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## **RS LAW ON BANKS**

### **Official Gazette of Republika Srpska No. 44/03**

#### **I - GENERAL PROVISIONS**

##### **Article 1**

This Law regulates the establishment, business operation, governance, supervision and termination of legal persons who engage in the business of receiving money deposits and extending credits, as well as other operations in accordance with this Law (hereinafter: bank) in the Republika Srpska.

The bank shall be founded as a shareholder company.

Terms used in this Law have the following meanings:

**Core Capital** - of a bank is composed of all cash and tangible assets given for all common shares, preferred non-accumulative shares as well as general legal reserves, retained profits and certain other reserves all as regulated by the Banking Agency.

**Supplementary Capital of a Bank** - amount of permanent preferred cumulative shares, general reserves for loan losses for assets classified as good assets, subordinated debts up to 50% of core capital, hybrid capital instruments up to 50% of core capital and such other items as regulated by the Banking Agency. Supplementary capital cannot exceed 100% of core capital.

**Capital** - of a bank is the sum of core capital and supplementary capital.

**Net Capital** - of a bank is the sum of the bank's capital decreased for deductible items as defined and regulated by the Agency.

**Paid in Share Capital** - the amount of cash paid by the shareholders for all Common or Preferred Shares.

**Participation Interest** - any shareholder's ownership participation as determined in a contract duly registered with the relevant institutions that provide for contribution of money or other property which represents a proportional interest in managing rights and rights to receive profit from that legal entity's operations.

**Significant Ownership Interest** - is any legal entity or natural person who owns at least 10% of the aggregate voting rights of another legal entity or bank.

**Preferred Shares** - those shares that pay a fixed dividend which are issued without voting rights unless converted to Common Shares. Preferred Shares may only be converted to Common Shares upon the prior approval by the Agency and the subsequent

approval by the shareholders. Preferred shareholders have a claim to the assets ahead of common shareholders in the event of liquidation.

**Supervisory Board** - body that is responsible for the supervision of the business operations of a bank. The Supervisory Board and its Chairman shall be duly elected at the General Meeting of Shareholders and must act in accordance with this Law.

**Management** - is composed of Director, Deputy Director and Executive Directors appointed by the Supervisory Board to direct the business operations of a bank and must act in accordance with this Law.

**Related Banks** - two or more Banks that share two or more of the same members of the Supervisory Board, or common ownership by the same legal entity or individual of at least 10% of each of their outstanding Common Shares.

**Related Entities** - two or more legal entities and/or natural persons who individually or jointly have:

- direct or indirect control of a bank's Supervisory Board, Management, or a Significant Ownership Interest, or

- by mutual agreement act in concert to create a Significant Ownership Interest in order to affect the operations of a bank.

**Subsidiary** - any legal entity for which a Bank holds 50% or more of the total voting shares, which permits the bank to exercise control over the management and policies of that legal entity. If the Subsidiary is a Bank, then the Subsidiary Bank must independently meet all requirements of this Law.

**Dormant Account** - an account where there has been no accountholder activity, either deposit to or withdrawal from the account by the accountholder, for a period of one year from the date of the last accountholder activity, and in the case of Time Deposits, one year beyond the maturity date.

## **II - ELEMENTARY PROVISIONS**

### **Article 2**

No one shall engage in the business of receiving money deposits and extending credits for its own account in the Republika Srpska without a banking license issued by the Banking Agency of the Republika Srpska (hereinafter: Agency) pursuant to this Law.

Under loans from the paragraph 1 above, no micro credits extended by micro-crediting, non-deposit, and non-profit institutions are taken into consideration.

No one shall use the word "bank" or derivatives of the word "bank" in respect of a business, product or service without a banking license or authorization issued by the Agency pursuant to this Law, unless such usage is established or recognized by a special Law or International Agreement, or unless it shall be clear from the context in which the word "bank" is used that it does not concern banking activities.

No bank shall use any words in its name that, in the opinion of the Agency, may mislead the public because of association with any institution of the Republika Srpska or the State of Bosnia and Herzegovina.

### **Article 3**

The Agency will not issue a license to any legal person who, designed to entice others to make payments, in exchange for the chance to receive financial or other gains resulting from a progressive increase (geometric or otherwise) in the number of persons making such payments.

The Agency shall be empowered to start the procedure with the authorized court of seizing the assets, books and records of any person who conduct operation described in Paragraph 1 and to liquidate the business of such person.

### **Article 4**

Domestic and foreign legal entities and individuals may found a bank. A bank may be founded by at least two (2) founders.

### **Article 5**

Bank with headquarters outside the Republika Srpska, with the Agency's approval, may establish representative offices in the Republika Srpska.

The request for approval to open a representative office needs to include the following:

1. information on the name, legal status and headquarters of the bank
2. the bank's Charter
3. information on the financial operations of the bank
4. document on the establishment of the representative office
5. name and headquarters of the representative office
6. activities of the representative office
7. program of representative office's operations
8. information on the senior employees of the representative office
9. authorization of the person responsible for the activities and representation of the representative office
10. certified statement from the bank that confirms the bank's willingness to take over all the liabilities resulting from the operation of the representative office.

In the context of this Law, a representative office is an organizational part of the bank where banking business is not conducted. Presentations, collection and provision of data are the operations of a representative office.

A decision regarding the issuance of authorization according to the request from this Article paragraph 2 the Agency shall issue in 60 days from the day that the request was received.

### **Article 6**

Banks can form independent bank associations as non-profit voluntary associations.

Bank association's statute must ensure that banks cannot sign any contract with other banks or associations, which limits the principle of the free market and transparent competition in banking business.

## **Article 7**

A bank with headquarters outside the Republika Srpska shall be permitted to receive money deposits or to extend credits for its own account in the Republika Srpska through a branch office authorized by the Agency pursuant to Articles 84 and 85 of this Law.

In its request to open a branch office, the bank needs to provide a certified statement that confirms the bank's willingness to provide guarantees, with all of its assets, for the liabilities created in the operation of the bank's branch office.

In the context of this Law, a bank's branch office is organizational part of the bank with the payment system legal authorization, as defined in the bank's Charter.

## **III - LICENSING AND AUTHORIZATION**

### **Article 8**

Banking licenses shall be issued by the Agency.

Request for issuance of the banking license shall be submitted by the founders and shall be accompanied by the following information and documents:

1. founding contract signed by all founders, draft of Charter, and other founding documents, as directed by the Agency;
2. the qualifications and experience of the Supervisory Board and Management of the proposed bank;
3. the amounts of capital stock and other forms of bank capital ;
4. a list of owners of the bank;
5. data relevant to judge on soundness of the bank founders.

### **Article 9**

The Agency shall issue its decision on the bank licensing based on the application from the Article 8 of this Law within 60 days upon receipt of such an application.

The Agency's decision refusing to license a bank or imposing conditions or limits in connection with such license shall include a written explanation of such refusal or such conditions and limits imposed.

A complaint against the decision from paragraphs 1 and 2 of this Article may be submitted to the Agency Management Board within 8 days upon the receipt of the decision.

### **Article 10**

The banking license is a condition for registration at the Court Register.

The Agency shall grant a banking license only if an amount of the bank's capital stock from Article 22 of this Law has been paid in and if it is confident that:

1. the bank will comply with the provisions of this Law and projections for the future financial condition of the bank are documented;

2. the Supervisory Board and Management of the bank shall have university education and experience appropriate for the licensed banking activities, and shall have not been prosecuted or sentenced by the court;
3. all holders with the Significant Ownership Interest are of sufficient financial capability, and suitable business background.

In the case of an applicant who is a legal entity, the criteria of Paragraph 2, items 2 and 3 of this Article shall also apply to any Supervisory Board and Management official and persons with significant voting rights.

In the context of this Law, members of the Supervisor Board and Management are employees who have special responsibilities and authorities in accordance with the Charter of the bank.

The Agency shall prescribe the mode of paying-in bank capital stock.

### **Article 11**

Bank having its headquarters outside Republika Srpska may be licensed to open a branch or a Subsidiary in Republic Srpska only if such a bank has a banking license issued by an institution authorized for bank licensing and supervision.

### **Article 12**

Banking licenses pursuant to Article 11 of this Law shall be granted by the Agency only upon consultations with the authorities licensing and supervising the founder bank concerned, and after receipt of the founder bank examination report.

### **Article 13**

In event of tight connections between the bank and other individuals or legal persons, the Agency shall license the bank only if such connections represent no obstacle for a successful implementation of the Agency's functions.

Pursuant to definitions of this Law such tight connections represent relationships between related persons as stipulated by the Agency.

### **Article 14**

The Agency shall also refuse both a banking license or an authorization if the laws, regulations or administrative provisions referring to banks' headquarters outside the Republika Srpska prevent or make it difficult to exercise effectively its supervisory functions.

The Agency shall have an authorization and a duty to request banks' information necessary to monitor compliance with the conditions referred to in Paragraph 1 of this Article.

### **Article 15**

A bank shall obtain the status of a legal entity upon entry into the Court Registry.

An application for registration in court register shall be submitted within 30 days, as latest, starting from the date when the Agency issues a banking license.

Organizational units of the bank shall be entered into the Court Registry, in accordance with the provisions on court registration.

#### **Article 16**

Banking licenses shall be granted for an indefinite period of time and shall not be transferable.

The banking license shall specify the banking activities to be performed by such a bank.

All banks licensed by the Agency shall be required to meet the membership criteria for deposit insurance in order to maintain their banking license.

#### **Article 17**

A branch of a foreign bank has the status of legal entities and must obtain an authorization.

#### **Article 18**

The Agency shall maintain a separate register and enter for each registered bank the name, addresses of the bank and its units and keep documents listed in paragraph 2 of the Article 32 of this Law.

Entries and other information concerning former banks whose banking licenses have been revoked shall be removed from the register.

Data from the register of banks shall be published.

#### **Article 19**

The Agency may revoke banking license or authorization in following cases:

1. upon a request of the bank pursuant to the Article 20 of this Law;
2. following an infraction pursuant to Article 123 of this Law;
3. following the report of a Provisional Administrator pursuant to Article 113 of this Law;
4. the license or the authorization has been obtained on the ground of false statements;
5. the bank has not submitted an application for registration in the court register within stipulated term, or has not started performing banking activities within ninety (90) days after its registration in the court register, or the bank has not been receiving money deposits or extending credits for more than six months;
6. a merger, amalgamation or division of the bank has occurred;
7. the amount of bank capital and reserves is lower than required minimum stipulated by the Law and the regulation of the Agency;
8. the bank's owners have decided to liquidate the bank, or the bank has ceased to exist as a legal entity;
9. failure to meet the membership criteria for deposit insurance;

10. the bank has not provided for the Agency or other authorized institution to supervise or audit the bank.

A complaint against the Decision on revoking banking license or authorization may be submitted to the Agency Management Board within eight (8) days upon the receipt of such Decision.

## **Article 20**

Bank may request the Agency to revoke its banking license. The Agency shall take decision based on the request from the paragraph 1 of this Article and submit such a decision to the bank within sixty (60) days, as latest, upon the request receipt date.

Decision on revoking the bank's request from the paragraph 1 of this Article shall be explained by the Agency.

A complaint against the Decision from the Paragraph 2 of this Article may be submitted to the Agency Management Board within eight (8) days upon the receipt of such Decision.

## **Article 21**

Based on the Decision from the Article 19 of this Law, the Agency shall determine the date for revoking banking license or authorization.

The Decision on revoking banking license or authorization shall be published in the "Official Gazette of Republika Srpska" as well as in a local daily newspaper published in the territory of Republika Srpska, and a newspaper available in the Federation of Bosnia and Herzegovina and Brcko District.

The Agency must additionally inform the Central Bank of Bosnia and Herzegovina and the Deposit Insurance Agency of Bosnia and Herzegovina of any actions described in Article 19 of this Law.

Starting from the date on which banking license or authorization revocation comes into effect, as determined by the Decision from the Article 19 of this Law, the bank shall be prohibited from engaging in any of the banking activities specified in the Article 87 of this Law, and such a bank shall be required to terminate Deposit Contracts in force, pay out its liabilities, and liquidate its assets.

During conducting its affairs as described in paragraph 4 of this Article, the bank shall otherwise continue to be subject to the provisions of this Law as if it were licensed or authorized.

## **IV - CAPITAL AND OWNERSHIP OF A BANK**

### **Article 22**

The minimum amount of paid-in funds of a bank's founding capital and the lowest amount of net capital, which a bank must maintain, shall not be less than Convertible Marks fifteen million (15,000,000 KM).

No bank shall decrease its capital or deteriorate the structure of its capital by repurchase of shares without prior written authorization of the Agency.

Paid in Share Capital cannot be treated as such if the funds originate from:

- loan funds granted by the bank into whose capital the payment is being made;
- loan funds that another bank granted for some other purposes;
- loan funds, where the bank receiving capital is a guarantor.

If a connection is established between a loan user or its related entity and a loan granted and payment made to the bank's Paid in Share Capital or if a connection is made between a payment to the Paid in Share Capital and a loan granted, then such a payment to the bank's shareholders' capital has no legal effect whether payments were made on the same or a different day.

The Agency has a right to review cash flows in a bank, loan user and its related entity. Also, the Agency holds a discretionary right to decide whether payments to the Paid in Share Capital were performed in accordance with the Law and, in a case of Law violations, to deny such payment and exclude them from the Paid in Share Capital. Provisions of this Article shall also apply to branch offices of foreign banks.

### **Article 23**

No physical or legal person, alone or acting in concert with other persons, may acquire or significantly increase his voting rights in a bank over 10%, 33%, 50%, and 66.7% his capital ownership or the bank's voting shares without obtaining the approval from the Agency.

To obtain the authorization described in the paragraph 1 of this Article, the person involved must submit to the Agency a written request with data pertaining to his business operation, financial capability, and other information in compliance with the Agency's provisions.

The Agency shall respond to the request described in paragraph 2 of this Article within sixty (60) days upon the request receipt date.

Neither a political party nor a related legal entity of a political party can be a bank shareholder.

### **Article 24**

No bank shall have, directly or indirectly, without prior written authorization of the Agency:

1. hold a Significant Ownership Interest in a legal entity or indirectly in a subsidiary of that legal entity that exceeds 5% of the bank's Core Capital, or
2. hold the aggregate net value of all Participation Interests of the bank in other legal entities and in subsidiaries of those legal entities to exceed the equivalent of 20% of the bank's Core Capital.

A bank cannot either directly or indirectly have a Participation Interest in a legal entity that exceeds 15% of the bank's Core Capital, and where the Participation Interest is in a non-financial entity the Participation Interest cannot exceed 10% of its Core

Capital nor can the Participation Interest exceed 49% of ownership of the non-financial legal entity.

The total amount of all Participation Interests of a bank in other legal entities may not exceed 50% of its Core Capital, and where the total amount of all Participation Interests in other non-financial legal entities the total cannot exceed 25% of the bank's Core Capital.

Loans by the bank to legal entities that the bank has investments in shall be considered as investments for the limitations in this Article.

Neither a bank nor a Subsidiary may invest in any legal entity that is primarily engaged in the business of armaments, gambling, nor the selling or consuming of alcohol on its premises, nor make a donation or loan to any political party. In addition the Agency may by regulation or decision determine additional restrictions in investments or donations.

## **Article 25**

The Agency may refuse to authorize an acquisition or increase of a Significant Ownership Interest in a bank in any of the following cases:

1. uncertain financial condition of the applicant;
2. lack of competence and experience of applicants, such that the interests of the bank or its depositors could be threatened;
3. granting such authorization would lead to breach of requirements of the Article 88 of this Law; or
4. the applicant submitted unreliable information or information not complying with the provisions of this Article or regulation of the Agency, or refused to submit information required by the Agency to make a decision on the application.

## **Article 26**

If the applicant from the Article 23, paragraph 2 of this Law is a legal entity, the criteria in Article 25 of this Law shall also apply to every Supervisory Board and Management official or holder of Significant Ownership Interest in this legal entity.

## **Article 27**

In event of applications submitted by institutions involved in multilateral loans or regional development and in case of acquiring non-voting shares, the Agency may give an approval not to apply specific conditions and limitations stipulated by Articles 23 through 26 of this Law.

## **Article 28**

Status changes in a bank such as mergers, amalgamations or divisions shall require prior written authorization of the Agency.

To obtain authorization for a status change, the bank must submit to the Agency an analysis of the economic justification and a plan of operation of the resulting bank or banks, in accordance with the Agency regulations.

Status changes found to be inconsistent with the provisions of paragraphs 1 and 2 of this Article will not have legal effect.

### **Article 29**

The Agency may refuse authorization of the status change of a bank if it is expected that the resulting bank would not be able to meet requirements regarding its capital, Supervisory Board and Management and depositors' protection.

### **Article 30**

The Agency is required to refuse authorization of the status change of a bank if such a change would prevent or impede successful implementation of the Agency's supervisory functions.

### **Article 31**

Bank shall apply for the Agency's approval on the following:

1. Change of the Bank Charter and the Bank By-Laws,
2. Founding of a bank or any bank offices outside the territory of Republika Srpska,
3. Change in the bank title and address,

The Agency shall make decision on such an approval within 60 days upon the application receipt date.

### **Article 32**

The Charter of a bank shall specify: the bank headquarters, organizational structure and business operation, authorizations, mode of operation of the bank's bodies, amount of founders' capital and other types of the bank's capital; types, number and nominal value of shares as well as voting rights related to shares and methodology in issuing the bank's general acts.

Bank is required to submit to the Agency a certified copy of the Charter and other general acts of the bank, a list of the bank officials authorized to assume responsibility on behalf of the bank with the stated limits of such authority as well as duly verified specimen signatures of such authorized officials.

The Charter, as well as modifications and amendments to the bank's Charter shall come into effect upon obtained approval of the Agency.

## **V - MANAGEMENT OF BANK**

### **Article 33**

Bodies of the bank are:

1. General Meeting of Shareholders;
2. Supervisory Board;
3. Management.

## **1. General Meeting of Shareholders**

### **Article 34**

The General Meeting of Shareholders of the bank shall be composed of shareholders. The General Meeting of Shareholders shall normally be held in the place of the head office of the bank.

The General Meeting of Shareholders shall be chaired by its Chairman, who shall be elected at the beginning of the General Meeting of Shareholders session.

Upon proposal of the Chairman, General Meeting of Shareholders shall appoint a person in charge of the minutes, two shareholders who certify the minutes and appoint members of the General Meeting of Shareholders Voting Committee.

Chairman and members of Supervisory Board, and members of Management shall be present during General Meeting of Shareholders session.

In a bank with a single shareholder the authorities of the General Meeting shall be carried out by the shareholder.

### **Article 35**

A General Meeting of Shareholders shall be held at least once a year.

Supervisory Board, except for the cases otherwise provided by this Law shall convene General Meeting of Shareholders.

Shareholder who was placed on the list of shareholders at the Registry 45 days before the date of the General Meeting of Shareholders session shall have voting rights in the General Meeting of Shareholders.

Bank shall cover expenses of the General Meeting of Shareholders session.

## **1.1 Convening the General Meeting of Shareholders**

### **Article 36**

Notification of the agenda, place, date and time of the General Meeting of Shareholders session shall be published in at least one of the daily newspapers published within the Republika Srpska , no later than 30 days before the date determined for the General Meeting of Shareholders session.

If the General Meeting of Shareholders session was convened out of the head office of the bank, notification provided by Paragraph 1 of this Article shall within the same time period be sent to each of the shareholders by registered mail, fax or electronic mail, to the address from list of shareholders provided by Article 35 Paragraph 3 of this Law.

## **1.2 Convening an Emergency General Meeting of the Shareholders**

### **Article 37**

A majority of members of the Supervisory Board may vote to hold an Emergency General Meeting of the Shareholders and may vote to hold this Emergency General Meeting of the Shareholders in less than the 30 days required in Paragraph 1 from Article 36. However, every shareholder must be notified of the emergency General Meeting of the Shareholders, including its purpose and the proposed Agenda in the manner provided in Article 36. The Emergency General Meeting of the Shareholders may only be held if shareholders holding an aggregate total of 75% of the outstanding shares are represented and are available to vote. Further, any action taken at the Emergency General Meeting of the Shareholders must be approved by two thirds of the number of shares represented.

## **1.3 Decision Making**

### **Article 38**

Shareholder or group of shareholders with at least 5% of the total number of shares with voting rights, shall have right to propose in writing amendments to the agenda and the proposal of the decisions of the General Meeting of Shareholders no later than eight days from the day of publication of notification provided by Article 36 Paragraph 1 of this Law.

Supervisory Board shall publish notification on shareholders' proposal provided by Paragraph 1 of this Article in the same manner as notification on convening the General Meeting of Shareholders as provided by Article 36 Paragraph 1 of this Law.

Supervisory Board shall not publish the proposal provided by Paragraph 1 of this Article if proposal is:

1. illegal or contrary to provisions of the Charter of bank;
2. based on inaccurate and incomplete data or containing such a data;
3. the same proposal was discussed at the General Meeting of Shareholders at least two times in the last 5 years and was not supported by other shareholders with more than 5 % of the total number of shares with voting rights;
4. person who gave proposal announced that he/she will not be present at the General Meeting of Shareholders.

Costs of publication of individual proposals provided by Paragraph 1 of this Article that contain up to 100 words shall be covered by bank, and for longer proposals, by the person who gave the proposal.

### **Article 39**

Request for convening the General Meeting of Shareholders may be submitted by:

1. shareholder or group of shareholders with more than 10% of the total number of shares with voting rights;
2. two members of the Supervisory Board;
3. Audit Board.

Request for convening the General Meeting of Shareholders, with proposal on its agenda, shall be submitted to the Supervisory Board in written form.

If Supervisory Board, within 45 days from the day the request is submitted, fails to publish notification on convening the General Meeting of Shareholders session in a manner provided by Article 36. of this Law, person who submitted request is authorized directly to convene the General Meeting of Shareholders session in the same manner and shall inform the Agency about that in writing.

Persons provided by Paragraph 1. of this Article are authorized directly to convene the General Meeting of Shareholders session in case if the General Meeting of Shareholders had not been convened six months after expiration of period for making of annual report.

#### **Article 40**

General Meeting of Shareholders may make decisions only if shareholders with more than 50% of the shares with voting rights are represented in person or through representative.

If upon expiration of 60 minutes from the set time of commencement of the General Meeting of Shareholders quorum is not reached for decision making provided by Paragraph 1 of this Article, General Meeting of Shareholders shall be postponed, and the Supervisory Board shall not earlier than 15 and no later than 30 days from initially set up date for convening it publish notification on reconvening the General Meeting of Shareholders.

In case provided by Paragraph 2 of this Article quorum shall be made of one third of the shares with voting rights.

#### **Article 41**

General Meeting of Shareholders of bank shall make decisions on:

1. establishment of bank's Core Capital through the issuance or increase of Common Shares and the issuance or increase of Preferred Shares.
2. increase and decrease of the registered capital;
3. annual financial report, with the reports of external auditors, Supervisory Board and the Audit Board;
4. distribution of profit and payment of dividend;
5. manner of loss coverage;
6. consolidation with other enterprises and merger of other enterprises by the bank, except for consolidation or merger of Subsidiaries ;
7. division and termination of the bank;
8. purchase, sale, exchange, leasing and other transactions with property, directly or through Subsidiaries within business year, in the extent that exceeds one third of the bookkeeping value of property of the bank;

9. sale and purchase of property with accounting value between 15% and 33% of the total existing property of the bank, if such a transaction is not previously approved by unanimous decision of Supervisory Board;
10. election and removal of the members of Supervisory Board on individual basis
11. establishment, reorganization and liquidation of Subsidiaries, and approval of their respective statutes;
12. compensations for the members of Supervisory Board and Audit Board; and
13. the Statute and amendments of statute;
14. other issues important for business operation of the bank, in accordance with the Law and statute of the bank.

#### **Article 42**

Shareholder shall have right, from the day of publication of notification on convening the General Meeting of Shareholders in the bank premises, to review the financial statement, with the reports of external auditors, Supervisory Board and Audit Board as well as other documents that concern proposal of the decisions placed on the agenda of General Meeting of Shareholders.

#### **Article 43**

General Meeting of Shareholders shall make decisions by majority of shares with voting rights, except for the issues mentioned in Article 41, and items 2, 6, and 13. of this Law on which decisions are made by two third majority of represented shares with voting rights.

On the reports provided by Article 41, item 3 of this Law, the General Meeting of Shareholders shall give its decision no later than six months from the end of business year.

#### **Article 44**

Voting within General Meeting of Shareholders shall be conducted through ballot papers that shall contain name or company name of the shareholder and the number of votes on his/her disposal.

Voting shall be conducted by circling on the ballot paper responses "for" and "against" proposal of the decision or the name of the candidate at the election of bodies of the bank.

The Voting Committee shall determine results of voting.

### **1.4 Decision Making Through Proxies**

#### **Article 45**

Shareholders' proxy shall have authorization for representation by shareholders, signed by a shareholder – natural person or representatives of the shareholder-legal person. The signed proxy must be certified.

#### **Article 46**

Proxy shall deliver to the Voting Committee a written authorization for representation of the shareholders. Voting Committee shall check validity of authorization and identity of the representative.

#### **Article 47**

If a shareholder or his authorized representative, within seven days from the day of General Meeting of Shareholders session, deliver certified statement of the shareholders to the Voting Committee, public document or other verifiable evidence that denies validity of authorization to the Voting Committee, it shall declare votes based upon such an authorization to be invalid and inform the Supervisory Board on that in writing.

Supervisory Board shall suspend enforcement of the decision, passing of which was decisively influenced by invalid votes and it shall convene the General Meeting of Shareholders for repeated decision making on these issues no later than 30 days from the day of receipt of notification of the Voting Committee on invalid votes.

### **1.5 Minutes of General Meeting of Shareholders**

#### **Article 48**

Minutes shall be made of the work of the General Meeting of Shareholders and it shall contain:

1. company name and address of the head office of the bank;
2. place and time of the General Meeting of Shareholders session
3. first name and family name of the Chairman, person in charge of minutes, persons in charge of certification of minutes and members of Voting Committee;
4. agenda;
5. decisions;
6. data on voting;
7. objections of shareholders and members of Supervisory Board to the General Meeting of Shareholders decisions.

Minutes shall be accompanied with proposals in writing and the reports submitted to the General Meeting of Shareholders.

Supervisory Board shall ensure that the minutes be made no later than 30 days from the day of convening the General Meeting of Shareholders.

Minutes shall be signed by chairman of the General Meeting of Shareholders, person in charge of minutes and the persons who certify minutes.

Shareholder may request that the copy of minutes or excerpt from minutes be delivered to him for all the General Meeting of Shareholders sessions.

#### **Article 49**

Bank shall maintain minutes of the General Meeting of Shareholders for an indefinite period, evidence on presence and voting of shareholders, notifications and invitations for the General Meeting of Shareholders.

Liquidator shall ensure maintenance of documents provided by Paragraph 1 of this Article at least 10 years after termination of the bank.

## **1.6 Protection of Minority in Decision Making and Challenging the General Meeting of Shareholders Decisions**

### **Article 50**

If the General Meeting of Shareholders rejects proposal of shareholders with more than 20% of the shareholders with voting rights for appointment of an external auditor for extraordinary examination of all the issues that relate to establishment and business operation of the bank within last five years, external auditor shall be appointed by the Agency.

### **Article 51**

Decision of the General Meeting of Shareholders shall be null and void if:

1. General Meeting of Shareholders was not convened in a manner determined by Article 36 of this Law;
2. was not entered into minutes;
3. nullity is determined by a court decision.

### **Article 52**

Procedure for challenging and termination of the General Meeting of Shareholders decision, with the court at which the bank was entered into court register may be initiated by:

1. shareholders representing a minimum of 33% ownership and who attended the General Meeting of Shareholders, whose objection to the decision was not entered into minutes, or was not entered correctly;
2. a shareholder who was not present at the General Meeting of Shareholders due to convening the General Meeting of Shareholders contrary to the provisions of the Article 36 of this Law;
3. Supervisory Board and Management and each member of Supervisory Board and Management, if enforcement of the decision would constitute an economic offense or crime or create damage to the bank.

Procedure provided by Paragraph 1 of this Article may be initiated no later than 60 days from the day of General Meeting of Shareholders session.

Within procedure provided by Paragraph 1. of this Article, a bank shall be represented by the Director or other member of Management, upon authorization by Director.

If the plaintiff is Management member, bank shall be represented by a person appointed by Supervisory Board, and if plaintiffs are the Supervisory Board and Management or the members thereof, the court shall appoint representative for bank, if not appointed by General Meeting of Shareholders.

## **2. Supervisory Board**

### **Article 53**

Supervisory Board shall be composed of a Chairman and at least four members, with a maximum of six members appointed and removed by the General Meeting of Shareholders, provided that entire number of members of the Supervisory Board is odd, including the Chairman.

Chairman and members of Supervisory Board shall be appointed simultaneously for the period of four years.

The same person may be appointed as Chairman or member of Supervisory Board several times without limitations.

Chairman and members of Supervisory Board shall be entered into the register maintained with the Agency.

### **Article 54**

Following persons may not be Chairman or member of Supervisory Board:

1. person convicted for crime or economic offense within the economic and financial crime scope;
2. person who, pursuant to the court decision, was denied to conduct activities within competence of Supervisory Board; and
3. person older than 70 years of age on the day of appointment.

### **Article 55**

A shareholder or a group of shareholders with at least 5% of the shares with voting rights may nominate candidate for member of Supervisory Board.

Each proposal provided by Paragraph 1. of this Article shall be submitted in writing, no later than eight days from the day of publication of notification on convening the General Meeting of Shareholders that has on its agenda issue of election of the Chairman and members of Supervisory Board.

Each proposal provided by Paragraph 1. of this Article that was delivered to the Supervisory Board before publication of notification from Article 36 of this Law, shall also be delivered to the shareholders, accompanied with other materials.

Candidates for Chairman and members of Supervisory Board shall before voting give statement in writing on their acceptance of nomination.

### **Article 56**

The Chairman and members of Supervisory Board shall be elected by voting, in accordance with Article 44 of this Law, provided that each shareholder may cast one vote for each share with voting rights. Each shareholder with voting rights may cast all votes for one person or distribute their votes to more than one person.

Each shareholder shall receive a ballot that sets out at the top the number of votes entitled to be exercised as set out in paragraph 1 of this Article.

The candidate that wins greatest number of votes shall be declared Chairman by the General Meeting of Shareholders, while candidates with the second greatest number of votes shall be declared members of Supervisory Board.

If they receive an equal number of votes, the Supervisory Board can select the Chairman from among themselves.

**Article 57**

Chairman and members of Supervisory Board shall enter into employment contracts with the bank that is subject to approval by the General Meeting of Shareholders.

Each employment contract shall be signed on behalf of the bank by its Director, in accordance with General Meeting of Shareholders approval.

**Article 58**

Chairman and members of Supervisory Board in the first mandate shall be elected at the founding General Meeting of Shareholders in accordance with provisions of Articles 55 and 56 of this Law.

**Article 59**

Director and members of Management of the bank may not be appointed Chairman and member of the Supervisory Board in that or any other bank in Bosnia and Herzegovina.

Elected officials and all employees of the State, Entity, and Municipal Governments and their respective Institutions may not serve as members of the Management of any bank while so employed.

Elected officials, Ministers and Deputy Ministers of State, Entity, and Municipal Governments and their respective Institutions may not serve as members of the Supervisory Board of any bank while they are so employed and for a period of one year thereafter.

All employees of the State, Entity, and Municipal Governments and their respective Institutions who serve as members of a Supervisory Board of any bank must refuse and refrain themselves from involvement in any discussions or decisions within the government having to do with the bank for which they are a member of the Supervisory Board.

A person or a legal entity's duly authorized representatives, cannot serve as Chairman or member of a Supervisory Board of more than one bank concurrently, unless that person or that legal entity owns more than 50% of shares of each bank.

The same person may not be appointed simultaneously Chairman or member of the Supervisory Board in more than three banks.

**Article 60**

A session of Supervisory Board shall be held when necessary, and at least once a quarter.

Chairman of Supervisory Board shall convene session of Supervisory Board. Chairman of Supervisory Board shall convene the session upon request of the

Director of the bank or two members of the Supervisory Board, no later than 14 days from the day of submission of the request, otherwise person who submitted the request shall be authorized for convening the session. However, provided that all members of the Supervisory Board are invited, and the invitation is accompanied by an Agenda and material for each item on the Agenda, a majority of members of the Supervisory Board may convene an emergency session within three days of the vote to convene such emergency session of the Supervisory Board. All provisions of Article 62 apply to emergency meetings of the Supervisory Board.

#### **Article 61**

Written invitation for the session of Supervisory Board, in which place and date of session, time of its commencement and the agenda of session shall be delivered to the members of Supervisory Board no later than 7 days before the date of holding of the session.

Invitation for session shall be accompanied by the materials for each of the items on the agenda.

#### **Article 62**

For holding the session of the Supervisory Board quorum of majority of the entire number of members is required.

Supervisory Board shall issue its decisions by majority of votes of the entire number of members.

Chairman and member of Supervisory Board may not vote on the issues that relate to himself/herself personally.

Persons who are not members of Supervisory Board may be present at the session only based upon written invitation by Chairman of the Supervisory Board.

#### **Article 63**

Supervisory Board of the bank shall be competent to:

1. supervise business operation of the bank;
2. supervise work of administration;
3. adopt report of administration on business operation upon semi-annual balance sheet, profit and loss statement, annual balance sheet and internal and external audit reports;
4. submit an annual report to the General Meeting of Shareholders on business operation of the bank, which shall include internal and external audit reports, report on work of the Supervisory Board and the Audit Board , as well as plan of business operation for the following business year;
5. appoint Management of the bank;
6. appoint external auditor;
7. propose distribution and manner of use of profit and manner of loss coverage;
8. approve purchase, sale, exchange, leasing and other property transactions by property, directly or through Subsidiaries during the business year to the

- extent ranging from 15% to 33% of the accounting value of the entire property of the bank;
9. insure that appropriate internal controls for the bank are established and maintained;
  10. insure that appropriate internal and external audits are performed;
  11. establish provisions for loan losses to be expensed; establish necessary reserves out of net profit of the bank; and declare dividends;
  12. appoint chairmen and members of the committee for compensation and the committee for appointment;
  13. establish ad hoc commissions and determine their composition and tasks;
  14. convene the General Meeting of Shareholders;
  15. approve issuance of new shares of the existing class in the amount up to one third of the sum of nominal value of the existing shares and determine amount, time of sale and price of these shares, that may not be lesser than average market value of the existing shares of the same class in 30 consecutive days prior to the day of decision making;
  16. approve internal by-laws, business and other policies and procedures; and
  17. decide on issues not specifically covered in other authorities.

#### **Article 64**

Chairman and members of Supervisory Board shall carry out their commitments and responsibilities in accordance with the interests of the shareholders and bank and may not perform activity that would compete with activities of the bank without advise and consent of other members of Supervisory Board.

Chairman and members of Supervisory Board shall upon proposal of the emission of new or purchase of its own shares of bank and other securities announce all the important data relating to business operation of the bank.

Chairman and member of Supervisory Board shall report to the Supervisory Board on each personal interest within the legal person, with which bank has or intends to enter into business relationship.

In case provided by Paragraph 3 of this Article, Chairman and member of Supervisory Board may not make decision on issues that concern relations of bank and other legal persons in which Chairman and member of Supervisory Board shall have direct or indirect financial interest.

#### **Article 65**

If Chairman or a member of Supervisory Board act contrary to the provisions of the Article 64 of this Law, bank shall have right to claim compensation of damage caused by that.

Bank may forfeit the claims provided by Paragraph 1 of this Article upon expiration of three years from the day of raising request for compensation, if the General Meeting of Shareholders consent to resignation, provided that no objections of the shareholders who possess at least 10% of the shares with voting rights.

## **Article 66**

Chairman and members of Supervisory Board shall be either individually or jointly and severally liable for damages caused by failure to comply or irregular compliance with their duties.

## **Article 67**

Chairman and members of Supervisory Board shall have right to request all the data on business operation and presence of the Management members to the sessions of Supervisory Board.

Chairman and members of Supervisory Board shall have right to be present to the sessions of the Management of the bank.

## **3. Management**

### **Article 68**

Management shall organize work and direct business operation. Management of the bank shall consist of Director and Executive Directors as well as the Deputy Director who may be appointed at the discretion of the Supervisory Board.

### **Article 69**

Director shall preside over Management, direct business operation, represent bank and be responsible for legality of business operation.

The term in office for the Director shall be 4 years, which may be renewed without any limitation as to the number of terms.

Position, authorities and rights of the Director shall be regulated by contract between Supervisory Board and Director.

The Director cannot be appointed without the prior approval of the Agency.

### **Article 70**

Deputy Director shall substitute for the Director in case of his/her absence, and if the bank has no Deputy Director appointed, the Director shall authorize in writing one of the Executive Directors to substitute for him and determine his/her authorities.

Executive Directors shall organize work, represent bank and shall be responsible for the legality of business operation in businesses and their scope defined by written act of the Director.

Executive Directors shall be appointed and removed by Supervisory Board upon proposal of the Director, for the period for which Director was appointed.

Salary and other material rights of the Executive Director shall be regulated by contract between the Director and Executive Director, upon prior approval of the Supervisory Board.

## **Article 71**

Director, Deputy Director and Executive Directors shall report to Supervisory Board each direct or indirect interest within the legal person with which bank has or intends to enter into business relationship.

In case provided by Paragraph 1. of this Article, Director, Deputy Director and Executive Director may participate in such a business relation based upon written consent of the Supervisory Board.

## **Article 72**

In any case when the Director is removed, resigns, dies, or is ill or otherwise absent from his/her duties without the prior approval of Supervisory Board for a period of more than thirty consecutive calendar days, the Supervisory Board must confirm the Deputy Director in this position or appoint an interim Director to serve until such time as the Supervisory Board appoints a new Director.

The Interim Director may serve a maximum period of ninety days without having to obtain the approval of the Agency.

Prior to the expiration of ninety days the Supervisory Board must either submit an application for approval for Director of the bank to the Agency or an application for extension for another ninety days for approval for the Interim Director from the Agency. The Agency has 45 days to act on this application. Thereafter if the application for an extension for the Interim Director is not approved by the Agency or if no Director has been appointed by the Supervisory Board and approved by the Agency, the Agency shall appoint a Provisional Administrator.

## **Article 73**

Bank shall have its Secretary, appointed by Supervisory Board, upon proposal of the Director of bank, serve for the same period for which the Director has been appointed.

Salary and other material rights of the Secretary shall be regulated by contract between the secretary and Supervisory Board, upon Director's proposal.

## **Article 74**

Secretary is responsible for maintaining the register of shareholders, register of minutes of General Meeting of Shareholders and Supervisory Board and keeping documents determined by this Law and statute of bank, except for financial reports.

Secretary shall be authorized for carrying out decisions of the General Meeting of Shareholders, Supervisory Board and the Director.

Secretary shall be responsible for preparation of sessions and maintaining minutes of the General Meeting of Shareholders and Supervisory Board.

## **4. Audit Board**

## **Article 75**

Bank must establish an Audit Board appointed by the Supervisory Board.

The Audit Board shall consist of five members appointed for terms of four (4) years. Members may be reappointed.

The Audit Board must have all oversight responsibilities for the conduct and employment of an external audit firm to prepare the annual audited financial statement.

The Audit Board will present the completed annual audited financial statement to the Supervisory Board and to the General Meeting of Shareholders.

The Audit Board must also supervise all internal audit activities including the oversight of the annual balance sheet and auditing of financial business operation of bank upon request of shareholders with at least 10% of the shares with voting rights, and deliver a report on that to the General Meeting of Shareholders and Supervisory Board, no later than eight days from the completion of auditing.

## **Article 76**

Chairman and members of Audit Board may not be appointed from the group that includes the Chairman or members of Supervisory Board and must not be members of Management or staff within the bank, nor may he/she have direct or indirect financial interest in the bank, except for the compensation based upon conduct of that function.

Compensation and other rights of the members of the Audit Board shall be regulated by contract based upon the decision of the General Meeting of Shareholders.

The Audit Board reports directly to the Supervisory Board.

## **Article 77**

The Audit Board is responsible for implementing the decisions of the General Meeting of the shareholders concerning the selection and engagement of the external auditor.

## **Article 78**

The Audit Board shall be authorized to request convening the session of Supervisory Board and the General Meeting of Shareholders when it considers that the shareholders interests are threatened or when it determines irregularities in work of the Chairman or members of Supervisory Board, Director or Executive Directors.

## **Article 79**

The Internal Auditor is responsible for identifying, monitoring and assessing risks in the operations of a bank and determining whether the system of internal control that is in place makes sure that those risks are managed in the manner that the risks are mitigated in an acceptable measure.

In performing his/her responsibilities, the Internal Auditor shall have authorities for unrestricted and unimpeded work and he/she is obliged to cooperate with the Audit Board of a bank.

The Internal Auditor reports directly to the Audit Board. However, in cases of major unresolved disputes, the Internal Auditor will notify the Supervisory Board and the Supervisory Board must resolve the dispute.

Supervisory Board appoints the Internal Auditor.

Salary and other material rights of the Internal Auditor shall be determined by the contract signed by the Supervisory Board and the Internal Auditor.

## **Article 80**

The Director of a bank shall be responsible for the legality of the bank's operation and implementation of the adopted bank's business policy.

The Chairman and all members of the Supervisory Board, the Director, the Deputy Director and the Executive Director of the Loan Department of a bank cannot be appointed without the previous agreement of the Agency.

The bank's Director shall not be:

1. a member of the Supervisory Board of the same bank or some other bank that is registered in Republika Srpska, except if that bank has a close relation with the bank of which he is a Director.
2. person who, in accordance with other laws, is not eligible for a bank's director;
3. person who is or was appointed as a director or a deputy director of the Agency in the previous period of two year except in cases when such a person is approved by the Agency Management Board;

The bank's Director shall:

1. represent the bank and act as its agent;
2. execute decisions of the Assembly, the Audit Board and the Supervisory Board of the bank;
3. organize and manage the bank's operation;
4. decide on all matters which are not in the jurisdiction of the Assembly, the Audit Board or the Supervisory Board of the bank;
5. perform other functions in keeping with the law, the bank's by-laws and its general acts.

## **Article 81**

Individuals appointed as members of Management of a bank cannot be older than 65 and must meet all requirements set by the Agency's regulations and general acts of the bank".

Individuals appointed as Internal Auditor cannot be related by marriage or blood up to the third degree of consanguinity to any member of the Supervisory Board, Management or any person who holds a Significant Ownership Interest.

If the Agency rejected a request to approve an individual, in accordance with Article 80 of the Law, the bank cannot file another request for the appointment of that individual for

the same position until the reasons stated in the Agency's Decision on rejection of giving an Agreement are eliminated.

## **Article 82**

The Supervisory Board, Management and members of their immediate family who are living in the same household, or have joint investments are each required to file a signed disclosure statement, within thirty calendar days of Supervisory Board or the Management member concerned assuming position.

This disclosure statement will describe all assets, including information on all of the investments, any loans or credits of over 20,000 KM, and information on legal entities for which 5% or more of shares or equities with voting rights is owned, as well as any other information required by the Agency.

The form of the Disclosure Statement will be promulgated by the Agency. Each person, who is required to file a disclosure statement hereunder, must also file an annual update of this disclosure statement with the Agency as of the first day of each calendar year.

## **Article 83**

The Supervisory Board, Management, and all employees, as well as any person engaged to work in the bank on any basis, shall be required to keep business secret, and not to use for personal gain or permit to be examined by others, any information that they obtained in the course of their services to the bank, except to the Agency, which includes inspectors and auditors appointed by the Agency and except to such other institutions as the Law shall provide.

Persons from Paragraph 1 of this Article shall be required to keep business secrets even after the completion of their engagement in the bank i.e. upon expiration of their official mandates.

## **Article 84**

Bank's branch or representative office shall be established only upon a written authorization of the Agency.

The Agency may refuse the request of a bank to establish a unit on the following grounds:

1. the staff, premises and equipment of the proposed office do not meet regulatory requirements stipulated by the Banking Agency;
2. the bank's operation or financial condition of the applicant bank indicates that foundation of such a unit is not in the interest of the bank's depositors.

## **Article 85**

The mode of business operation and the supervision of a bank's units in Republika Srpska as well as of banks having their headquarters outside of Republika Srpska shall be regulated by a separate enactment of the Agency.

## **VI - BANK'S OPERATION**

### **Article 86**

A bank is required to conduct its operations in accordance with the law, regulation stipulated by the Agency, any conditions and restrictions provided by its banking licenses, as well as with appropriate business operations and accounting principles and standards.

A bank shall continuously maintain adequate capital, i.e. solvency, and a required level of liquid assets, i.e. payment and lending capability, and shall ensure that their assets are diversified.

In the context of this Law, diversification shall include the expansion of assets by investing and lending funds to various different legal persons.

### **Article 87**

Banks may only engage in the following activities:

1. receiving money deposits or other monetary funds;
2. making and purchasing of loans and financial leasing;
3. issuing all forms of guarantees;
4. participating in, buying and selling of money and capital market instruments for its own and others' account;
5. providing payment system and money transfer services;
6. buying and selling foreign currencies;
7. issuing and administering means of payment (including credit cards, travelers' checks and bankers' drafts);
8. safekeeping and administration of securities and other valuables;
9. providing financial management services;
10. purchase and sale of securities;
11. other business operation stemming out of the previously listed ones.

### **Article 88**

Banks shall refrain from entering into transactions or engaging in practices of any kind representing unfair competition in the financial market.

### **Article 89**

The Agency holds the right to regulate fees charged by banks in events of banks' misunderstandings related to the fees height, or other unfair business performance that is not in compliance with the Agency's regulations.

### **Article 90**

Bank shall observe levels of limitations and risks concerning its balance sheet and off-balance sheet items, assets, capital and its structure, as stipulated by the Agency.

Regulations pertaining to the paragraph 1 of this Article determine minimum requirements and standards regarding the following issues:

1. liquidity management;
2. loan risk exposure;
3. assessment of quality and classification of assets and reserves which shall be established by the bank based on such classification, conditions under which they are calculated, where uncollected interest for bad loans shall not be considered as an income of any bank;
4. imposing prohibitions, restrictions and conditions in connection with types and forms of loans and investments, adjustments of maturity and interests regarding assets and liabilities, foreign currency sub-balance sheet items without back up and other.

The bank shall maintain its equity and net capital in accordance with Article 22 of this Law, which shall be equivalent of not less than 12% of the total value of its risk assets whereby not less than 1/2 of regulatory capital shall consist of core capital.

The values of the capital, equity capital and weighted assets shall be determined in accordance with the provisions issued by the Agency.

### **Article 91**

Maximum credit risk exposure of a bank regarding a single borrower or a group of related borrowers shall not exceed the equivalent of 40% of the bank's core capital applying the following schedule and additional restrictions:

1. the maximum amount of unsecured credit to a single borrower or a group of related borrowers shall not exceed the equivalent of 5% of the bank's core capital;
2. any amount of credit to a single borrower or a group of related borrowers exceeding the equivalent of 25% of the bank's core capital must be fully secured by a good quality collateral, as determined by reliable and continuously available price quotations, which shall exceed the amount of such a credit;

Large credit exposure means a total credit risk of a bank regarding a single borrower or a group of related borrowers amounting to more than the equivalent of 15% of the bank's core capital, while the bank's total aggregate [principal outstanding amount of all] large credit risk exposure shall not exceed the equivalent of 300% of the bank's core capital.

Two or more borrowers shall be considered to be a "group of related borrowers" when, due to their mutual relationships, bank's exposure to this group represents a unified credit risk exposure of the bank under such conditions as stipulated by the Agency.

### **Article 92**

If a bank is a depository bank that receives payments of public revenue funds, the bank must either:

- a) transfer 50% of those daily balances, in cash, at the close of each business day to a special reserve account that each depository bank must establish in the Main Bank of the Republika Srpska under Central Bank of Bosnia and Herzegovina Law and regulations passed based on the Law; or
- b) fully collateralize the average daily balance with either domestic or foreign securities held by another third party bank acting as custodian. The accountholder, the

bank, and the third party bank must enter into an agreement specifying the type of securities and that the securities must be held in the name of, or for benefit of, the accountholder and providing that the interest on the securities accrues to the bank. The securities must be sufficient to provide 100% coverage of the average daily balances. The securities may be substituted and traded upon the agreement of the accountholder so long as the securities continue to equal 100% of the average daily balance. Upon default, or should the bank be declared to be under provisional administration or bankrupt, the securities will belong to the accountholder. Otherwise if the accountholder closes the account, or the bank ceases to be a depository bank, the securities will be transferred back to the bank.

For the purpose of this Law "public revenue funds" are defined to be customs, taxes, fees, contributions, donations and other revenues belonging to the State, Entities, Cantons, and their respective ministries and institutions, as well as municipalities.

### **Article 93**

A bank cannot hold from any one source, funds in an amount greater than 20% of its total daily deposits.

Should a bank receive cash from any one source that exceeds 20% of its total daily deposits then the bank shall, by the next business day, maintain the total excess amount in cash to the special reserve account established at the Central Bank of Bosnia and Herzegovina described in Article 92, Paragraph 1, Item a) of this Law.

For the purpose of the previous Paragraph "one source" is defined to be one legal entity, one physical person, or the total amount of all users of public revenue funds regardless of their level and number.

The bank is completely and independently responsible to perform special oversight of its depositors, especially those of public revenue funds.

### **Article 94**

A bank is required to submit reports to the Agency on the basis of the provisions of Articles 92 and 93 of the Law in the form, content and within time limits as prescribed in a regulation promulgated by the Agency.

### **Article 95**

No bank shall without a special permission of the Agency invest more than 50% of its Core Capital in fixed assets.

### **Article 96**

No bank shall deposit funds in a Related Bank or make loans to or invest in such bank that in combination exceeds 25% of the bank's Core Capital, or 40% of Core Capital in the case of all such Related Banks.

### **Article 97**

Documents and records on any completed transaction shall be kept on file by banks in accordance with law provisions.

## **Article 98**

Bank shall regularly notify its customers of the terms and conditions regarding mutual business activities especially regarding deposits and credits disbursed to them, including the annual rate of interest.

## **Article 99**

The bank is required to publish a notice listing all Dormant Deposit Accounts in at least three daily newspapers published in Republika Srpska and at least one in the Federation of Bosnia and Herzegovina and District Brcko every six months.

After a Dormant Deposit Account has been published at least twice by the bank as provided in Paragraph 1 of this Article, thereafter the Dormant Deposit Accounts and all records pertaining thereto shall be transferred to the Ministry of Finance of the Republika Srpska (hereinafter: the Ministry).

The funds shall be deposited into the budget of the Republika Srpska's special account opened for this purpose, pending proof of ownership by an accountholder.

At any time thereafter the accountholder may submit proof of ownership of the Dormant Deposit Account funds to the Ministry.

The Ministry shall review the evidence and if the proof is satisfactory return the money to the accountholder.

The Ministry shall issue regulations regarding procedures for claiming Dormant Accounts.

The Ministry is required to publish information of all Dormant Accounts once a year in three daily newspapers available in the Republika Srpska and at least one daily newspaper in the Federation and in Brcko District.

The Agency shall issue Regulations governing the accrual of interest and limiting the service charges that may be assessed on Dormant Deposit Accounts, until such time as they are transferred to the Ministry.

Once the Dormant Deposit Accounts have been transferred, the accountholder is not entitled to be paid any interest on this account.

## **Article 100**

In conducting operations with persons related to the bank and in the name and in behalf of persons related to the bank, bank cannot offer to that person more favorable conditions than to any other person that is not related to the bank.

For the purposes of paragraph 1, persons related to the bank are especially considered to be:

1. The Chairman and members of the Supervisory Board, members of the Management, members of the Audit Board and members of their immediate family within the third degree of consanguinity or marriage, or persons who are living in the same household, or who have interconnected or joint investments;

2. Individuals with Significant Ownership Interest in the bank and members of their immediate family within the third degree of consanguinity or marriage, or persons who are living in the same household, or who have interconnected or joint investments;
3. Legal entities holding any common shares, preferred shares or any voting rights in the bank;
4. Legal entities in which the bank holds Significant Ownership Interest;
5. Legal entities in which Significant Ownership Interest is held by same legal or natural person holding Significant Ownership Interest in the bank;
6. Legal entities in which the holder of Significant Ownership Interest, a member of the Supervisory Board or Management is one of the persons mentioned under items 1 through 5 of this paragraph;
7. Related Entities, and the Related Entities of all Shareholders of the bank.

Bank cannot grant loans to its employees that are larger than the amount determined by the Agency's regulations.

Agency issues regulations ensuring implementation of limitations determined in provisions of Paragraphs 1-3 of this Article.

## **Article 101**

No bank shall acquire, convert or transfer, or be instrumental in the acquisition, conversion or transfer of, money or other property if the bank knows or can reasonably expect that the money or other property are the proceeds of criminal activity or used for the financing of any criminal activities.

No bank shall engage in a transaction that the bank knows or can reasonably expect will constitute a money laundering offense as defined in the Law on the Prevention of Money Laundering.

No bank shall convert or transfer, or be instrumental in the acquisition, conversion or transfer of money or other property that the bank knows or can reasonably expect to be used in terrorist activity or for the support of people engaged in or supporting terrorism.

Each bank shall establish internal control and communication procedures in order to detect and prevent transactions involving criminal activities, money laundering, or those supporting terrorism described in paragraphs 1, 2 and three in this Article.

Each bank shall take reasonable measures to satisfy itself as to the true identity of any person seeking to enter into a business relationship with it, or carry out a transaction or a series of transactions with it, by requiring the applicant to produce an official document establishing the true identity of the person (ID card, driver's license, passport or other official means of identity) and, in case of a legal entity certificate of incorporation. Each bank shall take reasonable measures to establish whether the person is acting on behalf of another. If it appears that the person is acting on behalf of another person, the bank shall take reasonable measures to establish the true identity of such person.

Each bank shall also take reasonable measures to satisfy itself as to the true identity of any person, based on two documents (ID card and driver's license, or ID card and passport), seeking to carry out a transaction where the amount is 30,000 KM or greater, notwithstanding the number of transactions necessary to execute the transaction. The Supervisory Board, Management, and all employees shall have a duty to automatically report promptly to the Ministry of Finance – Prevention of Money Laundry

Department all transactions that are 30,000 KM or greater as well as any other transactions or any other activity of the bank which he knows or can reasonably expect will violate the provisions of paragraphs 1, 2, or 3 of this Article and to provide such information as the Prevention of Money Laundry Department, Tax Administration, or the Agency shall request. Providing information pursuant to this Article shall not be regarded as a disclosure of professional secrets.

The Director of the bank will block deposit accounts and such other property and assets of natural persons and legal entities upon presentation of a written or faxed order issued by the Prevention of Money Laundering Department, or the Agency to do so.

#### **Article 102**

The Agency shall prescribe requirements to be met when opening an account with a bank having its headquarters outside Republika Srpska.

The Agency may also prescribe special requirements to be met by banks providing payment transaction services in accordance with regulations on payment transactions.

### **VII ACCOUNTING, AUDITING AND CONTROL**

#### **Article 103**

A bank and its Subsidiaries shall maintain at all times, precise and updated accounts and records, and prepare annual financial statements, adequate to reflect their respective operations and financial condition, in such a form and with such a content which is in accordance with the law, international accounting standards, and regulations of the Agency.

The accounts, records and financial statements of a bank shall also reflect the operations and financial condition of its Subsidiaries both on an individual and on a consolidated basis.

#### **Article 104**

Banks and their Subsidiaries shall each appoint an independent external auditor acceptable to the Agency who shall:

1. advise the bank on implementation of accounting standards;
2. prepare and submit to the bank Management an annual report together with an audit opinion as to whether the financial statements give a full, accurate and true presentation of the financial condition of the bank, in accordance with the provisions of this Law and regulations of the Agency;
3. inform the bank's Audit Board, Supervisory Board, Management and the Agency about any fraudulent act by an employee of the bank or a Subsidiary of the bank, and of any irregularity or deficiency in the administration or operations of the bank or a Subsidiary of the bank, of which he/she has become aware and which should be expected to result in a material loss for the bank or the Subsidiary;
4. comment in the annual report to the bank's Audit Board, Supervisory Board, Management, and the Agency on the effectiveness of the Internal Auditor and the system of internal controls.

At the request of the Agency each bank shall promptly provide supplemental information and auditor's opinions about the banks and their Subsidiaries at the expense of such a bank or its Subsidiaries.

#### **Article 105**

Each bank shall, within 75 days after the end of the preceding financial year, submit to the Agency its financial statements and its external auditor's report for the preceding financial year within 5 months after the end of the preceding financial year.

Within 15 days upon the receipt of the external auditor's report each bank shall publish the report in abbreviated form in one or more daily newspapers available throughout Bosnia and Herzegovina and promptly inform the Agency about it submitting a copy of the published external auditor's report.

In addition to publishing the audited annual report, at the end of each six months, the Bank is required to publish a non-audited semi annual report which includes a balance sheet, including all off-balance sheet items, an income statement and a cash flows statement, as well as information containing names of members of the Supervisory Board and Management and each of the bank's shareholders owning 5% or more of shares with voting rights.

The Bank is required to publish the report from Paragraph 3 of this Article within 30 days after the expiration of the first six months period in one or more local newspapers available throughout Bosnia and Herzegovina and must continuously make copies available to the clients at each location of teller windows.

#### **Article 106**

The bank is required to prepare and submit to the Agency reports on its operations, liquidity, solvency, and profitability, and those of its Subsidiaries, on an individual and a consolidated basis, in such a form, contents and at such intervals as prescribed by the Agency.

Every bank and each of its branches established in the Brcko District as well as any branch of a bank headquarters outside the Republika Srpska shall be subject to all supervisory activities by the Agency, in accordance with the Agency's regulations.

Banks and banks' branches from Paragraph 2 of this Article shall admit and cooperate fully with the controllers of the Agency and the auditors appointed by the Agency.

### **VIII - PROCESS OF BANKRUPTCY AND BANK LIQUIDATION**

#### **Article 107**

A bank shall conduct the process of bankruptcy and bank liquidation under a separate law if that issue is not regulated otherwise by this Law.

### **IX - PROVISIONAL ADMINISTRATION AND LIQUIDATION**

#### **Article 108**

The Agency can appoint a Provisional Administrator when it assesses that:

1. the law, any regulation, or decision of the Agency has been violated, seriously jeopardizing interests of the bank's depositors;
2. the way the bank has been conducting its operation has caused or is likely to cause a substantial deterioration in the level of the bank's capital or financial condition, or other serious risk to the interests of the bank's depositors;
3. the bank has violated and continues to violate regulations from the Article 125 of this Law;
4. books, papers, records, or assets of the bank have been concealed or withheld from the Agency or its examiners or auditors, the bank has renounced access of such authorized persons to the bank's books;
5. requests for a Provisional Administrator made by the Audit Board, the Supervisory Board, the Director or the General Meeting of Shareholders of the bank are found to be justified;
6. the capital of the bank is less than 50% of the capital required pursuant to the Article 90, Paragraph 3 of this Law;
7. the bank is not paying its financial obligations as they fall due consistently for 15 days or inconsistently for 30 days during a period of 45 days;
8. in a bank whose banking license was revoked, it is necessary to protect depositors' interests until Receiver is appointed.

#### **Article 109**

A bank shall be deemed to be insolvent when the Agency, in accordance with its issued regulations, determines that the value of its liabilities is greater than the value of its assets.

In the process of solvency determination, the value of the assets and liabilities of a bank shall be determined in accordance with valuation standards and procedures prescribed by regulation of the Agency; and in determining the value of the assets and liabilities of a bank for a future date, the reasonably anticipated future income and expenses of the bank until that date, shall be taken into account.

The Agency must revoke the license of any bank that it deems to be insolvent, and must initiate a liquidation process of that bank, or must submit a request to the authorized court for initiation of the bankruptcy process.

The Agency's decision on revoking a banking license shall be final.

#### **Article 110**

The Provisional Administrator shall be appointed by a Decision of the Agency giving the grounds on which the appointment is based, in accordance with the Article 108 of this Law.

Decision on appointment, revoking or any extension of mandate of a Provisional Administrator shall be promptly delivered to the Provisional Administrator and to the bank for which the Provisional Administrator has been appointed, and published in the Official Gazette of the Republika Srpska, and registered in both, the register of banks, pursuant to the Article 18 of this Law, and the court register at the authorized court.

The Provisional Administrator will have absolute immunity from and be protected against any liability, personal and official, for action or inaction, or decision taken within the scope of duties as the Provisional Administrator. The Provisional Administrator may not be prosecuted in any court so long as the Provisional Administrator is acting in good faith within the provisions of this Law.

#### **Article 111**

The Provisional Administrator shall have unrestricted access and right to control the premises of the bank, the financial assets, the books of account and other records, and all other assets of the bank and its Subsidiaries.

Immediately after being appointed, the Provisional Administrator shall take protective measures to secure and prevent dissipation by theft or misuse-use of the assets and records of the bank and its Subsidiaries.

In undertaking measures from their scopes of authority both the Agency and Provisional Administrator have power to request assistance from authorized bodies in charge of internal affairs and other authorized bodies.

#### **Article 112**

The Provisional Administrator shall be responsible for conserving the assets and assuming control of the operation of the bank and making a determination as to whether to continue the operations of the bank.

During the tenure of the Provisional Administrator of a bank, the powers of the Supervisory Board, Audit Board, Management, and shareholders of the bank to take decisions or actions shall be suspended.

The Provisional Administrator shall have all the powers of such Supervisory Board, Audit Board, Management, and shareholders, in accordance with the Agency's decision on his/her appointment.

The Provisional Administrator may immediately suspend the powers of the bank representatives on the Supervisory Board, Management and General Meeting of Shareholders of the bank's Subsidiaries and in all of the bank's Participation Interests and exercise directly or through appointees all powers of such representatives.

The authorities of the provisional administrator include:

1. sell assets and purchase liabilities of the bank as may be necessary to conserve the appropriate value of the bank or to protect the interests of the depositors and other creditors of the bank;
2. cancel or unilaterally amend agreements the bank has signed, including suspension of interest accruals and change of interest rates, fees and maturity dates and may offset loans with deposits held by the same natural person or legal entity;
3. issue orders concerning dismissal, demotion or temporary removal from a position, or the distribution of responsibilities between the bank's employees;
4. suspend the acceptance of deposits by the bank;
5. sign any contracts and documents and accept liabilities in the name of the bank;

6. lodge claims in the name and interests of the bank, and represent the interests of the bank in court;
7. suspend the payment of any kind to members of the Supervisory Board, Management, Audit Board, and shareholders of the bank;
8. make the pay-out of deposits of natural depositors to such depositors, within the funds available and on a pro-rata basis if applicable. Subject to the availability of reserves for priorities 1 and 2 of Article 119 of this Law, the maximum amount to be paid out per natural depositor shall be the aggregate of all of his or her deposits less any legal or contractual debt owed to the bank by the natural depositor or 5,000 KM, which ever is smaller. The deposits shall exclude funds kept in any account whereby the account title is not transparent as to its ownership or any non-nominative deposit or assets kept in a bank's safe deposit box. Also excluded shall be deposits, loans or any other transaction for which the natural depositor has obtained rates, whether preferential or otherwise, and/or any other financial concession from the bank which may have helped to aggravate the bank's financial condition. The bank's Supervisory Board members, Management, shareholders of at least five (5) percent of the bank's capital and persons responsible for carrying out the statutory audits of the bank's accounting documents are not entitled to any pay-out. The immediate family members within the third degree of consanguinity or marriage of persons mentioned in the previous sentence as well as third parties acting on behalf of the same persons are also not entitled to any pay-out.
9. with the approval of the Agency, may make the pay-out of deposits of legal entities and other depositors on a pro rata basis after paying or reserving funds for the higher priorities and reserving funds for operation and expenses. The Provisional Administrator will comply with other requirements in item 8 of this Article;
10. file a request with the Agency for issuing a decision to all banks in the Republika Srpska to cease payments from accounts of defaulting debtors of the bank under provisional administration and/or those debtors' guarantors and their Related Entities, which they have in other banks, until those liabilities are fulfilled;
11. requiring that all transfers of common and preferred shares including the sale, assignment, or pledge must have the prior written approval of the Provisional Administrator and the Agency.

The Agency is required to review and act within 15 days in accordance with the Provisional Administrator's requests from paragraph 5, item 10 of this article.

The Agency's decision in Paragraph 5, item 10 of this Article and in Paragraph 6 of this Article, is to be implemented as the first priority claim before any other payment order and before any other collection as determined by other laws.

The Provisional Administrator may delegate some of his authority to others.

The Provisional Administrator is obliged to implement laws, regulations, and orders issued by the Agency.

### **Article 113**

The Provisional Administrator shall present a written report to the Agency on the financial condition and future prospects of the bank with a pro forma balance sheet and documented assumptions on which the analysis is based, including data regarding interest rates and asset recovery measures, asset holding costs, and contingent

liabilities, within 60 days upon his appointment, unless this period is affirmatively extended by the Agency.

In his report from the Paragraph 1 of this Article, the Provisional Administrator shall propose one or more of the following measures:

1. revoking of the banking license, and liquidation of the bank, with an assessment of the amount of assets likely to be realized in a liquidation of the bank;
2. restoration of the bank including an increase in the bank's capital to the minimum level required by the law and the regulations of the Agency;
3. sale of any part of the assets and/or purchase of liabilities of the bank or sale of the bank;
4. merge or acquisition of the bank with another bank.

#### **Article 114**

Within thirty days of the receipt of the report of the Provisional Administrator, the Agency shall take a final decision to revoke the banking license and to liquidate the bank, unless the report of the Provisional Administrator includes one of the measures listed in Article 113, Paragraph 2, items 2 through 4 of this Law.

Taking decision based on proposed measures in the report of the Provisional Administrator the Agency shall evaluate, among other, the need to protect the interests of the depositors and other creditors of the bank, and determine that there are reasonable prospects that such plan can be successfully carried out within 12 months of the decision made by the Agency upon the report of the Provisional Administrator.

The Agency may change or amend the plan proposed by the Provisional Administrator when adopting the plan or during the implementation of the plan. After revoking banking license based on Provisional Administrator's report and making decision on bank liquidation after considering bank's assets and liabilities, the Banking Agency, at its own discretion, may do the following:

1. Appoint a liquidation administrator in accordance with Article 116 of this Law, in both cases when the amount of liability is and when it is not larger than bank's asset amount. The liquidation administrator shall liquidate such assets under the most favorable conditions achievable and with the Agency's approval and shall use such generated funds to pay out financial commitments in the priority order from Article 119 of this Law. As for the rest of assets and liabilities, which could not be liquidated in a reasonable period of time, the Agency may, at its own discretion and based on the liquidation administrator's proposal, submit to an authorized court a request to commence bankruptcy procedure, or
2. Directly submit to an authorized court a request to commence bankruptcy procedure and to appoint bank's Bankruptcy Administrator.

Notwithstanding anything to the contrary in the Law on Compulsory Settlements, Bankruptcy and Liquidation Procedures, only the Agency may apply for a bankruptcy of a bank.

#### **Article 115**

All litigation against the bank will cease on the initiation of liquidation of the bank

## **Article 116**

The powers of a Provisional Administrator shall end upon:

1. the Agency's decision or the completion of his/her mandate as specified in the decision on his appointment or in a later decision to extend his mandate;
2. the Agency's decision to revoke banking license of the bank and to order liquidation of the bank;
3. the Agency's decision to appoint a Receiver of the bank; or
4. authorized Court Decision on Bankruptcy Administrator appointment.

## **Article 117**

If, based on the Provisional Administrator's report, the Agency decides to sell, merge, or liquidate the bank, it may appoint a Receiver to implement this decision.

The Agency's decision to appoint such a Receiver shall be in writing, explaining reasons for such an appointment in accordance with the Paragraph 1 of this Article.

Person appointed as a Receiver shall meet all requirements regarding expertise, experience and trustworthiness prescribed by the law and regulations of the Agency.

The order of appointment, termination, or extension of a Receiver shall be promptly submitted by the Agency to such a Receiver and to the bank for which the Receiver was appointed, as well as published in the Official Gazette of the Republika Srpska, and registered in both, the register of banks pursuant to the Article 18 of this Law, and the court register of the appropriate court.

From the date of the appointment of the Receiver, all powers and rights of members of the bank Supervisory Board, Management, Audit Board, and bank's shareholders shall be terminated.

From the moment of the appointment of the Receiver, all powers, authority, and ownership rights of members of the Supervisory Board, Management, Audit Board, and shareholders of the bank are terminated.

Within 7 days after receiving the Decision on Appointment, the Receiver is required to announce in at least three daily newspapers available in the Republika Srpska and at least one in the Federation and one in the Brcko District a notice that all creditors are required to register their claims against the bank with the liquidation administrator within 60 days of the date of publication of this notice.

Within 30 days after the first publication, the Receiver is required to publish a second creditors' notice in at least three daily newspapers available in the Republika Srpska and at least one in the Federation and one in Brcko District.

The Receiver will have immunity from and be protected against any liability, personal and official, for action or inaction, or decision taken within the scope of duties as the receiver. The Receiver may not be prosecuted in any court so long as the receiver is acting in good faith within the provisions of this Law.

Offsetting of claims against counterclaims of a bank are only possible in accordance with the list of priorities determined in Article 119 of this Law.

The Receiver is required to act in accordance with law, regulations, and Agency's orders, and for performance of his/her authorities and responsibilities, he/she is accountable to the Agency.

In addition to all authorities invested in a Provisional Administrator in accordance with the Article 112 of this Law, the Receiver shall be authorized to perform the following:

1. sell assets and redeem liabilities of the bank, partially or as a whole;
2. sell the bank or merge the bank with another bank, subject to the approval of the Agency;
3. liquidate the bank, and, in connection therewith, decide on the validity of claims against the bank make payments regarding such claims.

The procedures for determination of claims and disposal of assets and liabilities of a bank in liquidation shall be determined by regulation of the Agency.

During the execution of the plan for sale or merger of the bank, the receiver shall report to the Agency on implementation of the plan, no less frequently than every three months.

During the execution of the plan for sale or merger of the bank, the Agency, after having received a written report of the Receiver, may cancel the plan and decide to liquidate the bank.

#### **Article 118**

If recommended by a Provisional Administrator or a Receiver, the Agency may declare deposits and other liabilities of the bank to be totally or partially blocked.

The decision from the Paragraph 1 of this Article shall be issued by the Agency only to ensure a correct and complete implementation of the Provisional Administrator's plan, or the functions of the receiver, who is authorized and in charge of implementation of such a decision in such a manner as to exercise a maximum protection of the value of deposits and funds in the bank.

#### **Article 119**

In the process of liquidation or bankruptcy, the following priorities of claims shall be observed:

1. Debts of a bank that is being liquidated which resulted from advances of funds to the bank, or other obligations created during the provisional administration of a bank or liquidation pursuant to this Law;
2. Claims by secured creditors, up to the value of their security;
3. Claims of the Deposit Insurance Agency of Bosnia and Herzegovina for reimbursement of payments of deposits belonging to natural persons and legal entities up to a maximum as set out in the Law on Deposit Insurance of Bosnia and Herzegovina;
4. Deposits of natural persons and legal entities throughout Bosnia and Herzegovina up to a maximum per depositor as set out in the Law on Deposit Insurance of Bosnia and Herzegovina, which were not otherwise paid by the Deposit Insurance Agency of Bosnia and Herzegovina under item 3 of this Article;
5. Other deposits, including deposits of natural persons throughout Bosnia and Herzegovina above the amount per depositor set forth in the Law on Deposit

- Insurance of Bosnia and Herzegovina not already paid under item 4 of this Article;
6. Dormant Deposit Accounts transferred to the Ministry;
  7. Claims by other creditors;
  8. Claims by preferred shareholders;
  9. Claims by common shareholders.

In the procedure from Paragraph 1 of this Article, payment of bank's liabilities to the members of the Supervisory Board, Management, members of the Audit Board, shareholders of at least 5% of voting rights, Related Entities and Related Banks will be suspended until all liabilities to other bank's creditors are fully fulfilled.

Third parties acting on behalf of natural persons or legal entities mentioned in the previous paragraph as well as the immediate family within the third degree of consanguinity or marriage of the same natural persons are also not entitled to be paid until all liabilities to other bank's creditors are fully fulfilled.

## **X - LIABILITIES AND RESPONSIBLE PARTIES**

### **Article 120**

The sale of property, redemption of liabilities or disposition of assets and liabilities, or sale or merger of a bank shall be conducted by a Provisional Administrator or a Receiver appointed by the Agency in a manner which shall:

1. maximize the price of such a sale or disposition, consistent with the goal of protection of depositors and other creditors of the bank;
2. ensure fair competition among potential purchasers or merger partners;
3. prohibit any kind of discrimination in the solicitation and consideration of offers; and
4. ensure that the acquirer or merger partner, be a person or a bank majority owned and controlled by private owners, unless, with the written authorization of the Agency, a state owned bank which has a privatization plan approved in writing by the authorized state entity or a bank that is majority owned by a foreign state or government.

### **Article 121**

A bank can be declared through court proceedings responsible individually or jointly with other banks or business companies for the liabilities of a bank or business company, which is insolvent or declared bankrupt, provided there are evidences that the banks and business companies were placed under a situation of related management.

A situation involving related management can result from agreements among the bank and/or business companies or from their respective by-Laws or when the Supervisory Boards are made up of a majority of the same persons, persons related to the bank as defined in Article 100 of this Law, or the majority of the shares are held by the same persons.

### **Article 122**

Bank Shareholder is responsible for bank obligations up to the level of his share in the bank.

Exception of provision in Paragraph 1 is in cases when bank is in bankruptcy or is insolvent where bank shareholders, members of its Management and Supervisory Board, as well as other legal entities and individuals (who had a direct or indirect influence to bank's operations) will bear responsibility, jointly or individually, for bank's obligations with their entire property. These cases include:

- when a bank is used for fulfilling goals opposite to goals of the bank as determined by the Law; or
- when there was no difference between bank property and personal property of the above listed persons; or
- when banks operated with a purpose to commit fraud against its creditors or against interest of the creditors; or
- when a cause for bankruptcy or insolvency of the bank is found in intentional poor management or lack of attention in managing the bank.

## **XI - PENALTY PROVISIONS**

### **Article 123**

A monetary fine of KM 5,000 to 17,000KM shall be imposed on the bank or another legal person for a violation if it:

1. engages in receiving money deposits or extending credits without the permission of the Agency contrary to provisions in Article 2, Paragraph 1;
2. uses words in its name that are contrary to provisions of Article 2, Paragraph 3 of this Law;
3. directly or indirectly engages in collecting deposits as described in Article 3 of this Law;
4. continues to conduct banking activities after its banking license has been revoked, contrary to provisions in Article 21, Paragraph 4 of this Law;
5. does not discontinue its assets and pay its liabilities in accordance with Article 21, Paragraph 4 of this Law;
6. does not maintain paid in share capital and net capital in accordance with Article 22 of this Law;
7. does not comply to provisions on the limitations of ownership structure from Article 23, Paragraph 1 of this Law;
8. if a bank, without obtaining the approval of the Agency, makes an investment in contravention of Article 24 of this Law;
9. without the prior consent of the Agency, engages in activities concerning mergers, amalgamations and divisions of the contrary to provisions in Article 28, Paragraph 1, and makes changes and amendments to its Charter, contrary to provisions in Article 32, Paragraph 3 of this Law;
10. does not conduct its activities in accordance to its by-laws, contrary to provisions in Article 32 of this Law;
11. does not submit the necessary documents for the Agency's files, in accordance with Article 32, Paragraph 2 of this Law;
12. appoints the Chairman or members of the Supervisory Board, the Director and the Management non conforming with provisions of Article 80 of this Law;
13. if the Supervisory Board, the Management or members of their immediate family living in the same household fail to submit signed disclosure statement in accordance with Article 82 of this Law;
14. does not keep business secrets in accordance with the provision from Article 83 of this Law;

15. establish a bank branch or representative office in violation of Article 84 of this Law;
16. conducts business contrary to provisions in Article 86 of this Law;
17. conducts business contrary to provisions from Articles 88 and 89 of this Law;
18. engages in transactions or participates in activities that present unfair competition in the financial market, contrary to provisions in Article 88 of this Law;
19. does not comply to limitations in business operations, as described in Articles 90-96 of this Law;
20. does not maintain records and documentation on its transactions in accordance with provisions in Article 97 of this Law;
21. does not regularly inform its customers on the conditions of its operations, in accordance with Article 98 of this Law;
22. conducts transactions with related persons, contrary to provisions in Article 100 of this Law;
23. participates in transactions contrary to provisions of Article 101 of this Law;
24. does not appoint an independent external auditor, in accordance with provisions in Article 104 of this Law;
25. does not submit a financial report and the external auditor report to the Agency, or fails to publish the financial information in accordance with Articles 105 and 106 of this Law;
26. does not cooperate with the Agency in the process of its bank examination, in accordance with provisions in Article 106 of this Law.

For violations from Paragraph 1 of this Article, the time period for discovery of the violation is limited to three years. After discovery of the violation, the time period for submission of the violation to the Violation Committee is limited to one year.

For violations from Paragraph 1 of this Article, a monetary fine can be imposed that will be in proportion to the level of created damage or unsettled liability, which cannot be greater than twenty times the level of created damage or unsettled liability that is the subject of the violation.

Upon a specific finding of willful misconduct, the Violation Committee may determine that each day the violation continues shall be considered to be separate offense.

For violations from Paragraph 1 of this Article, the responsible person and the person who actually committed the violation in the bank, or another legal entity, will be charged with a monetary fine of 1,000 KM to 1,700 KM.

All monetary fines stipulated in this Article will be paid to the Republika Srpska budget.

Establishing of responsibility and pronouncing of measures under this Law do not exclude establishing of responsibility and pronouncing of measures determined by other Laws.

#### **Article 124**

Violation procedure in the first instance shall be conducted and decisions taken by the Violation Committee appointed by the Agency Director in accordance with the Law.

The Violation Committee has three members and conducts the violation procedure in accordance with the Law on Violations and this Law.

## Article 125

The measures provided for in this Article shall be determined in each particular case by the Agency.

The Agency may take one of the following actions as provided in this Article in regards to a bank or any of its Supervisory Board or Management members, employees, persons that have Significant Ownership Interest, or any Related Entity thereof:

1. issue written warnings;
2. call a meeting of the shareholders of the bank or the other owners of the bank to discuss and to agree on remedial measures to be taken;
3. issue written orders:
  - (a) requiring the bank to cease and desist from such violations of this Law and regulations of the Agency, or to undertake remedial action;
  - (b) and imposing special prudential requirements that differ from those normally applicable to such bank;
4. issue written orders containing prescriptions concerning the rate of interest, maturity or other conditions applicable to any type or form of financing extended or received (including deposits) by the bank, or to contingent liabilities of the bank;
5. issue written orders imposing monetary fines, in accordance to this Law;
6. issue written orders suspending temporarily members of bank's Supervisory Board, Management or employees from duties in the bank where:
  - (a) the Agency determines that such persons have committed one of the violations set forth in Article 123 of this Law ; or
  - (b) such persons do not meet the requirements of qualifications, experience, or other conditions established by regulation issued by the Agency;
7. issue written orders prohibiting that one or more persons with Significant Ownership Interest in the bank from exercising voting rights, or requiring them to sell or otherwise dispose of all or any part of their ownership rights in the bank in accordance with the Law and within a period specified in the order, where:
  - (a) the Agency determines that such persons have intentionally or recklessly committed one of the violations set forth in Article 123 of this Law ;
  - (b) the Agency learns of facts that would warrant refusal of an authorization to acquire or increase the Significant Ownership Interest; or
  - (c) the Significant Ownership Interest was acquired or increased without the prior authorization of the Agency;
8. issue written orders attaching conditions to the banking license of the bank to the extent required to remedy such commercial infraction;
9. with the agreement of the Supervisory Board, the Agency may appoint an adviser for the bank with the duties and responsibilities prescribed by the Agency;
10. appoint an external auditor at the expense of the bank to perform a financial or operational audit under terms of reference provided by the Agency;
11. appoint a provisional administration in accordance with provisions of this Law;
12. revoke the banking license of a bank.

In the event the Agency determines to take an action set out in items 3, 9, 11, and 12 it shall also notify the Deposit Insurance Agency of Bosnia and Herzegovina.

In the event of Agency's order for sale of all or portion of common or preferred shares with voting rights, the potential buyer must receive Agency's approval first.

If any person referred to in Paragraph 2 of this Article is charged with any criminal offense within the Financial and Economic scope of crime, the Agency may issue a written order temporarily suspending such person from his or her position in the bank, and, if applicable, suspending the exercise of voting rights in the bank by such person, pending the determination of the legal case.

If the person from the Paragraph above is convicted by legally valid verdict, the Agency may issue a written order removing such person from his or her position in the bank, and, if applicable, prohibiting the exercise of his or her voting rights in the bank and requiring him or her to dispose of all or any part of his or her ownership interest in the bank.

If any person referred to in Paragraph 2 of this Article is charged by the Agency with violation of an Order of the Agency or any part of Article 123 of the Law, and that person's actions pose a immediate threat to the bank's financial condition or to the safety of its financial operations, the Agency may issue a written order immediately and temporarily suspending that person from his or her duties and responsibilities in the bank, and, if applicable, suspending the exercise of voting rights in the bank.

This temporary suspension may not exceed 45 days pending a final determination by the Violation Committee.

No prior notice or hearing is required for written orders issued under this Paragraph. No person may hold any position in, or participate in any manner in the conduct of the activity of, any bank without the prior written approval of the Agency if he or her is subject to an Order of the Agency:

1. suspending or removing him from a bank;
2. prohibiting the exercise of his Significant Ownership Interest in a bank, or requiring him to dispose of a Significant Ownership Interest in any bank due to an intentional or reckless infraction; or
3. involving him or her in a criminal activity pursuant to Paragraph 3 of this Article.

The Order from Paragraph 5, Item 3 of this Article may be issued against any person within five years after such person ceases to be a member of the Supervisory Board, Management, Audit Board, shareholder, employee, or holder of Significant Ownership Interest in a bank.

In the event that any person is required to sell or dispose of voting shares of a bank pursuant to an order issued in accordance with this Article and does not do so within the prescribed period of time, the Agency is authorized to sell such voting shares at public auction, except in the case when the license is revoked because of the lack of solvency of the bank.

A complaint concerning any Decision of the Agency taken under this Article may be submitted to the Director of the Agency within 8 days from the date of receipt of the decision.

However, any complaint submitted will not delay the implementation of the Decision. The measures provided in this Article shall not preclude application of other civil penalties or criminal penalties as provided in other legislation in force.

If a bank has been found to commit a violation under Article 123 of the Law, and the Violation Committee has issued a final order imposing monetary fines, and the Violation Committee finds second violation any time within the next six months for the

same or similar conduct, the Violation Committee must direct the Agency to proceed to implement one or more of the actions from Paragraph 2, items 6, 7 and 8 of this Article.

In event a third violation is committed by the same bank within 6 months of the second violation as determined by the Violation Committee involving the same or similar conduct, the Violation Committee must direct the Agency to implement Paragraph 2, item 12 of this Article.

## **XII TRANSITIONAL AND FINAL PROVISIONS**

### **Article 126**

Licensed banks must comply with Article 22 of this Law as of December 31, 2002 at latest.

### **Article 127**

All banks licensed for banking operations by the Agency are required to adjust their business operations with the Law on the Deposit Insurance of Bosnia and Herzegovina, and must qualify for deposit insurance within one year after the Law on the Deposit Insurance of Bosnia and Herzegovina becomes effective.

### **Article 128**

The Agency shall adjust its regulations with this Law within 4 months after this Law becomes effective.

Regulations from paragraph 1 of this Article shall be published in the Official Gazette of the Republika Srpska.

Regulations promulgated by the Agency in accordance with this Law, as well as the Agency's activities regarding implementation of its authorities promulgated by law, are based on elementary principles for efficient banks supervision published by the Basel Committee for bank supervision.

### **Article 129**

Banks are required to adjust their business operations with the provisions of this Law within 6 months from the day this Law becomes effective, excluding provisions from Articles 16 and 22 of the Law whose time limit for implementation is defined in Articles 126 and 127 of this law.

### **Article 130**

Conditions for establishment, business operations and cessation of operation of other financial institutions will be regulated by separate laws.

### **Article 131**

As of the date this Law becomes effective, the Law on Banks ("Official Gazette of Republika Srpska" No. 18/99), and the Law on Changes and Amendments to the Law on

Banks ("Official Gazette of Republika Srpska" No. 13/00, and 18/01) shall become null and void.

**Article 132**

This Law shall become effective immediately and shall be published immediately in the "Official Gazette of Republika Srpska".

Number: 01-343/03  
April 30, 2003  
Banja Luka

President  
of the National Assembly  
Dragan Kalinić, MD [signed]