

# **LAW ON BANKS** **(consolidated)<sup>1</sup>**

## Chapter I

### BASIC PROVISIONS

#### **Subject of the Law**

##### Article 1

This Law shall regulate the establishment, operations and organisation of banks, the manner of bank management, bank supervision and termination of banks' operations.

#### **Meaning of terms**

##### Article 2

**Bank** means a joint-stock company headquartered in the Republic of Serbia and licensed by the National Bank of Serbia, which performs deposit and lending activities and which may perform other activities in compliance with law.

**Bridge bank** means a bank established, within the meaning of the law on bankruptcy and liquidation of banks and insurance companies, at the request of the agency in charge of deposit insurance established by a separate law (hereinafter: Agency), for a limited period of time and for the purpose of transferring a part of or total assets and liabilities of a bank that had its operating licence revoked by the National Bank of Serbia. The bridge bank shall be founded by the Agency.

**Foreign bank** means a legal person headquartered outside of the Republic of Serbia which is established and registered as a bank with the competent authority, in compliance with regulations of the home country, which has the operating license granted by the regulatory body of such country, and which performs deposit and lending activities.

**Branch** means an organisational part of a bank without legal personality, which performs activities that a bank may carry out in accordance with this Law.

**Representative office** means an organisational part of a bank abroad or a foreign bank in the Republic of Serbia, without legal personality, which does not carry out activities that may be carried out by a bank, but activities related to market research and which represents the bank and/or the foreign bank it constitutes part of.

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<sup>1</sup> The consolidated text is based on the Law on Banks published in the RS Official Gazette, Nos 107/2005 and 91/2010.

**Regulatory body** is a national body of a country which is empowered by regulations of such country to issue and revoke operating licenses to and from financial sector persons, or to supervise their operations.

**Home country** means the country in which a foreign bank or other financial sector person was established and licensed.

**Deposit** has the meaning specified in the law on deposit insurance.

**Loan** has the meaning specified in the law on contracts and torts.

**Financial sector person** means a bank, insurance company, underwriter, investment and voluntary pension fund management company, broker-dealer company, company engaged in financial leasing, and any other legal person engaged predominantly in financial activities in the country or abroad.

**Indirect ownership** exists when a person not having direct ownership in a legal person has the ability to effectively exercise ownership rights in such person via direct ownership of another person.

**Participation** means qualified, significant and controlling participation.

**Qualified participation** exists when one person has:

- 1) direct or indirect right or ability to exercise 5% or more of voting rights in a legal person, and/or direct or indirect ownership of 5% or more of capital of such legal person; or
- 2) the ability to effectively exercise influence over the management of a legal person or over the business policy of such legal person.

**Significant participation** exists when one person has:

- 1) direct or indirect right or ability to exercise 20% or more of voting rights in a legal person, and/or direct or indirect ownership of 20% or more of capital of such legal person; or
- 2) the ability to effectively exercise influence over the management of a legal person or over the business policy of such legal person.

**Controlling participation** exists when one person has:

- 1) direct or indirect right or ability to exercise 50% or more of voting rights in a legal person, and/or direct or indirect ownership of 50% or more of capital of such legal person; or
- 2) the ability to elect at least half of the members of the managing board\* or other management body in such legal person; or
- 3) the ability to effectively exercise dominant influence over the management of a legal person or over the business policy of such legal person.

**Parent company of a legal person** means a company that holds controlling participation in such person.

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\* In the consolidated version of the Law, the term “board of directors” has been changed into “managing board”. This is just a terminological, not a substantive change.

**Subsidiary of a legal person** means a company in which such person holds controlling participation.

**Associated company of a legal person** means a company in which such person holds significant participation.

**Subordinated company of a legal person** means a subsidiary or an associated company of such person.

**Group of companies** means a group consisting of the ultimate parent company of a legal person, its subordinated companies and associated companies of the subsidiaries of the legal person.

**Ultimate parent company of a group of companies** means a legal person in which no legal person holds controlling participation.

**Banking group** means a group of companies which consists exclusively of financial sector persons, and which includes at least one bank being the ultimate parent company or a subsidiary.

**Bank holding company** means the ultimate parent company in a banking group other than a bank. Where the ultimate parent company cannot be clearly determined, it shall be determined by the National Bank of Serbia.

**Related persons** are persons where at least one of the following conditions is met:

- 1) Two or more legal or natural persons are related in such a way that one of them holds participation in another legal person;
- 2) Two or more legal or natural persons where the relation specified in item 1) of this paragraph does not exist are related in such a way that there is a possibility that deterioration or improvement of the financial position of one person may cause deterioration or improvement of the financial position of another person or persons, and the National Bank of Serbia assesses that there is a possibility of the transfer of losses, profit or creditworthiness;
- 3) A legal and a natural person are related in such a way that the natural person is a proxy of such legal person;
- 4) Two or more legal and natural persons are related in such a way that the natural person is a member of the managing or executive board or other management body in another legal person or other legal persons;
- 5) Two or more legal and natural persons are related in such a way that family members of the natural person are members of the managing or executive board or other management body in another legal person or other legal persons;
- 6) Family members of natural persons who are members of the managing or executive board or other management body or persons with special authorities and responsibilities in one legal person are at the same time members of the managing or executive board or other management body or persons with special authorities and responsibilities in another legal person or other legal persons.

**Persons related to a bank** are:

- 1) Members of the banking group to which the bank belongs;

- 2) Members of the managing and executive board of the bank, members of the bank's committees defined by this Law, members of management bodies of a member of the banking group to which the bank belongs, as well as family members of those persons;
- 3) Persons with participation in the bank and in persons which are members of the banking group to which the bank belongs, as well as family members of those persons;
- 4) Legal persons in which persons specified in items 2) and 3) of this paragraph hold controlling participation.

**Family members** have the meaning specified in the law on companies.

**Undercapitalised bank** means a bank whose capital adequacy ratio and/or capital is lower than prescribed, but which is not a significantly undercapitalised bank.

**Significantly undercapitalised bank** means a bank whose capital adequacy ratio and/or capital is by one third or more lower than prescribed, but which is not a critically undercapitalised bank.

**Critically undercapitalised bank** means a bank whose capital adequacy ratio and/or capital is by one half or more lower than prescribed.

### **Application of the law on companies**

#### Article 3

Basic provisions of the law on companies which relate to the establishment of companies, responsibility of founders and other persons, the head office and business name, representation and representatives, persons owing duty to a company, individual and derivative action, information, publication and prescription, as well as the provisions of that law regarding shares and other securities of a joint-stock company shall apply to banks, unless in breach of this Law.

### **Provisions inapplicable to bridge banks**

#### Article 3a

Provisions of this Law relating to the issue of a preliminary bank founding permit, operating license, founding assembly and bank registration, as well as provisions regulating the initiation of receivership and imposition of fines, shall not apply to the bridge bank.

### **Activities that a bank may perform**

#### Article 4

Bank may perform the following activities in accordance with law:

- 1) Deposit activities (accepting and placing deposits);
- 2) Lending activities (granting and taking loans);
- 3) Foreign exchange, foreign exchange transactions, and exchange operations;
- 4) Payment transactions;
- 5) Issuing payment cards;
- 6) Activities regarding securities (issuing securities, custody bank activities, etc.);
- 7) Brokerage-dealership activities;

- 8) Issuing guaranties, sureties on promissory notes and other types of warranties (guarantee operations);
- 9) Purchase, sale and collection of receivables (factoring, forfeiting, etc.);
- 10) Insurance agency activities;
- 11) Activities for which it is authorised by law;
- 12) Other activities which are essentially similar or connected to activities specified in items 1)–11) of this paragraph, and are in compliance with the founding act and articles of association of the bank.

Bank may perform the activities from paragraph 1, item 10) hereof with the prior consent granted by the National Bank of Serbia.

Detailed requirements and manner of issuing and revocation of the consent specified in paragraph 2 hereof shall be prescribed by the National Bank of Serbia.

### **Activities that may be performed exclusively by a bank**

#### Article 5

No person other than a bank shall engage in the acceptance of deposits.

No person other than a bank shall engage in granting loans and issuing payment cards unless authorised by law.

### **Business name of a bank and unauthorised use of the word “bank”**

#### Article 6

A bank is required to have the word “bank” as part of its business name.

No person other than a bank shall have in its business name and/or use in its activities the word “bank” or derivatives of the word.

### **Distortion of competition**

#### Article 7

No bank shall conclude any agreements which substantially prevent, limit or distort competition, nor shall it abuse its dominant position or exercise concentration which substantially prevents, limits or distorts competition, particularly by creating and/or strengthening its dominant position in the financial market.

The National Bank of Serbia shall be responsible for establishing whether distortion of competition from paragraph 1 hereof has occurred and shall take measures in that regard pursuant to this Law.

When establishing the distortion of competition from paragraph 1 hereof, the National Bank of Serbia may request an opinion of an organisation competent for the protection of competition.

The National Bank of Serbia shall give consent to the concentration exercised by a bank in the financial market.

Detailed requirements and manner of establishing the distortion of competition from paragraph 1 hereof shall be prescribed by the National Bank of Serbia.

Provisions of the law on the protection of competition shall accordingly apply to the procedure of establishing the distortion of competition from paragraph 1 hereof.

### **Cooperation between the National Bank of Serbia and regulatory bodies**

#### **Article 8**

The National Bank of Serbia shall cooperate with foreign and domestic regulatory bodies with a view to performing and improving its supervisory function, as well as performing other activities established by this Law.

The National Bank of Serbia may exchange the data obtained in performing its supervisory function and other activities established by this Law with bodies specified in paragraph 1 hereof, if those bodies are required to keep official secret as determined in Article 102a of this Law.

The National Bank of Serbia may exchange data (information) obtained from foreign and domestic regulatory bodies within the meaning of paragraph 1 hereof with foreign and domestic regulatory bodies, at their request and subject to prior consent of the body that provided the data (information).

### **Administrative procedure**

#### **Article 9**

Following the procedure specified by this Law, the National Bank of Serbia shall perform supervision of safety and soundness and legality of banks' operations and, based on competences established by this Law, decide on the rights, obligations and legal interests of persons.

Provisions of the law on general administrative procedure shall accordingly apply to the procedure from paragraph 1 hereof unless otherwise regulated by this Law.

In the procedure specified in paragraph 1 hereof, the National Bank of Serbia shall decide by a resolution.

The resolution specified in paragraph 3 hereof shall be final.

Administrative dispute may be initiated against the resolution specified in paragraph 3, but action against such resolution cannot prevent or postpone the implementation of such resolution.

The court competent in administrative dispute against the resolution specified in paragraph 3 hereof cannot resolve the administrative issue for which this Law stipulates competence of the National Bank of Serbia.

Chapter II  
ESTABLISHMENT OF BANKS

Section 1

**Legal form, founders, initial capital,  
founding act and articles of association**

*Legal form*

Article 10

A bank shall be established as a joint-stock company.

*Founders*

Article 11

A bank may be established by domestic and foreign legal and natural persons (founders of a bank).

*Initial capital*

Article 12

Founders of a bank shall provide funds for the initial capital.

The funds from paragraph 1 hereof may be in pecuniary or non-pecuniary form (things and rights for the purpose of bank's operations).

The pecuniary portion of a bank's initial capital shall be no less than EUR 10,000,000 in the dinar equivalent, calculated at the official middle exchange rate on the date of payment.

Notwithstanding paragraph 3 hereof, the pecuniary portion of initial capital of a bridge bank shall be no less than EUR 5,000,000 in the dinar equivalent, calculated at the official middle exchange rate on the date of payment.

Founders of a bank may not withdraw funds invested in the bank's initial capital.

The evaluation of contributions in things and rights for the purpose of bank's operations shall be regulated by provisions of the law on companies which relate to joint-stock companies.

Detailed requirements and manner of providing the funds from paragraph 1 hereof may be prescribed by the National Bank of Serbia.

*Founding act*

Article 13

The founding act of a bank shall include the following:

- 1) Business name and head office of the legal person – founder of the bank, and/or name and permanent residence of the natural person – founder of the bank;
- 2) Business name and head office of the bank;
- 3) Amount of total initial capital of the bank in pecuniary and non-pecuniary form, as well as each founder's stake in the capital;
- 4) Time period in which bank founders are required to pay pecuniary funds, and/or transfer non-pecuniary assets into initial capital of the bank;
- 5) Rights, obligations and responsibilities of bank founders;
- 6) Number of shares and their nominal value in the first issue, types and classes of shares that the bank is authorised to issue, as well as rights arising from shares of each class;
- 7) Activities performed by the bank;
- 8) Method of covering bank losses;
- 9) Method of solving disputes among bank founders;
- 10) Rights of bank founders in case of the bank's status change;
- 11) Total or estimated amount of expenses related to the establishment of the bank;
- 12) Other elements and/or data.

The National Bank of Serbia may prescribe other compulsory elements and/or data to be included in the bank's founding act.

#### *Articles of association*

##### Article 14

A bank shall have its articles of association.

Articles of association of a bank shall include the following:

- 1) Organisation and manner of bank's operations;
- 2) Issues decided by the bank's assembly;
- 3) Issues decided by other bodies of the bank, their structure and procedure of making decisions by such bodies, as well as the term of office of members of such bodies;
- 4) Measures and responsibilities of the bank's bodies aimed at providing liquidity and solvency of the bank;
- 5) Rights, obligations and responsibilities of members of the managing and executive board, and other persons with special authorities and responsibilities established by the bank's articles of association;
- 6) Authority for signing and acting on behalf of the bank;
- 7) Manner of performing internal control and internal audit of the bank;
- 8) Data and documents considered a business secret of the bank, and the manner of dealing with such data and documents;
- 9) Other elements and/or data.

The National Bank of Serbia may prescribe other compulsory elements and/or data to be included in the bank's articles of association.

## Section 2

### **Preliminary bank founding permit and operating license**

#### *Preliminary bank founding permit*

#### Article 15

Bank founders shall apply for a preliminary bank founding permit with the National Bank of Serbia (hereinafter: preliminary permit), and enclose the following:

- 1) Data on the founders, the amount of their contributions, and number, type and nominal value of shares they are acquiring;
- 2) The bank's founding act and draft articles of association;
- 3) The founders' statement that the pecuniary portion of initial capital will be paid to the temporary account with the National Bank of Serbia;
- 4) The founders' statement that non-pecuniary assets will be transferred to the initial capital of the bank;
- 5) Data on all persons that will hold participation in the bank, and grounds of such participation;
- 6) Names and data relating to the qualifications, experience and business reputation of the nominated members of the bank's managing and executive board;
- 7) The bank's proposed programme of activities for the period of three years and draft business policy of the bank;
- 8) Draft procedures for risk management and internal control of the bank;
- 9) If the bank is to be founded as a subsidiary of a foreign bank or other foreign financial sector person that is subject to foreign regulatory body supervision, evidence that the competent regulatory body of the home country has granted approval to the foreign bank or other foreign financial sector person regarding participation in the establishment of a bank in the Republic of Serbia, or evidence that no such approval is necessary under the regulations of such country;
- 10) If the bank founder is a foreign bank or a foreign financial sector person subject to supervision by the home country regulatory body, evidence that the requirements specified in Article 94, paragraph 4 of this Law are met.

The National Bank of Serbia may request from bank founders to provide additional data and submit other documentation.

The National Bank of Serbia shall decide on the application specified in paragraph 1 hereof within 90 days from the day of receipt of duly completed application.

Bank founders shall, at the latest within 60 days after being granted a preliminary permit, apply with the National Bank of Serbia for an operating license.

If bank founders fail to submit the application specified in paragraph 4 hereof within the deadline specified in that paragraph, the preliminary permit shall cease to be valid.

The National Bank of Serbia may prescribe detailed requirements and manner of acquiring the preliminary permit.

## Article 16

The National Bank of Serbia shall deny the application specified in Article 15, paragraph 1 of this Law in the following cases:

- 1) If the founding act and draft articles of association of the bank are not in compliance with law and other regulations;
- 2) If any of the nominated members of the managing or executive board of the bank does not possess appropriate qualifications or experience, and/or good business reputation;
- 3) If any person that would acquire participation in the bank fails to meet the requirements for acquiring such participation;
- 4) If the proposed programme of bank's activities, plan of business policies and procedures for risk management and internal control are not appropriate;
- 5) If the ownership and management structures of the bank fail to enable effective supervision of safety and soundness and legality of the bank's operations or appropriate external and/or internal audit of the bank;
- 6) If the structure of the banking group whose member a bank would become is not transparent or impedes supervision of this group on a consolidated basis or appropriate external and/or internal audit.

## Article 17

Should the data or documents specified in Article 15, paragraph 1 of this Law be changed after the issuance of the preliminary permit, bank founders shall promptly inform the National Bank of Serbia thereof.

The National Bank of Serbia shall, after the receipt of the information specified in paragraph 1 hereof, set aside the resolution on issuance of the preliminary permit if the conditions for issuing such permit are no longer met.

Bank founders whose application for preliminary permit has been dismissed or refused, or the preliminary permit ceased to be valid, shall not be allowed to resubmit such application in the course of one year following the dismissal or refusal, and/or cessation of validity of the preliminary permit.

After being granted preliminary permit, and prior to entering the bank in the register of business entities, bank founders may, in the name of the bank being founded, perform only those activities that relate to the fulfilment of conditions necessary for the issuing of operating license and entry in the register.

## *Operating license*

## Article 18

An operating license is issued by the National Bank of Serbia following the issuance of the preliminary permit and submission of application for license issuing.

Along with the application specified in paragraph 1 hereof, bank founders shall also submit the following:

- 1) Evidence of payment of the pecuniary portion of initial capital, evidence of transfer of non-pecuniary assets into the bank's initial capital, as well as statement regarding the origin of such assets;
- 2) Evidence that the founders have provided appropriate business premises, acquired and prepared equipment for unimpeded operation of the bank, that the premises meet legal requirements relating to technical equipment, work safety, and protection and improvement of the environment, as well as that the premises and equipment enable access to all relevant data and information required for the conduct of supervisory function by the National Bank of Serbia;
- 3) Evidence that the founders have engaged an external auditor for the bank included in the list specified in Article 52, paragraph 3 of this Law;
- 4) Data on the organisational structure and human resource capacity of the bank.

The National Bank of Serbia shall decide on the application specified in paragraph 1 hereof within 30 days from receipt of duly completed application.

The resolution on issuing an operating license shall be published in the Official Gazette of the Republic of Serbia.

Should the National Bank of Serbia dismiss or refuse the application specified in paragraph 1 hereof, the applicant may not resubmit an application for the preliminary permit within one year following the day the application specified in paragraph 1 hereof was dismissed or refused.

The National Bank of Serbia may prescribe in detail the content of evidence and data specified in paragraph 2 hereof.

#### *Operating license to a bridge bank*

##### Article 18a

The National Bank of Serbia shall issue an operating license to a bridge bank at the request of the Agency.

Along with the request from paragraph 1 hereof, the Agency shall submit:

- 1) bank's founding act and articles of association;
- 2) evidence of payment of the pecuniary portion of initial capital;
- 3) names of nominated members of the managing and executive board and data on their qualifications, experience and business reputation.

The National Bank of Serbia shall decide on the request from paragraph 1 hereof by issuing a resolution on the day following the day of receipt of the duly completed request.

The resolution on issuance of the operating license from paragraph 3 hereof shall also specify the period during which a bridge bank shall be operational, the possibility of extending that period in accordance with the law on bankruptcy and liquidation of banks, as well as the possibility of selling the bridge bank's shares so that the bank may continue to operate as an ordinary bank in accordance with this Law.

The resolution on issuance of an operating license to a bridge bank shall be published in the Official Gazette of the Republic of Serbia.

The Agency shall submit an application for entering the bridge bank in the register of business entities by no later than the day following the day of receipt of the resolution on issuance of the operating license to a bridge bank.

The content of documents and evidence from paragraph 2 hereof shall be prescribed in more detail by the National Bank of Serbia.

A bridge bank shall align its operations with the provisions of this Law relating to the capital and performance ratios of a bridge bank within six months following the resolution on issuance of operating license.

### Section 3

#### **Founding assembly and registration**

##### *Founding assembly*

##### Article 19

The bank's founding assembly meeting shall be held after receipt of the resolution of the National Bank of Serbia on issuing operating license to the bank, i.e. within 30 days following receipt of such resolution at the latest.

The founding assembly shall consist of bank founders.

Founders shall exercise voting rights at the founding assembly, proportionate to their respective contributions.

At the bank's founding assembly meeting, by a two thirds majority of the votes of bank founders, the articles of association of the bank shall be adopted, the president and members of the managing and executive board elected, a three-year programme of activities and the business policy of the bank adopted, and the decision regarding the first issue of shares rendered.

Bank founders shall submit the acts adopted at the founding assembly meeting to the National Bank of Serbia for consent within five working days following their adoption.

The National Bank of Serbia shall decide on granting consent specified in paragraph 5 hereof within 60 days following the day of receipt of acts specified in paragraph 5 thereof.

##### *Registration*

##### Article 20

Bank founders shall submit an application for entry of the bank into the register of business entities within 30 days from the day the consent specified in Article 19, paragraph 5 of this Law was granted.

The resolution of the National Bank of Serbia on issuing the operating license as well as the consent specified in paragraph 1 shall be submitted together with the application from that paragraph.

The bank shall obtain legal personality as of the moment of being entered in the register of business entities.

Bank founders shall submit the resolution on entry in the register of business entities to the National Bank of Serbia within five days following the receipt of such resolution.

Should the nullity of registration of the bank's establishment be ascertained in the procedure determined by the law on the registration of business entities, such nullity shall have no legal effect on legal transactions of such bank with conscientious third parties.

If the nullity of registration of the bank's establishment is ascertained, the bank's shareholders shall become jointly responsible for the settlement of receivables of bank's creditors.

### Chapter III BANK OPERATION

#### *Section 1*

#### **Bank capital**

#### *Amount and form of capital*

#### Article 21

A bank shall maintain the prescribed amount of capital for the purpose of stable and safe operations and/or the fulfilment of obligations to creditors.

Bank capital consists of core and supplementary capital, as well as of any other forms of capital prescribed by the National Bank of Serbia.

The National Bank of Serbia shall prescribe the method of calculation of bank capital and capital adequacy, as well as the terms and conditions of obtaining consent to the calculation of bank capital and capital adequacy.

#### *Minimum amount of capital*

#### Article 22

In conducting its operations, each bank shall maintain its capital at no less than EUR 10,000,000 in the dinar equivalent, calculated at the official middle exchange rate.

Notwithstanding paragraph 1 hereof, after the expiration of the period envisaged for the alignment of operations referred to in Article 18a, paragraph 8 of this Law, a bridge bank shall maintain its capital at no less than EUR 5,000,000 in the dinar equivalent, calculated at the official middle exchange rate.

### *Capital adequacy ratio*

#### Article 23

With a view to ensuring stable and safe operations and/or fulfilment of obligations to creditors, a bank shall maintain its capital adequacy ratio at the prescribed level.

Capital adequacy ratio is a ratio of bank's capital to its risk weighted assets.

The National Bank of Serbia may determine a higher capital adequacy ratio than that prescribed for a bank if, on the basis of the type and degree of risk and operations of the bank, it is established that this is necessary for the bank's stable and safe operations, and/or fulfilment of obligations to creditors.

The National Bank of Serbia shall prescribe the criteria for determining the capital adequacy ratio specified in paragraph 3 hereof.

### *Risk weighted assets*

#### Article 24

Risk weighted assets of a bank represent the sum of book values of on-balance sheet assets and off-balance sheet items multiplied by credit, market and other risk weights.

Risk weights from paragraph 1 hereof shall be prescribed by the National Bank of Serbia depending on riskiness of the positions making up the risk weighted assets of a bank.

### *Distribution of profit*

#### Article 25

A bank may not distribute profit through payment of dividends to its shareholders or payment of participation in profit, and/or other payments from the bank's profit to members of management bodies and bank's employees in the following cases:

- 1) If the bank fails to maintain its liquidity in compliance with regulations of the National Bank of Serbia;
- 2) If, due to the distribution, the bank would not be able to maintain its liquidity in compliance with regulations of the National Bank of Serbia;
- 3) If the bank failed to eliminate weaknesses and deficiencies as ordered by the National Bank of Serbia regarding the inaccurate carrying of business changes and other events that may have an impact on the bank's income statement;
- 4) If the bank failed to act in compliance with orders to eliminate irregularities;
- 5) If so ordered by the National Bank of Serbia through a corrective measure.

A bank may not perform any advance payment pertaining to the distribution of profit from paragraph 1 hereof to the persons specified in that paragraph.

If the total amount of payments from paragraph 1 hereof exceeds 10% of bank capital or the bank's income statement shows loss in the current or previous quarter, and/or for the business year until that date, the bank may perform the distribution of these payments solely upon prior approval of the National Bank of Serbia.

### *Acquisition of own shares*

#### Article 26

A bank may not acquire own shares unless they are offered by shareholders in secondary sale and their sale to other persons would cause significant losses to the bank's shareholders.

The acquisition of shares specified in paragraph 1 hereof shall be performed out of the bank's distributable profit.

The acquisition of shares specified in paragraph 1 hereof may not be performed without prior consent of the National Bank of Serbia.

Along with the elaborated request for consent specified in paragraph 3 hereof, the bank shall submit to the National Bank of Serbia data on conditions for acquiring own shares.

The National Bank of Serbia shall decide on the request specified in paragraph 4 hereof within 30 days from the day of receipt of the duly completed request.

Any legal transaction related to the acquisition of own shares without the consent of the National Bank of Serbia shall be void.

A bank is required to alienate own shares within one year following the date of their acquisition, and failing to do so, it is required to withdraw and cancel them, reducing the issued share capital by the same amount.

The provision of paragraph 7 hereof shall also apply to the acquisition of own shares through inheritance, legal succession or other acquisition irrespective of the will of the bank.

Detailed requirements and manner of granting consent in paragraph 3 hereof may be prescribed by the National Bank of Serbia.

### *Prohibited transactions relating to the acquisition of bank shares*

#### Article 27

Any legal transaction dealing with the granting of a loan, advance payment, warranty or guarantee by the bank for the purpose of direct or indirect acquisition of the bank's shares by a person holding participation in the bank or by the bank's subordinated company, as well as acquisition of the bank's shares by the funds obtained in such ways shall be void.

## Section 2

### **Risk management**

#### *Method of risk management*

##### Article 28

A bank shall identify, measure, assess and manage the risks the bank is exposed to in its operations.

A bank shall form a special organisational unit whose remit includes risk management.

A bank shall provide for functional and organisational separation of risk management activities and regular business activities.

Risk management shall be adjusted to the size and organisational structure of the bank, to the volume of operations, and types of activities it performs.

A bank shall, in its acts, prescribe the risk management strategy and policies, capital management strategy, procedures for identification, measurement and assessment of risks as well as management of risks in compliance with regulations, standards and code of practice.

The acts specified in paragraph 5 hereof shall include:

- 1) procedures for identification, measurement and assessment of risks;
- 2) risk management procedures;
- 3) procedures ensuring control and consistent implementation of all internal acts of the bank related to risk management;
- 4) procedures for regular reporting on risk management to the bank's bodies and the regulatory body.

The National Bank of Serbia may prescribe detailed requirements and manner of identification, measurement and assessment of the risks specified in paragraph 1 hereof, as well as management of such risks.

#### *Types of risks*

##### Article 29

Bank's acts specified in Article 28 of this Law shall include all types of risks the bank is exposed to in its operations, and in particular:

- 1) Liquidity risk;
- 2) Credit risk;
- 3) Interest rate, foreign exchange and other market risks;
- 4) Risks of exposure of the bank to one person or a group of related persons;
- 5) Risks of investments of the bank in other legal persons and in fixed assets;
- 6) Risks relating to the home country of the person the bank is exposed to;
- 7) Operational risk, including legal risk, as well as risks resulting from inadequate management of information and other technologies of importance for the bank's operations.

### *Liquidity risk*

#### Article 30

Liquidity risk means potential negative impact on the financial result and capital of the bank due to its incapacity to fulfil due obligations.

A bank shall manage its assets and liabilities in such a way that it can settle its due obligations at any moment (liquidity) and service its debt on an ongoing basis (solvency).

For the purpose of efficient liquidity risk management, the bank's competent body shall adopt and enforce the policy of liquidity management which shall include the planning of inflow and outflow of pecuniary assets, monitoring liquidity and rendering appropriate measures for preventing or eliminating the causes of illiquidity.

The National Bank of Serbia shall prescribe the manner of establishing liquidity and liquidity levels, including a critically strained level of liquidity.

### *Credit risk*

#### Article 31

Credit risk means a potential negative impact on the financial result and capital of the bank caused by the debtors' failure to fulfil their obligations to the bank.

A bank shall identify, measure and assess credit risk according to creditworthiness of its debtors and their timeliness in meeting obligations to the bank, as well as according to the quality of security instruments for bank's receivables.

For the purpose of adequate and efficient credit risk management, a bank shall, in compliance with regulations of the National Bank of Serbia and its own acts, calculate and establish reserves for estimated losses on balance sheet assets and off-balance sheet items.

A bank shall, in its internal acts, prescribe policies and procedures for identification and management of bad assets, as well as for regular reporting to the bank's bodies on the quality of the credit portfolio.

### *Interest rate, foreign exchange and other market risks*

#### Article 32

Interest rate risk means a potential negative impact on the financial result and capital of the bank caused by changes in interest rates.

Foreign exchange risk means a potential negative impact on the financial result and capital of the bank caused by changes in the exchange rate.

A bank shall adjust the volume and composition of its assets and liabilities in the manner that enables efficient market risk management.

A bank shall, in its internal acts, prescribe policies and procedures for identification and management of market risks, as well as for regular reporting to the bank's bodies on types and degree of those risks.

### *Bank's exposure risks*

#### Article 33

A bank's exposure to one person represents the total amount of receivables and off-balance sheet items towards such person or a group of related persons (loans, investments in debt securities, ownership investments and participations, issued guarantees and sureties on promissory notes, etc.).

A bank's large exposure means exposure to a single person or a group of related persons amounting to at least 10% of the bank's capital.

A bank's exposure to a single person or a group of related persons must not exceed 25% of the bank's capital.

A bank's exposure to a person related to the bank must not exceed 5% of the bank's capital.

A bank's aggregate exposure to persons related to the bank must not exceed 20% of the bank's capital.

The National Bank of Serbia shall prescribe the sum total of all large exposures of a bank, which may not be less than 400% or more than 800% of the bank's capital.

### *Bank's investment risks*

#### Article 34

A bank's investment in a single non-financial sector person must not exceed 10% of the bank's capital.

A bank's total investment in non-financial persons and fixed assets of the bank must not exceed 60% of the bank's capital.

Investment specified in paragraph 2 hereof does not include the acquisition of shares with a view to their subsequent sale within six months from the date of acquisition.

### *Operational risk*

#### Article 35

Operational risk means a potential negative impact on the financial result and capital of the bank caused by employee mistakes, inadequate internal procedures and processes, inappropriate management of information and other systems, as well as by unforeseeable external events.

## Article 36

The National Bank of Serbia shall prescribe the criteria for identification, measurement, assessment and management of risks, including:

- 1) Method of calculation of individual business indicators of a bank in the context of management of risks and limitations pertaining to such risks;
- 2) Manner, form and timeframe for bank's reporting on indicators specified in item 1) of this paragraph.

### *Operations with related persons*

## Article 37

In the course of its operations, a bank may not grant more favourable conditions to a person related to the bank or the bank employee than the conditions granted to other persons not related to or employed by the bank.

### *Legal transactions with a related person*

## Article 38

A bank's legal transactions with a related person include transactions concluded by the bank with this person and with a person related to the bank's related person.

A bank may conclude a legal transaction with a related person once it receives a written approval of the bank's managing board.

The approval specified in paragraph 2 hereof shall not be obligatory in case of:

- 1) placing deposits of related persons;
- 2) granting loans collateralised by a linked deposit of a related person;
- 3) granting loans collateralised by debt securities of the Republic of Serbia or the National Bank of Serbia, and/or debt securities of persons rated by recognised international rating agencies not lower than "A".

A member of a bank's managing board may not participate in consideration or approval of any legal transaction between him/her and the bank, between the bank and any member of his/her family, and between the bank and a legal person in which he/she or any member of his/her family participates in management, or in which he/she has a significant or controlling participation.

A bank may undertake legal acts in favour of related persons and persons related to related persons of such bank after being granted a written approval of the bank's managing board.

*Prohibition of lending to shareholders*

Article 39

A bank may not approve loans to its shareholders before the expiry of one year from the start of its operations.

*Voidance of legal transactions*

Article 40

A legal transaction concluded by a bank contrary to Articles 37–39 of this Law shall be void.

Section 3

**Bank's relationship with clients**

*Client protection*

Article 41

For the purposes of this Law, a bank client shall be any person who uses or has used services of the bank, or a person who has approached the bank in order to use its services and who has been identified by the bank as such.

A bank client shall have the right to access all data which, according to provisions of this Law, must be available to him/her, and the bank is required to provide this access at the client's request.

A bank is free to choose its clients.

The National Bank of Serbia may prescribe detailed terms and conditions of exercising the rights specified in paragraph 2 hereof.

*Disclosure of general terms of business*

Article 42

A bank shall have its general terms of business, as well as any amendments and supplements thereto, clearly displayed on its business premises, not later than 15 days prior to their effective date.

The implementation of general terms of business shall be ensured by means of a written contract concluded between a bank and a client.

A client may request further clarifications and instructions from a bank regarding the implementation of general terms of business.

For the purposes of this Law, general terms of business are considered to be all documents containing standard operating conditions that apply to all clients of a bank, general conditions for

establishing relationship between clients and the bank, the procedure of communication between clients and the bank, and general conditions for conducting transactions between clients and the bank.

The National Bank of Serbia may prescribe detailed requirements and manner of disclosure and implementation of the bank's general terms of business.

*Method of calculating and publishing expenses,  
interest rates and fees to be applied by all banks*

Article 43

The National Bank of Serbia may prescribe the method of calculating and publishing expenses, interest rates and fees to be applied by all banks, and in particular those pertaining to their lending and deposit activities.

*Notification of clients*  
Article 44

A bank shall provide its client, upon his/her request, with information on his/her credit and/or deposit account balance, as well as other information relating to business relationship between a client and a bank.

A bank shall publish on its website names of persons who hold participation in that bank and/or who are members of its managing and executive board as well as information on the functions of those persons.

The National Bank of Serbia may prescribe detailed requirements and manner of notifying bank clients.

*Client complaint procedure*  
Article 45

If a client thinks that a bank does not comply with the obligations arising from the contract, he/she may file a complaint regarding the bank's conduct to the manager of the bank's organisational unit responsible for internal audit, to the competent organisational unit or the specific body within the bank.

A bank shall send its response to the complainant from paragraph 1 hereof within a reasonable period of time.

The National Bank of Serbia is authorised, as part of its supervisory function, to inspect bank's compliance with good business practices, disclosed general terms of business and provisions of contracts concluded with its clients.

The National Bank of Serbia may prescribe detailed requirements and manner of handling client complaints by banks.

Section 4  
**Secrecy of data**

*Bank secret*

Article 46

Bank secret is a business secret.

The following is considered to be a bank secret:

- 1) Data known to a bank relating to personal data, financial status and transactions, as well as to ownership or business relations of clients of such bank or another bank;
- 2) Data on balances and flows on individual deposit accounts;
- 3) Other data obtained by the bank in operation with clients.

The following is not considered a bank secret:

- 1) Public data and data accessible from other sources to interested persons with legitimate interest;
- 2) Consolidated data that do not disclose individual client identity;
- 3) Data on bank shareholders and the amount of their participation in the bank's share capital, as well as data on other persons holding participation in the bank and data on such participation, regardless of whether they are the bank's clients;
- 4) Data relating to timeliness of fulfilment of client's obligations towards the bank.

*Obligation to keep bank secret*

Article 47

The bank and members of its bodies, shareholders and employees, as well as the bank's external auditor and other persons who, due to the nature of the activities they perform, have access to data specified in Article 46, paragraph 2 of this Law, may not disclose such data to third persons, use such data against the interest of the bank and its clients, nor may they enable third persons to have access to such data.

The obligation to keep the bank secret for persons referred to in paragraph 1 hereof shall not cease even after termination of their status based on which they had access to the data specified in paragraph 1 hereof.

Unless otherwise prescribed by this or other law, client data considered a bank secret may be disclosed to third persons only upon receipt of written authorisation from the client.

*Exemptions from obligation to keep bank secret*

Article 48

The obligation to keep bank secret shall not apply if data are disclosed:

- 1) Based on the decision or request of the competent court;

- 2) For the needs of the ministry competent for internal affairs, the authority competent for combating organised crime and the authority competent for money laundering prevention, in line with regulations;
- 3) In connection with property proceedings, based on a request of the guardian of assets or consular representative offices of foreign states, upon submission of written documents showing legitimate interest of those persons;
- 4) In the case of the competent authority's enforcement against assets of the bank's client;
- 5) To regulatory bodies of the Republic of Serbia for the purpose of performing activities within their field of competence;
- 6) To a person established by a bank for the purpose of collecting data on the total amount, type and timeliness in fulfilling obligations of natural and legal persons that are bank clients;
- 7) To a competent authority for the purpose of performing supervision of payment transactions of legal and natural persons conducting their activities, in compliance with payment transactions regulations;
- 8) To the tax administration pursuant to regulations governing the activities within its field of competence;
- 9) To the authority competent for the supervision of foreign currency operations;
- 10) Upon the request of the organisation for deposit insurance, in compliance with the law on deposit insurance;
- 11) To a foreign regulatory body under the conditions stipulated by a memorandum of understanding, concluded between that authority and the National Bank of Serbia.

Notwithstanding paragraph 1 hereof, a bank has the right to disclose the data that represent a bank secret to the investigative judge, public prosecutor and courts, and/or other bodies that have public authorities, solely for the purpose of protecting its rights in compliance with law.

#### *Handling data constituting a bank secret*

##### Article 49

The National Bank of Serbia, courts and other bodies that have public authorities may use the data obtained in compliance with Article 47 of this Law exclusively for the purpose for which such data were obtained, and may not disclose such data to third persons or enable third persons to become aware of and to use such data, unless otherwise stipulated by law.

Provisions of paragraph 1 hereof shall accordingly apply to persons who are employed, and/or were employed in bodies referred to in that paragraph.

##### Section 5

#### **Financial records, reporting and publishing of data and information**

##### *Financial records*

##### Article 50

A bank shall maintain business books and accounting records, and prepare annual financial statements, which truthfully and objectively reflect its operations and financial condition, with contents and in the form that are prescribed by the law on accounting and audit, by this Law and regulations of the National Bank of Serbia.

*Reporting to the National Bank of Serbia*

Article 51

A bank shall prepare and submit to the National Bank of Serbia reports relating to management of the bank, operations of its organisational units, planned business activities, liquidity, solvency, and profitability of the bank and its subordinated companies, for the purpose of assessment of the financial condition of the bank and its subordinated companies, on an individual and consolidated basis.

The National Bank of Serbia shall prescribe the contents and form of the reports referred to in paragraph 1 hereof, as well as the manner and timeframe for their submission.

*Disclosure of bank data and information*

Article 51a

A bank shall disclose data on its risk management strategy and policies, bank capital, capital adequacy, and other data and/or information, in line with the National Bank of Serbia's regulations.

A bank is not required to disclose materially insignificant data and information, data and information whose disclosure might have a negative impact on the bank's competitive position in the market, as well as data and information that represent a bank secret within the meaning of this Law.

The National Bank of Serbia shall prescribe in more detail the content of data and/or information referred to in this Article, as well as the terms, manner and timeframe for their disclosure.

Section 6

**External audit**

*Appointment of external auditor*

Article 52

For the purpose of annual audit of its financial statements, a bank, banking group and bank holding company shall engage an external auditor (audit firm) on an annual basis.

A bank or bank holding company shall notify the National Bank of Serbia of the appointment of an external auditor within 15 days from the day of such appointment.

The National Bank of Serbia shall determine and publish a list of external auditors eligible to perform audit specified in paragraph 1 hereof, based on the criteria prescribed by the National Bank.

### Article 53

A bank may not appoint an external auditor which generated more than a half of its total income in the previous year from auditing the accounts of that bank.

The external auditor may conduct no more than five consecutive audits of regular annual financial statements of the bank.

The external auditor may not conduct both an audit of the bank's financial statements and provide consulting services to such bank during the same year, nor may it conduct audit for the business year in which it provided consulting services to such bank.

Should audit be performed by the external auditor which is not included in the list specified in Article 52, paragraph 3 of this Law, and/or if the audit was conducted in breach of the provisions of this Law and other regulations, the National Bank of Serbia shall not accept the auditor's report.

### Article 54

The person who manages auditing of bank accounts and signs the external auditor's report, must have the highest professional degree in auditing, in compliance with the law on audit, three years of experience in conducting the audit of bank accounts, and be independent of the bank.

The person from paragraph 1 hereof shall not be considered independent of the bank if he/she or the audit firm in which such person is engaged, or the manager of that firm – in the current and two previous business years, as well as during the conduct of audit:

- 1) Were a person related to the bank or any member of the banking group;
- 2) Were a business partner of the bank or any member of the banking group;
- 3) Were a person with direct or indirect ownership in the bank or a banking group member;
- 4) Were a bankruptcy or liquidation administrator of a banking group member;
- 5) Were a contractual party in a contractual relationship with a person that might have a negative impact on his/her impartiality and independence.

### *Audit on consolidated basis*

### Article 55

Annual audit of financial statements of banking groups must be performed on a consolidated basis.

Each subordinated company of a bank or a bank holding company shall provide for external audit of its individual annual financial statements.

The audit specified in paragraph 1 hereof shall be performed by the external auditor appointed by the ultimate parent company of a banking group.

With the consent of the National Bank of Serbia, the non-banking subordinated company need not be included in the audit specified in paragraph 1 hereof if:

- 1) Its capital according to the balance sheet is less than 5% of the total capital of the bank and/or bank holding company;
- 2) The subordinated company realised less than 5% of the income of the bank, and/or bank holding company during the previous business year.

With the consent or upon the request of the National Bank of Serbia, the non-banking subordinated company need not be included in the audit of accounts of the banking group if that may contribute, in the opinion of the National Bank of Serbia, to the objective perception of such group's financial condition.

The National Bank of Serbia may prescribe detailed terms and conditions of conducting the audit from paragraph 1 hereof.

#### *External auditor's report*

##### Article 56

The external auditor shall prepare a report and give opinion on whether the bank's annual financial statements are prepared in compliance with the international financial reporting standards, and/or international accounting standards, the law on accounting and audit and regulations of the National Bank of Serbia, and whether they truthfully and objectively present the bank's financial position, business results and cash flows for the business year in respect of all issues of material importance.

The external auditor shall provide its opinion on the efficiency of the functioning of the internal audit, risk management system and internal control system, to the bank's managing and executive board, as well as to the National Bank of Serbia.

The National Bank of Serbia shall prescribe the minimum scope and contents of the auditor's report specified in paragraph 1 hereof.

The National Bank of Serbia may request additional information from the external auditor regarding the audit performed.

#### *Audit in case of status changes*

##### Article 57

A bank established by merger shall, within 60 days from entering the bank in the register of business entities, submit to the National Bank of Serbia an opinion of the external auditor on the truthfulness and objectivity of its opening balance sheet as of the agreed merger date.

A bank to which another bank is merged by acquisition shall hire an external auditor to conduct audit of its financial statements as of the agreed acquisition date.

The external auditor's report specified in paragraph 2 hereof shall be submitted by the bank from that paragraph to the National Bank of Serbia within 60 days from the date of entering the merger by acquisition in the register of business entities.

Detailed terms and conditions of performing the audit from this Article may be prescribed by the National Bank of Serbia.

*External auditor's duty of notification*

Article 58

The external auditor shall notify the bank's managing and executive board, and/or a member of the banking group, as well as the National Bank of Serbia promptly after becoming aware of any fact which represents:

- 1) Breach of the law and regulations of the National Bank of Serbia;
- 2) Materially important change in the financial result carried in unaudited annual financial statements;
- 3) Breach of internal procedures or acts of the bank or the group the bank belongs to;
- 4) Any circumstances that could result in a material loss for the bank or a member of the banking group or that could jeopardise the continuity of their operation.

The notification referred to in paragraph 1 hereof shall not be considered breach of secrecy of bank's data or confidential information, and the external auditor shall not bear responsibility therefor.

The National Bank of Serbia may prescribe detailed terms and conditions of notification in paragraph 1 hereof.

*Measures based on external auditor's report*

Article 59

When the irregularities in the bank's operations are established in the external auditor's report, the bank shall eliminate those irregularities and inform the National Bank of Serbia thereof.

Should the bank fail to eliminate the irregularities specified in paragraph 1 hereof, the National Bank of Serbia may take against that bank measures prescribed by this Law.

*Resignation or removal of an external auditor*

Article 60

A bank and bank holding company shall submit to the National Bank of Serbia a written notification on resignation or removal of the external auditor of a bank, bank holding company or banking group, including a statement of reasons for the resignation and/or removal – at the latest within 15 days from the day of resignation and/or removal.

Where an external auditor of a bank, bank holding company or banking group resigns or is removed, no other external auditor shall accept that duty prior to obtaining the previous auditor's written statement specified in paragraph 1 hereof.

Notwithstanding paragraph 2 hereof, the appointment of the external auditor of a bank, bank holding company or banking group may be accepted without obtaining such statement if the new auditor notifies the National Bank of Serbia that the statement was not received within 15 days from the date of submitting the request for such statement.

The National Bank of Serbia shall not accept the report of an external auditor who was appointed for the function if it did not request the statement specified in paragraph 1 hereof or if it accepted the appointment before the expiry of the deadline specified in paragraph 3 hereof.

The National Bank of Serbia may prescribe detailed terms and conditions of resignation or removal of the external auditor.

*Submission and publication of annual financial statements  
with external auditor's report*

Article 61

A bank shall submit to the National Bank of Serbia individual financial statements of the bank and its bank holding company together with the external auditor's report for the preceding business year – within 120 days from the end of such year.

The National Bank of Serbia may require any member of the banking group to submit individual financial statements together with the external auditor's report.

A bank shall submit consolidated financial statements of the banking group together with the external auditor's report for the previous business year – within 150 days from the end of such year.

A bank and bank holding company shall publish the external auditor's report in an abridged form in at least one daily newspaper distributed in the territory of the Republic of Serbia within 15 days from receiving such report.

A bank shall publish on its website a complete report of the external auditor on annual financial statements for the bank, bank holding company and banking group, including notes to the financial statements.

In addition to publishing the audited annual financial statement, a bank shall publish on its website unaudited quarterly financial statements, within 30 days from the end of the respective accounting period, which include balance sheet and off-balance sheet items, income statement, and a report on cash flows, as well as the names of members of the bank's managing and executive board, and persons holding participation in the bank or bank holding company and data on those persons, along with the organisational structure and a list of organisational units of that bank.

If an error is detected in published reports and data, the bank or external auditor shall promptly inform the National Bank of Serbia thereof, and the bank shall publish the corrected reports and data.

*National Bank of Serbia's refusal to accept auditor's report*

Article 62

If it has established that the audit of accounts of the bank, bank holding company or banking group was not performed in compliance with provisions of this Law, the National Bank of Serbia shall not accept such audit report and shall order a repeat audit by another external auditor at the bank's expense.

*Special audit*

Article 63

The National Bank of Serbia may require special audit of accounts of a bank and a banking group member if their reports are inaccurate or they concluded transactions which may result or have resulted in a significant damage to the bank.

The National Bank of Serbia may appoint an auditor to conduct a special audit of accounts of the bank or banking group member. A bank or banking group member shall promptly and without restrictions submit all needed data and documents to the auditor and provide all necessary assistance pursuant to this Law.

The costs of special audit shall be borne by the bank.

The National Bank of Serbia may prescribe detailed terms and conditions of conducting special audit.

Section 7

**Association of banks**

*Establishment of association of banks*

Article 64

To improve their operations and coordinate their activities, banks may establish associations.

An association of banks shall have legal personality.

An association of banks shall be entered in the register, in compliance with law.

The name, activities and head office, representation of the association and legal responsibilities, termination of operation and manner of managing the association as well as other issues relevant for the establishment of an association shall be established in the contract on establishing an association of banks.

An association of banks shall submit to the National Bank of Serbia the contract specified in paragraph 4 hereof, as well as other acts of the association and agreements that the association concludes with banks.

## Chapter IV

### ORGANISATION OF BANKS AND BANK MANAGEMENT

#### Section 1

#### BANK'S BODIES

#### **Bank's assembly**

#### *Composition*

#### Article 65

The bank's assembly shall consist of bank's shareholders.

Shareholders shall exercise their voting rights directly or through their representatives.

Bank's articles of association may not preclude shareholders holding 1% or more of voting shares from directly exercising their voting rights.

#### *Competences*

#### Article 66

The bank's assembly shall:

- 1) Adopt business policy and strategy of the bank;
- 2) Adopt the bank's articles of association and adopt amendments and supplements to the founding act and articles of association of the bank;
- 3) Adopt the bank's annual account and decide on the use and distribution of the realised profit, and/or coverage of losses;
- 4) Decide on the increase in bank's capital, and/or investment of capital into another bank or other legal persons, as well as on the amount of investment in bank's fixed assets;
- 5) Appoint and remove the president and members of the bank's managing board;
- 6) Determine remuneration for members of the bank's managing board;
- 7) Decide on status changes and termination of bank's operations;
- 8) Decide on the assumption of rights and obligations of a bank under administrative management and/or a bridge bank;
- 9) Appoint and remove the external auditor;
- 10) Adopt the rulebook of its operation and decide on other issues in compliance with law and bank's articles of association.

Articles of association may also determine other rights and obligations of the bank's assembly.

The bank's assembly may not transfer the competence to render the decisions specified in paragraph 1 hereof to any other body.

The National Bank of Serbia shall give consent to the articles of association, and/or amendments and supplements to the bank's founding act and articles of association.

The articles of association and/or amendments and supplements to the bank's founding act and articles of association shall not come into effect before the consent specified in paragraph 4 hereof is submitted.

The National Bank of Serbia may prescribe detailed terms and conditions of granting consent from paragraph 4 hereof.

#### *Regular assembly meetings*

##### Article 67

Regular meetings of the bank assembly shall be held at least once a year, in the manner stipulated by the bank's articles of association.

The National Bank of Serbia may request that particular items be included in the agenda of the regular assembly meeting.

Unless otherwise stipulated by this Law, provisions of the law on companies relating to the assembly of a joint-stock company shall apply to the procedure of convening, notification and proceedings in regular meetings of the bank's assembly.

#### *Extraordinary assembly meetings*

##### Article 68

The bank's extraordinary assembly meeting may be convened at the request of:

- 1) The bank's managing board or other body of the bank authorised by the bank's articles of association to convene an extraordinary assembly meeting;
- 2) Bank's shareholders holding at least 10% of voting shares;
- 3) The liquidation administrator of the bank undergoing voluntary liquidation.

The procedure relating to convening an extraordinary assembly meeting shall be regulated by the law on companies.

The bank's managing board shall convene an extraordinary assembly meeting in the following cases:

- 1) If the bank becomes undercapitalised;
- 2) On request of the bank's internal audit, external auditor or the committee for monitoring bank's operations;
- 3) On request of the National Bank of Serbia;
- 4) Whenever it estimates that the meeting is necessary.

The National Bank of Serbia may require that particular items be included in the agenda of the bank's extraordinary assembly meeting.

*Attendance of National Bank of Serbia's representatives  
at bank's assembly meetings*

Article 69

A National Bank of Serbia's representative may attend the bank's assembly meeting and may address shareholders attending the meeting.

The bank's managing board shall inform the National Bank of Serbia of the date and agenda of the bank's assembly meeting within the timeframe stipulated for notifying members of the bank's assembly.

**Bank's managing and executive board**

Article 70

Managing and executive board are management bodies of a bank.

The bank's managing and executive board shall take measures for preventing persons holding significant or controlling participation in such bank to engage in illegal or inappropriate activities and to exert influences which are detrimental or are not in the best interest of the bank and its shareholders.

**Managing board**

*Composition*

Article 71

The bank's managing board shall consist of at least five members, including the president.

At least one-third of members of the bank's managing board shall be persons independent of the bank.

A person independent of the bank shall be a person not holding direct or indirect ownership in the bank or in a member of the bank's banking group.

The National Bank of Serbia may prescribe additional requirements which a person must fulfil to be considered independent of the bank.

Members of the bank's managing board must have good business reputation and adequate qualifications, which are prescribed by the National Bank of Serbia.

At least three members of the bank's managing board must have appropriate experience in the field of finance.

At least one member of the bank's managing board must be fluent in the Serbian language and have permanent residence in the Republic of Serbia.

## *Appointment of members of bank's managing board*

### Article 72

A bank shall submit to the National Bank of Serbia a request for prior consent to the appointment of a member of its managing board, enclosing therewith documents and data proving the business reputation and qualifications of the person proposed for a member of the bank's managing board.

The National Bank of Serbia shall prescribe detailed requirements for granting the consent specified in paragraph 1 hereof.

The National Bank of Serbia shall refuse the request from paragraph 1 hereof if the person nominated for a member of the bank's managing board:

- 1) Is a person who, on the day of revocation of the bank's operating license or six months before that, and/or on the day of introduction of receivership in the bank, was authorised to represent and to act on behalf of the bank, and/or was a member of the bank's management body;
- 2) Is a member of any management body of another bank, and/or is an employee of the bank;
- 3) Has been convicted of a criminal offence by final judgment and pronounced unconditional prison sentence or has been convicted by final judgement of a criminal offence which makes him unsuitable for exercising that function.

The person referred to in paragraph 3, item 1) hereof shall not be a person authorised to represent and act on behalf of the bank, and/or serving as a member of the management body of the bridge bank whose operating license was revoked by the National Bank of Serbia on the Agency's proposal.

For members of the bank's managing board specified in Article 71, paragraph 6 of this Law, the bank shall, along with the request specified in paragraph 1 hereof, submit evidence of at least three years of experience in a management position in a financial sector person or six years of experience in the field of finance and banking and evidence that they have distinguished themselves as experts or scientists in such fields. For other members of the managing board, evidence from paragraph 3 hereof and evidence of at least six years of experience in a management position within a company, shall be submitted along with the request specified in paragraph 1 hereof.

Within 10 days following the removal or resignation of any member of the bank's managing board, the bank shall inform the National Bank of Serbia thereof, stating the reasons for such removal or resignation.

Members of the bank's managing board may not be members of the bank's executive board.

The National Bank of Serbia may prescribe detailed terms and conditions of appointment of members of the bank's managing board.

*Competences*  
Article 73

A bank's managing board is responsible for ensuring the compliance of bank's operations with the law, regulations and acts of the National Bank of Serbia, as well as acts and other procedures established by the bank's bodies.

A bank's managing board is responsible for establishing and supervision of the unique system of risk management in the bank as well as for ensuring that the bank's executive board identifies risks that the bank is exposed to and controls these risks in compliance with the policies and procedures approved.

The bank's managing board shall:

- 1) Convene meetings of the bank's assembly;
- 2) Prepare draft decisions for adoption by the bank's assembly and implement decisions of the bank's assembly;
- 3) During the period in between two meetings of the bank's assembly, adopt acts implementing bank's business policy;
- 4) Enact general terms of business of the bank, as well as amendments and supplements to them;
- 5) Appoint and remove the president and members of the bank's executive board;
- 6) Appoint and remove members of the board specified in Article 79, paragraph 1 of this Law;
- 7) Establish upper limits for decisions of the bank's executive board on placement and borrowing and decide on bank's placements and borrowing in excess of those limits;
- 8) Give prior consent for the bank's exposure to one person or a group of related persons which exceeds 10%, and/or for the increase of this exposure in excess of 20% of bank's capital;
- 9) Supervise activities of the bank's executive board;
- 10) Adopt the programme and plan of internal audit of the bank;
- 11) Establish the internal control system;
- 12) Establish the risk management strategy and policies, as well as the bank's capital management strategy;
- 13) Review external and internal audit reports;
- 14) Adopt quarterly and annual reports of the bank's executive board on bank's operations and submit the adopted annual report to the bank's assembly for final adoption;
- 15) Adopt rulebooks on its operation and operation of the executive board;
- 16) Inform the National Bank of Serbia and other competent bodies of the established irregularities;
- 16a) Establish the bank's internal organisation, namely organisational structure envisaging the division of staff duties, authorities and responsibilities, in the manner which prevents the conflict of interest and ensures a transparent and documented process of decision making and implementing;
- 16b) Adopt the policy on salaries and other remunerations to bank's staff;
- 17) Perform other activities in compliance with the bank's articles of association.

The bank's managing board is responsible for the accuracy of any report on bank's operations, financial condition and business results disclosed to the bank's shareholders, the public, and the National Bank of Serbia.

## *Meetings*

### Article 74

The bank's managing board shall meet as often as deemed necessary, but at least quarterly.

Meetings of the bank's managing board shall be held on the premises of the bank's head office or other organisational parts of the bank in the territory of the Republic of Serbia, at least quarterly.

Upon request of the National Bank of Serbia to discuss specific issues, the bank's managing board shall hold an extraordinary meeting.

Should the National Bank of Serbia find it necessary, its representative may attend and address the meeting of the bank's managing board.

The bank's managing board shall notify the National Bank of Serbia of the date and the agenda of the bank's managing board meeting within the timeframe stipulated for its member notification.

Along with an annual report, normally submitted to the National Bank of Serbia in compliance with this Law, a bank shall also submit to the NBS a report on the total number and venue of meetings of the bank's managing board.

## **Bank's executive board**

### *Composition*

### Article 75

A bank's executive board shall consist of at least two members, including the president.

The president of the bank's executive board shall represent and act on behalf of the bank.

When concluding legal transactions and performing other legal activities coming under the remit of the executive board, the president of the bank's executive board shall ensure that such documents are signed by one member of the executive board.

Members of the bank's executive board shall be full-time permanent employees of the bank.

Members of the bank's executive board must have good business reputation and appropriate qualifications, which are prescribed by the National Bank of Serbia.

At least one member of the bank's executive board must be fluent in the Serbian language and have permanent residence in the Republic of Serbia, and all members of the executive board must have residence in the Republic of Serbia.

Provisions of this Law relating to the appointment of members of the bank's managing board shall apply accordingly to the appointment of members of the bank's executive board.

## *Competences*

### Article 76

The bank's executive board shall organise bank's operations and supervise the activities of bank's employees on a daily basis.

A bank's executive board shall:

- 1) Implement decisions of the bank's assembly and managing board;
- 2) Ensure legality of bank's operations;
- 3) Render decisions on bank's placements and borrowing up to the amount determined by the bank's managing board;
- 4) Render decisions on any increase in the bank's exposure to a person related to the bank and inform the bank's managing board thereof;
- 5) Implement the business strategy of the bank;
- 6) Implement the risk management strategy and policies, as well as execute the capital management strategy;
- 7) Adopt procedures for identification, measurement, assessment and management of risk, analyse the efficiency of their application and report to the managing board on these activities;
- 8) Implement procedures for supervision of bank's operations, regularly evaluate their quality and, if necessary, improve them in accordance with the bank's business policy;
- 9) Ensure that all employees are familiar with regulations and other acts of the bank regulating their business duties;
- 10) Ensure safety and regular monitoring of the bank's information technology systems;
- 11) Ensure safety and regular monitoring of treasury operation systems;
- 12) Inform the managing board of all activities that are not in compliance with bank's regulations and other acts;
- 13) Present an overview of business activities, balance sheet and income statement of the bank to the bank's managing board at least once during each business quarter;
- 14) Promptly inform the bank's managing board and the National Bank of Serbia of any deterioration in the bank's financial condition, or the danger of such deterioration, as well as of other facts that may significantly affect the bank's financial condition;
- 15) Decide on all issues that do not fall under the remit of the bank's assembly and managing board.

### **Obligation of disclosing information to the bank's assembly on remunerations of members of management bodies**

### Article 77

The bank's assembly shall, at least once a year, review written information with detailed data on salaries, remunerations and other earnings of the members of the managing and executive board of a bank, and on all contracts between the bank and members of these boards, and other persons related to those members, which result in material gain for such persons, as well as the proposal of the managing board regarding salaries, remunerations and other material gain of these persons for the following year.

## **Conflict of interests**

### Article 78

Within one month of assuming their positions, members of the bank's managing and executive board shall submit to the bank's managing board a written statement containing data on:

- 1) Proprietary rights of such persons and members of their families, whose market value exceeds EUR 10,000 in the dinar equivalent at the official middle exchange rate on the day of such property valuation;
- 2) The legal person in which the persons giving the statement or members of their families participate in management bodies or hold participation in that legal person, and/or have the status of a partner or general partner.

If the data specified in paragraph 1 hereof change, members of the managing and executive board shall notify the bank's managing board of that change within one month of learning about it.

The bank's managing board shall submit the data specified in paragraph 1 hereof to the bank's assembly at least once a year.

The National Bank of Serbia may prescribe for the statement specified in paragraph 1 hereof to contain additional data.

Members of the bank's managing and executive board shall promptly inform the bank's managing board of the legal person specified in item 2, paragraph 1 hereof with which the bank has established or plans to establish a business relationship.

## **Other committees of the bank**

### Article 79

A bank shall establish a committee for monitoring the bank's operations (audit committee), credit committee and assets and liabilities committee.

A bank may establish other committees as well.

## **Committee for monitoring bank's operations (audit committee)**

### Article 80

The committee for monitoring bank's operations shall consist of no less than three members, at least two of whom shall be members of the bank's managing board with appropriate experience in the field of finance.

At least one member of the committee for monitoring bank's operations shall be a person independent of the bank.

Members of the committee for monitoring bank's operations may not be persons related to the bank, except by virtue of their membership in the bank's managing board or the management and/or supervisory bodies of a component entity of the same banking group.

The committee for monitoring bank's operations shall assist the bank's managing board in supervising the activities of the bank's executive board and bank's employees.

The committee for monitoring bank's operations shall:

- 1) Analyse annual and other financial statements of a bank, which are submitted for review and adoption to the bank's managing board;
- 2) Analyse and adopt bank's draft risk management and internal control system strategies and policies, which are submitted for review and adoption to the bank's managing board;
- 3) Analyse and supervise the implementation and adequate enforcement of adopted strategies and policies for risk management and implementation of internal control systems;
- 4) Report at least once a month to the managing board on its activities and the irregularities detected, and propose the method for elimination of detected irregularities, and/or the manner of improving policies and procedures for risk management and implementation of internal control systems;
- 5) Review bank's investments and activities, on proposal of the managing or executive board or external auditor of the bank;
- 6) Propose the external auditor to the bank's managing board and assembly;
- 7) Review annual audits of the bank's financial statements together with the bank's external auditor;
- 8) Propose to the managing board to include certain issues pertaining to the bank's external and internal audit into the agenda for the assembly meeting;
- 9) Adopt the rulebook on its operation.

If the committee for monitoring bank's operations assesses that bank's operations are in breach of the law, other regulation, articles of association or other act of the bank, or if such a conclusion can be drawn from the auditor's report, and/or if it establishes other irregularities in the bank's operations, it shall propose to the bank's managing board to eliminate the detected irregularities, as well as to schedule an extraordinary meeting of the bank's assembly if the detected irregularities may have severe consequences on bank's operations.

Members of the committee for monitoring bank's operations shall meet at least once a month, and at least quarterly at the bank's head office.

### **Credit committee and assets and liabilities committee**

#### Article 81

The credit committee shall render decisions on loan applications within the limits set by the bank's acts and perform other activities established under the bank's acts.

The assets and liabilities committee shall monitor the bank's exposure to risks arising from the structure of its balance sheet payables and receivables and off-balance sheet items, propose measures for managing interest rate and liquidity risk, and perform other activities established by the bank's acts.

The National Bank of Serbia may prescribe additional activities that committees specified in this Article are required to perform.

## Section 2

### **System of internal controls, compliance function and internal audit function**

#### *Internal control*

#### Article 82

Members of the bank's executive board shall be responsible for internal control of bank's operations at all levels, in accordance with the established system of internal control.

The committee for monitoring bank's operations and the bank's internal audit shall perform supervision of regularity of bank's operations and efficiency of the internal control system.

A bank shall organise and implement the internal control system procedures so as to enable ongoing monitoring and measurement of risks that may adversely impact the realisation of bank's established business objectives, such as: credit risk, debtor's country risk, foreign currency risk, market risk, interest rate risk, liquidity risk, operational and other types of risks.

A bank shall develop the internal control system so as to enable timely evaluation of existing and potential risks, including the risks that were not controlled before and the risks beyond the bank's control (external risks), as well as the control of those risks in order to minimise their negative impact on the bank's operations and safety and soundness.

The National Bank of Serbia may prescribe detailed terms and conditions of organising and implementing the internal control system.

#### *Compliance function*

#### Article 83

A bank shall have the organisational unit whose remit includes the control of compliance of bank's operations.

The manager of the organisational unit specified in paragraph 1 hereof shall be appointed and removed by the bank's managing board.

The manager of the organisational unit specified in paragraph 1 hereof shall be responsible for identification and monitoring of the compliance risk, as well as for management of that risk, which specifically includes the risk of sanctions imposed by the regulatory body and the risk of financial losses, and reputational risk. The compliance risk arises as a consequence of failure to harmonise operations with the law and other regulations, business standards, procedures for the prevention of money laundering and financing of terrorism, and other acts regulating the bank's operations.

The manager of the organisational unit specified in paragraph 1 hereof and employees of such organisational unit shall be independent in their work and shall perform exclusively the activities specified in paragraph 3 hereof.

Bank employees shall enable the organisational unit specified in paragraph 1 hereof to inspect their documentation and provide necessary information.

The National Bank of Serbia shall prescribe in detail the terms and conditions of identification, monitoring and management of risks specified in paragraph 3 hereof.

#### Article 84

The organisational unit whose remit includes the control of compliance of bank's operations shall at least once a year identify and evaluate the key risks to compliance and propose plans for such risk management, whereon it shall compose a report to be submitted to the executive board and the committee for monitoring bank's operations.

The report specified in paragraph 1 hereof shall be adopted by the bank's executive board.

The manager of the organisational unit specified in paragraph 1 hereof shall promptly inform the executive board and the committee for monitoring bank's operations of any detected failures with regard to compliance.

The organisational unit specified in paragraph 1 hereof shall prepare the programme for monitoring bank compliance, which shall contain in particular: the methodology of activities in such organisational unit, planned activities, manner and timeframe for preparation of reports, method of verifying such compliance, as well as the staff training plan.

#### *Internal audit function*

#### Article 85

A bank shall have the organisational unit whose remit includes internal audit.

The main tasks of the organisational unit specified in paragraph 1 hereof are to give independent and objective opinion to the bank's managing board on matters which are subject to audit, to perform the consulting activity aimed at upgrading the existing system of internal controls and operation of the bank, and to provide assistance to the bank's managing board in the achievement of its objectives, through the application of a systematic, disciplined and documented approach to the evaluation and upgrade of the current method of risk management, control and management of processes.

A bank shall perform the internal audit function in compliance with regulations governing the basic principles of organisation and operation of the bank's internal audit.

A bank shall have at least one employee in the organisational unit from paragraph 1 hereof, who shall hold a degree specified by the law on audit and other regulations in that field.

The manager of the organisational unit specified in paragraph 1 hereof shall be appointed and removed by the bank's managing board.

The manager of the organisational unit specified in paragraph 1 hereof shall prepare the programme of internal audit and determine the methodology of its operations, and in particular: instructions for internal audit, the method of and timeline for preparation and submission of reports on internal audit to the bank's competent bodies, the manner of monitoring the recommended activities for elimination of detected irregularities and deficiencies in bank's operations, as well as the manner of and responsibility for the preparation, use and keeping of documentation on performed internal audit in accordance with the annual plan. The manager shall report to the managing board on results of performed audit.

The manager of the organisational unit specified in paragraph 1 hereof has the right to directly address the bank's managing board whenever necessary.

The manager of the organisational unit specified in paragraph 1 hereof is authorised to propose the convening of a meeting of the committee for monitoring bank's operations and to inform the managing board thereof; if the committee meeting is not held, he/she shall inform the bank's assembly thereof at the first following meeting.

The employees at the organisational unit specified in paragraph 1 hereof may not perform any managing or other activities within the scope of the bank's business, apart from the activities related to performing internal audit, nor may they participate in the preparation and drawing up of acts and other documents that may be subject to internal audit.

The manager of the organisational unit specified in paragraph 1 hereof is responsible for efficient, ongoing, regular and high quality performance of the internal audit function and efficient implementation of programmes and operational annual plans of internal audit.

The internal audit shall:

- 1) Assess the adequacy and reliability of the bank's internal control system and compliance function;
- 2) Ensure adequate identification and control of risks;
- 3) Determine deficiencies in activities of the bank and its employees, as well as cases of failure to perform duties and excess of authority, and shall prepare proposals for the elimination of these deficiencies and recommendations for their prevention;
- 4) Hold meetings with the bank's managing board and the committee for monitoring bank's operations;
- 5) Prepare reports on activities of internal audit on a regular basis and submit them to the bank's managing board and the committee for monitoring bank's operations.

The National Bank of Serbia may prescribe detailed terms and conditions of performing internal audit.

*Authorities of internal audit*

Article 86

Employees of the organisational unit whose remit includes internal audit shall have the right to examine all documents of the bank, its subordinated companies and members of the same banking group, to supervise business activities of the bank without restrictions and to participate in the meetings of the bank's managing board and its committees.

At the request of employees of the organisational unit specified in paragraph 1 hereof, bank employees shall submit a written explanation of errors and deficiencies in their work, and shall eliminate them.

The organisational unit specified in paragraph 1 hereof shall submit reports on its activities to the committee for monitoring bank's operations and to the managing board of the bank.

*Annual report on the adequacy of risk management and internal control*

Article 87

A bank shall submit an annual report to the National Bank of Serbia on the adequacy of risk management and internal control in the bank.

A bank shall submit the report specified in paragraph 1 hereof along with its annual financial statement.

The report specified in paragraph 1 hereof shall be approved by the bank's managing board.

The contents of the report specified in paragraph 1 hereof and the timeframe for its submission shall be prescribed in detail by the National Bank of Serbia. The report must include the following statements:

- 1) Statement as to whether the bank's managing and executive board have identified all material risks;
- 2) Statement as to whether the bank's internal control and risk management policies are adequate and effectively implemented;
- 3) Statement as to whether accurate overviews of risk management policies and internal control systems have been submitted to the National Bank of Serbia;
- 4) Statement that an action plan to eliminate deficiencies has been established and is being implemented, or that such plan will be set out and submitted for adoption to the bank's managing board.

### Section 3

#### **Branches and representative offices**

##### *Establishment of branches and other organisational forms in the territory of the Republic of Serbia*

#### Article 88

A bank shall inform the National Bank of Serbia of the establishment of a branch or other organisational form in the territory of the Republic of Serbia, not later than eight days of such establishment.

##### *Establishment of bank branch abroad*

#### Article 89

In order to establish a branch abroad, a bank shall submit a request for consent to the National Bank of Serbia.

The bank shall submit annual reports on business activities of its branch abroad and promptly inform the National Bank of Serbia of any changes regarding activities of the said branch.

The eligibility criteria prescribed by this Law for members of the bank's executive board shall also apply to the manager of the bank's branch abroad.

Detailed terms and conditions of granting and revoking the consent specified in paragraph 1 hereof shall be prescribed by the National Bank of Serbia.

##### *Establishment of other organisational forms of banks abroad*

#### Article 90

Provisions of this Law relating to bank branches abroad shall accordingly apply to other organisational forms of banks abroad.

##### *Establishment of bank's representative office abroad*

#### Article 91

In order to establish a representative office abroad, a bank shall submit a request for consent to the National Bank of Serbia.

Detailed terms and conditions of granting and revoking the consent specified in paragraph 1 hereof shall be prescribed by the National Bank of Serbia.

##### *Establishment of representative office of a foreign bank in the Republic of Serbia*

#### Article 92

The representative office of a foreign bank in the Republic of Serbia shall be registered in compliance with the law on registration of business entities.

Along with the application for entering the representative office of a foreign bank into the register of business entities, the foreign bank shall submit the consent of the National Bank of Serbia.

The following shall also be submitted with the request for consent from paragraph 2 hereof:

- 1) Confirmation letter issued by the regulatory body of the home country that the foreign bank holds an operating license and is authorised to establish a representative office in the Republic of Serbia, or evidence that such authorisation is not required under regulations of the home country;
- 2) Information on the name, legal status and head office of the foreign bank;
- 3) Copy of the founding act of such foreign bank;
- 4) Data on the financial condition of the foreign bank;
- 5) Decision of the competent authority of the foreign bank to open a representative office;
- 6) Decision on the appointment of a person responsible for operations of the representative office and authorisation for that person;
- 7) Proposed name and location of the representative office of a foreign bank;
- 8) Proposed activities and operational programme of the representative office of a foreign bank;
- 9) Information on the management of a foreign bank's representative office;
- 10) Certified statement by such foreign bank that it is willing to assume obligations arising from business activities of the representative office.

The National Bank of Serbia shall revoke the consent specified in paragraph 2 hereof from a foreign bank if:

- 1) The foreign bank's operating license ceases to be valid in the home country;
- 2) The representative office of a foreign bank engages in activities outside its legally permitted scope;
- 3) The foreign bank submits a request for deletion of its representative office from the register.

The National Bank of Serbia shall prescribe detailed terms and conditions of granting and revoking the consent specified in paragraph 2 hereof.

#### *Records on branches and representative offices*

#### Article 93

The National Bank of Serbia shall keep registers of granted consents for the establishment of branches, other organisational forms and representative offices of banks abroad, as well as of representative offices of foreign banks established in the Republic of Serbia.

Chapter V  
SUPERVISORY FUNCTION OF THE NATIONAL BANK OF SERBIA

Section 1

**Participation in bank**

*Consent for acquisition of ownership*

Article 94

No person may acquire direct or indirect ownership in a bank which carries 5% to 20%, over 20% to 33%, over 33% to 50% and over 50% of voting rights, without the prior consent of the National Bank of Serbia.

The National Bank of Serbia shall decide on the request for consent specified in paragraph 1 hereof within 60 days from receiving a duly completed request.

The National Bank of Serbia shall prescribe detailed terms and conditions of granting consent in paragraph 1 hereof.

If the applicant for the consent under paragraph 1 hereof is a foreign bank or a foreign financial sector person, the National Bank of Serbia shall grant such consent provided that:

- 1) The regulatory body of the applicant's home country performs supervision on a consolidated basis in the manner which meets the conditions prescribed by the National Bank of Serbia;
- 2) There is adequate cooperation between the National Bank of Serbia and the regulatory body of the applicant's home country;
- 3) Other requirements prescribed by the National Bank of Serbia are met.

The National Bank of Serbia shall prescribe the terms under which an international financial organisation may acquire ownership specified in paragraph 1 hereof.

In the resolution by which the National Bank of Serbia grants consent specified in paragraph 1 hereof, the National Bank of Serbia shall specify the timeframe within which the applicant for such consent may acquire ownership for which the consent is granted, which in case of natural persons cannot be longer than one year following the issue of such resolution, and in case of legal persons not later than on the day of adoption of the next annual financial statements and/or audited financial statements of such legal persons.

If the applicant for consent for the acquisition of ownership specified in paragraph 1 hereof fails to acquire the ownership within the timeframe specified in paragraph 5 hereof, the consent shall cease to be valid.

*Acquirer of ownership*

Article 95

Persons presumed to be acting as a single acquirer for the purpose of acquisition of ownership specified in Article 94, paragraph 1 of this Law, shall be the following:

- 1) A legal person and persons participating in management of such legal person or its subordinated company;
- 2) A legal person and persons directly appointed and removed by a management body of such legal person or its subordinated company;
- 3) A legal person and representatives and liquidation administrators of such legal person or of its subordinated company;
- 4) Family members;
- 5) Legal persons in which the persons specified in item 4) of this paragraph participate in management or hold controlling participation;
- 6) Legal persons – members of the same group of companies;
- 7) Persons participating in management of the same legal person;
- 8) Persons holding controlling participation in the same legal person;
- 9) Lender and recipient of a loan for purchase of shares of the bank or bank holding company;
- 10) Person that is instrumental in obtaining financing for the other person to purchase shares of the bank or bank holding company, and such other person;
- 11) The authoriser and the proxy;
- 12) Two or more legal or natural persons, not in a relation specified in items 1)–11) of this paragraph, but related in such a way that deterioration or improvement of the financial position of one person may cause deterioration or improvement of the financial position of the other person or persons and where, based on documentation, the National Bank of Serbia assesses there is a possibility of transfer of losses, profit or creditworthiness.

For the purpose of acquiring ownership specified under Article 94, paragraph 1 of this Law, a person shall act in concert with another person as a single acquirer even if not in a relation specified in paragraph 1 hereof, provided that each such person acts in concert with the same third person as a single acquirer in the manner established in items 1)–12) of that paragraph.

#### *Refusal of request*

#### Article 96

The National Bank of Serbia shall refuse the consent specified in Article 94, paragraph 1 of this Law if:

- 1) The financial condition of the applicant is not appropriate;
- 2) The applicant does not have good business reputation;
- 3) Business activities of the applicant may trigger a material risk to safe and sound and legal management of the bank, and/or bank holding company;
- 4) Granting the consent would lead to the distortion of competition from Article 7 of this Law;
- 5) The applicant has submitted data that cannot be verified, or data not complying with regulations of the National Bank of Serbia;
- 6) Any person with significant or controlling participation in the applicant does not have good business reputation;
- 7) A member of the applicant's management body who acquires significant or controlling participation does not have good business reputation and appropriate experience;
- 8) A bank would become a member of a banking group that fails to meet the requirements pertaining to transparency;
- 9) It is not possible to identify persons with participation in the applicant;

10) It is not possible to identify the source of funds that the applicant intends to use to purchase shares of the bank and/or bank holding company;

11) Any part of the funds to be used to purchase shares of the bank and/or bank holding company would be furnished by a person that does not have good business reputation.

*Notifying the National Bank of Serbia of acquisition of ownership*

Article 97

The applicant for consent specified in Article 94, paragraph 1 of this Law shall inform the National Bank of Serbia of the acquisition of ownership for which the consent was granted within 15 days from the day of such acquisition.

*Setting aside the consent resolution*

Article 98

The National Bank of Serbia may set aside the consent resolution specified in Article 94, paragraph 1 of this Law if it determines that requirements for such consent are no longer met or if the person who was granted such consent uses his/her rights in the manner which jeopardises the stability of bank's operations.

*Legal effects of unauthorised acquisition and  
setting aside of the consent resolution*

Article 99

If a person acquires direct or indirect ownership in a bank carrying 5% to 20%, over 20% to 33%, over 33% to 50% and over 50% of voting rights in the bank without prior consent of the National Bank of Serbia, the National Bank of Serbia shall order such person to alienate such ownership and prohibit such person from direct or indirect exercise of voting rights in the bank and from influencing the bank's management or business policy.

If the person who acquired ownership from paragraph 1 hereof without prior consent of the National Bank of Serbia fails to alienate ownership in the manner and within the timeframe determined by the National Bank of Serbia, the legal transaction based on which such ownership was acquired shall be void.

If the National Bank of Serbia sets aside the consent resolution under Article 94, paragraph 1 of this Law, it shall prohibit by the same resolution the person to whom the consent for acquisition of ownership was set aside to exercise any rights attached to shares based on which such ownership was acquired and may order the person to alienate such ownership.

The National Bank of Serbia shall submit the resolution specified in paragraph 3 hereof to the Securities Commission and the Central Securities Depository and Clearing House (hereinafter: Central Securities Depository).

### *Acquisition of ownership without consent*

#### Article 100

A person may acquire ownership specified in Article 94, paragraph 1 of this Law even without the consent of the National Bank of Serbia, if such ownership is acquired through inheritance, legal succession or other acquisition independent of the acquirer's will.

The person which acquired ownership in the manner specified in paragraph 1 hereof may not exercise any influence on the management or business policy of the bank in which it acquired ownership nor may it exercise voting rights attached to such ownership until granted the consent of the National Bank of Serbia for such acquisition.

The person specified in paragraph 1 hereof shall submit to the National Bank of Serbia a request for consent for the acquisition of ownership specified in that paragraph within 30 days from the day of acquisition, or shall inform the National Bank of Serbia within the same timeframe that it has alienated ownership.

The National Bank of Serbia shall decide on the request specified in paragraph 3 hereof in the manner and within the timeframe specified in Article 94 of this Law.

If the National Bank of Serbia issues a resolution to refuse consent for acquisition of ownership from paragraph 1 hereof, it shall prohibit by the same resolution the person from that paragraph to exercise any rights attached to shares based on which such ownership was acquired and order the person to alienate such ownership in the amount and within the timeframe defined by the resolution.

The National Bank of Serbia shall submit the resolution specified in paragraph 5 hereof to the Securities Commission and the Central Securities Depository.

### *Request for submission of information*

#### Article 101

If there are reasons to doubt that a person may have acquired ownership under Article 94, paragraph 1 of this Law without the consent of the National Bank of Serbia, the National Bank of Serbia may request such person or the parent company of such person, or members of bodies of such persons, to submit all information and relevant documentation pertaining to the fulfilment of conditions attached to the consent.

The National Bank of Serbia may request persons that were granted the consent specified in Article 94, paragraph 1, or Article 100, paragraph 2 of this Law to submit the information and documentation specified in paragraph 1 hereof, within the period of validity of the consent, as well as after acquiring ownership, and at least once a year.

The persons specified in paragraph 2 hereof shall submit to the National Bank of Serbia the data and information pertaining to the newly appointed members of management bodies, to the person who acquires participation in such persons, to the new partner (general partnership), new general

partner (limited partnership) within 15 days at the latest from the day of appointment and/or acquisition of such position.

A bank shall at least once a year, and when requested by the National Bank of Serbia, inform the National Bank of Serbia of the identities of all persons holding participation in the bank.

A bank shall inform the National Bank of Serbia of any increase or decrease in participation in the bank within 15 days from the day of learning about such increase or decrease.

A bank shall inform the National Bank of Serbia of any change in the status of any person related to such bank, within 15 days from the day of learning about such change.

The National Bank of Serbia may prescribe detailed terms and conditions of the submission of data and information specified in this Article.

## Section 2

### **Supervision of safety and soundness and legality of bank's operations**

#### *Supervision by the National Bank of Serbia*

#### Article 102

Supervision of safety and soundness and legality of bank's operations shall be exercised by the National Bank of Serbia in accordance with this Law and the law on the position, organisation, authorities and functions of the National Bank of Serbia.

The National Bank of Serbia shall exercise supervision within the meaning of paragraph 1 hereof as off-site supervision – by examining reports and other documentation that the bank submits to the National Bank of Serbia in accordance with this Law, and other operational data of the bank available to the National Bank of Serbia, and as on-site supervision – by inspecting business books and other documentation of the bank.

The National Bank of Serbia may exercise supervision over any member of a banking group in the manner specified in paragraph 2 hereof.

In exercising supervision specified in this Article, the National Bank of Serbia has the right to inspect business books and other documentation of legal persons which are related by proprietary, management and business relationships to the bank which is subject to supervision, and it may also request from those persons to submit other data.

Persons undergoing supervision specified in this Article shall enable unimpeded performance of supervision by authorised persons of the National Bank of Serbia and shall cooperate with them accordingly.

The National Bank of Serbia may prescribe detailed terms and conditions of exercising supervision specified in this Article.

## Article 102a

The data obtained in any way by employees of the National Bank of Serbia and authorised persons from Article 103, paragraph 2 of this Law which relate to the supervision of safety and soundness and legality of bank's operations, as well as documents containing such data, including measures from Article 109 and Article 112, paragraph 1, items 1)–3) of this Law, and the agreement specified in Article 117, paragraph 3 of this Law, shall be considered official secret.

The persons from paragraph 1 hereof are obliged to keep official secrets, i.e. they may not make data and documents from that paragraph available to third persons, other than as envisaged by the criminal code, and based on a decision or request of competent courts.

The obligation of persons from paragraph 1 hereof to keep official secrets shall not cease after termination of employment or engagement by the National Bank of Serbia, or termination of any status on the basis of which those persons had access to data from that paragraph.

Notwithstanding paragraph 2 hereof, the National Bank of Serbia may make data and documents from paragraph 1 hereof available to foreign and domestic regulatory bodies, on condition that those bodies use them exclusively for the purposes they were obtained for.

The publication of data from paragraph 1 hereof, expressed in aggregate form which disables the identification of individual banks and/or natural and legal persons shall not be considered violation of the obligation to keep official secrets.

### *Persons authorised for on-site supervision*

## Article 103

On-site supervision of bank operations in compliance with policies and procedures of the National Bank of Serbia shall be conducted by employees of the National Bank of Serbia designated by the resolution of the Governor of the National Bank of Serbia or the person authorised by him.

Authorised persons of a foreign regulatory body which supervises activities of members of the same banking group that the bank is a member of, may take part in bank on-site supervision procedure, in accordance with the memorandum of understanding concluded between the National Bank of Serbia and such body.

The bank and/or other persons subject to supervision, as well as the subject of supervision, shall be stated in the resolution specified in paragraph 1 hereof.

### *On-site supervision*

## Article 104

A bank shall enable authorised persons of the National Bank of Serbia (hereinafter: authorised persons) to conduct the supervision of its operations at the bank's head office and on the premises of all of its organisational parts.

A bank shall enable authorised persons of the National Bank of Serbia to inspect its business books and other documentation, as well as information technology data for the purpose of examining their compliance with regulations.

A bank shall present for inspection to authorised persons the business books and documentation required by such persons, in hard copy and/or electronic form, as well as give them access to the database system that the bank uses, for the purpose of examining computer programs.

On-site supervision pursuant to this Law shall be conducted by authorised persons during regular working hours, but depending on the nature and scope of supervision, authorised persons may also conduct supervision outside working hours of the bank.

The authorised persons may:

- 1) Enter all organisational parts and premises of the bank, subject to observing all security procedures of the bank;
- 2) Request that a separate room be made available in which to conduct supervision;
- 3) Request to be provided copies of documentation related to the subject of supervision;
- 4) Communicate directly with bank managers and employees in order to receive necessary clarifications.

A bank that processes data or keeps its business books and other documentation in electronic form shall provide to authorised persons, upon their request, all necessary technical support for examining those books and/or documentation.

A bank shall appoint its representative who shall provide all necessary support to authorised persons enabling unimpeded performance of supervision tasks.

### *Report on supervision*

#### Article 105

Authorised persons who perform supervision shall prepare a report on completed supervision (hereinafter: report on supervision).

The National Bank of Serbia shall deliver the report on supervision to the bank, which may file its objections within 15 business days from the receipt of such report.

The bank's objections relating to factual changes arising in the period after completion of supervision ("as of" date) shall not be considered by the National Bank of Serbia.

By the supervision specified in Article 102, paragraph 2 of this Law, the National Bank of Serbia shall verify the statements of the bank included in the objections specified in paragraph 2 hereof.

*Supplement to the report on supervision*

Article 106

The supplement to the report on supervision shall be prepared in cases whereafter verification of the statements presented in bank's objections to the report on supervision, it is established that the factual state is materially different from the one stated in the report.

The supplement to the report on supervision shall be delivered to the bank within 15 business days following the submission of objections to the report.

The bank may file its objections to the supplement to the report within five days from the day when the supplement to the report was delivered to the bank.

*Conclusion on termination of the supervisory procedure*

Article 107

The National Bank of Serbia shall render a conclusion on termination of the supervisory procedure if no irregularities have been established in the report on supervision, or if less important irregularities have been established, or if the bank, in its objections submitted within the timeframe specified by this Law, has successfully disputed all findings in the report on supervision, and/or in the supplement to this report or has successfully disputed some of the findings so that the remaining irregularities represent less important irregularities.

The conclusion specified in paragraph 1 hereof shall be delivered to the bank.

*Undertaking of measures*

Article 108

If a bank fails to submit, within the timeframe prescribed by this Law, its objections to the report on supervision, and/or to the supplement to the report, or in the objections submitted fails to successfully dispute the findings contained in such report, and/or in the supplemented report by which it is established that the bank acted in breach of regulations or in the manner which jeopardises its safety and soundness, the National Bank of Serbia shall take against such bank one of the measures specified in Article 112 of this Law.

If, in verifying the statements made by the bank in its objections to the report on supervision, and/or to the supplement to the report, the National Bank of Serbia establishes that these objections do not significantly change the factual state, the National Bank of Serbia shall take against such bank one of the measures specified in Article 112 of this Law.

Article 109

Notwithstanding Article 102 of this Law, if the National Bank of Serbia establishes, during on-site supervision or based on the reports obtained through off-site supervision, that the bank has committed serious irregularities, and/or that the financial condition of the bank has deteriorated significantly, or that there is a possibility of significant deterioration in the financial condition or

liquidity of the bank, and/or that the interests of bank depositors are jeopardised or may be jeopardised, it shall order the bank, by a resolution on temporary measures, to undertake one or more activities from Article 116, paragraph 1 of this Law.

### Section 3

#### **Corrective and enforcement measures**

##### *Undercapitalised bank*

##### Article 110

If a bank becomes undercapitalised, it shall promptly inform the National Bank of Serbia thereof and submit information explaining the causes of undercapitalisation.

From the moment a bank learns that it is undercapitalised, it may not:

- 1) Engage in any new line of business without the consent of the National Bank of Serbia;
- 2) Increase its risk weighted assets without the consent of the National Bank of Serbia;
- 3) Pay dividends or perform the distribution of capital in any form;
- 4) Pay higher than specified remunerations to members of the bank's managing and executive board.

##### *Significantly undercapitalised bank*

##### Article 111

If a bank becomes significantly undercapitalised, it shall promptly inform the National Bank of Serbia thereof and submit information explaining the causes of significant undercapitalisation.

From the moment a bank learns that it is significantly undercapitalised, it may not perform activities specified in Article 110, paragraph 2 of this Law, nor may it:

- 1) Accept new deposits;
- 2) Pay interest on deposits in excess of average market rates;
- 3) Increase salaries or other compensation for work, or pay any bonuses to members of the bank's managing and executive board;
- 4) Conclude legal transactions with related persons without the consent of the National Bank of Serbia, and/or undertake legal acts in favour of related persons or persons related to those persons.

##### *Measures in case of violation of regulations or practices that jeopardise banks*

##### Article 112

If during supervision under Article 102 of this Law it is established that a bank acted in breach of provisions of this Law, regulations of the National Bank of Serbia and other regulations, as well as standards of prudent banking operations, and/or that the bank acted in any other way which jeopardises its safety and soundness, the National Bank of Serbia shall, in compliance with the criteria prescribed in Article 120 of the Law, take one of the following measures:

- 1) Send a letter of warning;
- 2) Send an ordering letter;
- 3) Declare orders and specify measures for eliminating the established irregularities;

- 4) Introduce receivership;
- 5) Revoke the bank's operating license.

The National Bank of Serbia shall render a resolution on implementing measures laid down in items 3)–5), paragraph 1 hereof.

Once it is determined whether and to what extent the measures from paragraph 1 hereof have been complied with by the bank, the National Bank of Serbia shall either terminate the supervision of the bank or impose another measure from that paragraph in accordance with the criteria specified in Article 120 of this Law.

#### *Fines*

#### Article 113

Independently of the measures from Article 112, paragraph 1 of this Law, the National Bank of Serbia may impose a fine on a bank, as well as members of the bank's managing and executive board.

By the resolution to impose a fine, the National Bank of Serbia shall impose a fine on a bank, which may not be less than 1% or more than 5% of the prescribed pecuniary portion of initial capital, and to a member of the bank's managing and executive board a fine which may not be less than one salary, or more than the sum total of 12 salaries that such persons received in the period until the day of rendering such resolution, taking into consideration the criteria specified in Article 120 of this Law.

Fines from paragraph 1 hereof shall be paid to the account of the National Bank of Serbia.

After being delivered to the person specified in paragraph 1 hereof, the resolution from that paragraph shall become an enforceable title.

#### *Letter of warning*

#### Article 114

A letter of warning shall be issued to a bank in whose operations irregularities were established that did not have a significant and direct impact on the bank's financial condition, but might have such impact if not eliminated.

A letter of warning shall also state the deadline for eliminating the irregularities specified in paragraph 1 hereof.

#### *Ordering letter*

#### Article 115

The ordering letter shall be sent to the bank where supervision established actions and/or failure to act, in breach of regulations or standards of safe and sound banking activities, and which might jeopardise its financial condition.

The ordering letter shall contain:

- 1) Overview of actions and/or failure to act specified in paragraph 1 hereof that have jeopardised bank's safety and soundness, and/or which caused or might have caused a dissatisfactory situation regarding its operations, as determined by the National Bank of Serbia;
- 2) The bank's obligation to submit within the specified deadline an action plan to the National Bank of Serbia for elimination of established irregularities, with a view to obtaining its consent to the plan;
- 3) The timeframe within which the action plan must be carried out;
- 4) The manner and deadlines for informing the National Bank of Serbia on implementation of the action plan and for submitting evidence of implementation of the action plan.

### *Resolution on orders and measures*

#### Article 116

The resolution on orders and measures for eliminating the established irregularities in operations shall be sent to:

- 1) A bank to which the ordering letter was sent and which, within the timeframe set, failed to request consent of the National Bank of Serbia for the action plan specified in Article 115, paragraph 2, item 2) of this Law, or the National Bank of Serbia does not grant consent to the plan, or in the supervision of the bank it is established that the bank's financial condition deteriorated during the implementation of such plan;
- 2) A bank in whose operations the supervision establishes actions and/or failure to act, in breach of regulations or standards of safe and sound banking activities, which may jeopardise the bank's financial condition.

By the resolution specified in paragraph 1 hereof, the bank shall be ordered to carry out one or more of the following activities within the specified timeframe:

- 1) Harmonise its operations with regulations;
- 2) Increase the amount of capital;
- 3) Adjust capital adequacy ratio;
- 4) Increase special reserves to cover potential losses;
- 5) Discontinue accruing interest on assets of a certain level of collectability;
- 6) Temporarily discontinue lending to some of its shareholders and other persons;
- 7) Discontinue placements of funds for a certain period of time;
- 8) Temporarily discontinue or limit new borrowing, as well as acceptance of new deposits and other forms of indebtedness;
- 9) Remove a member of the managing and/or executive board, or another person holding a managing position;
- 10) Discontinue distribution of capital to some or to all shareholders;
- 11) Close one or more of its organisational units, and/or discontinue or limit the expansion of its organisational network;
- 12) Discontinue payments from its accounts, other than with the prior approval of the National Bank of Serbia;
- 13) Discontinue payments abroad, other than with the prior approval of the National Bank of Serbia;
- 14) Rationalise its internal organisation;

- 15) Increase transparency of the structure of the banking group to which it belongs;
- 16) Undertake and/or discontinue other activities.

The resolution specified in paragraph 1 hereof shall determine the manner and timeframe in which the bank must eliminate the established irregularities and inform the National Bank of Serbia thereof.

### *Receivership*

#### Article 117

The National Bank of Serbia shall issue a resolution on introducing receivership in a bank:

- 1) if it determines that the bank is likely to become critically undercapitalised;
- 2) if it determines that a systemically important bank is critically undercapitalised;
- 3) if by supervision of the bank's operations, it is established that the bank failed to act and/or acted in breach of regulations or standards of safe and sound banking practices, thereby jeopardising its financial condition or interests of depositors;
- 4) if its financial condition deteriorated over the period set for the execution of orders specified in the resolution from Article 116 hereof.

The National Bank of Serbia shall issue the resolution from paragraph 1 hereof if it assesses that a change in the manner of managing the bank might result in elimination of irregularities in its operations, improve its financial situation or secure the interests of its depositors.

The criteria for the determination of a systematically important bank shall be defined by the National Bank of Serbia and the ministry in charge of finance by a special agreement.

The criteria from paragraph 3 hereof shall be defined relative to the volume and importance of consequences that the deterioration of the bank's financial condition might have on the preservation of financial system stability, particularly in light of the impact on the operations of other banks, smooth functioning of payment transactions and the bank's participation in the total amount of insured deposits.

By the resolution from paragraph 1 hereof, two official receivers are appointed, the duration of receivership defined and the amount of compensation for the work of official receivers that shall be charged to the bank determined.

The National Bank of Serbia shall submit the resolution from paragraph 1 hereof to the Agency by no later than the first business day following its issue.

Official receivers must be persons independent of the bank, must have good business reputation and adequate qualifications, and must meet the requirements from Article 72, paragraph 5 of this Law.

Persons from Article 72, paragraph 3 hereof may not be appointed official receivers.

As of the date of issue of the resolution from paragraph 1 hereof, the functions of the members of the bank's managing and the executive board shall cease and be transferred to official receivers.

The introduction of receivership in a bank shall be recorded in the register of business entities as of the date of issue of the resolution from paragraph 1 hereof. The National Bank of Serbia shall submit the resolution on the day of its adoption to the agency in charge of keeping the register of business entities.

In performing their tasks, official receivers shall follow the instructions of the National Bank of Serbia.

Official receivers may convene an emergency meeting of the bank's assembly to be held within the time limit not shorter than five days from the day of convening and may propose adoption of decisions. If the meeting is not held or the bank's assembly does not adopt the decisions proposed by official receivers, the decisions may be taken by official receivers, subject to the National Bank of Serbia's consent. These decisions have the same legal effect as the decisions of that assembly.

A bank may not be in receivership for longer than six months, including the time needed for the appointment of the bank's bodies. The National Bank of Serbia may by a resolution extend the receivership by three months, if it considers this necessary for the purpose of concluding the activities initiated and accomplishing the objectives of receivership.

Receivership of a bank may also be terminated before the expiry of the deadline specified in paragraph 5 hereof if official receivers or the National Bank of Serbia assess that the receivership did not result in bank's improved financial condition or that the bank's financial condition has improved to such an extent that receivership is no longer required.

### *Implementation of receivership*

#### Article 117a

Official receivers shall assess the bank's financial situation on the day receivership is introduced and shall submit such assessment to the National Bank of Serbia and the Agency.

Following introduction of receivership and without delay, official receivers shall convene the bank's assembly into meeting not earlier than five nor later than ten days from the introduction of receivership.

The bank's majority shareholders shall prepare the action plan and submit it to official receivers within 20 days from the introduction of receivership, whereof official receivers shall inform them at the assembly's meeting from paragraph 2 hereof.

The action plan from paragraph 3 hereof shall contain a proposal of bank's activities needed to eliminate irregularities in its operations and improve its financial condition (increase in bank's capital by shareholders or other persons, merger with or acquisition by another bank, etc) while securing the interests of depositors, as well as observing deadlines for the implementation of those activities.

Official receivers shall submit to the National Bank of Serbia and the Agency an assessment of the bank's financial condition from paragraph 1 hereof, as well as the action plan from paragraph 3 hereof, not later than a month from the introduction of receivership.

The National Bank of Serbia shall inform official receivers of its grant or refusal of consent to the plan within 15 days from receipt of the action plan from paragraph 5 hereof.

The National Bank of Serbia shall grant consent to the action plan from paragraph 5 hereof if it assesses that the proposed activities can eliminate the irregularities in bank's operations and improve its financial condition.

If the National Bank of Serbia refuses consent to the action plan from paragraph 5 hereof, it shall adopt a resolution to revoke the operating license from the bank and nominate the Agency as the acting administrator.

Official receivers shall, at least once a month, report to the National Bank of Serbia and the Agency on the operations of the bank in receivership, its financial condition and implementation of the action plan, or promptly when they establish that the action plan is not implemented or does not contribute to the improvement of the bank's financial condition.

As long as the bank is in receivership, the Agency may conduct the least cost testing in line with the law that regulates the deposit insurance agency.

Detailed terms and method of implementing receivership in a bank shall be prescribed by the National Bank of Serbia.

### *Suspension of settlement of bank obligations*

#### Article 117b

The National Bank of Serbia may, upon official receivers' proposal, issue a resolution ordering the bank in receivership to suspend the settlement of its obligations over the period of up to 30 days.

For the duration of suspension from paragraph 1 hereof:

- 1) The bank's assets may not be subject to enforcement, no property related claims may be filed against the bank, while all proceedings against the bank in that respect shall be suspended;
- 2) The bank may not undertake any new obligations, apart from obligations directly related to the unimpeded implementation of receivership;
- 3) No action arising from bank's operations or from the suspension of its obligations, including from the resolution specified in paragraph 1 hereof, may be filed against the bank, its official receivers and the National Bank of Serbia.

For the duration of suspension from paragraph 1 hereof, payments may be made only in respect of:

- 1) insured deposits – up to the insured amount as defined by the law on deposit insurance, in accordance with the balance of insured deposits and conditions valid on the day of rendering the resolution from paragraph 1 hereof;

- 2) new obligations from paragraph 2, item 2) hereof;
- 3) payment orders submitted to the bank prior to the submission of the resolution from that paragraph to official receivers;
- 4) matters of particular significance – with the consent of official receivers.

Official receivers shall make payments from paragraph 3, item 1) hereof in a manner ensuring equal treatment of insured depositors.

*Removal and suspension of members of  
bank's managing or executive board*

Article 118

The National Bank of Serbia may order removal of a member of the bank's managing or executive board, if it determines that such person does not meet the requirements set forth in this Law or acts in breach of provisions of this Law, and/or is responsible for irregularities in bank's operations, and if the bank fails to enable the National Bank of Serbia's conduct of supervision of safety and soundness and legality of the bank's operations.

In the case specified in paragraph 1 hereof, the National Bank of Serbia must consider the severity of established irregularities, as well as whether such person's remaining on the bank's managing or executive board could further adversely affect interests of depositors and creditors of the bank.

By the order specified in paragraph 1 hereof, the National Bank of Serbia may:

- 1) Prohibit or limit such person's conduct of any activity in the bank;
- 2) Prohibit that person to directly or indirectly exercise voting rights in the bank;
- 3) Request the person specified in that paragraph to alienate direct or indirect ownership he/she has in the bank, within the deadline set by the National Bank of Serbia;
- 4) Prohibit that person to perform any function or to participate in performing activities of any bank or any member of the banking group without prior consent of the National Bank of Serbia.

Article 119

If a member of the bank's managing or executive board is convicted of a criminal offence by final judgement and pronounced unconditional prison sentence or is convicted by final judgement of a criminal offence which makes him unsuitable for exercising that function, the National Bank of Serbia shall issue an order removing such person from his/her position, and may also impose one or several measures specified in Article 118, paragraph 3 of this Law.

If the person specified in paragraph 1 hereof is charged with a criminal act specified in that paragraph, the National Bank of Serbia may issue an order temporarily prohibiting such person from discharging that function in the bank, and prohibiting such person from direct and indirect exercise of the voting right in the bank, until the conclusion of criminal proceedings.

*Discretionary right of the National Bank of Serbia*

Article 120

The National Bank of Serbia shall render the decision on the measures that will be taken against a bank in whose operations irregularities were established, according to the discretionary evaluation of:

- 1) Severity of established irregularities;
- 2) Demonstrated readiness and competence of the bank's bodies to eliminate established irregularities;
- 3) Extent to which such bank jeopardises financial discipline and smooth functioning of the banking system.

In evaluating the severity of established irregularities in bank's operations, the following shall be evaluated in particular:

- Bank's financial position;
- Capital adequacy in relation to assumed risks;
- Bank's exposure to specific types of risks;
- Effects of the committed irregularity on the bank's future position;
- Number and mutual dependence of established irregularities;
- Duration and frequency of irregularities;
- Legality of bank's operations.

In evaluating the demonstrated readiness and capacity of the bank's bodies to eliminate the established irregularities, the following shall be evaluated in particular:

- Capability of the bank's management to identify, evaluate and monitor the risks in bank's operations and manage those risks;
- Effectiveness of the internal audit system in the bank;
- Efficiency in eliminating any previously established irregularities, and particularly in implementing the measures specified in Article 112 of this Law;
- Awareness of bank's shareholders, persons holding participation in the bank and the bank's managing and executive board, of difficulties in bank's operations;
- Level of cooperativeness of the bank's management and managing board with authorised persons during supervision;
- Acting and/or failure of the bank's bodies to act upon previously established irregularities and warnings issued by the National Bank of Serbia.

In evaluating the extent to which a bank jeopardises financial discipline and smooth functioning of the banking system, the following shall be evaluated in particular:

- Bank's significance in the financial system;
- Scope and type of such bank's business activities;
- Size of the bank's business network in the country and abroad;
- Bank's relationships with other banks and other financial sector persons in terms of ownership, management, and debtor-creditor relations.

*Responsibility for the damage arising from the execution of  
duties established by this Law*

Article 121

The National Bank of Serbia and its employees, the persons that the National Bank of Serbia appoints as official receivers in line with Article 117 of this Law, as well as the person executing duties upon the order of the National Bank of Serbia in compliance with this Law, shall not be held responsible for the damage arising from the execution of such duty, unless proven that such damage has been inflicted deliberately or by gross negligence.

The persons specified in paragraph 1 hereof shall not be held responsible for the damage specified in that paragraph even after termination of employment in the National Bank of Serbia, and/or termination of execution of duties.

The National Bank of Serbia shall reimburse the costs of representation of its employees in court and administrative proceedings initiated in relation to duties that such employees exercise pursuant to this Law.

The National Bank of Serbia shall also reimburse the costs specified in paragraph 3 hereof to the persons whose employment with the National Bank of Serbia ceased.

Section 4

**Supervision of banking group on consolidated basis**

*Supervision on consolidated basis*

Article 122

The National Bank of Serbia shall exercise supervision of a banking group on a consolidated basis.

The supervision referred to in paragraph 1 hereof shall be exercised by the regulatory body of the home country of a bank holding company:

- 1) If the head office of the bank holding company is located outside the Republic of Serbia;
- 2) If the regulatory body of the bank holding company's home country exercises supervision on a consolidated basis in the manner which meets the conditions prescribed by the National Bank of Serbia;
- 3) If there is adequate cooperation between the National Bank of Serbia and the regulatory body specified in item 2) of this paragraph.

The National Bank of Serbia may order a bank whose bank holding company is located outside the Republic of Serbia to consolidate financial statements of members of the banking group headquartered in the Republic of Serbia.

The National Bank of Serbia may prescribe detailed terms and conditions of exercising supervision specified in this Article.

*Transparency of banking group structure*

Article 123

The structure of a banking group must be transparent enough to allow the National Bank of Serbia to determine:

- 1) The ultimate parent company of the banking group and persons who hold controlling or significant participation in that company;
- 2) Location and types of business activities conducted within the banking group;
- 3) The financial condition and business results of the banking group and its members;
- 4) Types and levels of risks that the banking group and its members are exposed to;
- 5) The manner in which risk management is organised and implemented at the banking group level;
- 6) The business, financial and other relationships between banking group members.

The structure of a banking group must be such as to enable adequate internal and external audit and unimpeded performance of the National Bank of Serbia's supervisory function.

*Bank's subordinated company*

Article 124

A bank may establish or acquire a subordinated company only with the consent of the National Bank of Serbia.

Only financial sector persons may be subordinated companies of a bank.

Detailed terms and conditions of granting consent specified in paragraph 1 hereof shall be prescribed by the National Bank of Serbia.

*Subordinated company of bank holding company*

Article 125

A bank holding company may not establish or acquire direct or indirect ownership in a subordinated company if such acquisition may adversely affect operations of the bank in which the bank holding company holds controlling participation.

A bank holding company shall inform the National Bank of Serbia of the acquisition of direct or indirect ownership in a subordinated company within 15 days from the date of acquisition.

If the National Bank of Serbia establishes that the acquisition of direct or indirect ownership in a subordinated company may adversely affect the bank specified in paragraph 1 hereof, it shall take measures prescribed by this Law.

*Consolidated financial statements of banking group*

Article 126

The ultimate parent company of a banking group shall prepare and submit consolidated financial statements to the National Bank of Serbia.

A bank and the ultimate parent company of the banking group shall be held responsible for obligations relating to the submission of consolidated financial statements of the banking group in compliance with this Law.

The National Bank of Serbia may request any member of the banking group to submit other statements and data in addition to individual financial statements.

The statements of the banking group specified in paragraph 1 hereof shall be prepared in compliance with the International Financial Reporting Standards and/or International Accounting Standards.

The National Bank of Serbia shall prescribe the scope and frequency of the submission of statements from paragraph 1 hereof, as well as the contents of those statements.

The National Bank of Serbia may order the bank that is a banking group member to carry out the consolidation of individual items of financial statements specified in paragraph 1 hereof, operations or groups of operations within the banking group if needed for complete and objective determination of financial condition and business results of the banking group or a bank that is a member of the group.

*Risk management at banking group level*

Article 127

The following shall be determined on a consolidated basis for a banking group:

- 1) Capital adequacy ratio;
- 2) Large exposures;
- 3) Investment in other legal persons and fixed assets;
- 4) Open net currency position.

Should the National Bank of Serbia assess, based on data from paragraph 1 hereof, and/or based on consolidated financial statements of the banking group, that the level of the banking group's capital jeopardises bank's stable operations, it may request the bank to acquire additional capital and may set for the bank a higher than the prescribed capital adequacy ratio, in compliance with Article 23 of this Law.

Each banking group must provide risk management procedures and procedures for internal audit and internal control that correspond to the group's activities, as well as regular monitoring and updating of those procedures.

A bank and the ultimate parent company shall be responsible for determining and submitting data specified in paragraph 1 hereof to the National Bank of Serbia.

The National Bank of Serbia may prescribe the manner for determining and submitting data specified in paragraph 1 hereof, as well as detailed requirements and manner of risk management at banking group level.

*Taking measures against banking group members and persons with participation*

Article 128

Should the National Bank of Serbia establish that any member of a banking group other than the bank has violated provisions of this Law or regulations rendered by the National Bank of Serbia, or that activities or financial condition of any member have a detrimental effect on the financial stability of the bank or might jeopardise interests of bank's depositors, it shall order such member of the group to eliminate the detected irregularities within the timeframe established by the National Bank of Serbia.

If the irregularities from paragraph 1 hereof are not eliminated within the established timeframe, the National Bank of Serbia may take the following measures:

- 1) Order suspension of any further investment by the bank in its subordinated company;
- 2) Order a bank holding company to suspend the exercise of rights and benefits resulting from controlling participation of such holding company in the bank, including direct or indirect exercise of voting rights, and/or order the bank holding company to make additional investment in the bank's capital;
- 3) Order a member of the banking group to suspend all business activities (direct or indirect) with the bank;
- 4) Order a legal person in which controlling participation is held by another person having also participation in the bank, to suspend the exercise of rights and benefits resulting from such person's participation in the bank, including direct or indirect exercise of voting rights and/or order suspension of all business relations (direct or indirect) between the bank and such person.

If the irregularities specified in paragraph 1 hereof remain after the implementation of measures specified in paragraph 2 hereof, the National Bank of Serbia may also take the following measures:

- 1) Request the bank to reduce its investments in the subordinated company to the point where such company is no longer a subordinated company of the bank;
- 2) Set aside the resolution granting consent to the bank holding company to acquire controlling participation in the bank;
- 3) Request the bank holding company to alienate significant or controlling participation in its subordinated company;
- 4) Revoke the consent to acquire participation in the bank granted to the person that holds participation in the bank and in which another person holds controlling participation.

Where the circumstances demand urgent action, the National Bank of Serbia may take the measures specified in paragraphs 2 and 3 hereof before the deadline specified in paragraph 1 hereof expires.

If the member of a banking group specified in paragraph 1 hereof is a person subject to supervision by a different regulatory body in the Republic of Serbia, the National Bank of Serbia shall inform such body of the measures taken against such person.

## Chapter VI

### TERMINATION OF BANK'S OPERATIONS

#### **Grounds for cessation of validity of the operating license**

##### Article 129

A bank's operating license shall cease to be valid if:

- 1) The bank's operating license is revoked;
- 2) Bank's operations are voluntarily terminated;
- 3) The bank's status is changed;
- 4) The bank's founding assembly meeting is not held within the timeframe set by this Law;
- 5) The bank fails to submit the application for entry in the register of business entities within the deadline prescribed by this Law.

##### Section 1

#### **Revocation of operating license**

##### Article 130

The National Bank of Serbia shall revoke a bank's operating license if:

- 1) It determines that a bank other than a systemically important one is critically undercapitalised, unless it is in receivership;
- 2) It determines that shareholders of the bank in receivership failed to prepare the action plan within the set timeframe;
- 3) It assesses that the action plan from item 2) of this paragraph cannot be used to eliminate the irregularities in bank's operations and improve its financial condition;
- 4) It determines that the bank in receivership is not implementing the action plan to which the National Bank of Serbia has given its consent;
- 5) It determines that activities implemented in line with the action plan to which the National Bank of Serbia has given its consent are not leading to an improvement of the financial condition of the bank in receivership;
- 6) The bank stops accepting deposits or approving loans during six consecutive months, unless so ordered in a corrective measure of the National Bank of Serbia;
- 7) The bank in receivership fails to eliminate the causes that led to the introduction of receivership until the expiry of the deadline.

The National Bank of Serbia may revoke the bank's operating license if:

- 1) It determines that the bank has critically strained liquidity;
- 2) It determines that the bank's operating license was issued on the basis of false data;
- 3) The bank's founder withdraws the funds invested in bank's initial capital;
- 4) It determines that the bank failed to commence its operations within 60 days following entry into the register of business entities;

- 5) It determines that conditions specified in Article 16, paragraph 1, items 5) and 6) and Article 19, paragraph 1 of this Law are no longer met;
- 6) It determines that the bank is significantly undercapitalised;
- 7) It determines that the undercapitalised bank fails to meet some of the business indicators prescribed by this Law or regulation of the National Bank of Serbia;
- 8) It establishes that the bank has committed gross or persistent violations of the law or other regulation;
- 9) Within the prescribed time period, the bank fails to act in compliance with the orders specified in Article 116 of this Law;
- 10) The bank fails to pay deposit insurance premium in compliance with the law on deposit insurance;
- 11) The bank's activities are related to money laundering, financing of terrorism or performing of other punishable acts;
  - 11a) It determines that the bank will not be able to settle its obligations to depositors and other creditors;
  - 11b) It determines that the bank spends its resources (assets) irrationally due to breach of regulations or standards of safe and sound banking practices, which may result in deterioration of the bank's financial condition;
  - 11c) The bank fails to enable the National Bank of Serbia to perform the supervision of the safety and soundness and legality of its activities.

On the day of rendering the resolution on revocation of the bank's operating license, the National Bank of Serbia shall block all of the bank's accounts, and by the same resolution it shall simultaneously declare the measure of prohibition of disposal of bank's assets until the entry of the Agency as the administrator into the register of business entities.

In its resolution on revoking the bank's operating license, the National Bank of Serbia shall appoint the Agency as the administrator.

## Section 2

### **Voluntary termination of bank's operations**

#### Article 131

Based on the decision of the bank's assembly on termination of bank's operations, the bank shall submit to the National Bank of Serbia the request for granting consent to decision on termination of bank's operations.

Along with the request from paragraph 1 hereof, the bank shall submit to the National Bank of Serbia the decision of the bank's assembly on termination of bank's operations, as well as an unconditional, irrevocable and payable on first demand bank guarantee, issued by a first-class bank in the amount that guarantees the coverage of all obligations of the bank from paragraph 1 hereof – in favour of the Agency. The National Bank of Serbia may also request from the bank other documentation needed for consideration of the request from paragraph 1 hereof.

The National Bank of Serbia shall establish the criteria for defining the first-class bank within the meaning of paragraph 2 hereof.

The National Bank of Serbia shall decide on the request from paragraph 1 hereof by rendering a resolution within 7 days from the receipt of the duly completed request.

The Agency shall be appointed administrator by the resolution on granting consent from paragraph 1 hereof, in line with the law on bankruptcy and liquidation of banks.

If the National Bank of Serbia does not give consent from paragraph 1 hereof due to the bank's failure to submit documentation in line with paragraph 2 hereof, it shall simultaneously revoke the bank's operating license and appoint the Agency as the administrator in line with the law on bankruptcy and liquidation of banks.

The National Bank of Serbia shall submit to the Agency the resolution from paragraphs 5 and 6 hereof by no later than the next business day from rendering the resolution.

The decision on termination of bank's operations shall be effective as of the day of rendering the resolution from paragraph 5 hereof.

### Section 3

#### **Status changes**

#### *Merger of banks*

#### Article 132

The National Bank of Serbia shall issue the operating license to a bank which is established by merging of two or more banks, at the request of banks being merged.

Along with the request from paragraph 1 hereof, the banks being merged shall enclose the following:

- 1) Decisions of banks' assemblies on merging;
- 2) Founding act, which shall, in addition to the elements specified in Article 13 of this Law, also contain data on the manner and deadline for the replacement of shares of these banks;
- 3) Draft articles of association of the bank which is established by merging;
- 4) Names and data regarding qualifications, experience and business reputation of the nominated members of the managing and executive board of the bank which is established by merging;
- 5) Bank's programme of activities for the period of three years and draft business policy of the bank for the year in which the merging takes place;
- 6) Data on the staff and technical capacity of the bank established by merging;
- 7) Analysis of economic justifiability of merging, drafted based on the most recent statements submitted by these banks to the National Bank of Serbia pursuant to Article 51 of this Law;
- 8) Analysis that the merging cannot have any negative impact on the situation in the financial market, and/or violate competition, as specified in Article 7 of this Law.

The National Bank of Serbia may also request from the banks being merged to submit other data and documents.

The National Bank of Serbia shall decide on the request specified in paragraph 1 hereof within 90 days from the day of receipt of the duly completed request.

The National Bank of Serbia may prescribe detailed requirements and manner of merging of banks.

*Merger by acquisition of a bank*

Article 133

The bank to which another bank is merged by acquisition shall submit to the National Bank of Serbia the request for issuing the consent for merger by acquisition.

The bank to which another bank is merged by acquisition shall amend its founding act so as to:

- 1) State the amount of its total share capital in pecuniary and non-pecuniary form after merger, as well as each founder's stake in share capital;
- 2) State that it is the legal successor of all rights and obligations of the bank which is merged by acquisition to it.

Along with the request specified in paragraph 1 hereof, the bank to which another bank is merged by acquisition shall submit to the National Bank of Serbia the following:

- 1) Amendments to the founding act;
- 2) Bank's assembly decision on acceptance of merger by acquisition;
- 3) Decision on the merger by acquisition of the assembly of the bank which is merged by acquisition;
- 4) Analysis of economic justifiability of merger by acquisition, drafted based on the most recent statements which the banks submitted to the National Bank of Serbia in compliance with Article 51 of this Law;
- 5) Analysis that the merger by acquisition cannot have any negative impact on the situation in the financial market, and/or distort competition, as specified in Article 7 of this Law;

The National Bank of Serbia may also request from the bank to which another bank is merged by acquisition to submit other data and documents.

The National Bank of Serbia shall give the consent for merger by acquisition of a bank if:

- 1) Such merger does not jeopardise financial condition of the bank to which another bank is merged;
- 2) The bank to which another bank is merged has such system of organisation, managing, decision making and information technology which enabled it to adequately manage risks in business activities by the day of submitting the request specified in paragraph 1 hereof and which will enable it to completely integrate the bank merged to it into its system, in the manner that does not jeopardise its functioning;
- 3) The merger by acquisition is economically justified and/or may not have negative consequences on the situation in the financial market nor does it distort competition as specified in Article 7 of this Law.

The National Bank of Serbia shall decide on the request specified in paragraph 1 hereof within 90 days from the day of receipt of the duly completed request.

The National Bank of Serbia may prescribe detailed requirements and manner of bank's merger by acquisition to another bank.

*Assuming rights and obligations of the bank under  
administrative management and the bridge bank*

Article 134

A bank shall submit to the National Bank of Serbia the request for granting consent for the assumption of rights and obligations of the bank under administrative management and/or the bridge bank.

Provisions of Article 133 of this Law shall accordingly apply to the request from paragraph 1 hereof.

Chapter VII

PENALTY PROVISIONS

**Criminal offences**

Article 135

A person who engages in accepting deposits without an operating license issued by the National Bank of Serbia shall be punished for a criminal offence by a prison sentence of three months to five years.

If, by the act referred to in paragraph 1 of this Article, material gain was acquired exceeding RSD 100,000, the perpetrator shall be punished by a prison sentence of one to eight years, and if the amount of the gain exceeds RSD 1,500,000, the perpetrator shall be punished by a prison sentence of two to ten years.

A responsible person in a legal person shall be punished for the acts referred to in paragraphs 1 and 2 of this Article if the legal person engages in accepting deposits without the operating license issued by the National Bank of Serbia.

Article 136

A person who engages in granting of loans and issuing of payment cards without an operating license issued by the National Bank of Serbia, and is not authorised for it by law, shall be punished for a criminal offence by imprisonment of three months to five years.

If, by the act referred to in paragraph 1 of this Article, material gain was acquired exceeding RSD 100,000, the perpetrator shall be punished by a prison sentence of one to eight years, and if the amount of the gain exceeds RSD 1,500,000, the perpetrator shall be punished by a prison sentence of two to ten years.

A responsible person in a legal person shall be punished for the acts referred to in paragraphs 1 and 2 of this Article if the legal person engages in granting loans and issuing of payment cards without an operating license of the National Bank of Serbia and is not authorised for it by law.

## Article 136a

A person which has the word “bank” or derivatives of that word in its business name and/or uses that word or its derivatives in the performance of its activity without an operating licence issued by the National Bank of Serbia shall be punished for the criminal offence by a prison sentence of three months to five years.

If by the act from paragraph 1 hereof material gain was obtained exceeding RSD 100,000, the perpetrator shall be punished by a prison sentence of one to eight years, and if the amount of the gain exceeds RSD 1,500,000, the perpetrator shall be punished by a prison sentence of two to ten years.

A responsible person in the legal person shall also be punished for the act from paragraphs 1 and 2 hereof.

### **Bank’s misdemeanours**

## Article 137

A bank shall be fined from RSD 300,000 to 2,000,000 for a misdemeanour if:

- 1) it concludes any agreements which substantially prevent, limit or distort competition, if it abuses dominant position or exercises concentration which substantially prevents, limits or distorts competition, particularly by creating or strengthening its dominant position in the financial market (Article 7, paragraph 1);
- 2) it appoints an external auditor that generated more than half of its total income from having audited that bank’s accounts in the previous year, and/or if it engages the same external auditor which has performed more than five consecutive audits of its annual financial statements, and/or an external auditor which conducted audit of the bank’s financial statements and provided consulting services to such bank during the same year, and/or external auditor which conducted audit for the business year in which it provided consulting services to the bank (Article 53, paragraphs 1–3);
- 3) it opens a representative office abroad without the consent of the National Bank of Serbia (Article 91, paragraph 1).

The responsible person in the bank shall also be fined from RSD 50,000 to 150,000 for actions specified in paragraph 1 hereof.

## Article 138

A bank shall be fined from RSD 300,000 to 1,000,000 for a misdemeanour if:

- 1) it fails to alienate its own shares within one year from the day of their acquisition, or fails to withdraw and cancel them, reducing the issued share capital by the same amount. (Article 26, paragraph 7);
- 2) it concludes a legal transaction dealing with granting of loan, advance payment, warranty or a guarantee by the bank for the purpose of direct or indirect acquisition of bank’s shares by a person holding participation in the bank or by the bank’s subordinated company (Article 27);
- 3) it grants a person related to the bank and/or a bank employee the conditions more favourable than the conditions granted to other persons not related to that bank and/or not employed in the bank (Article 37);

- 4) it grants its shareholders a loan before the expiry of one year from the start of its operations (Article 39);
- 5) it fails to submit to the National Bank of Serbia a written notification of resignation or removal of an external auditor of a bank, bank holding company or a banking group, by no later than 15 days from the day of that auditor's resignation or removal (Article 60, paragraph 1);
- 6) it fails to inform the National Bank of Serbia at least once a year, or when requested by the National Bank of Serbia, of the identities of all persons holding participation in the bank, or of the increase or decrease in participation in that bank, within 15 days from the day of learning about such increase or decrease, or fails to inform the National Bank of Serbia of the status change of the person related to that bank within 15 days from the day of learning about such change (Article 101, paragraphs 4, 5 and 6).

The responsible person in the legal person shall also be fined for actions specified in paragraph 1 hereof – from RSD 20,000 to 50,000.

### **Misdeameanours committed by other persons**

#### Article 139

A responsible person in the National Bank of Serbia shall be fined for a misdeameanour with RSD 50,000 to 150,000 if:

- 1) he/she fails to decide on the application of the bank's founders for preliminary permit within 90 days from the receipt of duly completed application (Article 15, paragraph 3);
- 2) he/she fails to decide on the application of a bank for an operating license within 30 days from the receipt of duly completed application (Article 18, paragraph 3);
- 3) he/she fails to decide on granting consent to the acts specified in Article 19, paragraph 5 of this Law within 60 days from the receipt of such acts (Article 19, paragraph 6);
- 4) he/she fails to decide on the request of the person from Article 94, paragraph 1 of this Law within 60 days from the receipt of duly completed request (Article 94, paragraph 2);
- 5) he/she fails to decide on the requests specified in Article 89, paragraph 4, Article 91, paragraph 2, Article 100, paragraph 4, Article 132, paragraph 4, Article 133, paragraph 6 and Article 134, paragraph 2 of this Law within timeframe stipulated in those articles.

#### Article 139a

An official receiver shall be fined for a misdeameanour with RSD 100,000 to 150,000 if he/she fails to report to the National Bank of Serbia and the Agency at least once a month on the operations of the bank in receivership, its financial situation and implementation of the action plan, or promptly when he/she determines that the action plan is not implemented or does not contribute to the improvement of the bank's financial condition (Article 117a, paragraph 9).

#### Article 139b

Other legal person shall be fined for a misdemeanour with RSD 100,000 to 1,000,000 if:

- 1) acting in the capacity of the founder of the bank, it withdraws the funds invested in bank's initial capital (Article 12, paragraph 5);
- 2) acting in the capacity of an external auditor, it performs more than five consecutive audits of the bank's annual financial statements, and/or performs the audit of the bank's financial

statements and provides consulting services to such bank during the same year (Article 53, paragraphs 2 and 3);

3) it fails to obtain prior consent of the National Bank of Serbia for the acquisition of direct or indirect ownership in a bank which enables the exercise of voting rights in percentages specified in Article 94, paragraph 1 of this Law;

4) it fails to notify the National Bank of Serbia of the acquisition of ownership in the bank for which the National Bank of Serbia granted consent from Article 94, paragraph 1 of this Law, within 15 days from the day of such acquisition (Article 97);

5) it fails to submit to the National Bank of Serbia the information, documentation and data pursuant to Article 101, paragraphs 2 and 3 of this Law, within the prescribed deadlines;

6) acting in the capacity of the ultimate parent company of the banking group, it fails to submit to the National Bank of Serbia consolidated financial statements pursuant to Article 126 of this Law.

The responsible person in the legal person shall also be fined for actions specified in paragraph 1 hereof – with RSD 50,000 to 150,000.

#### Article 140

A legal person – founder of a bank shall be fined for a misdemeanour with RSD 10,000 to 600,000 if:

1) it fails to promptly inform the National Bank of Serbia of the change in data or documents from Article 15, paragraph 1 of this Law after it was granted a preliminary permit (Article 17, paragraph 1);

2) it fails to perform activities on behalf of the bank being founded, in line with Article 17, paragraph 4 of this Law (Article 17, paragraph 4);

3) it fails to submit to the National Bank of Serbia for consent the acts adopted by the founding assembly, within five days from their adoption (Article 19, paragraph 5);

4) it fails to submit an application for entry into the register of business entities within 30 days from obtaining the consent of the National Bank of Serbia, or if it fails to submit to the National Bank of Serbia the resolution on entry into that register within five days following the receipt of such resolution (Article 20, paragraphs 1 and 4).

The responsible person in the legal person – bank's founder shall also be fined for actions specified in paragraph 1 hereof – with RSD 20,000 to 50,000.

A natural person – founder of the bank shall also be fined for actions specified in paragraph 1 hereof – with RSD 20,000 to 50,000.

#### Article 140a

A legal person shall be fined for a misdemeanour with RSD 100,000 to 1,000,000 if it:

1) acting in the capacity of the external auditor, fails to indicate in the report and the opinion on the annual financial statement of a bank that the annual financial statement of the bank falsely and subjectively presents the financial condition of the bank, its business results, and the cash flow for the business year, or fails to give to the managing and the executive board of the bank and the National Bank of Serbia an opinion on the efficiency of the functioning of the internal audit, risk management system and internal control system, or fails to submit additional

information related to the audit performed, at the request of the National Bank of Serbia (Article 56);

2) acting in the capacity of the external auditor, fails to notify the managing and the executive board of a bank or a member of a banking group, and the National Bank of Serbia of the facts from Article 58, paragraph 1 of this Law immediately after becoming aware of them;

3) acting in the capacity of the external auditor in the case from Article 60, paragraph 2 of this Law, fails to obtain the written statement of the previous external auditor on the reasons for its resignation, or removal, or if it fails to notify the National Bank of Serbia that it did not receive such statement within the stipulated timeframe (Article 60, paragraphs 2 and 3);

4) acting in the capacity of the external auditor, fails to inform the National Bank of Serbia of an error detected in the published report from Article 61 of this Law (Article 61, paragraph 7);

5) it exercises influence on the management of a bank in which it has acquired ownership within the meaning of Article 100, paragraph 1 of this Law or the business policy of that bank, or exercises voting rights based on that ownership, without having been granted the consent of the National Bank of Serbia (Article 100, paragraph 2);

6) it fails to submit information and relevant documentation relating to the fulfilment of requirements for granting the consent from Article 94, paragraph 1 of this Law, at the request of the National Bank of Serbia (Article 101, paragraph 1).

The responsible person in the legal person shall also be fined for actions specified in paragraph 1 hereof – with RSD 20,000 to 50,000.

In addition to the fine for the offence specified in paragraph 2 hereof, the responsible person may be pronounced a protective measure banning the discharge of certain duties for the period of three months to one year and the protective measure of public announcement of the ruling.

#### Article 141

A natural person shall be fined for an offence with RSD 10,000 to 50,000 if:

*Items 1–3) were deleted.*

4) Such natural person, acting in the capacity of a member of the managing and the executive board, fails to submit within the timeframe stated in Article 78 of this Law a written statement containing the data specified in that article and/or a notification of the change in these data (Article 78);

5) Fails to obtain prior consent of the National Bank of Serbia for the acquisition of direct or indirect ownership in a bank which enables him/her to exercise voting rights in the percentages specified in Article 94, paragraph 1 of this Law (Article 94, paragraph 1);

6) Fails to inform the National Bank of Serbia on the acquisition of ownership in a bank for which the National Bank of Serbia granted consent, within 15 days from the date of such acquisition (Article 97);

7) Exercises any influence on the management of the bank in which it acquired ownership within the meaning of Article 100, paragraph 1 of this Law or on business policy of such bank, and/or exercises voting rights attached to such ownership (Article 100, paragraph 2) without the consent of the National Bank of Serbia;

8) Fails to submit, upon request of the National Bank of Serbia, the information and relevant documentation pertaining to the fulfilment of requirements for granting that consent (Article 101, paragraph 1);

9) Fails to submit within the prescribed timeframe to the National Bank of Serbia the information, documentation and data pursuant to Article 101, paragraph 2 of this Law (Article 101, paragraph 2).

## Chapter VIII

### TRANSITIONAL AND FINAL PROVISIONS

#### **Banks and other financial organisations**

##### Article 142

Banks established pursuant to the Law on Banks and Other Financial Organisations (FRY Official Journal, Nos 32/93, 61/95, 44/99, 36/2002 and RS Official Gazette, Nos 72/2003 and 61/2005) shall harmonise their operations, organisation and acts with the provisions of this Law by its application date at the latest.

A bank that fails to act in the manner stipulated in paragraph 1 of this Article shall have its operating license revoked by the National Bank of Serbia.

Other financial organisations established pursuant to the Law on Banks and Other Financial Organisations shall harmonise their operations, organisation and acts with the provisions of this Law within one year from the effective date of this Law at the latest.

The harmonisation specified in paragraph 3 of this Article implies the obligation of other financial organisation to:

- 1) transform into a bank
- 2) be merged by acquisition to a bank
- 3) cease to operate.

Within three months from the effective date of this Law, other financial organisations are required to submit to the National Bank of Serbia a request for consent to a plan regarding mandatory harmonisation under paragraph 4 of this Article.

The National Bank of Serbia shall decide on the request for consent specified in paragraph 5 of this Article within 30 days from the day of submission of the plan referred to in that paragraph.

Other financial organisation that fails to submit the request for consent to the plan specified in paragraph 5 of this Article within the prescribed timeframe, or is not granted consent to its plan by the National Bank of Serbia, or fails to harmonise its operation with this Law within the deadline specified in paragraph 3 of this Article, shall have its operating license revoked by the National Bank of Serbia.

Until harmonisation is completed in the manner specified in paragraph 4 of this Article, other financial organisations shall operate in compliance with the Law on Banks and Other Financial Organisations.

## **Affiliates and representative offices of foreign banks**

### Article 143

Affiliates and representative offices of foreign banks, established in accordance with the Law on Banks and Other Financial Organisations, shall harmonise their operations, organisation and acts with the provisions of this Law within one year from its effective date.

The National Bank of Serbia shall revoke the operating license, and/or delete from the registry the affiliate, and/or the representative office of a foreign bank if it fails to act in the manner specified in paragraph 1 of this Article.

## **Association of banks**

### Article 144

Associations of banks established by the application date of this Law shall continue to operate in accordance with the provisions of the Law on Banks and Other Financial Organisations until the application date of this Law and are required to submit to the National Bank of Serbia the acts specified in Article 64, paragraph 5 of this Law within 30 days from its application date.

## **Regulations of the National Bank of Serbia**

### Article 145

The National Bank of Serbia shall adopt regulations for the implementation of this Law by 30 June 2006 at the latest.

## **Procedures in progress**

### Article 146

Procedures regarding the issuance of operating licenses to banks instituted prior to 30 June 2006 shall be completed in compliance with the provisions of the Law on Banks and Other Financial Organisations.

The procedures for granting consent of the National Bank of Serbia instituted prior to the application date of the provisions of this Law shall be completed in accordance with those provisions.

## **Application of provisions on supervision and financial reporting on consolidated basis**

### Article 147

Provisions of this Law regulating the supervision of a banking group on a consolidated basis and consolidated financial statements shall be applied as of 31 December 2006.

## **Entry into force**

### Article 148

This Law shall supersede the Law on Banks and Other Financial Organisations (FRY Official Gazette, Nos 32/93, 61/95, 44/99 and 36/2002 and RS Official Gazette, Nos 72/2003 and 61/2005).

### Article 149

This Law shall enter into force on the eighth day following its publication in the RS Official Gazette and shall apply as of 1 October 2006, apart from the provisions of Articles 10–20 and Articles 94–101 which shall apply as of 1 July 2006.

## ***Separate articles of the Law on Amendments and Supplements to the Law on Banks***

*(RS Official Gazette, No 91/2010)*

### Article 50

Banks shall harmonise their organisation and acts with the provisions of Articles 9–12, 17, 19, 21 and 22 of this Law by 1 July 2011.

The National Bank of Serbia shall take measures within its scope of competence against a bank failing to do as set out in paragraph 1 of this Article.

### Article 51

The National Bank of Serbia shall harmonise the regulations issued based on the Law on Banks (RS Official Gazette, No 107/05) with the provisions of this Law by no later than six months following its entry into force.

### Article 52

The National Bank of Serbia and the Ministry of Finance shall enter into special agreement referred to in Article 32 of this Law to stipulate the criteria for determining a systemically important bank by no later than three months following the entry into force of this Law.

### Article 53

This Law shall enter into force on the eighth day following its publication in the RS Official Gazette.