

The Republic of the Union of Myanmar**Central Bank of Myanmar****Directive No. (12/2019)****5th Waning of Tabaung 1380 ME****March 25, 2019**

In exercise of the powers conferred under Sections 42, 43, 44, 45, 46 and 47 relating to Acquisition of Substantial Interest and Section 184 of the Financial Institutions Law (FI Law), the Central Bank of Myanmar (CBM) hereby issues the following Directive.

Title and Application

1. This Directive shall be called the Directive on Acquisition of Substantial Interest.
2. This Directive shall apply to all banks.

Definition

3. (a) **Substantial interest** means owning, directly or indirectly, ten percent or more of the capital or of the voting rights of a bank or, directly or indirectly, exercising control over the management of the bank as CBM may determine.
- (b) **Relative in relation to a person** means his spouse, brother or sister of the individual, brother or sister of the spouse of the individual, any lineal ascendant and descendant of the individual or spouse of the individual and his dependents; and any such relationship created through adoption.
- (c) **Acting in concert** means, persons who for a common objective or purpose of acquiring substantial interest, acquire shares or voting rights or gain control over the bank, pursuant to an agreement or understanding whether formal or informal to acquire shares or voting rights or control over the bank.
- (d) The following person shall be deemed to be persons acting in concert-
 - (i) the natural person and his or her relative;
 - (ii) a corporate entity and its related person and
 - (iii) any other legal entity and its related person.

Acquisition of Substantial Interest

4. No person, acting alone or in concert, shall acquire a substantial interest in a bank without obtaining the prior approval of the CBM.
5. A person wishing to obtain an approval under paragraph 4 must apply to the CBM providing the following documents:
 - (a) In the case of the natural person:
 - (i) Name, surname, address, profession and experience of the applicant;
 - (ii) Nature and extent of the share ownership of the applicant and any relative in the relevant bank;
 - (iii) Nature and extent of the share ownership of the applicant and any relative in other banks and financial institutions;

- (iv) A declaration signed by the applicant indicating that the applicant is not ineligible or disqualified under the FI Law, regulations and directives issued there under.
- (b) In the case of a corporate entity or any other legal entities:
 - (i) Name, address and nature of principal business;
 - (ii) Nature and extent of the ownership in the relevant bank;
 - (iii) Name and address of Directors and the Chief Executive Officers;
 - (iv) Nature and extent of substantial interest of the corporate entity and any other legal entities that have substantial interest in other banks and financial institutions;
 - (v) A declaration endorsed by the Board of Directors indicating that the applicant is not ineligible or disqualified under the FI Law, regulations and directives issued there under.

6. The Central Bank of Myanmar may require additional information from an applicant for the purposes of processing the application submitted under paragraph 5.

7. The Central Bank of Myanmar can approve or reject within 90 days of receipt of the application made under paragraph 5.

8. The Central Bank of Myanmar can reject an application made under paragraph 5, if it determines that one or more of the following circumstances apply:

- (a) the applicant, being an individual, is not a fit and proper person under the Financial Institutions Law and directives issued there under;
- (b) the applicant, being a corporate entity or any other legal entities, has one or more Directors or Officers who are not fit and proper persons under the Financial Institutions Law and directives issued there under; and
- (c) facts are known to the Central Bank of Myanmar to indicate that the person or corporate entity making the acquisition would exercise significant influence on the bank that would threaten the safety and soundness of the bank.

Dis-application of Restriction on Substantial Interest

9. (a) Paragraph 4 above shall not apply to-
- (i) Voting shares of a bank acquired-
 - (aa) in lieu of shares for the repayment of credit granted by the bank;
 - (bb) under an underwriting arrangement, in which case the bank shall dispose of such voting shares within one year or such longer period as the CBM in exceptional circumstances may approve;
 - (ii) Voting shares of a bank held as an agent, trustee or custodian.
- (b) A bank which has acquired voting shares of another bank under paragraph i (aa) of sub-section (a) shall inform the CBM upon its acquisition of such voting shares.

Approval to Continue to be a Substantial Shareholder

10. Any natural person, corporate entity or any other legal entity that currently holds a substantial interest in a bank must submit an application under paragraph 5 within 90 days from the date of this Directive to the CBM.

Reporting of Substantial Interest

11. Every bank shall submit a report annually to the CBM of the names and addresses of shareholders having substantial interest in the bank and the number and percentage of voting shares, in the prescribed form and within the time frame specified by the Banking Supervision Department of the CBM.

Exercise of Influence

12. Shareholders with a substantial interest in a bank must not exercise their influence in a manner that may conflict with sound corporate governance and undermine the safety and soundness of the bank.

Non-Compliance of the Directive

13. Failure to comply with this Directive constitute a violation and is subject to measures under section 47 and corrective actions or sanctions as may be imposed under sections 94 and 96 of the FI Law and administrative penalties under section 154 of the said Law.

Effectiveness

14. This Directive shall come into effect immediately.

Sd./xxxxxxxx
For Governor
Soe Thein, Deputy Governor