

LAW
ON BANKING AGENCY OF REPUBLIKA SRPSKA

I. GENERAL PROVISIONS

Article 1

This Law shall regulate the status, authority, organization, financing and operation of the Banking Agency of Republika Srpska.

Article 2

Terms used herein shall have the following meaning:

a) banking system of Republika Srpska (hereinafter: banking system) consists of banks, microcredit organizations, saving-credit organizations and other financial organizations whose founding and operation is regulated by separate laws where it is stipulated that the Agency shall issue operating licenses and approvals, supervise operations, and perform other activities related to such organizations,

b) bank is a legal entity whose founding, operation, management, supervision and termination of operation shall be regulated by the Law on Banks,

c) microcredit organization is a legal entity whose founding, operation, management, supervision and termination of operation shall be regulated by the Law on Microcredit Organizations,

d) saving-credit organization is a legal entity whose founding, operation, management, supervision and termination of operation shall be regulated by the Law on Saving-Credit Organizations,

e) leasing company is a financial organization of the banking system whose founding, operation, management, supervision and termination of operation shall be regulated by the Law on Leasing,

f) European Banking Authority is a body of the European Union responsible for examination and supervision of the banking sector, established in accordance with the Regulation (EU) No. 1093/2010 of the European Parliament and the Council as of November 24, 2010 (OJ L 331, 15.12.2010, page 12), and

g) European Systemic Risk Board is a body of the European Union responsible for macro-prudential supervision of the European Union financial system, established in accordance with the Regulation (EU) No. 1092/2010 of the European Parliament and the Council as of November 24, 2010 on European Union macro-prudential oversight of the financial system and establishing a European Systemic Risk Board (OJ L 331, 15.12.2010, page 1).

Article 3

The main objective of the Banking Agency of Republika Srpska (hereinafter: the Agency) is to safeguard and strengthen the banking system stability, as well as to improve its safe, good quality and lawful operations.

II. MANDATE OF THE AGENCY

Article 4

(1) The Agency has been established with the purpose to regulate and supervise the banking system, and acts as both autonomous and independent legal entity while exercising its objective and performing tasks in accordance with this and other laws.

(2) Head office of the Agency is in Banja Luka.

(3) Title of the Agency is: “Banking Agency of Republika Srpska”.

(4) The Agency has its seal bearing the title of the Agency and emblem of Republika Srpska.

Article 5

(1) The Agency shall:

a) issue licenses for foundation and operation of banks, licenses for status changes and changes in both the organizational structure of banks and type of operation the banks perform,

b) supervise safety and soundness and legality of banks’ operations – through off-site and on-site examination of banks, and undertake appropriate supervisory measures,

- c) revoke banking licenses,
- d) introduce provisional administration in banks and appoint a provisional administrator; institute liquidation proceeding in banks and appoint a liquidation administrator; direct and supervise the proceeding of provisional administration and liquidation in banks; submit a request to institute bankruptcy proceeding in banks,
- e) adopt acts regulating banks' operation,
- f) evaluate whether the requirements have been met, and approve of the following issuance of shares,
- g) supervise and undertake necessary activities regarding anti-money laundering and terrorism financing related to banks, microcredit organizations, saving-credit organizations and other financial organizations, all in cooperation with the competent institutions and in accordance with regulations governing this field,
- h) supervise and undertake other activities in accordance with regulations governing the introduction and implementation of certain interim measures for the purpose of effective enforcement of international restrictive measures,
- i) adopt adequate acts in the field of anti-money laundering and terrorism financing, and cooperate with the competent authorities and institutions within this field,
- j) adopt acts and undertake actions in order to ensure the protection of consumers' rights, i.e. of physical persons as consumers of financial services in the banking system, supervise the implementation of regulations governing this field and undertake other activities and adequate measures within the scope of its authority,
- k) perform other tasks in accordance with the law governing operation of banks.

(2) The Agency shall issue and revoke licenses and approvals to microcredit organizations, saving-credit organizations and other financial institutions when authorized to do so by this and other laws, control the legality of their operation, adopt general acts regulating operations of microcredit organizations, saving-credit organizations and other financial organizations, and perform other activities as stipulated by this Law, as well as other laws.

(3) In solving administrative issues, the Agency shall apply the provisions of regulations governing both general administrative procedure and operation of financial organizations of the banking system, as well as the rules of supervision and profession, unless otherwise stipulated by law.

(1) The Agency shall perform examinations and supervision of work and legality of banks' operation and of other financial organizations within the banking system; order and undertake measures to eliminate illegalities and irregularities in accordance with this Law and laws governing banks, microcredit organizations, saving-credit organizations and other financial institutions of the banking system.

(2) While performing the examinations under paragraph (1) of this Article, the Agency shall have the right to examine business books and other documentation of financial organizations of the banking system, as well as of legal entities related by ownership, management and business relations to financial organization subject to examinations.

(3) The examinations under paragraph (1) of this Article shall be performed by examiners that have passed the professional expertise exam.

(4) The Management Board of the Agency shall pass an act stipulating terms and manner of passing the professional expertise exam under paragraph (3) of this Article.

Article 7

(1) The Agency shall be autonomous and independent while performing its activities in accordance with provisions of this Law, rules of supervision and profession, and its activities shall be supervised by the National Assembly of Republika Srpska (hereinafter: the National Assembly), to whom the Agency is responsible for its performance.

(2) Members of the Management Board, the Director and employees of the Agency shall not be held responsible for any damage arising from the performance of duties under this Law and other regulations governing the banking system, unless proved that a certain action was done or failed to be done intentionally or with gross negligence.

Article 8

While performing activities within the authority of the Agency and introducing himself/herself, an authorized representative of the Agency shall use the identification and badge of the Agency in a form and manner determined by the Director of the Agency.

Article 9

(1) The Agency shall represent Republika Srpska at the international conferences, gatherings and in international organizations, within its authority.

(2) The Agency shall cooperate with international authorities, bodies and institutions responsible for examination and supervision of banks and other financial institutions.

(3) In order to perform and improve activities within its authority, the Agency shall cooperate with supervisory authorities of the financial sector of Republika Srpska and Bosnia and Herzegovina, and other regulatory bodies and institutions.

III. OMBUDSMAN FOR BANKING SYSTEM

Article 10

(1) Ombudsman for banking system is established within the Agency (hereinafter: the Ombudsman) as an independent organizational unit with an aim to promote protection of rights and interests of consumers, i.e. physical entities as consumers of financial services.

(2) The Ombudsman, as one of the carriers of consumers' protection of rights in Republika Srpska, shall enable the disagreements and disputes occurred between institutions of the banking system and consumers of financial services to be rightfully and promptly resolved by independent parties, with a minimum of formality, through reconciliation, negotiation or other peaceful manner.

(3) The Ombudsman shall be independent in performing his/her tasks and shall be responsible for their implementation, and while performing his/her duties he/she shall not act as the Agency's representative.

Article 11

The Ombudsman shall perform the following:

- a) provide information on rights and obligations of consumers and providers of financial services,
- b) follow-up and propose activities to improve relationship between consumers of financial services and financial organizations of the banking system,
- c) research activities at the financial market, as part of the official duty or based on complaints, in order to protect consumers' rights,

d) review complaints submitted by consumers of financial services, provide answers, recommendations and opinions, and propose measures for the resolution of complaints,

e) mediate in the peaceful settlement of disputes between consumers of financial services and financial organizations of the banking system,

f) provide guidelines or recommendations related to special standard terms or activities for implementation of good business practices in the business operations of financial institutions of the banking system, and propose to the Management Board of the Agency to pass acts within his/her authority in the area of protection of rights of consumers of financial services.

g) cooperate with competent judicial, administrative and other authorities and organizations, as well as with supervisory and control institutions in the country and abroad, within his/her authority,

h) cooperate with other bodies and subjects responsible for the protection of rights of consumers, and

i) undertake other actions in the area of protection of rights of consumers of financial services.

Article 12

(1) The Ombudsman, in acting upon complaints submitted by consumers of financial services, shall ensure protection of their rights and interest through:

a) review of consumers' complaints, providing answers, recommendations and opinions, as well as proposing measures for the resolution of such complaints,

b) mediation in the peaceful settlement of disputes, when he/she evaluates that the subject of a complaint may lead to court proceedings,

(2) During the process of mediation in the peaceful settlement of disputes, the Ombudsman shall apply regulations governing the mediation process, and he/she may, upon need, engage other authorized individuals with specialized expertise or mediators.

(3) Agreement on resolution, reached by participants in the peaceful settlement of disputes through the Ombudsman's mediation and concluded in a written form, shall be deemed as an executive document.

Article 13

(1) In the procedure of reviewing a complaint and during the process of mediation in the peaceful settlement of disputes, the Ombudsman shall be obliged to respect the principles of: legality, impartiality, professionalism, equal rights and fairness, efficiency and transparency of rules and procedures for acting of Ombudsman.

(2) In addition to the principles under paragraph (1) of this Article, the Ombudsman shall be obliged to apply the principle of good will and confidentiality during the process of mediation in the peaceful settlement of disputes.

Article 14

(1) Financial organizations of the banking system shall be obliged to cooperate with the Ombudsman.

(2) In the course of reviewing the complaints of consumers of financial services, the Ombudsman shall enable financial organizations of the banking system, whose acting was the subject of a consumer's complaint, to state the facts and circumstances noted in the complaint, i.e. to present evidences in their own favor.

Article 15

Report on Operation of Ombudsman is an integral part of the Report of the Agency, in accordance with the Article 39 of this Law.

Article 16

The Management Board of the Agency shall adopt acts governing the field of operation of Ombudsman, terms and procedure for appointment or termination of duties of the person in charge of the Ombudsman's office, terms and manner in addressing the complaints of consumers of financial services and in mediation in the peaceful settlement of disputes, as well as financing, reporting and other issues of importance for the Ombudsman's operation.

Article 17

Issues concerning the area of protection of rights of consumers of the banking system and of the operation of Ombudsman, which are not defined by this Law, shall be regulated by

regulations governing the area of consumers' protection, mediation process and obligatory relations.

IV. ORGANIZATION, GOVERNANCE AND MANAGEMENT OF THE AGENCY

Article 18

Organization, governance and management of the Agency shall be regulated by this Law, the Statute and other acts of the Agency.

Article 19

- (1) The Management Board is the governing body of the Agency.
- (2) Members of the Management Board shall be appointed for the period of five years, and based on previously conducted procedure of public competition in compliance with law.
- (3) The Management Board shall consist of five members proposed by the Government of Republika Srpska (hereinafter: the Government) and appointed by the National Assembly.

Article 20

- (1) The Management Board of the Agency shall undertake measures for the efficient and rational conduct of operations and tasks under the authority of the Agency.
- (2) Within the operations under its authority, the Management Board shall:
 - a) pass the Statute of the Agency,
 - b) adopt other acts in accordance with law and the Statute of the Agency,
 - c) adopt financial plan and financial report of the Agency, and
 - d) adopt reports to be submitted by the Agency in accordance with this Law,
- (3) The Management Board shall be responsible for its work to the National Assembly.

Article 21

(1) The Director of the Agency shall represent the Agency, manage its business operations and shall be responsible for the work of the Agency.

(2) The Director and Deputy Director of the Agency, based on previously conducted procedure of public competition in accordance with law, at the proposal of the Government, shall be appointed by the National Assembly for the period of five years.

(3) The Director and Deputy Director shall participate in the work of the Management Board of the Agency but shall have no right to vote.

(4) The Director and Deputy Director shall be responsible for their work to the Management Board and the National Assembly.

Article 22

(1) The Director, within his/her rights and obligations, shall perform the following:

a) pass decisions that provide or revoke licenses indispensable for operation of banks and other financial organizations of the banking system,

b) undertake prescribed measures towards banks and other financial organizations of the banking system,

c) decide on employment and engagement of persons with the Agency, in accordance with the Statute and the regulation on Internal organization and job classification of the Agency,

d) advocate the Agency in court proceedings,

e) represent the Agency at meetings with representatives of the Central Bank of Bosnia and Herzegovina for the purpose of coordination in performing activities of the Agency in accordance with law and the Agency's Statute,

f) adopt acts in compliance with this Law and the Statute of the Agency,

g) perform other activities stipulated by this Law, other laws and the Statute of the Agency.

(2) The Deputy Director shall operate in accordance with the regulation on Internal organization and job classification of the Agency, and shall replace the Director when he/she is unable to perform his/her function with rights and duties determined by the Director of the Agency.

(3) The Director shall have the possibility to delegate certain authorities within his/her jurisdiction to the Chief Advisor or other employees of the Agency.

Article 23

If for the remainder of term of the appointed members of the Management Board, the Director or Deputy Director of the Agency the new appointment has not been conducted, the remaining members of the Management Board, the Director and Deputy Director shall continue to carry out their duties not longer than six months, i.e. until the final appointment has been completed by the National Assembly.

Article 24

(1) Compensations of members of the Management Board, salaries of the Director and Deputy Director of the Agency shall be determined by the Management Board, in compliance with acts of the Agency.

(2) Salaries of employees and other persons engaged by the Agency shall be determined by the Director, in compliance with acts of the Agency.

Article 25

(1) A position of a Management Board member, the Director or Deputy Director may be appointed to a person holding a citizenship of Republika Srpska and Bosnia and Herzegovina and holding a university degree in economy or law.

(2) A member of the Management Board may not be an employee of the Agency, nor a member of bank's bodies or employed in a bank or any other financial organization of the banking system.

(3) The Director, the Deputy Director and employees of the Agency may not be employed in any other company or legal entity, and may not be members of banks' bodies or any other financial organization of the banking system.

(4) Members of the Management Board of the Agency, the Director or Deputy Director may not own, directly or indirectly, shares, stocks or debt securities in a bank or any other financial organization whose business operation is examined and supervised by the Agency.

(5) A position of a Management Board member, the Director or Deputy Director shall not be appointed to a person convicted of either a crime against the economy and payment transactions or of a violation of public and professional duties.

Article 26

The Director, the Deputy Director or a member of the Management Board of the Agency may be dismissed from their duties before the expiration of their term of office if they:

- a) do not comply with law or regulations of the Agency,
- b) misuse their position,
- c) cease to meet the requirements for appointment,
- d) significantly impair the reputation of the Agency with their actions,
- e) submit a written resignation offering reasons.

Article 27

(1) In case of a Management Board member's termination of his/her term of office, i.e. in case of a dismissal from his/her duties before the term expiration, a new member of the Management Board shall be appointed, based on the conducted procedure of public competition, for the remainder of term of the member of the Management Board whose term has been terminated i.e. who has been dismissed from duties.

(2) In case of the Director's or Deputy Director's termination of his/her term of office, i.e. of his/her dismissal in cases referred to in Article 26 of this Law, the National Assembly may appoint Acting official for the period not longer than six months.

(3) In case of resignation, the Director, the Deputy Director or a member of the Management Board shall remain on duty until dismissal, but not longer than three months from the date of submitted resignation.

Article 28

The Director or Deputy Director of the Agency shall not be appointed to the position of a bank's member of management board, director of a bank or any other financial organization of the banking system within the period of two years after the termination of their contract with the Agency without the prior written approval of the Management Board of the Agency.

V. BUSINESS SECRET

Article 29

(1) Business secret of the Agency shall be a piece of information, fact or knowledge which an authorized person of the Agency came to know in the course of performing his/her operations and duties within his/her responsibility or which the Agency received from a competent organization, institution, authority or other country, i.e. bodies of other country, including the supervisory bodies established based on the decisions of the European Parliament and the Council of the European Union, and whose disclosure to an unauthorized person would cause or might cause harmful effects in achieving objectives and performing the supervisory function of the Agency, harm the reputation and interest of the banking system organizations, as well as of the persons from whom the Agency received such pieces of information (hereinafter: confidential information).

(2) The Agency shall pass an act deciding on pieces of information to be considered as confidential information and shall stipulate the manner to access, use, exchange, keep and protect such information, as well as the process of confidentiality termination.

(3) Confidential information received by members of the Management Board, the Director, the Deputy Director, employees, auditors and other persons who work or had worked for or on behalf of the Agency in the course of performing supervision, operations or duties within the scope of their work, or which they came to know or receive in another way, shall be protected in accordance with this Law, acts adopted on the basis thereof and other regulations governing the area of confidential information.

(4) The persons under paragraph (3) of this Article shall keep confidential information even after the termination of their employment i.e. engagement with the Agency.

(5) Confidential information must not be disclosed to any other person, authority, organization or body, except in a combined form based on which it is not possible to conclude which bank or other financial organization of the banking system such pieces of information refer to.

(6) Apart from paragraph (5) of this Article, a person referred to in paragraph (3) of this Article may disclose confidential information in compliance with the procedure prescribed by the Agency, provided that such a disclosure of confidential information meets one of the following:

a) pieces of confidential information are needed for implementation of proceedings based on court or prosecutor's office orders, when, in writing, requested or ordered by the competent court,

b) indispensable for the work of persons or bodies responsible for the examination and supervision of financial institutions,

c) legal interest of the Agency in court proceedings requires a disclosure of such information,

d) in the case of bankruptcy or liquidation, if pieces of confidential information are indispensable for the resolution of creditors' receivables, and other requests related to the bankruptcy or liquidation proceedings of a bank or other financial organization of the banking system, except for such pieces of information which refer to other entities involved and with legal interest in the financial reconstruction or reorganization of a bank or other financial organization of the banking system.

(7) The obligation of keeping confidential information shall be also applied to the pieces of information delivered to the Agency or persons referred to in paragraph (3) of this Article by other supervisory bodies, including the European Banking Authority and the European Systemic Risk Board, provided that such pieces of information are considered confidential by those authorities.

Article 30

The Agency may use confidential information only for the following purposes:

a) to check the fulfillment of requirements for issuing consents, licenses and approvals, whose possession is obligatory for banks and other financial organizations of the banking system in accordance with law, and to perform supervision over their operations on individual or consolidated basis, especially in terms of liquidity, capital adequacy, high exposure to one or a group of related persons, administrative and accounting procedures and internal control,

b) to declare supervisory measures, and

c) in administrative proceedings and other court proceedings against the Agency.

Article 31

(1) The Agency may disclose the confidential information under Article 29, paragraph (1) of this Law in cases and in accordance with the procedure stipulated by this Law, acts passed on the basis thereof and other regulation, to persons, bodies or organizations and authorities in Republika Srpska and Bosnia and Herzegovina, and to member states of the European Union and third countries, as follows:

a) a court of competent jurisdiction, the prosecutor's office or persons operating under their orders, provided that such pieces of information are needed for proceedings which are being implemented under their authorities,

b) authorities responsible for examination and supervision of financial institutions (banks, microcredit organizations, leasing companies, insurance companies, investment funds and other financial institutions) and representatives of international financial institutions in performing their official tasks,

c) auditors in charge of the audit of financial reports of banks and other financial organizations of the banking system,

d) authorized persons or institutions responsible for deposit insurance in banks, including the Deposit Insurance Agency of Bosnia and Herzegovina,

e) bodies responsible for supervision of bodies included in the liquidation or bankruptcy proceeding of a bank or other financial organizations of the banking system,

f) bodies responsible for supervision of auditors in charge of the audit of financial reports of banks and other financial organizations of the banking system,

g) Central Bank of Bosnia and Herzegovina, central banks of the European System of Central Banks and other bodies with tasks and responsibilities similar to those of central monetary governments, provided that the pieces of information are important for the implementation of their legally prescribed duties, including the implementation of monetary policy and provisions related to liquidity, payment systems supervision, clearing and settlement systems and safeguarding the stability of financial system or, when appropriate, to other bodies responsible for the payment systems supervision, which is pertinent to extraordinary situations as well,

h) the ministry in charge of finance or a state body of a particular country responsible for the enforcement of law governing supervision of banks and other financial organizations of insurance companies, provided only for supervision implementation within the scope of their authority, which is pertinent to extraordinary situations as well,

i) central clearing institutions for securities or other clearing houses or settlement systems in compliance with the law regulating market of financial instruments in reference to the clearing and settlement operations performed at one of the markets in Republika Srpska or Bosnia and Herzegovina, provided that the Agency evaluates that such pieces of information are indispensable for those institutions in undertaking certain activities due to a failure to fulfill obligations or a potential failure to fulfill obligations by participants at those markets,

j) members of the supervisory college where the Agency is a member, within the implementation of tasks of such a college,

k) other persons provided that a disclosure of confidential information meets one of the requirements under Article 29, paragraph (6) of this Law.

(2) The persons/bodies under paragraph (1) of this Article to whom the Agency discloses confidential information may use such information only in the sense of implementing operations within the scope of their work and shall keep confidential information in the manner defined in Article 29 of this Law.

Article 32

(1) The Agency may, within its authority, conclude agreements which determine the exchange of confidential information with the competent bodies or persons under Article 31 of this Law, provided the following requirements:

a) signed agreement on mutual cooperation between the Agency and a competent body or person,

b) if the body or person, with whom the agreement on cooperation was signed, is subject to the obligation of keeping confidential information, which is at a minimum equal to the requirements stipulated by this Law, and

c) if the exchange of information is exclusively intended for the purpose of examination, i.e. supervision, or implementation of tasks of the competent body or person.

(2) Confidential information, received from a supervisory body of any other country by the Agency or which the Agency came to know during a direct examination of a foreign bank's branch office, which the Agency is obliged to keep in accordance with Article 29, paragraph (5) of this Law, may be disclosed to other person or body only with prior approval of the supervisory body that provided the information and exclusively for the purpose the approval was obtained for.

VI. FINANCING OF THE AGENCY

Article 33

(1) Funds for the Agency's operations shall be provided from:

a) fees for issuance of operating licenses to banks or other financial organizations of the banking system,

b) monthly fees of banks and other financial organizations of the banking system for supervision of their activities,

c) fees for other services the Agency provides within the scope of its work.

(2) Surplus of income over expenditure of the current year shall be transferred to the following year.

Article 34

An operating license may be revoked by the Agency if a bank or other financial organization of the banking system fails to pay the accrued fees.

Article 35

(1) The Management Board of the Agency shall pass an act deciding on the amount of fees referred to in Article 33, paragraph (1) of this Law, with the approval of the Government.

(2) The Agency's act under paragraph (1) of this Article may prescribe higher amount of fees for banks and other financial organizations of the banking system whose supervision and examination request undertaking additional activities, apart from the regular ones.

VII. ACTS OF THE AGENCY

Article 36

(1) The Agency shall have a Statute.

(2) The Agency's Statute shall regulate:

a) organization and method of operation of the Agency,

b) method of operation of the Management Board,

c) authority to represent the Agency and sign documentation,

d) operations, rights, duties and responsibilities of persons holding special authorities and responsibilities,

e) other issues related to the Agency's operation.

(3) Statute of the Agency shall be passed by the Management Board, approved by the Government and published in the "Official Gazette of Republika Srpska".

Article 37

(1) The Agency shall pass by-laws within its authority, in accordance with this and other laws.

(2) The general acts under paragraph (1) of this Article shall be published in the "Official Gazette of Republika Srpska", in compliance with the Statute of the Agency.

(3) The Agency shall keep a record of the general acts passed.

VIII. REPORTING

Article 38

(1) Banks and other financial organizations of the banking system shall deliver to the Agency their reports and other data observing type, scope and deadline as defined by legal provisions of the Agency.

(2) Apart from the reports under paragraph (1) of this Article, the organizations under paragraph (1) of this Article shall deliver to the Agency a report and opinion of the external auditor for the previous year, not later than March 31 of the current year.

(3) The Management Board of the Agency shall pass an act prescribing the minimum of scope, form and content of the economic and financial audits intended for banks and other financial organizations of the banking system.

(4) The Agency may reject the report from paragraph (2) of this Article and demand a new report and opinion given by an external auditor appointed by the Agency, at the expense of a bank or other financial organization of the banking system.

Article 39

(1) The Agency shall deliver annual report on condition of the banking system of Republika Srpska to the National Assembly, including a report on operations and results together with the financial statement of the Agency, not later than June 30 of the current year for the previous year.

(2) The Management Board shall review the reports under paragraph (1) of this Article before their being submitted to the National Assembly.

(3) The Agency shall deliver semi-annual reports referred to in paragraph (1) of this Article to the Government, not later than three months after expiration of the reporting period.

(4) Content of the reports under paragraph (1) of this Article shall be defined by the Agency's Statute.

IX. TRANSITIONAL AND FINAL PROVISIONS

Article 40

The Agency is a legal successor of the National Bank of Republika Srpska.

Article 41

Members of the Management Board, the Director and Deputy Director of the Agency appointed in accordance with the Law on Banking Agency of Republika Srpska ("Official Gazette of Republika Srpska", number 10/98, 16/00, 18/01, 71/02, 18/03, 39/03, 123/06 and 40/11), shall hold office until the expiration of their term.

Article 42

(1) The Agency shall harmonize its by-laws with provisions of this Law within 90 days after this Law comes into effect.

(2) Until the by-laws from paragraph (1) of this are passed, the by-laws that were valid up to the date of coming into force of this Law shall be applied, unless their being contrary to this Law.

Article 43

The entry into force of this Law shall make the Law on Banking Agency of Republika Srpska (“Official Gazette of Republika Srpska”, number 10/98, 16/00, 18/01, 71/02, 18/03, 39/03, 123/06, 40/11) null and void.

Article 44

This Law shall come into force on the eighth day from the date of its being published in the “Official Gazette of Republika Srpska”.

No. 01-1517/13

Date: June 27, 2013

CHAIRMAN
of the
NATIONAL ASSEMBLY
M. Sc. Igor Radojicic

LAW ON AMENDMENTS TO THE LAW ON BANKING AGENCY OF REPUBLIKA SRPSKA

Article 1

In the Law on Banking Agency of Republika Srpska (“Official Gazette of Republika Srpska”, number 59/13), Article 5 shall be changed and read as follows:

“(1) Competencies of the Agency are:

a) identification and implementation of activities and measures in order to safeguard and strengthen the banking system stability, in accordance with the law,

b) adoption of regulations governing the operations of banks, microcredit organizations, saving-credit organizations, leasing providers and other financial organizations of the banking system,

c) issuance and revocation of bank licenses and other corresponding by-laws in accordance with its competencies, indirect and direct supervision of bank operations, imposing and ordering measures of supervision and other competencies in accordance with the law governing banks,

d) issuance and revocation of microcredit organization licenses and other corresponding by-laws in accordance with its competencies, indirect and direct supervision of microcredit organization operations, imposing and ordering measures of supervision and other competencies in accordance with the law governing microcredit organizations,

e) issuance and revocation of saving-credit organization licenses and other corresponding by-laws in accordance with its competencies, indirect and direct supervision of saving-credit organization operations, imposing and ordering measures of supervision and other competencies in accordance with the law governing saving-credit organizations,

f) issuance and revocation of leasing provider licenses and other corresponding by-laws in accordance with its competencies, indirect and direct supervision of leasing provider operations, imposing and ordering measures of supervision and other competencies in accordance with the law governing leasing providers,

g) issuance and revocation of licenses for other financial organizations of the banking system and other corresponding by-laws when it is authorized for the above mentioned by this law or separate laws, indirect and direct supervision of operations of other financial organizations of the banking system, imposing and ordering measures of supervision and other competencies in accordance with this law and separate laws,

h) adoption of corresponding legislation, supervision and undertaking of necessary measures regarding the prevention of money laundering and financing of terrorist activities related to banks, microcredit organizations, saving-credit organizations, leasing providers and other financial organizations of the banking system, in cooperation with competent authorities and institutions in the area of prevention of money laundering and financing of terrorist activities, and in accordance with regulations governing the prevention of money laundering and financing of terrorist activities,

i) supervision and undertaking of necessary measures in accordance with regulations governing the introduction and implementation of specific interim measures in order to efficiently enforce international restrictive measures,

j) adoption of by-laws and performing tasks from the area of protection of rights and interests of financial service consumers in the banking system, supervision of implementation of regulations from this area and undertaking of other activities and appropriate measures within its competencies,

k) determining the fulfillment of requirements for initiation of bank resolution procedure, conducting the resolution procedure, deciding on instruments and measures to be undertaken in resolution procedure and performing other tasks related to resolution, in accordance with the law governing banks,

l) issuance and revocation of consents and approvals for establishing representative offices, supervision of representative office operations, imposing and ordering measures of supervision and other competencies in accordance with the law governing banks,

m) imposition of fines and issuance of misdemeanor warrant and

n) other competencies in accordance with this law and other laws.

(2) When deciding on administrative matters, the Agency shall apply provisions of regulations governing the general administrative procedure, the operations of banking system financial organizations, and rules of supervision and profession, unless otherwise stipulated by the law.”

Article 2

After Article 6, new Article 6a shall be added and read as follows:

“Article 6a

(1) When implementing resolution of a bank, i.e. a bank group member – financial organization of the banking system and exercising other powers related to the resolution, the Agency is authorized to carry out inspection of business books and other documentation of a bank, i.e. a bank group member, as well as of business books and other documentation of persons related to the above mentioned by ownership, management or business relations.

(2) In order to perform competencies in terms of resolution of a bank, i.e. a bank group member – financial organization of the banking system, the Agency shall cooperate with the Banking Agency of the Federation of Bosnia and Herzegovina, the Deposit Insurance Agency of Bosnia and Herzegovina and the Central bank of Bosnia and Herzegovina, with other supervisory authorities of the financial sector of Republika Srpska, the Federation of Bosnia and Herzegovina and Brcko District of Bosnia and Herzegovina, with foreign competent authorities for the resolution of financial institutions and for the supervision in the area of financial operations, as well as with other competent bodies.

(3) Data obtained while performing competencies related to the resolution of banks, the Agency may exchange with bodies, institutions and authorities referred to in paragraph 2 of this Article, in accordance with the provisions of this law governing the business secret and the law governing banks.

(4) The Agency shall issue a by-law stipulating the manner of exercising powers referred to in paragraph 1 of this Article, in accordance with this law and other laws.”

Article 3

In Article 7, paragraph 2 shall be changed and read as follows:

“(2) Agency, director, deputy director and authorized personnel of the Agency, persons whom the Agency appointed as advisors, provisional administrators or special administrators, as well as other persons who according to the Agency’s decision or based on the law in the procedure of supervision of financial organizations of the banking system or bank resolution perform duties established by the law, shall not be liable for damage incurred while performing duties in the application of regulations governing banks, microcredit organizations, saving-credit organizations, leasing providers and other financial organizations of the banking system, unless in the course of appropriate procedure before competent authority by means of final decision it is proven that they made or failed to make, intentionally or due to gross negligence, a certain action which caused harmful damage.”

After paragraph 2, new paragraph 3 shall be added and read as follows:

“(3) Persons referred to in paragraph 2 of this Article shall not be liable for damage incurred while performing duties even after termination of employment in the Agency, i.e. cessation of performing duties.”

Article 4

After Article 18, new Article 18a shall be added and read as follows:

“Article 18a

- (1) Within the Agency, in accordance with this law and the Statute, for the purpose of performing supervision of financial organizations of the banking system, new internal organizational unit shall be established – Supervision Unit.
- (2) Within the Agency, in accordance with this law, the law governing banks and the Statute, for the purpose of performing tasks related to the bank resolution, new internal organizational unit shall be established – Resolution Unit.
- (3) Tasks related to the supervision of financial organizations of the banking system and tasks related to the bank resolution shall be performed in the Agency in a manner which ensures their independence and organizational separation in relation to other competencies and duties of the Agency and which prevents a conflict of interest.
- (4) Tasks related to the supervision of financial organizations of the banking system and tasks related to the bank resolution shall be performed in the Agency in a manner which ensures separate management of each of those tasks and their organizational separation, and which prevents a conflict of interest.
- (5) Management Board shall appoint the Head of Supervision Unit and the Head of Resolution Unit, according to previously conducted public competition, in accordance with the law.
- (6) In order to perform certain tasks in direct supervision, the Agency may engage authorized auditor, audit firm or other authorized expert to conduct direct supervision of a bank, in accordance with the law.
- (7) Location, organization and manner of operations of organizational units within whose scope of operations are tasks referred to in paragraph 4 of this Article, as well as cooperation and exchange of data between the afore mentioned shall be regulated by the Statute and other internal general acts of the Agency.”

Article 5

In Article 19, after paragraph 3, new paragraph 4 shall be added and read as follows:

„(4) Member of the Management Board may be a person who fulfils the following requirements:

a) has completed the first cycle of studies and achieved minimum of 240 ECTS credits in economy or law studies or equivalent to that and has five years of experience in that profession working in bodies, organizations and institutions of the financial sector and

b) has adequate professional knowledge and personal characteristics which make him/her suitable to perform this function.”

Article 6

After Article 20, new Article 20a shall be added and read as follows:

“Article 20a

(1) Management Board sessions shall be held as needed, and at least once in three months.

(2) Management Board sessions shall be presided by the President of Management Board, who shall be elected by the Management Board members among themselves.

(3) The Director of the Deposit Insurance Agency of Bosnia and Herzegovina and the Director of the Banking Agency of the Federation of Bosnia and Herzegovina shall be invited at the Management Board sessions, and who shall have no voting rights at such sessions, and depending on the issues to be considered at the said sessions, other experts may participate in the sessions by invitation.

(4) Management Board is obliged to, within its competencies, undertake measures ensuring the following:

a) separate management of the tasks related to the supervision of operations of financial organizations of the banking system and tasks related to the bank resolution, their organizational separation and prevention of a conflict of interest and

b) exchange of information between the Supervision Unit and the Resolution Unit necessary for exercising powers related to resolution.”

Article 7

In Article 21, after paragraph 4, new paragraph 5 shall be added and read as follows:

“(5) The Director and the Deputy Director of the Agency may be a person who fulfils the following requirements:

a) has completed the first cycle of studies and achieved minimum of 240 ECTS credits in economy or law studies or equivalent to that and has seven years of experience working in that profession in managerial positions in bodies, organizations and institutions of the financial sector and

b) has adequate professional knowledge and personal characteristics which make him/her suitable to perform this function.”

Article 8

In Article 22, in paragraph 1, item a) shall be changed and read as follows:

“a) shall consider the proposal of the Supervision Committee and by the Decision shall decide on the issuance or revocation of license for financial organizations of the banking system and on the application of supervisory measures.”

In paragraph 2, after the wording: “in accordance with”, the following wording shall be added: “the Statute and”, and the wording “with the rights and responsibilities determined by the Director of the Agency” shall be replaced by the wording: “with the same rights and responsibilities”.

After paragraph 3, new paragraph 4 shall be added and read as follows:

“(4) Notwithstanding paragraph 1, item a) of this Article, in case a liquidation procedure, i.e. bank bankruptcy procedure, is being initiated due to initiation, i.e. enforcement of bank resolution procedure, the Director, after consideration of the proposal of the Resolution Committee, by the Decision decides on the revocation of license for bank operations, as well as on the initiation of liquidation procedure, i.e. the submission of a request for initiation of bank bankruptcy procedure.”

Article 9

After Article 22, new Articles 22a and 22b shall be added and read as follows:

“Article 22a

- (1) The Supervision Committee shall be comprised of the director, deputy director, the head of Supervision Unit and two members of staff, who shall be elected by the Management Board of the Agency, in accordance with the Statute.
- (2) The Supervision Committee sessions shall be held as necessary, and at least once a month.
- (3) The Supervision Committee shall be presided by the director.
- (4) The Supervision Committee shall adopt proposals by the majority of vote out of a total number of votes.
- (5) Member of the Supervision Committee shall not be abstained from voting.
- (6) Issues to be considered at the Supervision Committee sessions shall be determined by this law and the Statute, and the Supervision Committee shall, in particular, provide proposals related to:
 - a) issuance and revocation of licenses for banks, microcredit organizations, saving-credit organizations, leasing providers and other financial organizations of the banking system and
 - b) the application of supervisory measures directed towards financial organizations of the banking system.
- (7) The Supervision Committee shall issue the Rules of procedure, which shall regulate the manner of convening and holding sessions and other issues related to the operations of the Supervision Committee.

Article 22b

- (1) The Resolution Committee shall be comprised of the director, deputy director, the head of Resolution Unit and two members of staff, who shall be elected by the Management Board of the Agency, in accordance with the Statute.
- (2) The Resolution Committee sessions shall be held as necessary, and at least once a month.
- (3) The Resolution Committee shall be presided by the director.
- (4) The Resolution Committee shall adopt proposals by the majority of vote out of a total number of votes.
- (5) Member of the Resolution Committee shall not be abstained from voting.
- (6) Issues to be considered at the Resolution Committee sessions shall be determined by this law and the Statute, and the Resolution Committee shall provide proposals related to:

a) the adoption of resolution plan, elimination of obstacles for resolution, write-off and conversion of capital, election of person who shall perform independent evaluation of assets and liabilities value, initiation of resolution procedure, as well as instruments and measures to be undertaken in the resolution procedure and

b) the adoption of other separate acts in the resolution procedure of a bank and bank group, in accordance with the law governing banks.

(7) Notwithstanding Article 22a, paragraph 6 of this law, in case a liquidation procedure, i.e. bank bankruptcy procedure, is being initiated due to initiation, i.e. enforcement of bank resolution procedure, the proposal in relation to the revocation of license for bank operations, as well as in relation to the initiation of liquidation procedure, i.e. the submission of a request for initiation of bank bankruptcy procedure shall be provided by the Resolution Committee.

(8) The Resolution Committee shall issue the Rules of procedure, which shall regulate the manner of convening and holding sessions and other issues related to the operations of the Resolution Committee.”

Article 10

In Article 30, in item b), after the wording: “measure”, the following wording shall be added: “and exercising powers in relation to the bank resolution, in accordance with the law governing banks”.

Article 11

In Article 38, in paragraph 2, the wording: “May 31” shall be replaced by the wording: “April 30”.

Article 12

The Agency shall align the Statute of the Banking Agency of Republika Srpska with this law within three months from the date of this law coming into force, and its internal general acts within three months from the date of this Statute coming into force.

Article 13

This law shall come into force on the eighth day from its publication in the “Official Gazette of Republika Srpska”.

Number: 02/1-021-1573/16

Date: December 28, 2016

PRESIDENT OF THE
NATIONAL ASSEMBLY

Nedeljko Čubrilović