JOURNAL OF LAWS

OF THE REPUBLIC OF POLAND

# Warsaw, 22 May 2015

Item 708

## REGULATION OF THE COUNCIL OF MINISTERS

of 20 April 2015

## on the application for the conduct of the eligibility procedure,

Pursuant to Article 49a(18) of the Act of 9 June 2011 – Geological and Mining Law (Journal of Laws [Dz.U.] of 2015, item 196), the following is ordered:

**Article 1.** The Regulation specifies:

1. template of the application for the conduct of the eligibility procedure in order to assess the ability of the interested entity to carry out the activities in the scope of the prospecting for and exploration of hydrocarbon deposits and extraction of hydrocarbons from deposits;
2. requirements concerning documents enclosed to the application for the conduct of the eligibility procedure.

**Article 2.** A template of the application referred to in Article 1(1) is specified in the Appendix to the Regulation.

**Article 3.** The application referred to in Article 1(1) shall be accompanied by:

1. documents in the form of the original or a copy certified as being true to the original within the meaning of the provisions of the Code of Administrative Procedure;
2. in the case of documents drawn up in a foreign language – together with their translation into Polish by a sworn translator.

**Article 4.** The Regulation comes into force on the day following the day of publishing.

Prime Minister: *E. Kopacz*

Appendix to the Regulation of the Council of Ministers

of 20 April 2015 (item 708)

*TEMPLATE*

## THE APPLICATION FOR THE CONDUCT OF THE ELIGIBILITY PROCEDURE

**in order to assess the ability of the interested entity to carry out the activities in the scope of the prospecting for and exploration of hydrocarbon deposits and extraction of hydrocarbons from deposits1)**

Warsaw,…………….

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(name and address of the concession-granting authority)

## Identification data of the entity applying for the conduct of the eligibility procedure, hereinafter referred to as “the applicant”.

Full name / First name and surname of the applicant:

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Abbreviated name of the applicant:

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Registered office and address of the applicant’s principal place of business:

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The applicant’s tax identification number (NIP) or its equivalent:

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Legal status of the applicant:

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Name of the registry specific to the applicant’s legal status and number and date of entry in the register:

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The reason for the applicant not to be entered in the register:

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Date of actual commencement of the applicant’s economic activity:

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1) The applicant shall complete the fields relevant to him/her.

## Data relating to the capital structure and capital links of the applicant.

The amount of the applicant’s share capital (also the amount of paid-in capital), share fund or other initial capital:

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Number and types of shares and other forms of shared ownership in the applicant’s capital:

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Nominal value of shares and other forms of shared ownership of the applicant:

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Data relevant to the legal status of the applicant concerning partners, owners, shareholders, cooperatives or other persons (entities) participating in the ownership structure of the applicant2):

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| No. | Full name / first name and surname3) of the owner | Address and registered office | Date of commencement of business activity (including registration, commencement of business activity) | Registering authority/nationality1) | Legal status | Owners or, in the case of a number of owners exceeding 5, 5 largest partners, owners, shareholders, cooperative members or other persons (entities) participating in the ownership structure | Managing entity |
|  |  |  |  |  |  |  |  |

Data on the parent company of the group of companies of which the applicant is a member:

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| No. | Full name / first name and surname3) of the owner | Address and registered office | Date of commencement of  business activity (including registration, commencement of business activity) | Registering authority/nationality1) | Legal status | Owners or, in the case of a number of owners exceeding 5, 5 largest partners, owners, shareholders, cooperative members or other persons (entities) participating in the ownership structure | Managing entity |
|  |  |  |  |  |  |  |  |

2) Applicable to stockholder of joint-stock companies and limited joint-stock partnerships holding at least 5% of votes together with other entities of the same group of companies.

3) Applicable to natural persons.

## Data relating to the sources of origin of the financial means and relating to the financial condition of the applicant.

A list of 5 contracts or other legal acts, sorted by value, concluded by the applicant within the last 3 years with counterparties from member states of the European Union, EFTA or North Atlantic Treaty Organisation member states that have the greatest impact on the applicant’s financial position (relating to exploration for and prospection of hydrocarbons or extraction of hydrocarbons from deposits) or ownership structure:

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| No. | Subject matter of the contract2) | Name of the counterparty and its registered office address | Value of the contract4) | Date of conclusion of contract4) | Duration of the contract4) | Forms of contract security4) | Impact on the financial situation or ownership structure of the applicant |
|  |  |  |  |  |  |  |  |

A list of 5 contracts or other legal acts, sorted by value, concluded by the applicant within the last 3 years with counterparties from third countries that have the greatest impact on the applicant’s financial position (relating to exploration for and prospection of hydrocarbons or extraction of hydrocarbons from deposits) or ownership structure:

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| No. | Subject matter of the contract4) | Name of the counterparty and its registered office address | Value of the contract4) | Date of conclusion of contract4) | Duration of the contract4) | Forms of contract security4) | Impact on the financial situation or ownership structure of the applicant |
|  |  |  |  |  |  |  |  |

Net profit / net loss for each year of the last 3 financial years (for applicants with less than 3 years of activity – net profit / net loss for the entire period of activity broken down by year):

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Name and address of the competent tax office(s):

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List of the applicant’s bank account numbers (first place: primary account number):

|  |  |  |  |
| --- | --- | --- | --- |
| No. | Bank account number | Account opening date | Name and address of the bank |
|  |  |  |  |

4) Or any other legal act.

## Data relating to the organisational structure of the applicant:

Number of branches: ............

Basic information about the branches:

|  |  |  |  |
| --- | --- | --- | --- |
| No. | Name and address of the branch | Branch tax identification number (NIP)  (or its equivalent) | Branch National Official Business Register (REGON)  (or its equivalent) |
|  |  |  |  |

## Data relating to persons managing the applicant’s activity5).

Data relating to Polish citizens and foreigners with PESEL number:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| No. | First name and surname | PESEL number | Position/form of exercising the management function | Nationality |
|  |  |  |  |  |

Data relating to foreigners without PESEL number:

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| No. | First name and surname | Date and place of birth | Parents’ names | Nationality | Current residence address | Type, number and series of identity document | Position/form of exercising the management function |
|  |  |  |  |  |  |  |  |

Persons simultaneously managing the economic activity of the applicant and of the entity having its registered office in a third country in accordance with the provisions of Article 49a(5) of the Act of 9 June 2011 – Geological and mining law:

|  |  |  |  |
| --- | --- | --- | --- |
| No. | First name and surname | Name of the entity with its registered office in a third country | Position/form of exercising the management function |
|  |  |  |  |

Persons managing the economic activity of the applicant convicted of an intentional offence prosecuted by the public prosecutor or an intentional fiscal offence:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| No. | First name and surname | Position/form of exercising the management function | Legal basis of the conviction | Date of the conviction |
|  |  |  |  |  |

5) Persons managing the applicant’s business shall be understood as the applicant being a natural person, managing or co-managing the applicant’s business, its deputy, general attorney, commercial proxy, chief accountant, members of the applicant’s management and supervisory bodies, a person running its affairs under a different title, as well as an attorney representing the applicant in the eligibility procedure and an attorney substituting for the general attorney and representing the applicant in the eligibility procedure.

## Experience of the applicant in carrying out activities in the field of prospecting for and exploration of hydrocarbon deposits or the extraction of hydrocarbons from deposits6).

1. Data relating to the prospection for and documentation of hydrocarbon deposits:

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| No. | Deposit name | Type of mineral | Date of documentation of the deposit: | Deposit location (country, including local administrative unit) | Number and date of issue of the document approving the geological documentation of a hydrocarbon deposit or other equivalent document | Name of the entity approving the hydrocarbon deposit | Documented deposits |
|  |  |  |  |  |  |  |  |

or

1. data relating to the execution, continuously for at least 3 years, of activities consisting in the extraction of hydrocarbons from deposits:

|  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| No. | Deposit  name | Type of mineral | Date of commencement of extraction | Date of cessation of extraction | Deposit location (country, including local administrative unit) | Number and date of issue of the document confirming the execution, continuously for at least 3 years, of activities consisting in the extraction of hydrocarbons from deposits: | Name of the entity approving the hydrocarbon deposit | Quantity of minerals extracted (by year) |
|  |  |  |  |  |  |  |  |  |

In relation to Article 49a of the Act of 9 June 2011 – Geological and mining law, I apply for the conduct of the eligibility procedure.

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(signature(s) of the person(s) authorised to represent the applicant)

6) Applicable only to entities referred to in Article 49a(2)(2) of the Act of 9 June 2011 – Geological and mining law.

## Appendices7):

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2)

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7) List of appendices to the application for the conduct of the eligibility procedure in order to assess the ability of the interested entity to carry out the activities in the scope of the prospecting for and exploration of hydrocarbon deposits and extraction of hydrocarbons from deposits, hereinafter referred to as “the application”, if any:

* 1. an excerpt from the register relevant to the applicant’s legal status, valid under the law of the country of origin;
  2. the current statute, agreement or other document constituting the basis for the applicant’s functioning – in the case of legal persons and other organizational units;
  3. a current document with a photo confirming identity and a PESEL number or another identification number allowing to establish identity – in case of natural persons;
  4. documents referred to in points 2 and 3, concerning shareholders of these companies – in the case of civil-law partnerships and commercial partnerships;
  5. in case of organizational units, including companies other than joint-stock companies – an up-to-date list of partners, owners, shareholders, cooperative members or other persons (entities) participating in the ownership structure of the applicant, together with an indication of the value of their shares, stocks, participation in voting rights or other type of ownership title (participation) and an indication of their preference, if any; in case of exercising ownership rights under any title by entities not participating in the ownership structure of the applicant, the applicant shall also provide an up-to-date list of these entities with an indication of their title to exercise rights;
  6. in the case of joint-stock companies and limited joint-stock partnerships – the last list of entities holding shares entitling to at least 5% of votes, counting together with other entities in the same group of companies within the meaning of provisions on competition and consumer protection; in the case of exercising rights attached to shares under any title by entities other than shareholders, the applicant shall also provide an up-to-date list of such entities, indicating their title to exercise rights;
  7. list of entities in which the applicant holds shares or stocks entitling to at least 5% of votes at the general meeting or shareholders meeting or otherwise, counting together with other entities in the same group of companies within the meaning of provisions on competition and consumer protection;
  8. other current documents presenting the capital and organizational structure of the applicant and its group of companies within the meaning of provisions on competition and consumer protection;
  9. a graphical organisation chart of the group of companies within the meaning of provisions on competition and consumer protection, to which the applicant belongs, together with an indication of the authorities exercising financial supervision over the entities within the group;
  10. a recent certificate confirming that the applicant is not entered in the register of insolvent debtors or in a register of similar nature in the country of origin of the applicant;
  11. the last three individual or, where applicable, individual and consolidated annual financial statements of the applicant together with the opinion issued by the chartered auditor and the audit report; in the case of applicants operating for less than three years – the report for the entire period of activity; in the case of an application submitted after the end of the financial year but before the auditor’s opinion on the report for a given year, the applicant should also submit an unaudited report prepared for the last financial year or other current documents showing its financial standing on the date of the end of the last financial year;
  12. information of the applicant about petitions for bankruptcy filed within the last three years against the applicant, bankruptcy or reorganisation proceedings pending against it as at the date of filing, and a declaration of the applicant not to be in liquidation;
  13. up-to-date information from the National Criminal Register or a register of a similar nature in the country of origin of the applicant, about the applicant being a natural person, managing or co-managing the applicant’s business, its deputy, general attorney, commercial proxy, chief accountant, members of the applicant’s management and supervisory bodies, a person running its affairs under a different title, as well as an attorney representing the applicant in the eligibility procedure and an attorney substituting for the general attorney and representing the applicant in the eligibility procedure, and about the collective entity, if the applicant is such an entity;
  14. in case of entities referred to in Article 49a(2)(2) of the Act of 9 June 2011 – Geological and mining law – documents confirming experience, including:
      1. the document approving the geological documentation of a hydrocarbon deposit or other equivalent document, or
      2. the document confirming the execution, continuously for at least 3 years, of activities consisting in the extraction of hydrocarbons from deposits;
  15. current statements of the applicant being a natural person, managing or co-managing the applicant’s business, its deputy, general attorney, commercial proxy, chief accountant, members of the applicant’s management and supervisory bodies, a person running its affairs under a different title, as well as an attorney representing the applicant in the eligibility procedure and an attorney substituting for the general attorney and representing the applicant in the eligibility procedure, on the performance or non-performance of functions related to the management of the activity of the entity having its registered office in a third country within the meaning of Article 49a(5) of the Act of 9 June 2011 – Geological and mining law, or of the entity under corporate governance, having its registered office in a third country, with an indication, if any, of the position it holds in such an entity;
  16. current statements of persons whose personal data are included in the application for the conduct of the eligibility procedure aimed at assessing the ability of the interested entity to conduct business activity in the field of prospecting for and exploration of hydrocarbon deposits and extraction of hydrocarbons from deposits, or documents attached thereto, on consent to the processing of their personal data for the purpose of conducting the eligibility procedure;
  17. confirmation of payment of the fee for the eligibility procedure.