

Pursuant to Article 241 of the Banking Law of Republika Srpska (“Official Gazette of Republika Srpska”, issue No.: 04/17), Article 5, Paragraph 1, item b, Article 20, Paragraph 2, item b, and Article 37 of the Law on Banking Agency of Republika Srpska (“Official Gazette of Republika Srpska”, issue No.: 59/13 and 4/17), and Article 6, Paragraph 1, item b and Article 19, Paragraph 1, item b of the Statute of Banking Agency of Republika Srpska (“Official Gazette of Republika Srpska”, issue No.: 63/17), the Management Board of the Banking Agency of Republika Srpska, at its 47th session held on February 26, 2018, adopted the following:

D E C I S I O N

ON

SALE OF SHARES, ASSETS, RIGHTS, AND LIABILITIES OF BANKS IN RESOLUTION

Subject of Decision

Article 1

- (1) This Decision shall regulate in more detail the manner of implementation of the procedure of sale of the shares, i.e. assets, rights, and liabilities of a bank in resolution.
- (2) The provisions of this Decision shall apply to the banks with headquarters in Republika Srpska to which the Banking Agency of Republika Srpska (hereinafter: Agency) has issued operating license and to banking groups that are subject to supervision of the Agency on consolidated basis.

Sale of shares, i.e. assets, rights or liabilities

Article 2

- (1) The Agency may sell to one or more buyers that are not a bridge bank, the following:
 - 1) shares or other ownership instruments of a bank in resolution and
 - 2) total assets or portion of assets, as well as rights and liabilities of the bank in resolution.
- (2) The Agency shall, before the application of the instruments referred to in Paragraph 1 of this Article, assess the effects of sale of the shares, i.e. assets, rights, and liabilities of the bank in resolution on the stability of the financial sector. The Agency shall take into account the impact on other banks, on worsening of uncertainty and loss of confidence in the market and the financial sector overall.
- (3) In case of application of this instrument, the Agency may perform the sale and transfer of shares or other ownership instruments of the bank in resolution, or, depending on the case, assets, rights or liabilities of the bank in resolution, on more than one occasion.

Principles of sale procedure

Article 3

- (1) The Agency shall be under obligation to undertake all reasonable measures, taking into account the circumstances of the individual case, for the sale to be performed under market conditions, and starting from independent valuation of the value of

assets, rights or liabilities of the bank pursuant to Article 232 of the Banking Law of Republika Srpska (hereinafter: Law) and provisions of the Decision on conditions and manner of performance of independent valuation of value of assets and liabilities of banks before and during resolution procedure.

- (2) The procedure of sale shall be implemented in compliance with the following principles:
 - 1) the procedure of sale of shares, assets, rights, and liabilities of the bank in resolution shall be transparent, to the extent possible, especially when it concerns the value of assets and liabilities of the bank in resolution which shall be determined on the basis of independent valuation of value of assets and liabilities of the bank, and taking into account the necessity of preservation of stability of the financial sector,
 - 2) all participants in the process of sale of shares, assets, rights, and liabilities of the bank in resolution shall be ensured with equal position, i.e. the procedure shall have to ensure equality of positions of potential buyers,
 - 3) the procedure of sale shall be implemented in a manner that prevents conflict of interest,
 - 4) the procedure of sale shall be implemented efficiently, in the briefest possible timeframes, taking care of the urgency of resolution proceedings of the bank, and in the manner that shall ensure reaching the highest sale price, to the extent possible,
 - 5) the sale procedure shall be implemented in the manner that ensures acting with due diligence.
- (3) The conflict of interest referred to in Paragraph 2, Item 3 of this Article shall pertain to the buyer (directly or through power of attorney) being:
 - 1) an employee of the Agency,
 - 2) a person related to employees of the Agency and/or the bank in resolution pursuant to Article 2, Paragraph 1, Item 23 of the Law.

Implementation of sale procedure Article 4

- (1) The Agency shall, complying with the principles referred to in Article 3 of this Decision, publicly disclose the sale and invite potential buyers to submit their bids for purchase. The Agency shall publish the invitation in means of public information, specifically in at least one daily newspaper that is distributed throughout the territory of Republika Srpska and on the internet website of the Agency, and, if necessary, in foreign press and other domestic and foreign means of public information, too.
- (2) The Agency shall immediately ensure for potential buyers the conditions for disposal of relevant information on the financial position of the bank, for the purpose of assessment of the assets, rights or liabilities that are being sold.
- (3) As an exception from Paragraph 1 of this Article, the Agency may undertake the procedure of sale without a public announcement, when the conditions are met as referred to in Article 10 of this Decision, i.e. it can:
 - 1) advocate for the sale to a specific category of buyers, or

- 2) agree sale directly with a specific buyer.
- (4) The sale referred to in Paragraph 3 of this Article shall not disrupt the principle of equal position of potential buyers.
- (5) If it assesses that acceptance of any of the submitted bids for purchase would fail to meet the objectives of resolution, the Agency may decide not to perform the sale and to apply another instrument for bank resolution.

Invitation for bid submission

Article 5

- (1) The invitation referred to in Article 4, Paragraph 1 of this Decision shall contain the following:
 - 1) the commercial name, address of the headquarters, and other relevant data on the bank in resolution,
 - 2) the type and price of shares, i.e. assets or liabilities of that bank or its part that is offered for sale,
 - 3) deadline for submitting bids,
 - 4) the time and place for opening the bids,
 - 5) the description of the procedure for implementation of the proceedings, which includes the procedure for submitting and receiving bids,
 - 6) documentation necessary for identification of participants in the proceedings,
 - 7) the amount and deadline for payment of the deposit in cash or provision of another means of collateral for bid performance,
 - 8) criteria for ranking the bids,
 - 9) the deadline for concluding the contract on the sale of shares, i.e. assets, rights or liabilities of the bank in resolution,
 - 10) basic data on contact persons,
 - 11) other data of significance for implementation of the proceedings.
- (2) Interested persons shall be entitled to request from the Agency additional information on shares, i.e. assets, rights or liabilities of the bank in resolution that are subject to public bids and on the procedure until the period before the performance of evaluation of submitted bids.
- (3) Additional information referred to in Paragraph 2 of this Article shall be required in writing and shall be submitted in that form to persons that requested them, along with mandatory signing of contract on keeping confidentiality of the data.
- (4) If the purchase referred to in Paragraph 1 of this Article would lead to the acquisition or increase of ownership in the bank referred to in that Paragraph above the percentage referred to in Article 41 of the Law, the potential bidder shall attach to the bid the documentation prescribed under the decision that regulates the implementation of provisions of the Law that concern the issuance of prior consent of the Agency for acquisition of a qualifying holding in the bank.

- (5) The invitation referred to in Paragraph 1 of this Article may contain several options for the purchase of shares, i.e. assets, rights or liabilities of the bank in resolution which are offered for sale, as well as special terms of purchase, if any.
- (6) If the Agency decides to implement the sale procedure without the public announcement pursuant to Article 4, Paragraph 3, Item 1 of this Decision, the Agency shall submit the invitation for submitting bids to three potential bidders, at the minimum.

Bid submission

Article 6

- (1) The deadline for submitting the bid shall be determined in the invitation referred to in Article 5, Paragraph 1 and 6 of this Decision.
- (2) The bidder that submitted the bid shall be under obligation to pay deposit in cash or submit another means of collateral for bid performance that is referred to in the invitation referred to in Article 5, Paragraphs 1 and 6 of this Decision, and to submit corresponding evidence of that attached to the bid.
- (3) The bid shall contain the price of shares and assets, rights or liabilities of the bank in resolution that are subject to purchase.
- (4) The bid referred to in Paragraph 1 of this Article shall be submitted to the Agency directly or by registered mail, within the deadline envisaged in the invitation for public bidding.

Opening and ranking of bids

Article 7

- (1) The Agency shall open the bids and determine their timeliness, in compliance with the invitation referred to in Article 5, Paragraphs 1 and 6 of this Decision.
- (2) The opening of bids may be attended by the bidders, their representatives or holders of power of attorney.
- (3) The Agency shall inform the bidder of an untimely bid in writing, three days at the latest from that bid's submission.
- (4) Upon the completion of bid opening, the Agency shall evaluate the bids in compliance with the criteria from the invitation referred to in Article 5 of this Decision, within the timeframe specified in that invitation.
- (5) In case of two bids being evaluated equally, the Agency shall accept the bid that arrived earlier or may request from the bidders to meet additional conditions.
- (6) The Agency shall inform the bidder in writing on the bids for which it determines that they do not meet the conditions from the invitation referred to in Article 5 of this Decision.
- (7) The evaluation of bids and information on the results of the sale procedure shall also be implemented when only one bid has been submitted.

- (8) If it is determined that no bids meet the conditions referred to in Paragraph 5 of this Article, the Agency shall conclude that the sale has failed, of which the bidders shall be informed.
- (9) The bidder who submitted an untimely bid or a bid that does not meet the conditions referred to in Article 5 of this Decision, shall have the deposit it paid reimbursed, and the means of collateral, returned within the deadline of 15 days from the date of submitting the written information on untimely bid, i.e. the bid that does not meet the conditions referred to in Article 5 of this Article. The costs of reimbursement of the paid deposit, i.e. means of collateral, shall be borne by the bidder.
- (10) After the expiry of the deadline referred to in Paragraph 4 of this Article, the Agency shall compile the ranking list of bids, in compliance with the criteria stipulated in the invitation, it shall inform the bidders of that list and invite the bidder of the best ranked bid to approach the conclusion of the sale contract.

Concluding sale contract

Article 8

- (1) If the contract on sale is not concluded within the timeframe stipulated in the invitation referred to in Article 5, Paragraph 1 of this Decision with the bidder whose bid is first ranked on the list, it shall be deemed that the bidder gave up on its bid, and the Agency shall direct the invitation for conclusion of the contract to the bidder whose bid is next on the ranking list.
- (2) If there are no bids remaining on the ranking list, the Agency shall adopt the decision in which it shall determine that the sale has failed.
- (3) The contract on sale shall be concluded within the deadline stipulated in the invitation referred to in Article 5, Paragraph 1 of this Decision, and the Agency may extend that deadline at its own initiative.
- (4) The bidder with which the contract on sale is concluded shall be under obligation to pay the contracted price, reduced by the amount of the paid deposit, in the manner and within the deadline determined in the contract.
- (5) The bidder with which the contract has not been concluded shall be entitled to the reimbursement of the paid deposit, i.e. the return of the means of collateral, under the conditions referred to in Article 7, Paragraph 9 of this Decision.
- (6) The bidder that gave up on its bid shall not be entitled to the reimbursement of the paid deposit, i.e. the return of the means of collateral.

Right to objection

Article 9

- (1) Bidders shall be entitled to object because of violations of provisions of this Decisions and conditions under Article 5, Paragraph 1 of this Decision.
- (2) The deadline for submitting the objection referred to in Paragraph 1 of this Article shall be three days from the date of learning of the decision on selection of the bidder,

i.e. action against which the objection is being submitted, and by the date of concluding the contract on sale, at the latest.

- (3) The objection referred to in Paragraph 1 of this Article shall be submitted to the director of the Agency, who shall decide on it within the deadline of five days from the date of its submission.
- (4) The objection referred to in Paragraph 1 of this Article shall not delay further performance of actions in the procedure of sale, apart from the concluding of the contract on sale.

**Conditions for implementation of sale procedure
without public announcement**

Article 10

- (1) The Agency may, pursuant to Article 4, Paragraph 3, implement the procedure of sales without public announcement if it determines that such an announcement would prevent or aggravate the fulfillment of one or more objectives of resolution, and especially if the following conditions are met:
 - 1) it is deemed that there is a serious threat upon financial stability which results from potential failure of the bank in resolution, and
 - 2) it is deemed that public announcement would harm the efficiency of the instrument of sale or achievement of resolution objectives.
- (2) For the requirements of Paragraph 1 of this Article the Agency shall assess the following especially:
 - 1) the risk of onset of a systemic crisis, which shall be assessed on the basis of the number, size, or significance of banks for which there is a possibility of meeting the conditions for the application of early intervention measures or on the basis of approved extraordinary public financial support to banks,
 - 2) the impact that the announcement of individual data and information on the bank in resolution (such as the risk profile of that bank, its financial condition, assessed value of its assets and liabilities, critical functions, etc.) to a broader circle of potential buyers could have on a reduction or loss of confidence in the financial sector,
 - 3) the risk of interruption in the performance of critical functions of the bank or a significant increase in the price of their performance, which shall be assessed on the basis of changes in the market conditions under which those functions are being performed, or their accessibility, as well as on the basis of expectation of market participants in connection with performance, i.e. use of those services,
 - 4) whether there has been a withdrawal of short-term assets or deposits or it may occur,
 - 5) whether a reduction in the prices of shares or assets of the bank has occurred,
 - 6) whether a change has occurred in the financial position of the bank due to an increase in the prices of loan collateral or a reduction in the rating of banks or other participants in the market,
 - 7) the possibility that the sale of shares of the bank in resolution or total assets, rights or liabilities of that bank or their portion to individual potential buyers ensures the stability of the financial sector, especially taking into account their

- financial condition, position in the market, organizational structure, and business activities they are performing, as well as a positive impact on the effectiveness of this instrument of resolution, its timely application and possibility of maintenance of critical functions of the bank,
- 8) the impact that the implementation of the procedure of sale through public announcement would have on the circle of potential buyers, keeping in mind the prohibition of conflict of interest, as well as whether the need for urgent reaction justifies the encouragement of potential buyers or constraining their risk,
 - 9) whether the implementation of the procedure of sale for the purpose of achieving the highest sale price would affect the timely application of this instrument of resolution, maintenance of the critical functions of the bank and the realization of objectives of resolution.

Transitional and final provisions

Article 11

This Decision shall enter into effect on the eighth day from the date of its publication in the "Official Gazette of Republika Srpska".

No.: UO-370/18

Date: February 26, 2018

PRESIDENT OF THE
MANAGEMENT BOARD
Mira Bjelac