore Br. 03-5869-2/2023 od 04.08.2023. godine navodi:

> „ Imajući u vid prednje citirana određenja, izvodi se jasan zakljucak da ukoliko banka konstituise pomenuta radna tijela, strukturu tih stalnih radnih tijela cine upravo aktuelni članovi nadzornog odbora, odnosno lica koja nisu zaposlena u banci, a koji su prethodno kroz "fit and proper" ocjenu kumulativne ispunjenosti svih zakonom propisanih uslova dobili odobrenje Centralne banke za izbor na navedene dužnosti.
>
> Imajući u vidu citirane odredbe koje normiraju strukturu i nadležnosti gore pomenutih stalnih radnih tijela nadzornog odbora, a u odnosu na postavljen upit, ukazujemo da nije moguće konstituisati kao što ste naveli i inokosne organe sa sistematizovanim savjetničkim radnim mjestima sa punim radnim vremenom u organizaciji rada nadzornog odbora kao nezavisnog organa banke.
>
> Dakle, banka može da angažuje eksterne stručnjake koji bi pružali logističku i/ili ekspertsku, kao i savjetničku podršku u odnosu na neki započeti projekat ili pak poslovnu aktivnost i/ili proces iz djelokruga rada nekog ključnog područja poslovanja za čije rukovođenje je odgovoran konkretni član ili predsjednik Upravnog odbora.
>
> Kao što je prethodno citirano, sve informacije pa i one koje se vezuju za rad angažovanih eksternih stručnjaka dobijaju i stalna tijela nadzornog odbora za potrebe izvršavanje njihovih zadataka i daljeg izvještavanja prema nadzornom odboru banke u skladu sa konkretnim odredbama Odluke.
>
> U kontekstu navedenog, Banka može i da zaposli određena lica sa određenim specijalističkim znanjima u cilju obavljanja savjetničkih poslova ukoliko aktuelni ili novi procesi rada to zahtijevaju, ali u tom smislu rad tih lica vezuje se poslovne aktivnosti iz kompozicije izvršnih funkcija za koje je nadležan neko iz strukture Upravnog odbora banke koji je organ u konačnom odgovoran za upravljanje bankom na dnevnoj osnovi i njeno zastupanje."

Iz navedenog je jasno da je Centralna banka ocijenila nezakonitim da Nadzorni odbor Banke osim kolegijalnih, stalnih ili povremenih radnih tijela, organizuje inokosne organe (savjetnička radna mjesta) koji bi imali svojstvo stalnih savjetnika nadzornog odbora Banke, po osnovu radnog odnosa, sa punim radnim vremenom i ocijenila da se ta radna mjesta mogu vezati isključivo za Upravni odbor banke.

Dodatno, Centralna banka je ocijenila da u opisu radnog mjesta savjetnika Nadzornog odbora ne može da bude iniciranje smjernica strateškog razvoja, te predlaganje dugoročnih razvojnih procesa i ispunjenje razvojnih ciljeva,

te da naziv radnog mjesta: "savjetnik za strateška pitanja" nije u skladu sa strukturom upravljanja u kreditnoj instituciji propisanoj Zakonom i Odlukom o sistemu upravljanja u kreditnoj instituciji.

Sa tim u vezi predloženo je brisanje odredbe člana 119 Statuta i člana 81 stav 1 tačka 12) Statuta kojim je propsiano da Nadzorni odbor banke imeznuje i razrješava savjentika Banke za strateška pitanja.

Izmjenama u članu 8 Odluke vrše se izmjene koje se sastoje u brisanju člana 119 Statuta iz razloga što je isto zahtijevano od strane Centralne banke Crne Gore Br. 03-5869-2/2023 od 04.08.2023. godine, a koje su bliže obrazložene uz član 7 ove Odluke.

Izmjene u članu 9 Odluke vrše se u stavu 2 člana 139 Statuta u kojem se precizira da se dobit raspoređuje odlukom skupštine akcioanra, na način da se precizira, a što je implicite bilo i do sada princip usvojenog Statuta, da se sve raspodjele moraju vršiti u skladu sa uslovima i ograničenjima propisanim Zakonomi podzakonskim aktima Centralne banke. Ovim se precizno i direktno ova odredba usklađuje sa zahtjevima iz Odluke CBCG.

Izmjene u dodatom stavu 3 vrše se da bi se omogućilo Banci da uključi dobit tekuće godine i prije formalne odluke kojom se potvrđuje konačna godišnja dobit ili gubitak kreditne institucije. Ovakva odredba je potrebna iz razloga što propisi Komisije za tržište kapitala kojima je regulisana raspodjela dobiti i sa tim u vezi pripadajuće emisije ne sadrže direktno ovakvu odredbu, pa je istom potrebno da se unošenjem predmetne odredbe iz člana 5 stav 3 Odluke CBCG Banka opredijeli da koristi tu mogućnost, za slučaj potrebe.

Izmjene u dodatom stavu 4 vrše se radi usklađivanja sa odredbom člana 8 stav 1 tačka 5 Odluke CBCG, kao i sa članom 8 stav 1 tačka 7 Odluke CBCG. Ne mijenjaju dosadašnji trerman, uslove i način vršenja raspodjela, niti prava akcionara po do sada emitovanim instrumentima.

Pursuant to Article 41, paragraph 1, item 1 of the Law on Credit Institutions ("Official Gazette of Montenegro", No. 072/19 of 26.12.2019, 082/20 of 06.08.2020, 008/21 of 26.01.2021) and Article 39, paragraph 1, item 2) and Article 155, paragraph 4 of the Articles of Association of Lovćen Bank JSC Podgorica No. 01-XXV-v/5-1 dated 15.03.2023, on XXVII (lin words: the twenty-seventh) extraordinary meeting held on 28 September 2023, the General Meeting of Shareholders of Lovcen Bank JSC Podgorica adopts:

DECISION
ON ADOPTION OF THE AMENDMENTS TO THE ARTICLES OF ASSOCIATION OF LOVĆEN BANK JSC PODGORICA

Article 1

1) In the Articles of Association of Lovćen Bank JSC Podgorica No. 01-XXV-v/5-1 of 15.03.2023 (hereinafter: the Articles of Association) in Article 22, after paragraph 3, new paragraph 4 is added which reads:

„4) Shares as instruments that meet the requirements for capital are classified as equity in accordance with the regulations governing the applicable accounting framework and must be clearly and separately disclosed on the Bank's balance sheet; "

Article 2

In Article 24, prior to the existing paragraphs, a new paragraph 1 is added, which reads:

"The Bank may issue shares only based on the decision of the Bank's Shareholders' Meeting."

Existing paragraphs 1 and 2 become paragraphs 2 and 3.

After paragraph 3, four new paragraphs 4, 5, 6 and 7 are added, which read:

"4) The share capital must be fully paid in cash before registration with the Central Registry of Business Entities and must not be funded by the Bank, directly or indirectly.

When issuing financial instruments, the Bank will not lend or conclude legal transactions with a similar economic goal and purpose, which enables it to issue regular capital instruments in such a way as to:

- directly or indirectly grant loans, issue guarantees and sureties for the acquisition of shares or participating interest and other instruments of regulatory capital and/or financial instruments,
- directly or indirectly grant loans, issue guarantees and sureties for the acquisition of shares or participating interest, in an undertaking where it holds 20% or more interest in capital and/or financial instruments issued by that company, unless the acquisition of shares or participating interest would remove link in capital of the credit institution with that undertaking,
- directly or indirectly grant loans, issue guarantees and sureties for the acquisition of other financial instruments that it issues or that that are issued by the undertaking where it holds 20% or more interest in capital, which are included in the calculation of the regulatory capital of that credit institution.

5) Bank's shares may not be issued as shares with the right to redemption and/or withdrawal.
6) Bank's shares are issued as shares with a fixed nominal value. Nominal value may be reduced in the event of bank liquidation and/or discretionary redemption or other discretionary means of reducing capital, if the credit institution has previously received the approval of the Central Bank in accordance with the regulations;
7) Shareholders of the Bank cannot be returned their paid or entered shares, nor can they be paid interest on what they have invested in the Bank."

Article 3

In Article 25, after the existing paragraph 2, four new paragraphs 3, 4, 5 and 6 are added, which read:

„3) Holders of ordinary shares:

- do not have preferential treatment of distribution in connection with the payment nor preferential rights in connection with the seniority of payment, in relation to other instruments of Common Equity Tier 1 capital;
- distributions to holders of the instruments may be paid only out of distributable items, in accordance with the law;
- the conditions applied in connection with the issuance of ordinary shares do not include a cap or other type of restriction on the maximum level of distributions based on shares;

- the distribution level is not determined on the basis of the amount for which the share was purchased at issuance;
- the conditions applied in relation to the shares do not include the Bank's obligation to make distributions to their holders, nor is the credit institution subject to such an obligation in any other way;
- non-payment of distributions does not constitute an event of default of the credit institution;
- the cancellation of distributions does not impose restrictions on the credit institution;

4) ordinary shares absorb the first and proportionately the largest share of the losses to the same extent as other instruments of the Bank's Common Equity Tier 1 capital.

5) Bank's ordinary shares rank below all other claims in case of insolvency or liquidation of the Bank and the owners of ordinary shares have the right to claim the remaining assets of the Bank, which, in the event of the liquidation of the credit institution and after the payment of all superior claims, is proportional to the amount of such issued shares and is not fixed or subject to a cap,

6) Bank's ordinary shares cannot be secured nor covered by a guarantee that enhances the seniority of claims in accordance with the regulations of the Central Bank, nor are they subject to any contracts or agreements that enhance the seniority of claims of holders of ordinary shares in the event of insolvency or liquidation of the Bank.

Article 4

In Article 27 of the Bank's Articles of Association, five new paragraphs are added after paragraph 1 which read:

„The total amount of share capital pertaining to the preferred shares may not exceed one quarter of the amount of share capital of the credit institution.

The amount of participation of preferred shares in the share capital referred to in paragraph 2 of this Article is calculated in relation to the total number of shares after registering the capital increase based on preferred shares in the Central Registry of Business Entities.

Preferred shares issued by the Bank as a financial instrument have the following characteristics, which are determined in more detail by the decision on the issuance of a financial instrument - preferred shares, based on the following principles:

1) Preferred shares must be directly issued by the Bank and fully paid before being registered in the holder's account;
2) Preferred shares are not issued for the benefit of/in favor of, and their subscription and payment cannot be made by the Bank or its subsidiaries or the company in which the Bank has participation in the form of ownership, directly or through control, of 20% or more of the voting rights or capital of that company;
3) the acquisition of ownership of instruments, their subscription and payment, directly or indirectly, is not funded by the Bank;
4) Issued preferred shares as instruments rank below Tier 2 instruments in the event of the Bank's insolvency;
5) Issued preferred shares as instruments are not secured, nor covered by a guarantee that enhances the seniority of claims by any entities:
6) Issued preferred shares as instruments are not subject to any contracts or agreements that enhance the seniority of claims under the instruments in the event of insolvency or liquidation;
7) Issued preferred shares as instruments do not have a maturity date and the provisions regulating those instruments do not include an incentive for Bank to redeem them;
8) If the issued preferred shares as instruments include one or more early redemption options, including purchase options, the options may be exercised solely at the discretion of the Bank as the issuer;
9) the instruments may be subject to a purchase option, they may be redeemed or repurchased only if the conditions from the by-laws of the Central Bank are met, and at the earliest five years from the date of the issue, except when the additional conditions referred to in Article 86, paragraph 4 of the Decision on Capital Adequacy of Credit Institutions ("Official Gazette of Montenegro", no. 128/20, 140/21) – (Decision on Capital Adequacy) are met;
10) the decision on the issue of preferred shares which regulates the rights from the instrument and the basic elements thereof, may not directly or implicitly give the right to the holders and determine the obligation of the credit institution to, depending on the case, buy, redeem or repurchase the instruments, except in the case of insolvency or liquidation of the credit institutions and credit institution does not provide such statements in any other way;
11) the decision on the issue of preferred shares, which regulates the rights from the instrument and the basic elements thereof, must not directly contain a statement that the Central Bank would approve the execution of the option of purchase, redemption or repurchase of the instruments;

12) decisions on the issue of preferred shares which regulate the rights from the instrument and the basic elements thereof regulate the distribution in connection with the instruments in such a way that they meet the following conditions: they are paid out of distributable items; - the level of distributions made on the instruments will not be amended on the basis of the credit standing of the credit institution or its parent undertaking; - the provisions governing the instruments give the credit institution full discretion at all times to cancel the distributions on the instruments for an unlimited period and on a non-cumulative basis, and the Bank may use such cancelled payments without restriction to meet its obligations as they fall due; - cancellation of distributions does not constitute an event of default of the credit institution; - the cancellation of distributions imposes no restrictions on the Bank;
13) instruments are not taken into account when determining whether the Bank's liabilities exceed its assets, if such determination is made in accordance with the regulations governing insolvency;
14) the decision on the issue of preferred shares regulating the rights from the instrument and the basic elements thereof require that, after the occurrence of a trigger event, the principal amount of the instrument is temporarily or permanently written down or that the instruments are converted to Common Equity Tier 1 instruments;
15) the provisions governing the instruments do not include provisions that could impair the recapitalization of the Bank;
16) the decision on the issue of preferred shares that regulate the rights from the instrument and the basic elements thereof and/or the contractual provisions that regulate the instruments require a permanent write-off or conversion of the principal of the instruments into Common Equity Tier 1 instruments, in accordance with the decision of the Central Bank made in pursuing its mandate as resolution authority of the credit institution, in the exercise of powers related to the write-off and conversion of capital instruments, established by the law regulating the resolution of credit institutions;
17) instruments are not subject to offsetting or netting agreements that would reduce their ability to absorb losses.

Preferred shares issued by the Bank, which are issued as exchangeable for ordinary shares, i.e. which give the right to convert into ordinary shares as an instrument of Common Equity Tier 1 capital, are recognized as Additional Tier 1 if they are issued under the following conditions:

1) they rank lower than instruments of Additional Tier 1 capital defined by the Decision on Capital Adequacy in case of insolvency of the Bank;
2) they are not secured, nor covered by a guarantee that enhances the subordinated status of claims by the Bank or its subsidiary company and any company closely related to the Bank or its subsidiary company;
3) they are not subject to any contract or agreement that enhances the subordinated status of claims based on preferred stock in the event of insolvency or liquidation of the Bank;
4) they do not have a maturity date and do not include an incentive for the Bank to redeem them;
5) give the Bank the right to, at any time, cancel the distribution of preferred shares for an unlimited period and on a non-cumulative basis, and to use the canceled payments without restrictions to fulfill the due obligations, whereby it is considered that the cancellation of the distribution does not represent the occurrence of the event of default regarding the Bank's obligations and does not impose restrictions on the Bank;
6) are not taken into account when determining whether the Bank's liabilities exceed its assets, if such determination is made in accordance with the regulations governing insolvency;
7) may be converted into ordinary shares of the Bank if a trigger event occurs at the Bank, i.e. if the rate of the Bank's Common Equity Tier 1 capital referred to in Article 101, paragraph 1, point 1 of the Decision on Capital Adequacy falls below 5.125% or a level higher than 5.125% determined by the Bank and defined in more detail in the provisions governing the issuance of the instrument;
8) the Bank defines by the Decision on the issue one or more events as trigger events in addition to the trigger events referred to in point 7) of this paragraph;
9) In case of occurence of a trigger event at the Bank, the conversion rate, the limit of the allowed amount for conversion and the range within which the instrument will be converted into instruments of Common Equity Trigger 1 capital determined by the decision on the issue of that instrument shall be applied;
10) the amount whose value needs to be converted in case of a trigger event at the Bank, the Bank determines as soon as possible from the day the Bank established that the trigger event has occurred. The holder of the preferred shares is not entitled to the payment of a priority dividend on the number of preferred shares that are converted into ordinary shares of the Bank upon the occurrence of a trigger event at the Bank.
11) if the provisions regulating the instruments require that upon the occurrence of the trigger event, the amount of their principal is reduced, by reducing the amount, the following is reduced: the claim of the holder of the instrument in the event of insolvency or liquidation of the credit institution, the amount to be paid in the event of the exercise of the purchase option or redemption of the instrument, and
12) distributions per instrument are not subject to any offsetting or netting agreement that would reduce their ability to absorb losses."

Article 5

In Article 28 paragraph 1 point a) of the Articles of Association, the point at the end is deleted and the words "exception in the case prescribed by law" are added.

In Article 28, after paragraph 1, a new paragraph 2 is added, which reads:

"For the purposes of paragraph 1 point 2 of this Article, the differences in distributions between holders of ordinary and preferred shares of the Bank shall only reflect differentiated voting rights, and in this regard, higher distributions shall only apply to preferred shares issued without right to vote or with fewer voting rights in accordance with the law."

Article 6

In Article 29, a new paragraph 2 is added, which stipulates:

" The Bank may issue covered bonds that meet the prescribed conditions for covered bonds in terms of conditions for issuing and collateralizing with eligible assets in accordance with the by-laws of the Central Bank of Montenegro."

Article 7

In Article 81 paragraph 1 point 12) of the Articles of Association is deleted.

Article 8

Article 119 of the Articles of Association is deleted.

Article 9

In Article 135 of the Articles of Association, in paragraph 2, the fullstop at the end is deleted and the following words are added: "in accordance with the conditions and restrictions prescribed by the Law and by-laws of the Central Bank".

After paragraph 2, two new paragraphs 3 and 4 are added, which read:

"3) The Bank may, only with the prior approval of the Central Bank, include the profit achieved during the current business year or at the end of the current business year in the Common Equity Tier 1 capital before making a formal decision confirming the final annual profit or loss of the credit institution.

4) The Bank is not a subsidiary of another company and does not conclude contracts on the transfer of profit or loss with other companies."

Article 10

The consolidated text of the Articles of Association of Lovcen Bank JSC in accordance with Article 1 - 9 of this Decision is attached to this Decision and forms its integral part.

Article 11

This Decision enters into force on the day of its adoption, and shall be applied from the date of registration of this Decision in the Central Registry of Business Entities in Podgorica.

With the entry into force of these Articles of Association, the provisions of the Articles of Association of Lovćen Bank JSC Podgorica No. 01-XXV-v/5-1 dated 15.03.2023 that are amended by this Decision shall cease to be valid.

In Podgorica, 28 September 2023
Decision No: 01-XXVII-v/4

CHAIRPERSON OF THE GENERAL MEETING OF SHAREHOLDERS

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Explanation:

In Article 1 of the Decision on Amendments to the Articles of Association of Lovćen Bank JSC (hereinafter: the Decision), the Articles of Association No. 01-XXV-v/5-1 is amended. The amendments in Article 22 of the Articles of Association are contained in the added paragraph 4 which prescribes that that shares as instruments that meet the requirements for capital are classified as equity in accordance with the regulations governing the applicable accounting framework and must be clearly and separately disclosed on the Bank's balance sheet.

These amendments do not change the existing status of shares or their recording in terms of accounting or disclosure in the Bank's balance sheet, which is harmonized with legal regulations, but only nomothetic adjustment is made for the implementation of Article 8, paragraph 1 points 3) and 4) of the Decision on Capital Adequacy in Credit Institutions ("Official Gazette of Montenegro", No. 128/20 od 30.12.2020, 140/21 of 30.12.2021, 144/22 of 26.12.2022.) – (hereinafter: the CBCG Decision).

In Article 2 of the Decision, Article 24 of the Articles of Association is amended, and this amendment is made for the sake of harmonization with Article 8, paragraph 1, point 3 of the CBCG Decision which stipulates that the capital instrument fulfills conditions for instruments of Common Equity Tier 1 capital only if the instrument is fully paid, and acquiring ownership over that instrument is not funded by the credit institution directly or indirectly.

In accordance with Article 8, paragraph 2 of the CBCG Decision, only the part of a capital instrument that is fully paid up shall be eligible to qualify as a Common Equity Tier 1 instrument. All shares issued by the Bank until the date of adoption of the amendments to the Articles of Association have been issued as fully paid-up shares, which was determined by the decisions of the Capital Market Authority, so this amendment has no effect on the voting rights or property rights of shareholders for already issued shares.

The amendments in the second sentence in paragraph 4) are made in order to harmonize the provision on the prohibition of issuing sureties or guarantees with Article 20 of the Law on Credit Institutions in which this prohibition is prescribed in more detail compared to the prohibition contained in Article 8, paragraph 1, point 3) of the CBCG Decision, and by which it is necessary to implement the ban on issuing guarantees based on the Bank's claim that financing instruments of the issue are not related party instruments.

The amendments to paragraphs 5 and 7 which stipulate that the Bank's shares may not be issued as shares with the right to redemption and/or withdrawal, are made for harmonization with Article 8, paragraph 1, point 5 of the Decision of the CBCG, which stipulates that the capital instrument meets the conditions for instruments of Common Equity Tier 1 capital only if the issued instruments have no maturity. As a share is an instrument that is issued, as a rule, without a maturity date which is an integral element of the decision on the issue, the application of this provision implies that the shareholder may not have the right to demand the repurchase of shares or their withdrawal after a certain period of time, which would be the right that would violate the stated provision of the CBCG Decision.

The amendments to paragraph 6 of this Article prescribing that bank shares are issued as shares with a fixed nominal value, and that the nominal value may be reduced in the event of bank liquidation and/or discretionary redemption or other discretionary means of reducing capital, if the credit institution has previously received the approval of the Central Bank in accordance with the regulations, are carried out for the purpose of harmonization with Article 8, paragraph 1, point 6 of the Decision of the CBCG, which prescribes that the principal amount of the instruments may not be reduced or repaid, with the term "principal" being related to the nominal value when the share is issued, and thus also for the necessary bans on the reduction of the nominal value, except with the prior permission of the Central Bank of Montenegro.

In Article 3 of the Decision, Article 25 of the Articles of Association is amended. The amendments related to the addition of paragraph 3 are made for the purpose of harmonization with Article 8, paragraph 1, point 8 of the Decision of the Central Bank of Montenegro which prescribes the specified conditions as mandatory conditions to be fulfilled in order for shares to be recognized as instruments of Common Equity Tier 1 capital. These amendments do not influence the modification of the existing rights of the shareholders, because all the shares of the Bank were issued as ordinary shares, which, in accordance with the Law on Business Organizations in accordance with which they were issued, as well as the Law on Business Companies that was valid before 2020 as well as with the currently valid law, did not give holders of ordinary rights any of the preferential distribution treatment nor oblige them to distribute from the Bank's capital. Even the decisions on the issuance of shares do not provide such rights in any share issued so far, so the amendments represent only harmonization with the legal provisions that were so far contained in the imperative provisions of the Law on Business Organizations and the Law on the Capital Market, and are now decisively regulated by the Bank's Articles of Association in this provision.

The amendments related to addition of paragraph 4 are made for the purpose of harmonization with Article 8, paragraph 1, point 9 of the Decision of the CBCG, which prescribes the stated conditions as mandatory conditions for fulfillment in order for shares to be recognized as an instrument of Common Equity Tier 1 capital, which is that ordinary shares absorb the first and proportionately the largest share of the losses to the same extent as other instruments of the Bank's Common Equity Tier 1 capital. By this, a technical adjustment is made, and the rights of existing shareholders are not affected, since the legislative framework in Montenegro, without exception, stipulates that shareholders' claims enhance below all other claims in bankruptcy or resolution and that all shares participate in the distribution of profits or losses in proportion to their participation in the capital,

i.e. equally. For the same reason, paragraphs 5 and 6 are added for the purpose of harmonization with Article 8, paragraph 1, points 10 and 11 of the Decision of the CBCG.

In Article 4 of the Decision, the amendments to Article 27 of the Articles of Association are made by adding of paragraphs 2 and 3 and refer to the alignment with Article 21 of the Law on Credit Institutions which prescribes the limitation of the issuance of preferred shares. This amendment is necessary in order to specify in the Articles of Association how the limitation is calculated, since the capital that the Bank would have after the issuance and registration of the issued preferred shares is taken, and not the capital at the time of the issuance of the preferred shares, which is necessary for the application of this legal provision.

After paragraph 3, two new paragraphs (4 and 5) are added, which more closely determine the conditions for issuing of preferred shares and the conditions for converting preferred shares into ordinary shares. As the Central Bank requested alignment with Article 8 of the Decision of the CBCG, and as the conditions for the issuance of preferred shares and their recognition as Additional Tier 1 capital are defined differently in the Decision of the CBCG in relation to ordinary shares, in order to implement the distinction between ordinary and preferred shares regulated by Article 8, and in connection with Articles 42, 43 and 44 of the Decision of the CBCG, it was necessary to define the conditions for the issuance and elements of Additional capital, if the need for it arises, which was left as a statutory possibility.

In Article 5 of the Decision, amendments to Article 28 paragraph 1 point a) of the Articles of Association are made by deleting the point at the end and adding the words "except in the case prescribed by law". This change is necessary because Article 208 paragraph 2 of the Law on Business Organizations prescribes exceptional cases in which a shareholder who is the owner of a preferred share has the right to vote, so the adoption of the provision according to which a shareholder who is the owner of a preferred share does not have the right to vote would be contrary to Article 208 paragraph 2 of the Law on Business Organizations.

In Article 28, after paragraph 1, a new paragraph 2 is added, which reads: "For the purposes of paragraph 1 point 2 of this Article, the differences in distributions between holders of ordinary and preferred shares of the Bank shall only reflect differentiated voting rights, and in this regard, higher distributions shall only apply to preferred shares issued without right to vote. This amendment is needed primarily for the purpose of harmonization with Article 8 paragraph 9 of the Decision of the CBCG and it implements the basic rule that preferential treatment of shareholders in terms of distribution priority may only be linked to preferred shares that were issued without voting rights or with fewer voting rights, and this means that no preferential treatment can be given to a share issued with voting rights.

In Article 6 of the Decision, amendments to Article 29 of the Articles of Association are made by adding new paragraph 2 which stipulates: „The Bank may issue covered bonds that meet the prescribed conditions for covered bonds in terms of conditions for issuing and collateralizing with eligible assets in accordance with the by-laws of the Central Bank of Montenegro."

This change is necessary in order for the Bank to use the possibility to issue covered bonds, and the possibility for the covered bonds to be recognized as an exposure in accordance with Article 146 of the CBCG Decision. More precise conditions do not have to be regulated by the Articles of Association, but the CBCG regulation would be applied directly, referring to the newly introduced statutory provision.

In Article 7 of the Decision amendments are made in the manner that Article 81 paragraph 1 point 12) of the Articles of Association is deleted because the Central Bank clearly indicated in its letter that the mentioned provision of the Articles of Association, as well as the provision of Article 119 of the Articles of Association, are not in accordance with Article 47 paragraphs 1 and 2 of the Law on Credit Institutions („Official Gazette of Montenegro", No. 72/19 i 8/21), nor in accordance with Article 4, 6 paragraph 3 and paragraph 5, nor Article 21 of the Decision on the Governance Arrangements in Credit Institutions ("Official Gazette of Montenegro" No. 119/20).

It is expressly stated in the letter - opinion of the Central Bank of Montenegro No. 03-5869-2/2023 of August 4, 2023:

> „Bearing in mind the above cited, a clear conclusion is drawn that if the bank constitutes the aforementioned working bodies, the structure of those standing working bodies shall consist of the current members of the supervisory board, i.e. persons who are not employed in the Bank, and who previously, through the "fit and proper" assessment of cumulative fulfillment of all conditions prescribed by law, received the approval of the Central Bank for selection for the mentioned duties.

Bearing in mind the cited provisions that determine the structure and competences of the above-mentioned standing working bodies of the supervisory board, and in relation to the question raised, we point out that it is not possible to constitute, as you mentioned, individual bodies with systematized full-time advisory positions in the organization of the work of the supervisory board as an independent body of the Bank.

Therefore, the Bank can engage external experts who would provide logistical and/or expert, as well as advisory support in relation to a started project or business activity and/or process from the scope of work of a key area of business for which a specific member or Chairman of the Management Board is responsible.

As previously cited, all information, including those related to the work of the engaged external experts, is also received by the standing bodies of the supervisory board for the purpose of carrying out their tasks and further reporting to the Bank's supervisory board in accordance with the specific provisions of the Decision.

In the context of the above, the Bank can also employ certain persons with certain specialist knowledge in order to perform advisory work if current or new work processes require it, but in that sense the work of those persons is linked to business activities from the composition of executive functions for which someone from the structure of the Bank's Management Board, which is ultimately responsible for the day-to-day management of the Bank and its representation, is responsible."

From the above, it is clear that the Central Bank has deemed it unlawful that the Bank's Supervisory Board, apart from collegial, standing or temporary working bodies, to organize other bodies (advisory positions) that would have the capacity of permanent advisors to the Bank's Supervisory Board, on the basis of a full-time employment and assessed that these jobs can be linked exclusively to the Bank's Management Board.

In addition, the Central Bank assessed that the job description of the Supervisory Board advisor cannot include initiating strategic development guidelines, proposing long-term development processes and fulfilling development goals, and that the job title: "Advisor for strategic issues" is not in accordance with the governance structure in the credit institution prescribed by the Law and the Decision on Governance Arrangements in the Credit Institution.

In this regard, it was proposed to delete the aforementioned provision of Article 119 of the Articles of Association and Article 81, paragraph 1, point 12) of the Articles of Association, which prescribe that the Bank's Supervisory Board shall appoint and dismiss the Bank's Advisor for strategic issues.

In Article 8 of the Decision, amendments are made by deleting Article 119 of the Articles of Association because that was requested by the Central Bank of Montenegro in the letter No. 03-5869-2/2023 of 04.08.2023, which is explained in more details in Article 7 of this Decision.

In Article 9 of the Decision amendments are made in paragraph 2 of Article 139 of the Articles of Association in which it is specified that the profit is distributed by the decision of the shareholders' meeting, in such a way as to specify, and what was implicitly the principle of the adopted Articles of Association until now, that all distributions must be made in accordance with the conditions and restrictions prescribed by Law and by-laws of the Central Bank. This precisely and directly aligns this provision with the requirements in the CBCG Decision.

The changes in the added paragraph 3 are made to enable the Bank to include the profit of the current year even before the adoption of the formal decision confirming the final annual profit or loss of the credit institution. Such a provision is necessary because the regulations of the Capital Market Authority, which regulate the distribution of profits and issues related to it, do not directly contain such a provision, so by introducing the relevant provision from Article 5, paragraph 3 of the Decision of the CBCG the Bank decides to use that possibility, in case of need.

The changes in the added paragraph 4 are made for the purpose of harmonization with the provision of Article 8, paragraph 1, point 5 of the Decision of the CBCG, as well as with Article 8, paragraph 1, point 7 of the Decision of the CBCG. They do not change the current treatment, conditions and method of making distributions, nor the rights of shareholders under the instruments issued so far.