

Notes

to the application form for a declaration of no-objection (DNO) – Section 3:96 of the Wft. This form applies to banks having their registered offices in the Netherlands

DeNederlandscheBank

EUROSYSTEEM

Notes

to the application form for a declaration of no-objection for banking activities

These notes describe what DNB wants to see when considering your application for a declaration of no-objection. In addition to providing you with these notes, we have listed all relevant sections of the law for your convenience. They are included in the PDF file 'Relevant sections of the law for the application of a DNO', which can be found on the 'application for a DNO' page of our Open Book on Supervision website. Please also keep this PDF file at hand. This will help you to submit a complete and correct application.

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Introduction

4 For specific activities, banks having their registered offices in the Netherlands need a declaration of no-objection (DNO) from De Nederlandsche Bank (DNB) or the European Central Bank (ECB). You must use the relevant application form to apply for a DNO with DNB.

This document only relates to applications for DNOs for banking activities by banks having their registered offices in the Netherlands.

It contains a detailed explanation of how to fill in the DNO application form. You can use this DNO application form for banking activities within the meaning of Section 3:96 of the Financial Supervision Act (Wet op het financieel toezicht – Wft) for six specific activities. Please note that you must submit separate forms for each of these activities, meaning that you cannot apply for DNOs for different activities using one single form.

This document follows the same structure as the application form, and each section describes a specific part of the application.

Significant banks

Since 1 January 2017, the European Central Bank (ECB) has the authority to decide on DNO applications for specific activities of significant banks, as these banks are under the ECB's supervision. It concerns the following activities.

- Qualifying holdings in financial and non-financial enterprises
- Partial or full takeovers of assets or liabilities, or both
- Mergers
- Corporate restructuring

Significant banks that wish to engage in these activities must submit their DNO applications to the ECB through their bank's Joint Supervisory Team. The ECB will then decide on the application together with DNB. With a view to the ECB's prompt decision-making, we would ask you to use the English-language application form and to communicate with us in English for all applications involving the ECB. Please contact us first if you want to submit a DNO application to the ECB.

Please also contact us if you are in doubt as to whether you should submit your application to DNB or the ECB.

External consultant

You can also submit your application through an external consultant. During the application process we recommend you consult an expert adviser to assist you in the application process. Practice has shown that applications are often more complete and of a substantially higher quality if the applicant has sought advice, for example from a legal consultant. We can assess a complete and well-substantiated DNO application more quickly and more thoroughly. If you decide to use the services of an external consultant please also provide us with this consultant's details.

1 Acquiring or increasing a qualifying holding

in a bank, investment firm or insurance company having its registered offices outside the European Economic Area or in a financial institution without a certificate of supervised status.

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1.1 Introduction

You need a DNO for acquiring or increasing a qualifying holding in a bank, investment firm or insurance company having its registered offices outside the European Economic Area or in a financial institution without a certificate of supervised status.

This section provides more details on the terms and definitions used in the application form and on the information that you must supply as part of the application. If you have any other questions about the application form or the information to be supplied, please do not hesitate to contact us.

You must be able to answer 'yes' to the first three questions in the form in order to apply for a DNO. If your answer to one or more of these questions is 'no', your bank does not need a DNO and you do not need to fill in the application form. However, we recommend that you take a closer look at the conditions. Please contact us if you are in doubt.

1.2 Qualifying holding

Your bank needs a DNO for acquiring or increasing a qualifying holding. A qualifying holding is a participating interest that meets one or more of the following conditions.

- You will acquire a direct or indirect holding representing 10% or more of an enterprise's issued capital.
- You have the power to exercise, directly or indirectly, 10% or more of the voting rights in an enterprise.
- You have the power to exercise, directly or indirectly, an equivalent degree of control in an enterprise.

Such control may comprise special rights in respect of appointment, dismissal or suspension of the management board or supervisory board of the enterprise. In determining the number of voting rights that holders of participating interests have in an enterprise, we also take include the votes that they have or are deemed to have. For example: your bank is authorised to cast the votes of a third party based on a sustainable joint voting policy agreement, or your bank has a controlled enterprise that can exercise voting rights.

Please note NO qualifying holding is involved if your bank is able to exercise voting rights as a result of the right of pledge on shares. NO qualifying holding is involved if custodians of shares in your bank are NOT authorised to exercise their voting rights at their own discretion.

1.3 A bank, investment firm or insurance company having its registered office outside the European Economic Area

You must use this form if your bank intends to acquire a qualifying holding in a bank, investment firm or insurer having its registered office outside the European Economic Area (EEA). The EEA includes the EU Member States and Iceland, Liechtenstein and Norway. If the investment firm or insurance company has its registered office in an EEA country, you can use the application form for acquiring a qualifying holding in a financial enterprise under Section 3:95 of the Wft. If the bank has its registered office in an EEA country, you should use the separate application form for acquiring a holding in a bank.

1.4 A financial institution with or without a certificate of supervised status

Prior to applying for a DNO, you must establish whether or not the institution in which your bank wishes to acquire a qualifying holding has a certificate of supervised status, as you need different types of DNO for institutions with and without such a certificate.

A financial enterprise can apply for a certificate of supervised status from DNB if the enterprise (having its registered office in the Netherlands) is a subsidiary of one or more banks holding a banking authorisation issued by DNB and if that financial enterprise intends to operate from a branch office in another EEA country or provide its services to another EEA country.

If your bank intends to acquire a qualifying holding in a financial enterprise without a certificate of supervised status, you must use this application form (Section 3:96 of the Wft). If your bank intends to acquire a qualifying holding in a financial enterprise with a certificate of supervised status, you must use the application form for acquiring a qualifying holding in a financial enterprise under Section 3:95 of the Wft.

1.5 The 1% threshold

Banks are only required to apply for a DNO if they exceed the 1% threshold. The 1% threshold means that a DNO is required if the amount your bank pays for acquiring or increasing the holding, including any amounts paid for previous acquisitions or increases of the holding accumulates to more than 1% of the consolidated balance sheet total of the bank.

If these amounts do not exceed 1% of your bank's consolidated balance sheet total, you do not need to apply for a DNO to acquire or increase the qualifying holding.

1.6 Fixed percentage, bandwidth and umbrella DNOs

When applying for a DNO, you must state the percentage size of the qualifying holding your bank intends to acquire or increase. You can opt for a fixed percentage DNO or a bandwidth DNO. With a bandwidth DNO, the size of the qualifying holding may vary within the specified bandwidth without the need to apply for a new or amended DNO.

Bandwidths can have upper limits of 20%, 33%, 50% or 100%. If you opt for a bandwidth DNO, your application must state the bandwidth that corresponds with the actual intended size of the qualifying holding. Please note that this question does not concern any further intended increases of your qualifying holding in the future.

Another option is to apply for an umbrella DNO. An umbrella DNO not only covers the qualifying holding your bank wishes to acquire in the bank, investment firm, insurance company or other financial institution, but also the qualifying holdings that the institution in question already has acquired or intends to acquire. If you opt for an umbrella DNO, you must submit a statement of the current indirect qualifying holdings that will be acquired through the bank, investment firm, insurance company or financial institution.

1.7 Notes to qualifying holdings

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Please explain your considerations for acquiring or increasing the qualifying holding. You must state the reasons why your bank wishes to acquire or increase this qualifying holding, and indicate how the related activities fit in with your bank's business case. We recommend that you do not limit your explanation to the short term, but also explain your bank's long-term vision on the qualifying holding, including the economic and financial aspects.

You must also indicate the risks you identified and how they will be mitigated.

You must set out how your bank will fund the holding, as well as the financial consequences that the qualifying holding has for your bank in the short and longer term.

Please note that the information you must supply for the consideration of your application depends on your bank's specific situation. You must in any case address the aspects described above. We recommend that you contact us beforehand to discuss the contents of your motivation for acquiring or increasing the qualifying holding. We may contact you if we have any questions about the motivation that you submit together with your application form.

Our [Open Book on Supervision](#) website has more extensive information on the DNO application procedure, including processing times and fees.

2 Qualifying holdings in non-financial enterprises

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2.1 Introduction

If you intend to acquire or increase a qualifying holding in a non-financial enterprise, your bank needs to apply for a DNO. A non-financial enterprise is any enterprise that is not a bank, investment firm, insurance company or a financial institution as defined by law.

This section provides more details on the terms and definitions used in the application form for this type of DNO. If you still have questions after reading this document, please contact us.

You must be able to answer 'yes' to the first three questions in the form in order to apply for a DNO. If your answer to one or more of these questions is 'no', your bank does not need a DNO and you do not need to fill in the application form. However, we recommend that you take a closer look at the conditions. Please contact us if you are in doubt.

2.2 Qualifying holding

Your bank needs a DNO for for acquiring or increasing a qualifying holding. A qualifying holding is a participating interest that meets one or more of the following conditions:

- You will acquire a direct or indirect holding representing 10% or more of an enterprise's issued capital.
- You have the power to exercise, directly or indirectly, 10% or more of the voting right in an enterprise.
- You have the power to exercise, directly or indirectly, an equivalent degree of control in an enterprise.

Such control may comprise special rights in respect of appointment, dismissal or suspension of the management board or supervisory board of the enterprise. In determining the number of voting rights of a holder of a participating interest in an enterprise, we also include account the votes that the holder has or is deemed to have. For example: your bank is authorised to cast the votes of a third party based on a sustainable joint voting policy agreement, or your bank has a controlled enterprise that can exercise voting rights.

Please note NO qualifying holding is involved if your bank is able to exercise voting rights as a result of the right of pledge on shares. NO qualifying holding is involved if custodians of shares in your bank are NOT authorised to exercise their voting rights at their own discretion.

2.3 The 1% threshold

Banks are only required to apply for a DNO if they exceed the 1% threshold. The 1% threshold means that a DNO is required if the amount your bank pays for acquiring or increasing the qualifying holding, including any amounts paid for previous acquisitions or increases of the qualifying holding accumulates to more than 1% of the bank's consolidated eligible own funds.

If these amounts do not exceed 1% of your bank's consolidated eligible own funds, you do not need to apply for a DNO to acquire or increase the qualifying holding.

2.4 Fixed percentage, bandwidth and umbrella DNOs

When applying for a DNO, you must state the percentage size of the qualifying holding your bank intends to acquire or increase. You can opt for a fixed percentage DNO or a bandwidth DNO. With a bandwidth DNO, the size of the holding may vary within the specified bandwidth without the need to apply for a new or amended DNO.

Bandwidths can have upper limits of 20%, 33%, 50% or 100%. Your application must state the bandwidth that corresponds with the actual intended size of the holding. This question does not concern any intended increase of your qualifying holding in the future.

Another option is to apply for an umbrella DNO. An umbrella DNO not only covers the qualifying holding your bank wants to acquire in the non-financial enterprise, but also the qualifying holdings that the enterprise in question already has acquired or intends to acquire. If you opt for an umbrella DNO, you must submit a statement of the current indirect holdings that will be acquired through the non-financial enterprise.

2.5 Motivation for acquiring or increasing a qualifying holding

Please explain your considerations for acquiring or increasing the qualifying holding. You must state the reasons why your bank wants to acquire or increase the holding, and indicate how the related activities fit in with your bank's business case. We recommend that you do not limit your explanation to the short term, but also explain your bank's long-term vision on the qualifying holding, including both the economic and financial aspects.

You must also indicate the risks you identified and how they will be mitigated.

You must set out how your bank will fund the holding, as well as the holding's financial consequences for your bank in the short and longer term.

Please note that the information you must supply for the consideration of your application depends on your bank's specific situation. You must in any case address the aspects described above. We recommend that you contact us beforehand to discuss the contents of your motivation for acquiring or increasing the qualifying holding. We may contact you if we have any questions about the motivation that you submit together with your application.

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2.6 Other questions

CRR limits

This section includes three questions related to the limits laid down in the Capital Requirements Regulation (CRR) for credit institutions and investment firms with respect to non-financial enterprises. The CRR sets the following limits.

- The value of the qualifying holding must not exceed 15% of the bank's eligible own funds.
- The total value of the qualifying holdings in non-financial enterprises must not exceed 60% of the bank's eligible own funds.

Your answers to the first three questions are relevant for the question of whether we can issue the requested DNO.

Please note that the value of the following specific types of qualifying holdings does not need not be included:

- qualifying holdings that are held temporarily in the context of a financial assistance operation;
- holdings that are part of an underwriting position held for a maximum of five business days;
- holdings held in the bank's own name and on behalf of other parties;
- holdings that are not financial fixed assets.

Right of pledge on shares

This section also includes a question on right of pledge. No qualifying holding is involved if your bank is able to exercise voting rights as a result of the right of pledge on the shares. No qualifying holding is involved if custodians of shares in your bank are not authorised to exercise their voting rights at their own discretion.

3 Partial or full takeovers of assets or liabilities, or both

3.1 Introduction

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If your bank intends to take over assets or liabilities, or both of another enterprise or institution, you must apply for a DNO as this does not constitute a legal merger, but an assets/liabilities transaction. This may involve a full takeover of assets/liabilities, but also a partial takeover, in which a significant proportion of the assets or liabilities, or both are transferred to the new owner. The takeover can be effected directly or indirectly.

This section provides more details on the terms and definitions used in the application form for this type of DNO.

3.2 The 1% threshold

Banks are only required to apply for a DNO if they exceed the 1% threshold. The 1% threshold means that a DNO is required if the balance sheet total of the target enterprise or institution accumulates to more than 1% of your bank's balance sheet total.

If this amount does not exceed 1% of your bank's consolidated balance sheet total, you do not need to apply for a DNO to take over assets or liabilities, or both.

3.3 Motivation

Please explain your considerations for taking over the assets or liabilities, or both. You must state the reasons why your bank wants to take over the assets or liabilities, which assets or liabilities are involved and how they will be incorporated into your organisation. You must also explain how the bank intends to fund the takeover.

You must also indicate the risks you identified and how they will be mitigated.

Please note that the information that you must supply for the consideration of your application depends on your bank's specific situation. You must in any case address the aspects described above. We recommend that you contact us beforehand to discuss the contents of your motivation. We may contact you if we have any questions about the motivation that you submit together with your application.

Our [Open Book on Supervision](#) website has more extensive information on the DNO application procedure, including processing times and fees

4 Mergers

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4.1 Introduction

If your bank intends to enter into a merger with another enterprise or institution, you must apply for a DNO. This section provides more details on the terms and definitions used in the application form for this type of DNO.

4.2 The 1% threshold

Banks are only required to apply for a DNO if they exceed the 1% threshold. The 1% threshold means that a DNO is required if the balance sheet total of the target enterprise or institution accumulates to more than 1% of your bank's balance sheet total.

If these amounts do not exceed 1% of your bank's consolidated eligible own funds, you do not need to apply for a DNO for the merger.

If the merging partner is another bank having its registered office in the Netherlands, that bank's consolidated balance sheet total must also be assessed against the 1% threshold. This may lead to both merging banks having to apply for a DNO.

4.3 Motivation

Please explain your considerations for entering into the merger. You must state the reasons why your bank wishes to enter into the merger, the way in which the merger is to be effected and how the new organisation will be structured.

You must provide details on the enterprise with which your bank wishes to merge. How do the activities of the enterprise fit within your bank's organisation and strategy? Do the enterprise's governance, behaviour and culture, and integrity principles agree with those of your bank, and if not, how do you intend to approach this?

What added value would the intended merger partner bring to your bank, with respect to both economic and financial aspects? You must also describe the financial aspects related to the merger. What are the consequences of the merger for your bank's solvency and liquidity and its balance sheet position?

Please note that the information you must supply for the consideration of your application depends on your bank's specific situation. You must at least address the aspects described above. We recommend that you contact us in advance to discuss the contents of your

Our [Open Book on Supervision](#) website has more extensive information on the DNO application procedure, including processing times and fees. motivation. We may contact you if we have any questions about the motivation that you submit together with your application.

5 Financial or corporate restructuring

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5.1 Introduction

If your bank intends to carry out financial or corporate restructuring operations, you need to apply for a DNO. This section provides more details on the terms and definitions used in the application form for this type of DNO.

5.2 Financial or corporate restructuring

Corporate restructuring operations primarily concern a situation in which the bank's activities are transferred to a new corporate structure, such as a parent bank and an operating subsidiary (i.e. spinning off a business unit to a newly incorporated subsidiary).

If the activities are transferred to a new structure outside the bank, the restructuring may be classified as financial restructuring. This will depend on the size and interdependence of the transferred activities.

5.3 Motivation

Please explain your considerations for restructuring the organisation. You must state the reasons for restructuring, what it involves and how the restructuring operation will be effected. You must also indicate the consequences of the restructuring operation for your bank's solvency and liquidity position.

Please note that the information you must supply for the consideration of your application depends on your bank's specific situation. You must in any case address the aspects described above. We recommend that you contact us beforehand to discuss the contents of your motivation. We may contact you if we have any questions about the motivation that you submit together with your application.

Our [Open Book on Supervision](#) website has more extensive information on the DNO application procedure, including processing times and fees.

6 Joining managing partner

6.1 Introduction

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If a managing partner joins your bank, you need to apply for a DNO. This requirement only applies to banks that are limited partnerships. In addition to being a partner or shareholder in the bank, a managing partner is also charged with its management. Partners in limited partnerships also have unlimited private liability for the bank's debts.

6.2 Motivation

Please explain why the managing partner is joining your bank. We would also ask you to describe any rights held or capital contributed by the managing partner.

Given the specific nature of this requirement, we recommend that you always contact us beforehand about the information that you are required to supply.

DeNederlandscheBank

EUROSYSTEEM

De Nederlandsche Bank N.V.

PO Box 98, 1000 AB Amsterdam, the Netherlands

+31 (0)20 524 91 11

[dnb.nl](https://www.dnb.nl)