

# LAW ON BANKS

(The FBiH Official Gazette, 39/98 and 32/00)

## I. GENERAL PROVISIONS

### Article 1

This Law regulates the establishment, organization business operation and termination of all 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 Federation of Bosnia and Herzegovina (hereinafter Federation). The bank is established and operates as a corporation.

### Article 2

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

Micro-credits which are approved by the micro-credit non-deposit and non-profit institutions are not included in the loans from the paragraph 1 of this Article.

No one shall use the word "bank" or derivatives of the word "bank" in respect to 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 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 federal or state institution.

### 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

Banks with headquarters outside the Federation may be authorized by the Agency to establish representative offices in the Federation.

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 banking license 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 5

A bank with headquarters outside the Federation shall not be permitted to receive money deposits or to extend credits for its own account in the Federation other than through an office authorized by the Agency pursuant to Articles 36 and 37 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 legal authorization, as defined in the bank's Charter.

#### Article 6

In order for the Agency to cooperate with the Central Bank of Bosnia and Herzegovina (hereinafter Central Bank), and with other agencies responsible for the licensing and supervision of banks, with respect to the domestic activities of banks licensed outside the Federation and the activities of domestic banks outside the Federation, the Agency shall be authorized to provide information to the Central Bank and such other agencies responsible for licensing and supervision of banks with headquarters outside the Federation.

### LICENSING

#### Article 7

Banking licenses shall be applied for in writing to the Agency 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 managers and supervisors of the proposed bank;
3. the amounts of capital stock and other forms of bank capital;
4. a business plan for the proposed bank, setting out inter alia the types of activities envisaged for and the structural organization of the proposed bank;
5. a list of owners of the bank.

#### Article 8

Within sixty days the date of its receipt of an application for banking license, pursuant to Article 7, the Agency shall finalize its decision.

Objections on the Decision from paragraph 1 of this Article can be submitted to the Director of the Agency in 8 days time limit after the Decision was made.

#### Article 9

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

The Agency shall grant a banking license if, and only if, an amount of the bank's capital stock from Article 20 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 qualifications and experience of the managers and supervisors of the bank will be appropriate for the banking activities that the bank will be licensed to engage;
- 3 all holders of 15% or more of total voting rights in the bank (in the following text: significant voting right) are of sufficient financial capability, and suitable business background;

In the case of an applicant which is a legal entity, the criteria of Section 2, clauses 2, and 3 of this Article shall also apply to any senior management official and persons with significant voting rights.

In the context of this law, senior management means employees who have special responsibilities and authority in accordance to the charter of the bank and its by laws.

#### Article 10

Licenses concerning a founding of a subsidiary or a branch in the Federation of a bank whose headquarters are outside the Federation shall be granted only if that bank has a banking license issued by the institution that is in charge of issuing licenses and supervision of this bank.

In the context of this Law, a subsidiary means any legal entity in which another legal entity or group of persons acting in concert holds the equivalent of fifty percent or more of the total voting shares that permits them to exercise control over the management and policies of the legal entity.

#### Article 11

Banking licenses pursuant to Article 10 of this Law shall be granted only following consultations on the granting of a banking license between the Agency and the authorities that supervise the banking activities of the founder bank concerned, and only following a finding by the Agency that the founder bank is adequately supervised.

#### Article 12

The Agency shall also refuse a banking license for a subsidiary, branch, representative office with its head office out of the Federation if the laws, regulations or administrative provisions referring to banks headquarters outside the Federation prevent or make it difficult to exercise effectively its supervisory functions.

The Agency shall require banks to provide it with the information it requires to monitor compliance with the conditions referred to in Section 1 of this article.

#### Article 13

A bank obtains the status of legal entity upon entry into the Court Registry.

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

Organizational subsidiaries or branches of the bank have to be entered into the Court Registry, in accordance with the provisions on court registration of business components of legal entities that have authorities in the legal system.

#### Article 14

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

The banking license of each bank shall specify the banking activities that such bank shall be authorized to engage in.

#### Article 15

A bank may have branches and other organizational subsidiaries or branches (hereinafter: bank subsidiaries or branches), subject to the provisions of Article 36 and 37 of this Law, who do not have the status of legal entities.

Notwithstanding provisions in the previous Paragraph 1, of this Article branches of foreign banks have the status of legal entities.

#### Article 16

A separate register shall be kept by the Agency and it shall record for each registered bank the name, the head and branch office addresses, and current copies of the documents listed in Section 2 of Article 28 of this Law.

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

The Agency can publish data from the separate register of banks.

#### Article 17

The Agency can revoke the license in the following cases:

1. upon a request of the bank pursuant to Article 18 of this Law;
2. following an infraction pursuant to Article 65 of this Law;
3. following the report of a provisional administrator pursuant to Article 58 Section 2, Clause 1 of this Law;
4. the license has been obtained on the ground of false or fraudulent statements or other material irregularities that occurred in connection with the license application;
5. the bank has not submitted an application for registration in the court register within thirty days after the date that the banking license took effect, or has not begun to engage in banking activities within ninety days after its registration in the court register, or has ceased for more than six months to engage in the business of receiving money deposits or other repayable funds from the public or extending credits for its own account;
6. a merger, amalgamation or division of the bank has occurred;
7. the bank no longer possesses the minimum amount of capital and reserves required by regulation of the Agency; and
8. the owner or owners of the bank have decided to liquidate the bank, or the bank has ceased to exist as a legal entity.

Objections to the Decision from paragraph 1 of this Article can be submitted to the Director of the Agency in 8 days time limit after the Decision was made.

The decision from the previous Clause (giving the grounds for the revocation) shall be communicated in writing by the Agency to the bank concerned one day after the decision has been made.

#### Article 18

A bank can request the Agency in writing to revoke its banking license.

Within sixty days after its receipt of the request from Paragraph 1 of this Article, the Agency shall decide on the request and inform the bank of its decision.

Objections to the Decision from paragraph 1 of this Article can be submitted to the Director of the Agency in 8 days time limit after the Decision was made.

#### Article 19

The Agency's decision from Article 17 of this Law determines the date when the banking license will be revoked.

The decision to revoke a banking license shall immediately be published in the "Official Gazette of the Federation of Bosnia and Herzegovina" and in one newspaper of general circulation in the Federation.

Starting on the date that the revocation of a banking license takes effect, as determined by the decision in Article 17 of this Law, the former bank shall be prohibited from engaging in any of the banking activities specified in Article 39 of this Law, and shall within 90 days thereafter liquidate its assets, terminate its current deposit agreements and discharge its liabilities.

During conducting its affairs as described in Clause 3 of this Article, the former bank shall otherwise continue to be subject to the provisions of this Law as if it were licensed.

### OWNERSHIP AND ADMINISTRATION OF BANKS

#### Article 20

The minimum amounts of paid share capital of the bank and the lowest amount of net capital which the bank must keep up shall not be less than the equivalent of 15.000.000 (fifteen million) Konvertible Marks (KM).

No bank shall decrease its capital or deteriorate the structure of its capital by repurchasing shares or distributing reserve assets without prior written authorization from the Agency.

Provisions in Clauses 1 and 2 of this article apply to branches of foreign banks.

#### Article 21

No physical or legal person, alone or acting in concert with one or more other persons, may acquire significant voting rights in a bank, or increase the amount of his ownership of the bank's voting shares or capital in such a way that the thresholds of 15%, 20%, 33%, or 50% are reached or exceeded without obtaining the approval from the Agency. To obtain authorization described in Clause 1 of this Article, a person must submit to the Agency information prescribed by regulations of the Agency pertaining to his business background, financial capability, and other information.

No such gain or increase in significant voting rights in the bank, as described in Paragraph 1 of this Article, shall have legal effect without such authorization issued by the Agency.

The Agency shall respond to the request described in Paragraph 2 of this Article within sixty days when the request was received.

#### Article 22

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

1. hold an equity interest in a legal entity or undertaking that either represents a significant interest or exceeds as to its net current value the equivalent of five percent of the bank's core capital, determined as such by special regulation issued by the Agency

(hereinafter: core capital) ; or

2. permit the aggregate net current value of all such equity interests to exceed the equivalent of twenty percent of the bank's core capital.

The bank cannot directly or indirectly obtain an equity interest in one legal person, which exceeds 15% of its core capital, nor can the bank obtain equity interests in a legal person or persons, which in total exceeds 60% of its core capital.

#### Article 23

The Agency may refuse authorization to acquire or increase a significant voting rights in a bank upon any of the following grounds:

1. bad financial condition of the applicant;
2. lack of competence, experience, or trustworthiness of any of the 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 Article 40 of this Law; or
4. the applicant submitted unreliable information or information not complying with the requirements in Paragraph 1 up to 3 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 24

In the case of an applicant from Article 21, Clause 2 of this law that is a legal entity, the criteria in Article 23 of this law shall also apply to every management official or holder of significant voting rights in this legal entity

#### Article 25

The Agency, upon prior application and in writing may allow that on these institutions requirements and limits described in Articles 21-24 of this law may not apply in the case of acquisition of non-voting shares in a bank by official multilateral lending institutions or regional development institutions.

#### Article 26

Status changes in a bank, mergers, amalgamations or divisions of a bank shall require the 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 Agency regulations.

Status changes that would be inconsistent with the provisions of Clauses 1 and 2 of this Article will not have legal effect.

#### Article 27

The Agency may refuse authorization for the status change of a bank on any of the following grounds:

1. any resulting bank would fail to meet the minimum capital requirement established by the Agency;
2. lack of competence and experience of any of the proposed managers of any resulting bank, such that the interests of the bank or its depositors could be threatened;
3. the applicant submitted unreliable information or information not complying with the requirements established by the Agency's regulation, or refused to

submit information required by the Agency to make a decision on the application.

Where close links exist between the bank and other natural or legal persons, the Agency shall grant such authorization only if those links do not prevent the effective exercise of its supervisory functions.

#### Article 28

Bank's by-laws must specify bank's corporate name and address; its purposes; the jurisdiction and authority of its bodies, as well as the amount of its share and other kind of capital, the classes, numbers and nominal values of its shares, and the voting rights attaching to its shares, process of issuance of general acts and other significant questions related to the bank's business.

The Bank shall submit to the Agency a duly certified copy of its by-laws, and a list of the officials of the bank who are currently authorized contractually to obligate the bank, together with their specimen signatures and a description of the limits of their authority. The Agency gives its approval to the bank's by-laws.

#### Article 29

The governing bodies of the bank shall be the Assembly, the Management Board and the Supervisory Board.

The bank shall be managed by the Managing Director.

Bank's bylaws and General Acts may call for the formation of other bodies and establish their jurisdiction and responsibility.

#### Article 30

The bank's Assembly shall consist of the bank's shareholders who own shares which include voting rights.

The bank's Assembly issues the charter and proclaims the bank to be established.

The bank's Assembly shall have the following authorities:

1. to appoint and dismiss members of the Management Board and the Supervisory Board and to establish remuneration for Board membership provided that such remuneration shall be paid only out of net profits of the bank;
2. to decide on the augmentation of bank capital;
3. to create the strategic plan of the bank and its general policies;
4. to decide on status changes of the bank;
5. to examine and accept the annual reports of the Management Board and the Supervisory Board of the bank;
6. to develop the Business guidelines for the performance of the Assembly.

#### Article 31

The Management Board of a bank shall be responsible for the management of the activities of the bank in accordance with this Law, regulations issued by the Banking Agency and other regulations.

The Management Board of a bank shall have an uneven number of not less than five members and no more than eleven. Board members shall be appointed for four years; they may be re-appointed for subsequent periods. A person is not eligible to be a member of the Management Board of a bank, in the event that:

1. he is or would be a member of the supervisory board or the Management Board of more than five other corporations registered in the Federation of Bosnia and Herzegovina;
2. he is the Managing Director or other employee of the bank;
3. he has been deprived of the right to sit on the Management Board by the law;
4. he serves, or he served at any time during the immediately preceding two years' period, as the Director or the Deputy Director of the Agency, except with previous approval by the Management Board of the Agency.

The bank's Management Board shall:

1. convene meetings of the bank's Assembly;
2. prepare proposals for the bank's Assembly and execute its decisions;
3. examine and accept reports on the bank's operation during the year;
4. submit to the Assembly a report on business operation;
5. adopt the bank's strategy and plan, and general policies based on the bank's strategic plan and its general policy;
6. adopt the bank's bylaws;
7. approve the bank's year-end statement;
8. ensure that appropriate internal controls for the bank are established and maintained;
9. ensure that the appropriate internal and external audits are performed
10. establish provisions for loan losses to be expensed; establish necessary reserves out of the net profit of the bank; and declare dividends;
11. appoint and dismiss the Managing Director of the bank;
12. appoint the external auditor of the bank;
13. perform other functions in keeping with the bank's charter, bylaws and according to the regulations of the Agency.

The Management Board of a bank and its members cannot delegate their responsibilities of Board membership to others.

#### Article 32

The Supervisory Board shall consist of at least 5, and maximum 7 members appointed for a period of four years with possible re-appointments.

Managing Director and other bank employees shall not, concurrently serve on the Supervisory Board.

The Supervisory Board shall:

1. monitor compliance with the laws and regulations applicable to the bank and report to the Management Board thereon;
2. deliver opinions on any matters submitted to it by the Management Board , and issue opinions on significant matters affecting the safety and soundness of the bank;
3. propose to the bank's bodies and officers that they correct any irregularities found;
4. inform the Agency and other competent authorities of the irregularities established;
5. report to the Assembly concurrent with the annual report.



The activities of the Supervisory Board are established by the bank's bylaws.

#### Article 33

The Managing Director of a bank shall be responsible for the legality of the bank's operations and implementation of the established business strategy of the bank. A Managing Director cannot be appointed without the previous authorization by the Agency in written form.

The bank's Managing Director shall not be:

1. a member of the Management Board of the same bank or some other bank that is registered in Federation, except if that bank has close relation with a bank of which he is a Director.
2. An entity which had a position of a Director or of a Deputy director of the Agency for past two years, except if it has received previous approval of the Management Board of the Agency.

The bank's Managing Director shall:

1. represent the bank and act as its agent;
2. execute decisions of the Assembly, the Management Board and the bank's Supervisory Board;
3. organize and manage the bank's operation;
4. decide all matters which are not in the jurisdiction of the Assembly, the Management Board or the bank's Oversight Committee;
5. perform other functions in keeping with the law, the bank's charter and its bylaws.

The Managing Director may delegate part of his powers to others.

#### Article 34

All persons elected or appointed as senior management of a bank must meet the criteria established by regulation of the Agency and bank's by laws.

#### Article 35

Present Administrators and employees of a bank shall be required to keep 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 Banking Agency, including its inspectors and the auditors appointed by it, and to such other administrative and judicial authorities 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.

#### Article 36

Bank branches or subsidiaries cannot be established without a written authorization of the Agency.

The Agency can refuse the request of a bank to establish an organizational unit on the following grounds:

1. the staff, premises and equipment of the proposed office do not meet regulatory requirements established by the Banking Agency;
2. the applicant bank exhibits significant supervisory concerns which indicate that establishment of the office would not be in the interest of depositors or potential depositors of the bank;
3. in the case of a bank whose head office is located outside the Federation, is

not subject to comprehensive regulation or supervision on a consolidated basis.

#### Article 37

Business and control of the bank's parts in Federation and the bank with headquarters outside of the Federation the Agency will regulate with its own act.

#### OPERATIONAL REQUIREMENTS

#### Article 38

Banks are obliged to conduct their administration and operations in accordance with sound administrative and accounting procedures determined by a special law, the requirements of the law, any conditions and restrictions attached to their banking license, and the regulations, guidelines and instructions issued by the Agency.

Banks shall maintain adequate capital, that is their solvency, and sufficient liquid resources, that is their 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 entities.

#### Article 39

Banks may only engage in the following activities:

1. receiving money deposits or other repayable funds;
2. making and purchasing of loans and leases;
3. issuing all forms of monetary guarantees;
4. buying and selling for its own account or for account of customers of money market and capital market instruments;
5. providing payment system services;
6. buying and selling foreign currencies;
7. issuing and administering means of payment (including inter alia payment 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; and
11. anything that shall be incidental to the foregoing from Paragraph 1 up to Paragraph 10 of this Article.

#### Article 40

Banks shall refrain from entering into transactions or engaging in practices of any kind that would provide them, alone or together with others, a position of dominance on the financial markets.

#### Article 41

When prescribed by regulation of the Banking Agency, each bank shall observe the maximum ratios and exposures to be maintained by it concerning its assets, risk-weighted assets and off-balance sheet items and various categories of capital and reserves.

The bank shall ensure that at all times the value of its regulatory capital, including its unimpaired capital and reserves, will be in accordance with Article 20 of this law and shall be equivalent to not less than 10% of the total value of its assets determined on a risk-adjusted basis, whereby not less than 1/2 of regulatory capital shall consist of core

capital.

The values of regulatory capital, core capital and assets shall be determined in accordance with the provisions issued by the Banking Agency.

#### Article 42

Outstanding principal amount of all credit from a bank to a single borrower or a group of related borrowers may not exceed the equivalent of 40% of the bank's core capital . This limitation is subject to the following further conditions and qualifications:

1. the maximum amount of unsecured credit to a single borrower or a group of related borrowers may 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 readily marketable collateral whose good quality, as determined by reliable and continuously available price quotations, exceeds the amount of such credit;

Large credit exposure means credit to a single borrower or group of related borrowers amounting to more than the equivalent of 15% of the bank's core capital. The bank's total aggregate outstanding principal amount of all large credit exposures may 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" where their mutual relationships make it likely that, exposure to this group presents a unified exposure of the bank to credit risk The Agency shall prescribe via regulation further conditions under which these circumstances shall be deemed to exist.

#### Article 43

No bank shall without permission of the Agency invest more than fifty percent of its core capital in fixed assets.

#### Article 44

Banks shall keep on file the pertinent documents for each one of their transactions, in accordance with law.

#### Article 45

Each bank shall regularly notify its customers of the terms and conditions associated with the deposits made and credits received by them, including the annual rate of interest.

#### Article 46

Banks shall not engage in any transactions to or for the benefit of a person who is related to the bank, if such transaction would be undertaken on more favorable terms and conditions to such person than would be offered to or for the benefit of similarly situated persons who are not so related to the bank.

For the purposes of Paragraph 1 of this Article, persons who are related to a bank shall include without limitation:

1. any members of management bodies, Director, or employees of the bank and members of the immediate family of these persons;
2. any persons that have significant voting rights and members of the immediate family of these persons;
3. any legal entity in which the bank holds significant voting rights;

4. any legal entity which shares at least one common holder of significant voting rights in the bank;

5. any legal entity in which any person listed in clauses (1) through (4 ) of this Section holds significant voting rights , is a Director, or is a member of the Management Board.

A bank shall not provide financial assistance to any of its employees or for their benefit in excess of the limits established by regulation of the Agency.

The Agency issues such regulations as it deems necessary to implement and prevent evasion of the provisions in Paragraphs 1-3 of this Article.

#### Article 47

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.

Every member of the bank, general manager, member of higher management, and employer of the bank shall have a duty to report promptly to the Agency any activity of the bank which he knows or can reasonably expect to violate the provisions of Section 1 of this Article, and to provide such information as the Agency shall request.

### ACCOUNTS AND STATEMENTS, AUDIT, REPORTING AND INSPECTION

#### Article 48

A bank and its subsidiaries shall maintain at all times accounts and records, and prepare annual financial statements, adequate to reflect their respective operations and financial condition, in such form and with such content that 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 49

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

1. advise the bank on maintaining proper accounting systems;
2. prepare an annual report together with an audit opinion as to whether the financial statements present a full, accurate and fair view of the financial condition of the bank, in accordance with the provisions of this Law and regulations of the Agency; and
3. inform bank's managing bodies and the Banking 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 has become aware and which should be expected to result in a material loss for the bank or the subsidiary.

Each bank shall promptly at the request of the Agency provide to the Agency such information and supplemental audit opinions about the banks and their subsidiaries that they audit, for the account of such a bank

#### Article 50

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.

Each bank shall publish the external auditor's report in abbreviated form in one of the daily newspapers in the Federation within 15 days after receiving it. Each bank should submit a copy of the abbreviated form of the external auditors report to the Agency.

#### Article 51

The bank is obliged to prepare and submit to the Agency reports concerning its administration and operations, liquidity, solvency, and profitability, and those of its subsidiaries, for an assessment of the financial condition of the bank and each of its subsidiaries on an individual and a consolidated basis. The reports shall be prepared in such form and detail and shall be submitted at such intervals as shall be prescribed by regulation of the Agency.

Every bank and each of its subsidiaries, and any branch of a bank headquarters outside the Federation, shall be subject to onsite examinations and audits by the Agency, in accordance with the Agency's regulations.

Subject from Paragraph 2 of this Article shall admit and cooperate fully with the controllers of the Agency and the auditors appointed by the Agency.

### PROCESS OF BANKRUPTCY AND LIQUIDATION OF THE BANK

#### Article 52

The process of bankruptcy and liquidation of the bank is done pursuant to the "Law on Bankruptcy and Liquidation" (Official Gazette of the Federation of Bosnia and Herzegovina, No. 23/98), unless differently determined by this Law.

### 1. TEMPORARY MANAGEMENT AND LIQUIDATION

#### Article 53

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

1. there has been any violation of law, or of any regulation, guideline or written order of the Agency, or written agreement with the Agency, which caused a serious risk to the interest of the bank's depositors;
2. the bank has been conducting any unsafe or unsound practice in the operation of the bank, which 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 an agreement or order made by the Agency pursuant to Article 65 of this Law, and such violation is continuing;
4. books, papers, records, or assets of the bank have been concealed or withheld from the Agency or any of its agents;
5. request for a provisional administrator from the Board of Directors, the Supervisory Board, the Managing Director or the shareholders' Assembly of the bank provides adequate justification for such action;
6. the capital of the bank is less than fifty percent of the core capital required pursuant Article 41. Paragraph 2. 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. that after the revoking of a banking license it is necessary to have protection

of depositors interests up to when the authorised court appoints the provisional administrator.

#### Article 54

A bank shall be deemed to be insolvent when the Agency, in its sole judgment, 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. A determination of Agency about revoking of license from Paragraph 3. shall be final.

#### Article 55

The provisional administrator shall be appointed by written order of the Agency giving the grounds on which the appointment is based, with reference to the applicable section of Article 53 of this Law.

In case of order of appointment of a provisional administrator, or any extension or termination of such appointment, the Agency will: deliver its decision to the bank for which the provisional administrator has been appointed; publish its order in the Official Gazette of the Federation of Bosnia and Herzegovina, register in the register of banks pursuant to Article 16 of this Law, register it at the appropriate court

#### Article 56

The provisional administrator shall have unrestricted access to the premises of the bank and any of its offices and subsidiaries, and control over the financial assets, the offices, the books of account and other records, and all other assets of the bank, including its subsidiaries.

Immediately after being appointed or any of it subsidiaries the Provisional Administrator is obliged to take certain measures to secure the assets and records of the bank in order to prevent their dissipation by theft or other improper action.

In the implementation of th measures from their authority, the Agency and the provisional administrator are authorizes to request help of the authorized institutions of internal affairs and financial police.

#### Article 57

The Provisional Administrator shall be responsible for conserving the assets continuing the operation of the bank.

During the tenure of the provisional administrator of a bank, the powers of the officers, directors, and shareholders of the bank to take decisions or actions shall be suspended. The provisional administrator shall have all the powers of such directors, officers, and shareholders, in accordance with the Agency's decision on his appointment.

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;
2. repudiate or simply add to the contracts concluded by the bank or unilaterally amend them, including changes of rates, tariffs and duration of validity;
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 officers, directors, and shareholders of the bank.

A provisional administrator may delegate some of his authority to others.

A provisional administrator is obliged to implement laws, regulations, and orders issued by the Agency.

#### Article 58

Within 60 days of his appointment, unless this period is affirmatively extended by the Agency, the provisional administrator shall present a written report to the Agency on the financial condition and future prospects of the bank for which he has been appointed.

The provisional administrator shall prepare pro forma balance sheets and shall document the assumptions on which his analysis is based, including those with regard to interest rates, asset recovery rates, asset holding costs, and contingent liabilities.

The provisional administrator shall include in his report one or more of the following possibilities:

1. a recommendation to revoke the banking license of the bank and to liquidate the bank; with an assessment of the amount of assets likely to be realized in a liquidation of the bank;
2. a detailed plan to restore the bank to compliance with the requirements of the law and the regulations of the Agency, including an increase in the bank's capital to the minimum level required by law or regulation within the time set forth in the plan;
3. a detailed plan to sell the bank as a going concern or to sell any part of the assets and purchase liabilities of the bank; or
4. merge or acquisition of one bank with another bank.

#### Article 59

Within thirty days of the receipt of the report of the provisional administrator, the Agency shall revoke the banking license of the bank, unless the report of the provisional administrator includes one of the measures listed in Article 58 , Paragraph 2, clause (2), (3) or (4) of this Law.

The Agency, taking into account the report of the provisional administrator and the need to protect the interests of the depositors and other creditors of the bank, determines that there are reasonable prospects that such plan can be successfully carried out within 12 months of the determination by the Agency on the report of the provisional administrator. The Agency may change or amend the provisional administrator's plan in any way it deems appropriate, prior to or during the implementation of the plan.

If the Agency may upon its own evaluation, after revoking the banking license and rendering decision on the bank liquidation upon Provisional Administrator's proposal:

1. Nominate Liquidation Administrator, in accordance with the article 61 of this Law, in both cases when liabilities do not exceed assets and when liabilities exceed assets of the bank, who will conduct liquidation of assets under the best circumstances he may achieve with concurrence of the Agency and make the payments according to the priority list defined in the article 63 of this Law from the proceeds. As to the remaining assets and liabilities that can not be liquidated within a reasonable timeframe as assessed by the Agency in its sole discretion, Agency may apply for bankruptcy to the court in charge; or

2. Immediately apply to the court in charge for bankruptcy and appointment of bankruptcy administration in the bank.

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

#### Article 60

The powers of a provisional administrator shall end upon:

1. the termination of his appointment by order of the Agency; or the completion of his term specified in the order of his appointment or in any order extending his term; or

2. the revocation of the banking license of the bank and the decision by the Agency to order liquidation of the bank;

3. the appointment by the Agency of a receiver for the bank;

4. decision on appointment of the Bankruptcy Administrator by the court in charge.

#### Article 61

If the Agency, based on the provisional administrator's report, determines to sell, merge, or liquidate the bank, it may appoint a receiver to carry out this task.

The Agency's order appointing the receiver shall be in writing, and shall be in accordance with Paragraph 1 of this Article.

The receiver shall be subject to such rules, regulations, and orders as the Banking Agency shall issue, and shall be accountable only to the Agency for the performance of his duties and for the exercise of his powers as receiver.

The Agency shall cause its order of appointment, extension or termination of a provisional administrator to be published in the Official Gazette of the Federation of Bosnia and Herzegovina, and to be registered in the register of banks pursuant to Article 16 of this Law, and to be distributed to the appropriate court and the bank for which the receiver was appointed.

From the moment of the appointment of the receiver by the Agency, all powers, authority, and ownership rights of the officers, directors, and shareholders of the bank are terminated.

The receiver shall act in accordance with law, regulations, and orders of the Agency. He is responsible to the Agency for completion of tasks.

The receiver has the authority to exercise all functions that may be exercised by a provisional administrator under Article 57 of this Law, and, in addition, the authority to:

1. sell all or substantially all, or any part, of the assets and redeem liabilities of



the bank,

2. merge the bank with another bank, or sell the bank to an acquirer, subject to the approval of the Agency;
3. liquidate the bank, and, in connection therewith, decide the validity of, and pay, claims against the bank.

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

During the execution of the provisional administrator's plan for sale or merger of the bank, the receiver shall report to the Agency no less frequently than quarterly on the progress of the plan.

At any time during the execution of the plan, the Agency, after having received a written report of the receiver may abort the plan, revoke the license of the bank, and order the liquidation of the bank.

#### Article 62

If recommended by a provisional administrator or receiver, the Agency may at any time declare all or part of deposits and investments by the public in the bank to be totally or partially blocked for a maximum period of one year.

The decision from Paragraph 1 of this Article may be declared only to ensure the orderly development or implementation of the provisional administrator's plan, or the functions of the receiver, and when a blocking order is declared the provisional administrator or receiver shall take measures which, in the opinion of the Agency, will preserve the approximate value of these deposits and investments in the bank.

#### Article 63

In the 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. deposits of natural persons, up to a maximum of the equivalent of 5000 KM per depositor;
4. other deposits, including deposits of natural persons above the equivalent of 5000 KM, per depositor;
5. claims by other creditors;
6. claims by shareholders.

#### Article 64

A provisional administrator or receiver appointed by the Agency shall conduct the sale or disposition of assets, liabilities, and sale or merger of a bank in a manner which will:

1. maximize the price of such 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, merger partner, or combined bank is 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.

## PROVISIONS ON SANCTIONS

### Article 65

A monetary fine of KM 1,000 to KM 10,000 shall be imposed on the bank or another legal entity for a violation; if:

1. engages in receiving deposits and other repayable funds or extends credits without the permission of the Agency (contrary to provisions in Article 2, Section 1);
2. directly or indirectly engages in collecting deposits as described in Article 3. of this Law;
3. uses words in its name that are contrary to provisions of Article 2 Section 3 of this Law;
4. continues to conduct banking activities after its banking license has been revoked, contrary to provisions in Article 19, Section 3. of this law;
5. does not discontinue its assets and pay its liabilities within the deadline established in the decision to revoke its license, in accordance with Article 19, Section 3 of this law;
6. does not collect capital and does not maintain net capital in accordance with Article 20, Section 1 and 2 of this law;
7. does not comply to provisions on the limitations of ownership structure (Article 21, Section 1 of this law);
8. without the prior consent of the Agency, engages in activities concerning mergers, amalgamations and divisions of the contrary to provisions in Article 26, Section 1, and makes changes and amendments to its charter, contrary to provisions in Article 28, Section 2 of this law;
9. does not conduct its activities in accordance to its by-laws, contrary to provisions in Article 28, of this law;
10. does not submit the necessary documents for the Agency's files, in accordance with Article 28, Section 2 of this law;
11. appoints a Managing Director who does not fulfill the legal conditions, contrary to provisions in Article 33, Section 3 of this law. (Articles 21 and 22);
12. conducts business contrary to provisions in Article 38. of this law;
13. engages in transactions or participates in activities that present unfair competition in the financial market, contrary to provisions in Article 40. of this law;
14. does not comply to limitations in business operations, as described in Article 41-43 of this law;
15. does not maintain records and documentation on its transactions in accordance with provisions in Article 44. of this law;
16. does not regularly inform its customers on the conditions of its operations, in accordance with Article 45. of this Law;

17. conducts transactions with related persons, contrary to provisions in Article 46 of this law);

18. participates in transactions contrary to provisions of Article 47. of this law;

19. does not appoint an independent external auditor, in accordance with provisions in Article 49 of this law;

20. does not submit a financial report and the external auditor report to the Agency, in accordance with Article 50 and 51 of this law;

21. does not cooperate with the Agency in the process of its bank examination, in accordance with provisions in Article 51 of this law;

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. This fine cannot be greater than twenty times the level of created damage or unsettled liability that is the subject of the violation.

For violations from Paragraph 1 of this Article, the responsible person in the bank or another legal entity, will be charged with a monetary fine of KM 200 to KM 2,000.

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

#### VIOLATION PROCEDURE

##### Article 66

The procedure is carried out by a violation committee (hereinafter committee) comprising 3 members.

The Director of the Agency appoints the members of the Committee, as well as their deputies, in accordance to law.

The committee carries out the procedure in accordance to the "Law on Violations" by which the federal regulations are confirmed (Official Gazette of the Federation of BiH, No. 9/96) and in accordance to this law.

##### Article 67

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

The Agency may take one or more of the following actions with respect to a bank or any of its Administrators, employees, or persons that have significant voting right and can:

1. issue written warnings;

2. call a meeting of the shareholders or other owners of the bank and the Administrators of the bank to discuss and to agree on remedial measures to be taken;

3. issue written orders:

a) requiring the bank or person to cease and desist from such violations of this Law or 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 management bodies 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 65 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 voting rights 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 65. of this Law;

b) the Agency learns of facts that would warrant refusal of an authorization to acquire or increase the significant voting rights; or

c) the significant voting right 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. appoint an adviser for the bank

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 administrator in accordance with the provisions of this Law

12. revoke the banking license of the bank.

If any person referred to in Section 2 of this Article is charged with any criminal offense, 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 any such person is convicted of any such offense, 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. No prior notice or hearing is required for orders issued under this Section.

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 is subject to an order of the Agency:

1. suspending or removing him from a bank;

2. prohibiting the exercise of his significant voting rights in a bank, or requiring him to dispose of a significant interest in any bank due to an intentional or reckless infraction or lack of trustworthiness; or

3. involving criminal activity pursuant to Section 3 of this Article.

An order from Paragraph 4, Clause 3 of this Article may be issued against any person within five years after such person ceases to be an Administrator, employee, or holder of

significant voting rights 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 may 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.

Against the regulation a complaint from this Article can be submitted to the Agency's Director, within 8 days starting from the date of deliverance.

The measures provided in this Article shall not preclude application of other civil penalties or criminal penalties as provided in other legislation in force.

## TRANSITIONAL AND FINAL PROVISIONS

### Article 68

Legal entities that have been granted a banking license, in accordance to the Law on Banks ("Official Gazette of the Federation of BiH," number 2/95, 9/96 and 25/97), are responsible to accord their business with regulations of this law at the latest within six months from the date when this Law is enacted, and application referred to in the article 20 paragraph 1 in the following dynamics:

- of 7,500,000 KM within six months since this law comes into effect;
- of 10,000,000 KM as of June 30, 2001;
- of 15,000,000 KM as of December 31,2002.

### Article 69

The Agency shall deliver regulations and general acts assumed by this Law, in regard to banks' business no later then six months starting on the date of this Law entering into force.

Regulations from Paragraph 1 of this Article shall be published in the "Official Gazette of the Federation of Bosnia and Herzegovina.

### Article 70

On the date when this law enters into force the "Law on Banks" (Official Gazette of the Federation of Bosnia and Herzegovina No. 2/95, 9/96 and 25/97) no longer exists, as well as the application of other laws and regulations which have regulated this material, and were applied in the Federation region up to when this law entered into force.

### Article 71

This Law shall enter into force on the eighth day from the day that it is published in the "Official Gazette of the Federation of BiH."