

LAW ON BANKS (consolidated)¹

Chapter I

BASIC PROVISIONS

Subject matter

Article 1

This Law regulates the establishment, operation and organisation of banks, the manner of bank management, bank supervision, bank resolution 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 accordance with law.

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 accordance with regulations of the home country, which has the operating licence 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.

Regulatory authority means a national authority empowered by the regulations of the respective country to issue and revoke operating licences to/from financial sector persons and to supervise or regulate their operation, as well as the relevant authority of the European Union (hereinafter: EU) exercising these powers in accordance with EU legislation.

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

Deposit has the meaning determined in the law on deposit insurance.

¹ This consolidated version has been prepared based on the Law on Banks (RS Official Gazette, No 107/2005) and its amendments and supplements published in the RS Official Gazette, Nos 91/2010 and 14/2015.

Loan has the meaning determined 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.

Qualifying 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 significant 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.

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 significant or controlling participation in another legal person or other legal persons;
- 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 of the financial position of one person may cause deterioration of the ability of another person or persons to settle their obligations;
- 3) 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;
- 4) two or more legal and natural persons are related in such a way that family members of the natural person hold significant or controlling participation in another legal person or other legal persons or they are members of the managing or executive board or other management body in those legal persons;
- 5) 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 of a natural person are:

- 1) a blood relative in a straight line, a blood relative in a lateral line up to the third degree of

- kinship, as well as a spouse or a de facto partner of such person;
- 2) the spouse or de facto partner and their blood relatives up to the first degree of kinship;
 - 3) adoptive parents or children, as well as descendants of adoptive children;
 - 4) other persons who share a household with the person concerned.

Undercapitalised bank means a bank whose capital adequacy ratio and/or capital is lower than prescribed, as well as a bank whose capital adequacy ratio is lower than the ratio determined by the National Bank of Serbia pursuant to Article 23 of this Law.

Systemically important bank means a bank whose deterioration of financial condition or failure would have serious negative effects on financial system stability. Systemically important banks are identified by the National Bank of Serbia based on its criteria and methodology, with particular regard to the bank's size, its interconnectedness with other participants in the financial system and its substitutability in that system, as well as the complexity of its operations.

Resolution authority means a national authority empowered by the regulations of the respective country to exercise measures against financial sector persons which correspond to resolution measures under this Law, as well as the relevant authority of the EU exercising these powers in accordance with EU legislation.

Critical functions means activities, services or operations the discontinuance of which is likely to threaten financial system stability or lead to the disruption of provision of services that are essential to the real economy due to the size, market share and interconnectedness of the entity which performs such functions with other participants in the financial system, particularly taking into consideration the possibility of smooth taking over the performance of those activities, services or operations by another entity.

Core business lines means business lines and associated services which represent substantial sources of revenue for a bank or banking group to which the bank belongs.

Credit rating agency means an entity that assigns credit rating to legal entities and/or financial instruments.

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 contravention of this Law.

(Title deleted)

Article 3a

(deleted)

Activities that may be performed by a bank

Article 4

A 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 operations, foreign currency operations and exchange transactions;
- 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 accordance with the founding act and articles of association of the bank.

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

Detailed requirements and the manner of issuing and revoking 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 so 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 thereof.

Distortion of competition

Article 7

The law on the protection of competition shall apply to the competition of banks in the financial market.

Cooperation in connection with the supervisory function and bank resolution

Article 8

The National Bank of Serbia shall cooperate with foreign and domestic regulatory authorities, and/or resolution authorities, with a view to exercising and promoting its supervisory function and carrying out resolution-related activities and other operations laid down in this Law.

The National Bank of Serbia may enter into agreements with the authorities referred to in paragraph 1 hereof for the purposes of cooperation and exchange of data (information) in connection with the performance of the activities referred to in that paragraph.

The National Bank of Serbia may exchange with the authorities referred to in paragraph 1 hereof the data (information) obtained while exercising its supervisory function, carrying out resolution-related activities and other operations laid down in this Law, if these authorities are subject to confidentiality requirements equivalent to or stricter than the requirement laid down in Article 9b of this Law.

The National Bank of Serbia may provide data (information) obtained from the authorities referred to in paragraph 1 hereof to other domestic and foreign regulatory and/or resolution authorities and to other competent authorities, at their request and subject to prior consent of the originating authority, while the data (information) concerned may be exchanged solely for the purposes designated in the consent, unless regulated otherwise by law.

The National Bank of Serbia may implement the resolution measures laid down in this Law through a foreign resolution authority, and may also take measures in order to implement the resolution procedure initiated by the foreign resolution authority – in accordance with the international agreement concluded between the Republic of Serbia and the home country of that resolution authority.

Administrative procedure

Article 9

Following the procedure specified by this Law, the National Bank of Serbia shall perform prudential supervision of bank operations, carry out bank resolution 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 decision.

The decision specified in paragraph 3 hereof shall be final.

Administrative dispute may be initiated against the decision specified in paragraph 3 hereof, but action against such decision can neither prevent nor postpone its implementation.

In an administrative dispute against the decision referred to in paragraph 3 hereof the court may not resolve an administrative matter for which this Law stipulates the competence of the National Bank of Serbia.

Action against the decision on the revocation of a bank's operating licence, decision on the write-down and conversion of capital and the decision adopted by the National Bank of Serbia in the bank resolution procedure may challenge only the legality of the decision concerned and request its annulment, and demand, if not through a separate procedure, the compensation of losses.

If the court annuls the decision referred to in paragraph 7 hereof, the annulment shall not affect the rights and obligations of third parties based on the annulled decision, while the rights of the applicant shall be limited to the compensation of losses caused by the enforcement of the decision.

Once the decisions, reports and other acts, as well as notices, requests and other communications of the National Bank of Serbia in connection with the exercise of bank supervision and resolution are submitted to the bank, they shall be considered to have been submitted to the members of the bank's management bodies and no proof to the contrary shall be admissible.

The National Bank of Serbia may prescribe an obligation for banks to ensure conditions for the receipt of decisions, reports and other acts, as well as notices, requests and other communications of the National Bank of Serbia in the form of electronic documents.

Liability for loss arising from the discharge of duties laid down in this Law

Article 9a

The National Bank of Serbia, the National Bank of Serbia's employees, persons appointed by the National Bank of Serbia to be temporary administrators or special managers, as well as other persons who in the bank supervision or bank resolution procedure discharge duties laid down in this Law based on the decision of the National Bank of Serbia or based on this Law, shall not be liable for the damage caused in the discharge of such duties, unless proven that they did not act in good faith.

The persons specified in paragraph 1 hereof shall not be liable for the damage referred to therein even after termination of their employment and/or discharge of office in the National Bank of Serbia.

The National Bank of Serbia shall bear the costs of legal representation of its employees in court and administrative procedure initiated in connection with the duties discharged by those employees pursuant to this Law.

The National Bank of Serbia shall also bear the costs from paragraph 3 hereof in case of persons whose employment with the National Bank of Serbia terminated.

The costs of legal representation of a temporary administrator shall be borne by the bank, the costs of legal representation of a special manager shall be borne by the bank under resolution, while the costs of legal representation of the members of the management bodies or managers of the legal person referred to in 128p, paragraph 1 hereof shall be borne by that legal person.

If established in appropriate procedure by a final decision that the persons from paragraph 1 hereof have caused the damage referred to therein deliberately or by gross negligence, these persons shall reimburse the National Bank of Serbia and/or bank or legal person from paragraph 5 for the costs of legal representation from paragraphs 3–5 hereof, as well as for the sum paid out in compensation for the damage in accordance with law.

Data secrecy

Article 9b

Data relating to prudential supervision and bank resolution, as well as the documents containing such data, learnt by the employees of the National Bank of Serbia, the agency in charge of deposit insurance (hereinafter: Agency), the ministry in charge of finance or a bank, or other persons in whatever way while carrying out the activities related to bank supervision and/or bank resolution – shall be designated and protected as classified data with the following degrees of secrecy “SECRET”, “CONFIDENTIAL” or “RESTRICTED” in accordance with the law governing data secrecy.

The persons from paragraph 1 hereof are required to treat the data and documents referred to therein as classified data, i.e. they may not make them available to third parties, except in cases stipulated by law.

The confidentiality requirement for persons from paragraph 1 hereof shall not cease after termination of their employment and/or engagement, or termination of any status on the basis of which those persons accessed the data from that paragraph.

Notwithstanding paragraph 2 hereof, the National Bank of Serbia may make data and documents referred to therein available to domestic and foreign regulatory and/or resolution authorities and other competent authorities, on condition that these authorities use them solely for the purposes for which they were obtained.

The National Bank of Serbia shall designate as classified data that are of interest for the Republic of Serbia, where their disclosure to unauthorised persons would cause damage and where, in the process of designating data as classified, it has established that the need to protect the interests of

the Republic of Serbia prevails over the interest in free access to information of public importance. The National Bank of Serbia shall allow an applicant to exercise the right to access information of public importance in respect of data and documents from paragraph 1 hereof if the applicant proves that their disclosure could not seriously legally or otherwise prejudice the interests of the Republic of Serbia that are protected by law, as well as that the interest in free access to information of public importance prevails over the need to protect the interests of the Republic of Serbia.

Disclosure of data from paragraph 1 hereof in the aggregate form which prevents the identification of individual banks and/or natural and legal persons shall not be considered a breach of the confidentiality requirement.

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 (bank founders).

Initial capital

Article 12

The funds for the initial capital shall be provided by bank founders.

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.

Bank founders may not withdraw the 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 the provisions of the law on companies which relate to joint-stock companies.

Detailed requirements and the 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 shall include the following:

- 1) organisation and manner of the bank's operation;
- 2) matters decided by the bank's assembly;
- 3) matters decided by other bodies of the bank, their composition and decision-making procedures, 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 licence

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 the shares they are acquiring;
- 2) the bank's founding act and the proposed articles of association;
- 3) statement that the pecuniary portion of initial capital will be paid to the temporary account with the National Bank of Serbia;
- 4) statement that non-pecuniary assets will be transferred to the initial capital of the bank;
- 5) data on all the persons holding participation in the bank and the grounds of such participation;
- 6) list of the nominated members of the bank's managing and executive board and data on their qualifications, experience and business reputation;
- 7) the bank's proposed business policy and strategy for the period of three years and programme of activities for the first business year;
- 8) the bank's proposed risk management strategy and policy and proposed capital management strategy;
- 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 the supervision of a foreign regulatory authority, evidence that the competent regulatory authority 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 authority, 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 the 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 licence.

If bank founders fail to submit the application specified in paragraph 4 hereof within the timeframe 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 reject the application specified in Article 15, paragraph 1 of this Law in the following cases:

- 1) if the founding act and the proposed articles of association of the bank are not in compliance with law and other regulations;
- 2) *deleted*;
- 3) if any person that would acquire participation in the bank fails to meet the requirements for acquiring such participation;
- 4) if the proposed business policy and strategy, programme of bank's activities, risk management strategy and policy or capital management strategy are not appropriate;
- 5) if the ownership and management structures of the bank prevent effective prudential supervision 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.

Should the National Bank of Serbia, in deciding on the application from Article 15, paragraph 1 of this Law, establish that the nominated member of the managing or executive board of the bank does not possess appropriate qualifications or experience, and/or good business reputation, it shall notify the bank founders thereof and request from them to nominate, within the timeframe it establishes as of the date of submitting the notification, other member of the bank's managing or executive board and to submit data from Article 15, paragraph 1, item 6) of this Law for that member. If bank founders bank fail to act pursuant to the request of the National Bank of Serbia or if the National Bank of Serbia establishes that the nominated members do not possess appropriate qualifications or experience, and/or good business reputation, the National Bank of Serbia shall reject the application specified in Article 15, paragraph 1 of this Law.

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.

After receiving the information referred to in paragraph 1 hereof, the National Bank of Serbia shall set aside the decision on issuance of the preliminary permit if the conditions for issuing such permit are no longer met. In the event that data and documents referred to in Article 15, paragraph 1, item 6) of this Law have changed, Article 16, paragraph 2 of this Law shall apply accordingly.

Bank founders whose application for preliminary permit has been dismissed or denied, or whose preliminary permit ceased to be valid, shall not be allowed to resubmit such application in the course of one year following the dismissal or rejection, and/or termination 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 licence and entry in the register.

Operating licence

Article 18

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

Along with the application referred to 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 a statement regarding the origin of such assets;
- 2) evidence that the founders have provided appropriate business premises and acquired and prepared equipment for smooth 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 exercise 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 referred to 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 referred to in paragraph 1 hereof within 30 days from the day of receipt of the duly completed application.

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

Should the National Bank of Serbia dismiss or reject the application referred to in paragraph 1 hereof, the applicant may not resubmit an application for the preliminary permit within one year following the day the application from paragraph 1 hereof was dismissed or rejected.

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

(Title deleted)

Article 18a

(deleted)

Section 3

Founding assembly and registration

Founding assembly

Article 19

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

The founding assembly shall consist of bank founders.

Bank 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 referred to in paragraph 5 hereof within 60 days following the day of receipt of the acts specified in that paragraph.

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 decision of the National Bank of Serbia on issuing the operating licence as well as the consent referred to in paragraph 1 shall be submitted together with the application from that paragraph.

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

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

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 the legal transactions of such bank with third parties acting in good faith.

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 the 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 purposes of safe and sound 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 granting 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.

Capital adequacy ratio

Article 23

With a view to ensuring safe and sound 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 a bank's capital to its risk-weighted assets.

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

If a bank needs to harmonise its capital adequacy ratio with the ratio determined by the National Bank of Serbia, the decision referred to in paragraph 3 of this Article shall also specify the deadline by which the bank is obliged to comply with the relevant ratio and notify the National Bank of Serbia thereof.

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

Risk-weighted assets

Article 24

Risk-weighted assets of a bank represent the sum of:

- 1) total credit-risk weighted assets and
- 2) capital requirements for market risks and capital requirement for operational risk, multiplied by the reciprocal value of the capital adequacy ratio.

The National Bank of Serbia shall prescribe detailed conditions and manner of calculating risk-weighted assets from paragraph 1 of this Article, the approaches a bank may use in calculating such assets, including the approaches a bank may use only with prior consent of the National Bank of Serbia and detailed conditions for obtaining such consent.

If prior consent of the National Bank of Serbia is required for the use of an approach referred to in paragraph 2 of this Article, the National Bank of Serbia shall decide on the application for such consent within six months from the submission of the duly completed application.

The National Bank of Serbia shall issue consent regarding the eligibility of credit ratings assigned by a credit rating agency for the purposes of calculation of credit-risk weighted assets and prescribe detailed conditions and manner of granting such consent.

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 disclosure 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 the 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 payments 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 the bank's 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 the bank's shareholders in secondary sale and their sale to other persons would cause significant losses to the bank's shareholders.

The acquisition of shares referred to in paragraph 1 hereof shall be funded from the bank's distributable profit.

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

Along with the elaborated application for consent referred to in paragraph 3 hereof, the bank shall submit to the National Bank of Serbia data on the terms of acquisition of own shares.

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

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 dispose of 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 referred to 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 set up a special organisational unit to be in charge of 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 referred to in paragraph 5 hereof shall include:

- 1) procedures for the 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 authority.

The National Bank of Serbia may prescribe detailed requirements and the manner of identification, measurement, assessment and management of the risks referred to in paragraph 1 hereof.

Types of risks

Article 29

The acts from 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 to a single person or a group of related persons;
- 5) risks of investments in other legal persons and in fixed assets and investment property;
- 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 relevant for the bank's operations.

Liquidity risk

Article 30

Liquidity risk means potential negative impact on the financial result and capital of the bank caused by 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 all times (liquidity) and service its debt on an on-going 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 inflows and outflows of pecuniary assets, the monitoring of liquidity and rendering of appropriate measures to prevent or eliminate the causes of illiquidity.

The National Bank of Serbia shall prescribe the manner of determining 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 the creditworthiness of its debtors and their timeliness in meeting obligations to the bank, as well as according to the quality of security instruments for the 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.

In its internal acts, a bank shall prescribe the 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.

The National Bank of Serbia may prescribe detailed requirements and manner of the bank's monitoring of the quality of security instruments from paragraph 2 hereof and monitoring of the quality of performance of the persons authorized for the appraisal of those instruments, as well specify the cases in which the bank is obliged to write off balance sheet assets and off-balance sheet items of a certain level of collectability. The National Bank of Serbia may also regulate in more detail the content of policies referred to in paragraph 4 of this Article.

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 the 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 the identification and management of market risks, as well as for regular reporting to the bank's bodies on the type and level of those risks.

Bank's exposure risks

Article 33

A bank's exposure to a single 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.

The National Bank of Serbia shall prescribe detailed conditions and the manner of calculating large exposures, and may prescribe the maximum sum total of all large exposures of a bank.

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 sector persons, as well as in fixed assets and investment property 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 calculating specific business indicators relating to risk management and setting limits pertaining to such risks;
- 2) manner, form and timeframe for bank's reporting on the indicators referred to in item 1) of this paragraph.

Mandatory recovery planning

Article 36a

A bank shall draw up and submit to the National Bank of Serbia a recovery plan providing for measures to be taken by the bank in order to restore its viable operation and adequate financial position following a significant deterioration of its financial condition, particularly in case of undercapitalisation.

A bank shall update its recovery plan at least annually or more frequently if so requested by the National Bank of Serbia.

A bank shall also update its recovery plan after a change of its legal or organisational structure, its business or its financial position, which could have a material effect, or after other changes which affect the contents of the plan and its applicability.

The manner and timeframe for the submission of recovery plans and their updates, shall be prescribed in more detail by the National Bank of Serbia.

Contents of the recovery plan

Article 36b

A bank shall establish in its recovery plan a range of recovery options and recovery measures to be implemented in each recovery option, as well as ensure appropriate conditions and procedures for timely implementation of recovery actions.

When determining its recovery measures and actions, a bank shall contemplate a range of scenarios of severe macroeconomic and financial stress relevant to its operations including system-wide events and stress specific to individual legal persons and groups.

A recovery plan shall include a description of a range of different measures and recovery actions to be undertaken by the bank in connection with its capital and liquidity, the timeframe for the implementation of individual elements of this plan and identification of critical functions, as well as other elements and data prescribed by the National Bank of Serbia.

Measures referred to in paragraph 1 hereof which may be established by a recovery plan include in particular: change of members of managing bodies and other persons holding managing positions in the bank; change in assignment of duties and responsibilities to employees; closing of one or more organisational units; change in bank's business activities and services; raising of additional capital; conversion of specific elements of capital into shares or other equity instruments, etc.

If a bank plans to use for recovery purposes liquidity loans or other facilities granted to banks by the National Bank of Serbia in accordance with regulations, its recovery plan shall include an analysis of when, how and under what conditions it will apply for the use of such loan or facility and shall identify the assets to be provided to the National Bank of Serbia as eligible collateral.

A recovery plan shall also include possible measures which could be taken by the bank where the conditions for early intervention under Article 113 hereof are met.

The use of extraordinary financial support from the budget and other public sources (hereinafter: extraordinary financial support) may not be established as a recovery action nor may the recovery plan be based on the assumption of such support.

The contents of recovery plans shall be prescribed in detail by the National Bank of Serbia.

Assessment of recovery plans

Article 36c

The National Bank of Serbia shall, within six months of the submission of the recovery plan, assess whether the recovery plan meets the requirements laid down in Article 36b hereof, and in particular whether:

1) the implementation of the plan is likely to maintain the viability and adequate financial position of the bank, taking into account the preparatory measures that the bank has taken or has planned to take;

2) the plan and specific options and measures under Article 36b, paragraph 1 hereof are likely to be implemented quickly and effectively in situations of financial stress (system-wide as well as those specific to the bank) in order to avoid any significant adverse effect on the financial system stability, including in scenarios which would lead other banks to implement recovery plans within the same period;

3) the actions and measures proposed in the plan may have an adverse impact on the resolvability of the bank.

When assessing the appropriateness of the recovery plan, the National Bank of Serbia shall take into consideration the appropriateness of the bank's capital and funding structure to the bank's size, organisational structure and risk profile.

Where the National Bank of Serbia assesses that the recovery plan does not meet the requirements under paragraphs 1 and 2 hereof and that the recovery plan and measures envisaged by the plan cannot be implemented timely and effectively or that there are other significant deficiencies in the plan, it shall notify the bank in writing of its assessment and order the bank to submit its opinion within 15 days of receiving the notification.

If the bank fails to submit the opinion from paragraph 3 hereof within the timeframe stipulated in that paragraph or if the National Bank of Serbia assesses the objections in the opinion to be unfounded, it shall order the bank to address, within two months of receiving the notification, the deficiencies identified and to submit the revised recovery plan. The National Bank of Serbia may extend the timeframe by one month, at the bank's request, if the reasons for the extension are justified.

If it determines that the revised recovery plan does not remedy the identified deficiencies, the National Bank of Serbia may order the bank to make specific changes to the plan within a period not longer than a month and to submit to the National Bank of Serbia the revised recovery plan.

If in accordance with the order from paragraph 4 hereof the bank fails to submit the revised recovery plan or if the revised recovery plan fails to remedy the identified deficiencies and paragraph 5 hereof is not applicable – the National Bank of Serbia shall order the bank to identify within a specific timeframe the changes that need to be made to its business in order to address the deficiencies and to notify the National Bank of Serbia thereof.

If the bank fails to act upon the order from paragraph 5 or 6 of this Article or if the changes to business proposed by the bank would not address the identified deficiencies, the National Bank of Serbia may order the bank to take appropriate measures, and in particular to:

- 1) reduce the risk profile of the bank, including liquidity risk;
- 2) enable timely recapitalisation;
- 3) review the bank's business policy and strategy;
- 4) make changes to the part of the business policy and strategy relating to funding so as to additionally protect the core business lines and critical functions;
- 5) make changes to the governance structure;
- 6) review the organisational structure.

When determining the measures listed in paragraph 7 hereof, the National Bank of Serbia shall assess the significance of the deficiencies to the recovery plan, as well as the limitations to and the effect of implementation of the measures and the recovery plan on the bank's business.

Implementation of recovery plans

Article 36d

A recovery plan shall include indicators identifying the points at which an appropriate measure envisaged by the plan may be taken, though the bank may take a measure under its recovery plan where the relevant indicators have not been met or refrain from taking the measure even if the relevant indicators have been met, if the bank's managing board has taken the decision that it is justifiable under the circumstances.

The bank shall ensure in an appropriate manner the regular monitoring of the indicators referred to in paragraph 1 hereof.

The bank shall without delay notify the National Bank of Serbia in writing if it has taken measures under its recovery plan, and/or refrained from taking measures even though the conditions for the action have been met, and shall send a reasoned explanation along with the notification.

The National Bank of Serbia may prescribe in detail the minimum quantitative and qualitative indicators referred to in paragraph 1 hereof.

Operations with related persons

Article 37

In the course of its operations, a bank may not grant to a person related to the bank or the bank employee more favourable conditions 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 credit 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 and the bank, between the bank and any member of his family,

and between the bank and a legal person in which he or any member of his family participates in management, or in which he 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 the 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 the provisions of this Law, must be available to him, 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 implementation 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 the manner of disclosure and implementation of the bank's general terms of business.

*Uniform method of calculating and disclosing expenses,
interest rates and charges*

Article 43

The National Bank of Serbia may prescribe the uniform method of calculating and disclosing expenses, interest rates and charges, and in particular those pertaining to bank lending and deposit activities.

Providing information to clients

Article 44

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

A bank shall publish on its website the 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 conditions and the manner of providing information to 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 may file a complaint regarding the bank's conduct to the manager of the bank's organisational unit responsible for internal audit, with the competent organisational unit or with a 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 the provisions of contracts concluded with its clients.

The National Bank of Serbia may prescribe detailed requirements and the 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 condition and transactions, as well as to ownership or business relations of the 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 to be 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 in the fulfilment of the 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 parties, use such data against the interest of the bank and its clients, nor may they enable third parties 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 that paragraph.

Unless otherwise prescribed by this or other law, client data considered a bank secret may be disclosed to third parties only based on the client's approval in writing.

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 accordance with regulations;
- 3) in connection with the property procedure, 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 authorities 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 the fulfilment of obligations by 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 exchange operations;
- 10) upon the request of the organisation for deposit insurance, in accordance with the law on deposit insurance;
- 11) to a foreign regulatory authority 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 accordance with law.

Handling data constituting a bank secret

Article 49

The National Bank of Serbia, courts and other bodies vested with public authorities may use the data obtained in accordance with Article 47 of this Law exclusively for the purpose for which such data were obtained, and may not disclose such data to third parties or enable third parties to learn and use such data, except in cases envisaged by law.

The provisions of paragraph 1 hereof shall accordingly apply to persons who are employed, and/or were employed in the authorities referred to in that paragraph.

Section 5

Financial records, reporting and disclosure of data and information

Financial records

Article 50

A bank shall maintain business books and accounting records, and compile annual financial statements, which truthfully and objectively present its operations and financial condition, with contents and in the form laid down in the law governing accounting, this Law and regulations of the National Bank of Serbia.

When compiling annual financial statements, a bank shall apply the international financial reporting standards as of the date which the competent authority has designated as the date of the application of these standards.

Reporting to the National Bank of Serbia

Article 51

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

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 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.

Based on the criteria it prescribes, the National Bank of Serbia shall determine and publish a list of external auditors eligible to perform audit specified in paragraph 1 hereof.

Article 53

A bank may not appoint an external auditor which generated more than 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 consultancy services to such bank during the same year, nor may it conduct audit for the business year in which it provided consulting services to the bank.

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 auditing, and three years of experience in conducting the audit of bank accounts, and must be independent of the bank.

The person from paragraph 1 hereof shall not be considered independent of the bank if he 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 which might have a negative impact on his 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, a non-bank subordinated company need not be included in the audit under 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, a non-bank 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 governing accounting and regulations of the National Bank of Serbia, and whether they truthfully and objectively present, in all materially significant respects, the bank's financial position, business results and cash flows for the business year.

The external auditor shall provide its assessment of the effectiveness of the internal audit, risk management system and internal controls 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 referred to in paragraph 1 hereof, and/or of the assessment referred to in paragraph 2 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 on the audit from 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 significant 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 the notification from paragraph 1 hereof.

Measures based on external auditor's report

Article 59

When 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 the external auditor 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 an 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 previous 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 statements, 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 with 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 establishes that the audit of the bank, bank holding company or banking group specified in Article 52 of this Law was not performed in compliance with the provisions of this Law and regulations issued based on this Law, and in particular if it establishes while exercising supervision or in other way that the audit report is not based on truthful and objective facts, 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

If it assesses that specific data regarding a bank's business must be gathered, analysed and processed for the purposes of exercising supervision under this Law and these data are not covered by the report on the audit of the bank's annual financial statements, the National Bank of Serbia may order the bank to engage an external auditor to conduct a special audit of the financial statements of the bank and member of the banking group or specific parts thereof, as well as to conduct other types of audit, and/or examination of particular business processes and data on the operations of these persons (hereinafter: special audit).

The National Bank of Serbia may require the bank or member of the banking group to appoint, for the purposes of special audit, an auditor included in the list referred to in Article 52, paragraph 3 of this Law. The bank or member of the banking group shall submit to that auditor, without delay and without any restrictions, all the data and documents needed to conduct special audit, and shall provide all necessary assistance, in accordance with 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 laid down 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 the agreements concluded by the association with banks.

Chapter IV

ORGANISATION OF BANKS AND BANK MANAGEMENT

Section 1

BANK'S BODIES

Bank's assembly

Composition

Article 65

A bank's assembly shall consist of the 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 exercising their voting rights directly.

Competences

Article 66

The bank's assembly shall:

- 1) adopt business policy and strategy of the bank, which define the bank's business objectives for the period of minimum three years;
- 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 financial report 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) *deleted*;
- 9) appoint and remove external auditor;
- 10) adopt the rulebook on 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) *deleted.*

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 the 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.

Members of a bank's managing and executive board are responsible for ensuring the compliance of bank's operations with law, regulations and acts of the National Bank of Serbia, as well as with acts and procedures of the bank, in line with the duties and responsibilities of the managing and/or executive board stipulated in this Law, regulations adopted based on this Law, articles of association and internal acts of the bank.

A representative of the National Bank of Serbia may attend the meetings of the bank's managing and executive board, as well as of the committees from Article 79, paragraph 1 of this Law, and may address their members.

Managing board

Composition

Article 71

The managing board of a bank 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 shall be 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 and removal of the members of the managing board

Article 72

A bank shall submit to the National Bank of Serbia an application 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 nominated 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 reject the application 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 licence or six months before that, and/or on the day of introduction of temporary administration or special management in the bank, was authorised to represent the bank and to act on behalf of the bank, and/or was a member of the bank's management body, except in the case that such person's acts and/or omissions did not or could not lead to the meeting of requirements for the revocation of the bank's operating licence, and/or to the introduction of temporary administration or special management in the bank;
- 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.

For members of the bank's managing board specified in Article 71, paragraph 6 of this Law, the bank shall, along with the application from 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 scholars in those 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 application from paragraph 1 hereof.

Within ten 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, by virtue of a decision, order the removal of a member of the bank's managing board if it establishes that the person concerned no longer meets the requirements laid down in this Law or that the person has acted contrary to the provisions of this Law, and/or that the person bears responsibility for irregularities in the bank's operations, as well as if the bank fails to enable the National Bank of Serbia to exercise prudential supervision.

If a member of the bank's managing board has been charged with a criminal offence which makes him unsuitable for exercising this function, the National Bank of Serbia may, by virtue of a decision, temporarily prohibit such person from exercising that function in the bank until the criminal proceedings are concluded, whereas if the member is convicted of such criminal offence by a final judgment, his function shall terminate as of the effective date of the final judgment.

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

Competences

Article 73

The bank's managing board shall:

- 1) convene meetings of the bank's assembly;
- 2) prepare decision proposals for the bank's assembly and bear responsibility for their implementation;
- 3) adopt the bank's proposed business policy and strategy and submit them to the bank's assembly for adoption;
- 4) adopt the risk management strategy and policy and the capital management strategy;
- 5) determine general terms of business of the bank, as well as amendments and supplements thereto;

- 6) appoint and remove the president and members of the bank's executive board;
- 7) appoint and remove members of the committees specified in Article 79, paragraph 1 of this Law;
- 8) establish upper limits for decisions of the bank's executive board on placements and borrowing and decide on bank's placements and borrowing in excess of those limits;
- 9) give prior consent for the bank's exposure to each single person or a group of related persons which exceeds 10% of the bank's capital, and/or for the increase of this exposure in excess of 20% of bank's capital;
- 10) supervise activities of the bank's executive board;
- 11) establish the internal controls system and monitor its efficiency;
- 12) adopt the programme and plan of internal audit of the bank and the internal audit methodology;
- 13) review external and internal audit reports, as well as reports on the activities and work of internal audit, and approve the annual report on the adequacy of risk management and internal controls of the bank;
- 14) adopt quarterly and annual reports of the bank's executive board on bank's operations, including quarterly reports on risk management, and submit the adopted financial report to the bank's assembly for final adoption;
- 15) adopt rulebooks on its operation and operation of the committees referred to in Article 79, paragraph 1 of this Law;
- 16) adopt the bank's recovery plan;
- 17) inform the National Bank of Serbia and other competent bodies of the established irregularities;
- 18) establish the bank's internal organisation, namely the organisational structure providing for the division of powers, duties and responsibilities of employees, members of management bodies and other persons holding managing positions in the bank, in the manner which prevents the conflict of interest and ensures a transparent and documented process of decision making and implementation;
- 19) adopt the policy on salaries and other remunerations to the bank's staff;
- 20) perform other activities in compliance with the bank's articles of association.

The bank's managing board is responsible for the accuracy of all reports 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 on a minimum quarterly basis.

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, on a minimum quarterly basis.

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

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

Bank's executive board

Composition

Article 75

The executive board of a bank 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 shall be 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.

The provisions of this Law relating to the appointment and removal of members of the bank's managing board shall apply accordingly to the appointment and removal of members of the bank's executive board.

Competences

Article 76

The executive board of a bank shall organise and supervise the bank's day-to-day operations.

The executive board of the bank is responsible for implementing the internal controls system and for the efficient functioning of that system.

The executive board of the bank shall:

1) implement decisions of the bank's assembly and managing board;

- 2) propose to the managing board the bank's business policy and strategy, as well as the risk management strategy and policy and the capital management strategy;
- 3) implement the bank's business policy and strategy by making appropriate business decisions;
- 4) implement the risk management strategy and policies and the capital management strategy of the bank by adopting procedures for risk management, and/or risk identification, measurement and assessment, and by ensuring their application, and shall report to the managing board on these activities;
- 5) analyse the risk management system and report to the bank's managing board on risk exposure levels and risk management on a minimum quarterly basis;
- 6) take decisions on the bank's placements and borrowing up to the amount determined by the bank's managing board;
- 7) take decisions, subject to prior consent of the managing board, on any increase in the bank's exposure to a person related to the bank and inform the bank's managing board thereof;
- 8) ensure security and regular monitoring of the bank's information technology and treasury operation systems;
- 9) inform the managing board of any actions that are not in compliance with regulations and other acts of the bank;
- 10) 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;
- 11) 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;
- 12) ensure that all employees are familiar with regulations and other acts of the bank regulating their business duties;
- 13) adopt a rulebook on its operation;
- 14) decide on all matters that are not 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 members of the bank's managing and executive board, 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 paragraph 1, item 2 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 management 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 person within 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 the bank's proposed risk management and internal controls 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 controls 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 controls 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) *deleted.*

If the committee for monitoring bank's operations assesses that bank's operations are in breach of 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 management committee

Article 81

The credit committee shall take 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 management 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 other activities that the committees specified in this Article are required to perform.

Section 2

Internal controls system, compliance function and internal audit function

Internal controls system

Article 82

A bank shall set up and implement an efficient internal controls system so as to enable on-going monitoring of risks to which the bank is or may be exposed in its operation. The system shall in particular consist of:

- 1) risk management function;
- 2) compliance function;
- 3) internal audit function.

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

Compliance function

Article 83

A bank shall have an organisational unit in charge of 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 authority and the risk of financial losses, and reputational risk. The compliance risk arises as a consequence of the failure to harmonise operations with 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 employees of the organisational unit specified in paragraph 1 hereof to inspect their documentation and shall provide necessary information.

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

Article 84

The organisational unit in charge of 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 compliance and the staff training plan.

Internal audit function

Article 85

A bank shall have an organisational unit in charge of internal audit.

The main tasks of the organisational unit specified in paragraph 1 hereof are to give an 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 internal controls system 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 accordance 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 title specified by the law on auditing 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 the 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 shall inform the bank's assembly thereof at the first following meeting.

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, on-going, 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 controls 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 of acting in 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 in charge of internal audit shall have the right to inspect 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 controls

Article 87

A bank shall submit an annual report to the National Bank of Serbia on the adequacy of risk management and internal controls 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 boards have identified any material risks;
- 2) statement as to whether the bank's internal controls and risk management policies are adequate and effectively implemented;
- 3) statement as to whether accurate overviews of risk management policies and internal controls systems have been submitted to the National Bank of Serbia;
- 4) statement that an action plan to eliminate deficiencies has been drawn up and is being implemented, or that such plan will be drawn up 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 following such establishment.

Establishment of bank branch abroad

Article 89

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

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

The manager of the bank's branch abroad must meet the eligibility criteria prescribed by this Law for the appointment of members of the bank's executive board.

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 an application 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 accordance with the law on registration of business entities.

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

The following shall be submitted along with the application for consent from paragraph 2 hereof:

- 1) confirmation letter issued by the regulatory authority of the home country that the foreign bank holds an operating licence 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) data on the name, legal status and head office of the foreign bank;
- 3) copy of the founding act of the foreign bank;
- 4) data on the financial condition of the foreign bank;
- 5) decision of the competent body of the foreign bank to open a representative office;
- 6) decision on the appointment of a person responsible for operations of the representative office of a foreign bank 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 a foreign bank that it is willing to assume obligations arising from the business activities of its 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 licence 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 application for consent specified in paragraph 1 hereof within 60 days from the day of receipt of the duly completed application.

The National Bank of Serbia shall prescribe detailed terms and conditions of granting the consent referred to 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 the consent provided that:

- 1) the regulatory authority 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 authority 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 decision by which it 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 decision, 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 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 the 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 the 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 the 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 the transfer of losses, profit or creditworthiness.

For the purpose of acquiring ownership 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 the 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.

Rejection of application

Article 96

The National Bank of Serbia shall reject the application for 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) the acquiring of ownership has a negative impact on the bank's ability to ensure that its operation is in compliance with law, regulations and acts of the National Bank of Serbia;
- 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 provided by a person that does not have good business reputation;
- 12) there are indications that activities related to the acquisition of ownership are performed for the purpose of money laundering and financing of terrorism, as determined in the law governing the prevention of money laundering and terrorism financing.

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 decision

Article 98

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

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

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 dispose of such ownership and prohibit such person from direct or indirect exercising of the 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 the consent of the National Bank of Serbia fails to dispose of 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 decision under Article 94, paragraph 1 of this Law, it shall prohibit by the same decision the person to whom the consent for acquisition of ownership was set aside from exercising any rights attached to the shares based on which such ownership was acquired and may order the person to dispose of such ownership.

The National Bank of Serbia shall submit the decision 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 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 that 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, within 30 days from the day of acquisition of ownership specified in that paragraph, submit to the National Bank of Serbia the application for consent for such acquisition or shall inform the National Bank of Serbia that it has disposed of such ownership.

The National Bank of Serbia shall decide on the application 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 decision to deny consent for the acquisition of ownership from paragraph 1 hereof, it shall prohibit by the same decision the person from that paragraph from exercising any rights attached to the shares based on which such ownership was acquired

and order the person to dispose of such ownership in the amount and within the timeframe defined by the decision.

The National Bank of Serbia shall submit the decision 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 suspect that a person 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 from such person or the parent company of such person, and members of bodies of such persons, to submit to it information and relevant documentation pertaining to the fulfilment of conditions for granting the consent.

The National Bank of Serbia may request from the 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 on 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 status.

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 1a

Diagnostic examination

Article 101a

For the purposes of gathering, processing and analysing necessary data, the National Bank of Serbia may conduct a diagnostic examination of the bank's operations by carrying out direct insight into its business books and other documentation.

Article 102, paragraphs 4 and 5 and Articles 103 and 104 of this Law shall apply accordingly to the diagnostic examination referred to in paragraph 1 hereof.

Section 2

Prudential supervision

Supervision by the National Bank of Serbia

Article 102

Prudential supervision of bank operations shall be exercised by the National Bank of Serbia in accordance with this Law and other law pursuant to which the National Bank of Serbia is in charge of bank supervision.

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 data on the bank's operation available to the National Bank of Serbia, and as on-site supervision – by inspecting the bank's business books and other documentation.

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 referred to in this Article, the National Bank of Serbia has the right to inspect data on the total amount, type and timeliness in the settlement of liabilities by natural and legal person clients of banks which are gathered by a separate entity (credit bureau), as well as the right to inspect business books and other documentation of legal persons which are related by property, management and business to the supervised bank, and 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 by a regulation an obligation for banks to pay a fee for the exercise of supervision referred to in this Article, as well as the manner of calculation, payment terms and other issues related to this fee.

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

Article 102a

(deleted)

Persons authorised for on-site supervision

Article 103

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

The decision referred to in paragraph 1 hereof may also designate a person other than an employee of the National Bank of Serbia to take part in on-site supervision if, owing to his expertise, such person can assist the employees from that paragraph.

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

The bank and/or other supervised persons, as well as the subject of supervision, shall be stated in the decision referred to 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 supervision of its operations at the bank's head office and 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 software.

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

Authorised persons may:

- 1) enter all organisational parts and premises of the bank, subject to observing its security procedures;
- 2) request that a separate room be made available to them in which to conduct supervision;
- 3) request to be provided with 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, 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 report on supervision shall be compiled also when irregularities in the bank's operations are established in the course of off-site supervision, except in case the bank itself has notified the National Bank of Serbia of such irregularities.

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 National Bank of Serbia shall not consider the bank's objections relating to factual changes that occurred after the completion of supervision (after the cut-off date), but may take them into account when imposing measures under this Law.

By the supervision specified in Article 102, paragraph 2 of this Law, the National Bank of Serbia shall verify the assertions made by the bank in the objections referred to in paragraph 3 hereof.

Supplement to the report on supervision

Article 106

The supplement to the report on supervision shall be prepared in cases where after verification of the statements presented in bank's objections to the report on supervision, it is established that the factual state is significantly 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.

Conclusion on termination of the supervision procedure

Article 107

The National Bank of Serbia shall render a conclusion on termination of the supervision 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 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 or fails to reasonably dispute the findings contained in such report indicating 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 envisaged by this Law.

If, in verifying the assertions made by the bank in its objections to the report on supervision, the National Bank of Serbia establishes that these objections do not change the factual state significantly, the National Bank of Serbia shall take against such bank one of the measures envisaged by 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 decision on temporary measures, to undertake one or more activities from Article 112, paragraph 2 and Article 113 of this Law.

Section 3

Supervisory measures

Corrective and enforcement measures

Article 110

If established in supervision under Article 102 of this Law that a bank acted contrary to the provisions of this Law, other laws pursuant to which the National Bank of Serbia is in charge of bank supervision, regulations of the National Bank of Serbia or other regulations, or contrary to the standards of prudent banking, and/or that the bank acted in any other way which jeopardises its safety and soundness, the National Bank of Serbia shall, in accordance with the criteria laid down in Article 116 of this Law, take one of the following measures:

- 1) send a letter of warning;
- 2) issue orders and measures to eliminate the established irregularities;
- 3) revoke the bank's operating licence.

The National Bank of Serbia shall issue a decision on taking the measure set out in paragraph 1, items 2) and 3) hereof.

Once it determines whether the bank has acted timely upon the measures from paragraph 1, items 1) and 2) hereof (and to what extent), the National Bank of Serbia shall either terminate the supervision procedure or impose another measure from that paragraph, and/or one of the measures referred to in Articles 113–115 of this Law, in accordance with the criteria laid down in Article 116 of this Law.

Letter of warning

Article 111

A letter of warning shall be issued to a bank in whose operations irregularities were detected that have not had a significant and direct impact on its financial condition, but may have such impact unless eliminated.

A letter of warning shall also state the timeframe for eliminating the irregularities referred to in paragraph 1 hereof.

Decision on orders and measures

Article 112

The decision on orders and measures to eliminate the detected irregularities in operations shall be sent to:

- 1) a bank in whose operations the supervision detected irregularities which may jeopardise the bank's financial condition;
- 2) a bank for which the National Bank of Serbia has determined, pursuant to Article 23 hereof, a higher-than-prescribed capital adequacy ratio, if that bank failed to comply with the determined ratio within the timeframe set by the National Bank of Serbia.

By the decision referred to in paragraph 1 hereof, the bank shall be ordered to carry out one or more of the following actions within a specific timeframe:

- 1) harmonise its operations with regulations;
- 2) increase the amount of its capital;
- 3) ensure a higher capital adequacy ratio, and/or higher than the minimum prescribed capital, if the bank's capital is not high enough to cover all risks that the bank is or could be exposed to, as well as if the bank failed to establish or to consistently implement an appropriate internal capital adequacy assessment process;
- 4) increase special reserves to cover potential losses, and/or to adopt and apply special provisioning policy or policy of dealing with specific assets;
- 5) temporarily discontinue or limit:
 - (1) lending activity and the provision of other financial services to persons of unsatisfactory creditworthiness, as well as to some of its shareholders, members of the managing and executive boards, and/or other persons related to the bank,
 - (2) loan disbursement, deposit taking and other forms of borrowing, as well as the assumption of off-balance sheet liabilities,
 - (3) investment in assets and in other legal persons,

- (4) introduction of new products;
- 6) reduce the bank's operating costs, including the amount of performance-based bonuses and rewards paid out to members of the bank's managing and executive board or employees;
- 7) sell assets, and/or shares or equity stake in a subordinated company;
- 8) adopt and implement measures to:
 - (1) limit lending,
 - (2) reduce and/or limit exposures,
 - (3) improve the collection of due receivables,
 - (4) ensure proper valuation of balance sheet assets and off-balance sheet items,
 - (5) improve the risk management system, including the internal capital adequacy assessment process,
 - (6) improve the reporting system,
 - (7) improve the internal controls system, particularly internal audit;
- 9) to use net profit to increase the bank's capital;
- 10) to report more frequently or report additional information to the National Bank of Serbia on individual performance indicators;
- 11) to ensure compliance with specific liquidity requirements, including limits on the asset-liability maturity mismatch;
- 12) to remove a member of the bank's managing and/or executive board, and/or other person holding a managing position in the bank;
- 13) to discontinue or limit the payment of interest to some or all shareholders and other persons whose rights towards the bank derive from supplementary capital items;
- 14) to close down one or several organisational units, and/or discontinue or limit the expansion of the bank's organisational network;
- 15) to discontinue payments from its accounts, other than with the prior approval of the National Bank of Serbia;
- 16) to discontinue international payments, other than with the prior approval of the National Bank of Serbia;
- 17) to change the bank's governance or organisational structure;
- 18) to make the structure of the banking group to which it belongs transparent;
- 19) to disclose additional data and information;
- 20) to undertake and/or discontinue other activities.

The decision referred to in paragraph 1 hereof shall lay down the manner and timeframes within which the bank is to eliminate the irregularities and notify the National Bank of Serbia thereof, and may also designate a management body or its member to be responsible for the implementation of activities stipulated by the decision.

Early intervention measures

Article 113

Where established in supervision under Article 102 of this Law that a bank has acted contrary to the provisions of this Law, regulations of the National Bank of Serbia or other regulations or that it is likely to do so soon, due, inter alia, to its rapidly deteriorating financial condition, including deteriorating liquidity situation, increasing level of leverage, non-performing loans or

concentration of exposures, the National Bank of Serbia may, without prejudice to the measures taken under Articles 111 and 112 hereof, and in accordance with the criteria laid down in Article 116 hereof, take one or more of the following measures:

1) order the management bodies of the bank to implement one or more of the measures set out in the recovery plan or if the circumstances that led to the early intervention are different from the assumptions set out in this recovery plan, to update the plan and implement one or more of the measures set out in the updated plan within a specific timeframe;

2) order the management bodies of the bank to examine the situation, identify measures to overcome any problems identified, and draw up an action plan to overcome those problems and a timetable for its implementation;

3) order the managing board of the bank to convene a meeting of the bank's assembly, and/or convene a meeting of this assembly directly if the bank's managing board fails to do so, and in both cases set the agenda and propose certain decisions to be considered for adoption;

4) order the management bodies of the bank to draw up a plan for negotiation on the restructuring of debt with the bank's creditors according to the recovery plan, where applicable;

5) order changes to the bank's business strategy;

6) order the bank to contact potential purchasers.

The decision imposing the measures referred to in paragraph 1 hereof shall lay down the timeframe for the bank to comply with the required measures and to submit to the National Bank of Serbia appropriate evidence thereof.

In the event referred to in paragraph 1 hereof, the National Bank of Serbia shall acquire all the information necessary in order to update the resolution plan and prepare for the possible resolution and for the valuation of the bank's assets and liabilities referred to in Article 128i of this Law.

Once it determines whether the bank has acted timely upon the measures from paragraph 1 hereof (and to what extent), the National Bank of Serbia shall either terminate the supervision procedure or impose another measure from that paragraph, and/or one of the measures referred to in Article 110 of this Law in accordance with the criteria specified in Article 116 of this Law.

*Removal of a member of management body or other
person holding a managing position in the bank*

Article 114

Where a significant deterioration of a bank's financial condition has occurred or serious infringement of law, regulations of the National Bank of Serbia and other regulations or the bank's articles of association, and the National Bank of Serbia determines that measures specified in Article 113 of this Law are not sufficient to remedy the bank's condition, it may order, by virtue of a decision, the removal of all or some members of the bank's management bodies, and/or the replacement of other persons holding managing positions in the bank, regardless of whether other requirements for the removal of members of management bodies set out in Article 72, paragraph 7 hereof are met.

By the decision referred to in paragraph 1 hereof, the National Bank of Serbia may:

- 1) prohibit or limit such person's performance of any activity in the bank;
- 2) prohibit or limit such person's exercise of direct or indirect voting rights in the bank;
- 3) require such person to dispose of direct or indirect ownership in the bank within the timeframe set by the National Bank of Serbia;
- 4) prohibit such person from discharging a function in any bank or member of a banking group or from participating in the performance of activities in the bank or banking group without prior consent of the National Bank of Serbia.

New members of management bodies, and/or other persons holding managing positions shall be appointed in accordance with this Law subject to meeting all appointment requirements prescribed.

Temporary administration

Article 115

When it has assessed that measures referred to in Article 114 of this Law are insufficient to remedy the bank's situation, the National Bank of Serbia may issue a decision on the appointment of one or more temporary administrators of the bank.

The decision referred to in paragraph 1 hereof shall define the objectives and tasks of temporary administration, which may relate to ascertaining the true financial condition of the bank, managing entire or part of the business with a view to preserving or restoring the financial position of the bank and/or safe and sound operation, and the similar.

A temporary administrator shall be appointed for a term not longer than a year. That term may exceptionally be extended if the National Bank of Serbia assesses that the conditions referred to in paragraph 1 hereof continue to be met. The National Bank of Serbia may, at any time during the term of the temporary administrator, issue a decision to remove him, and may also change the administrator's powers and duties determined in the appointment decision.

A temporary administrator must be a person independent from the bank and must meet the requirements laid down in Article 72 hereof.

By the decision referred to in paragraph 1 hereof, the National Bank of Serbia shall determine whether a temporary administrator is to replace the managing and executive board of the bank or to manage the bank jointly with these bodies, and shall specify the powers and duties of the temporary administrator, and in particular the division of responsibilities between the temporary administrator and these bodies, and the acts and legal actions in respect of which these bodies must obtain the opinion and/or consent of the temporary administrator – if the bank is to be managed jointly.

The decision referred to in paragraph 1 hereof may stipulate that certain legal actions of the temporary administrator shall be subject to the prior consent of the National Bank of Serbia. In

any case, the temporary administrator may convene a meeting of the bank's assembly and set the agenda of such meeting only with the prior consent of the National Bank of Serbia.

A temporary administrator shall submit to the National Bank of Serbia a report on the bank's business and financial condition and on the actions taken in the discharge of his duties at minimum quarterly intervals or more frequently if the National Bank of Serbia so requests. A temporary administrator shall submit a report to the National Bank of Serbia both at the start and end of his mandate.

The National Bank of Serbia shall announce the appointment of a temporary administrator on its website, except in cases where the temporary administrator does not have the power to represent the bank.

The introduction of temporary administration, the appointment and removal of the temporary administrator, as well as the termination of temporary administration in a bank, shall be entered in the register of business entities as of the date of issuing the decision referred to in paragraph 1 hereof, which shall be submitted to the agency in charge of maintaining the register of business entities (hereinafter: Business Registers Agency) by the National Bank of Serbia on the date of its issuing.

The conditions and manner of carrying out temporary administration shall be prescribed in detail by the National Bank of Serbia.

Discretionary right of the National Bank of Serbia

Article 116

The National Bank of Serbia shall take the decision on which measure to take against a bank based on a discretionary assessment of:

- 1) the gravity of established irregularities;
- 2) the demonstrated readiness and capability of the bank's bodies to eliminate the established irregularities;
- 3) the extent to which the bank jeopardises financial discipline and smooth functioning of the banking system.

In assessing the gravity of irregularities established in the bank's business, the National Bank of Serbia shall assess in particular:

- 1) the bank's financial position;
- 2) the bank's capital adequacy relative to the risks assumed;
- 3) the impact of the irregularity on the bank's future position;
- 4) the number of established irregularities and their interdependence;
- 5) duration and frequency of irregularities;
- 6) legality of the bank's operations.

In assessing the demonstrated readiness and capability of the bank's bodies to eliminate the established irregularities, the National Bank of Serbia shall assess in particular:

- 1) the capability of the bank's management to identify, assess, monitor and manage the bank's operating risks;
- 2) the effectiveness of the internal controls system in the bank and in particular of the internal audit function;
- 3) efficiency in eliminating any previously established irregularities, and particularly in implementing previously imposed measures;
- 4) cooperativeness of the bank's managing and executive boards and persons holding managing positions with authorised persons during supervision.

In assessing the extent to which the bank jeopardises financial discipline and smooth functioning of the banking system, the National Bank of Serbia shall assess the bank's significance in the financial system, with particular regard to the bank's size, its interconnectedness with other participants in the financial system and substitutability in that system, as well as the complexity of its operations and the scope of its business network.

Fine

Article 117

Irrespective of taking measures referred to in Articles 111–115 of this Law or together with these measures, the National Bank of Serbia may impose on the bank and a member of the bank's managing and/or executive board a fine for acting contrary to the provisions of this Law, regulations of the National Bank of Serbia and other regulations.

By virtue of a decision, the National Bank of Serbia shall impose on the bank a fine which may not exceed 10% of the bank's total revenue recorded in the previous business year. The fine imposed by the National Bank of Serbia against a member of the bank's managing and executive board may not be smaller than the average monthly wage or higher than twelve times the average monthly wage and/or the remuneration that such person received for discharging his functions over the three months preceding the cut-off date referred to in Article 105, paragraph 3 of this Law, taking into account the criteria referred to in Article 116 of this Law.

Notwithstanding paragraph 2 hereof, if a member of the bank's managing board does not receive remuneration to discharge this function, or has not received such remuneration for three months preceding the cut-off date from Article 105, paragraph 3 of this Law, or the amount of the remuneration is unusually low, by virtue of a decision on imposing a fine, the National Bank of Serbia shall impose on that member a fine which may not be smaller than the average monthly wage or higher than twelve times the average monthly wage of members of the bank's executive board over the three months preceding the cut-off date referred to in Article 105, paragraph 3 of this Law, taking into account the criteria referred to in Article 116 of this Law.

In imposing the fine against a member of the bank's executive board, in addition to the criteria referred to in Article 116 of this Law, the National Bank of Serbia shall assess the degree of the member's responsibility taking into account the division of responsibilities for activities falling within the scope of the managing and/or executive board, determined by this Law, articles of

association and internal regulations of the bank, as well as powers and responsibilities in managing the bank which have been entrusted with the member.

For actions which are contrary to the provisions of this Law, regulations of the National Bank of Serbia and other regulations and which relate to activities falling within the scope of the bank's executive board, the president of the executive board shall be fined at least in the amount of the fine imposed on the executive board member who is in charge of these activities.

If a fine is imposed in the course of supervision, the decision referred to in paragraph 2 hereof shall be taken without prior representation by the bank and/or member of the bank's managing or executive board about the facts and circumstances relevant for the decision on imposing the fine, unless this is a person whose function as a member of the bank's managing and/or executive board has ceased.

The bank shall submit the report on supervision and the decision imposing a fine to the person that performed the function of a member of the bank's managing and/or executive board in the period that the report refers to. Upon the expiry of 30 days following its submission to the bank, it shall be considered that the report on supervision and the decision imposing a fine have been submitted to these persons.

After being served to the person referred to in paragraph 1 hereof, the decision imposing a fine shall represent a writ of execution.

If a member of the bank's managing and/or executive board, including former members of these boards, fails to pay the fine within the timeframe determined by the decision imposing a fine – the bank shall pay such fine within eight days following the expiry of the timeframe stipulated by the decision.

The fines referred to in paragraph 1 hereof shall be credited to the account of the National Bank of Serbia.

Total revenue referred to in paragraph 2 hereof shall have the meaning determined by the law governing the protection of competition.

(Title deleted)

Articles 117a–121

(deleted)

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 authority 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 authority 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 authority 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 the 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) 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 from a member of the banking group to submit to it 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) net open 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 the bank's sound operations, it may request from the bank to acquire additional capital and may set for the bank a higher-than-prescribed capital adequacy ratio, in accordance with Article 23 of this Law.

A banking group must ensure risk management procedures and procedures for internal audit and internal controls 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 the 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 the data specified in paragraph 1 hereof, as well as detailed requirements and the manner of risk management at the banking group level.

Banking group recovery plan

Article 127a

The ultimate parent company of a banking group subject to consolidated supervision by the National Bank of Serbia pursuant to this Law shall draw up and submit to the National Bank of Serbia a recovery plan for the banking group to which it belongs (hereinafter: group recovery plan) with a view to achieving stability and restoring the financial position of the group as a whole, and particularly of banks as members of the banking group, taking into account the financial position of other group members.

The group recovery plan shall be drawn up in accordance with Articles 36a–36d of this Law and shall set out the measures and activities envisaged by those Articles relating to the banking group as a whole, as well as special measures and activities to be taken at the level of the ultimate parent company and subsidiaries, taking into account the need for coordination and consistency of those measures and activities.

As set out in Article 36c of this Law, the National Bank of Serbia shall assess whether the group recovery plan meets the requirements laid down in Articles 36a–36d of this Law, and/or requirements laid down in paragraphs 1 and 2 hereof.

In addition to the orders and measures under Article 36c of this Law, the National Bank of Serbia may order some members of the banking group to draw up and submit to it recovery plans on an individual basis.

If not empowered to exercise supervision over a specific member of a banking group, the National Bank of Serbia may order such member to draw up and submit a recovery plan on an

individual basis subject to obtaining prior opinion of the regulatory authority in charge of supervising the operations of that member.

The drawing up, contents and assessment of the group recovery plan shall be prescribed in detail by the National Bank of Serbia.

Intra-group financial support agreement

Article 127b

A bank, an ultimate parent company of a banking group subject to consolidated supervision by the National Bank of Serbia pursuant to this Law and a member of such banking group, may enter into an agreement with other members of the group to provide financial support to any other party to the agreement that meets the conditions for early intervention measures (hereinafter: intra-group financial support agreement), subject to prior consent of the National Bank of Serbia.

Financial support referred to in paragraph 1 hereof may be given in the form of a loan, guarantees or other unfunded credit protection instruments or the provision of assets for use as collateral.

The intra-group financial support agreement shall specify in particular the manner of calculating the fee to be paid by the recipient for the financial support received, as well as the obligation to set the fee at the time of the provision of financial support.

The rights and obligations arising from the intra-group financial support agreement may not be transferred to third parties.

A bank, and/or ultimate parent company of a banking group and a member of the banking group shall disclose the information on whether they have entered into an intra-group financial support agreement, describing the general terms of the agreement and specifying the business names of group members who concluded the agreement. This information shall be updated at least once a year.

The contents of information referred to in paragraph 5 hereof, as well as the conditions, manner and timeframe for its disclosure shall be prescribed in detail by the National Bank of Serbia.

Consent to the intra-group financial support agreement

Article 127c

The entity from Article 127b, paragraph 1 of this Law shall submit an application for prior consent of the National Bank of Serbia to the intra-group financial support agreement, supported by the text of the proposed agreement and other documentation prescribed by the National Bank of Serbia.

The National Bank of Serbia shall decide on the application from paragraph 1 hereof within four months of receiving the duly completed application.

The National Bank of Serbia may grant the consent referred to in paragraph 1 hereof only if it assesses that at the time of applying the applicant did not meet the conditions for early intervention measures under Article 113 of this Law, and/or that other parties to the intra-group financial support agreement did not meet the conditions for early intervention measures as stipulated by their home country regulations.

In the decision on granting the consent from paragraph 1 hereof, the National Bank of Serbia shall set the timeframe within which the entities referred to in Article 127b, paragraph 1 of this Law are required to enter into an intra-group financial support agreement, which may not be longer than one year from the issuing date of the decision.

After obtaining the consent from paragraph 1 hereof, the managing board, and/or competent management body of the entity referred to in that paragraph shall submit the proposed agreement for approval to the assembly of shareholders and/or members. The intra-group financial support agreement is without the legal effect until approved by the assembly of shareholders, and/or members.

The entity granted the consent from paragraph 1 hereof shall submit to the National Bank of Serbia the text of the concluded intra-group financial support agreement within 15 days of its conclusion. If the agreement was not concluded within six months from the date of issuing the consent from that paragraph, such entity shall inform the National Bank of Serbia of the reasons for not having concluded the agreement.

The management body referred to in paragraph 5 hereof shall, at least once a year, report to the National Bank of Serbia and the assembly of shareholders and/or members on the implementation of the intra-group financial support agreement and on the implementation of any decision taken pursuant to the agreement.

The conditions for granting the consent from paragraph 1 hereof shall be prescribed in detail by the National Bank of Serbia.

Conditions for the provision of intra-group financial support

Article 127d

The entity referred to in Article 127b, paragraph 1 of this Law may provide financial support based on the agreement from that paragraph only if the following conditions are met:

- 1) there is a reasonable prospect that the support provided significantly redresses the financial difficulties of the entity receiving the support;
- 2) the provision of financial support has the objective of preserving or restoring the financial stability of the group as a whole or any of the group members and is in the interests of the entity providing the support;

3) financial support is provided against payment of a fee set and calculated in the manner determined by the agreement;

4) there is a reasonable prospect, on the basis of data available to the management body of the entity providing financial support at the time when the decision to grant financial support is taken, that the fee referred to in item 3) hereof will be paid and, if the support is given in the form of a loan, that the loan will be repaid by the entity receiving the support, and/or that the entity receiving the support will settle the liability arising from the enforcement of guarantee or collateral if the support is given in the form of a guarantee or any type of collateral;

5) the provision of financial support would not jeopardise the liquidity or solvency of the entity providing the support;

6) the provision of financial support would not jeopardise the stability of the financial system of the Republic of Serbia;

7) at the time when the support is provided, the entity providing the support acts in accordance with the provisions of this Law and the National Bank of Serbia's regulations governing capital, liquidity and large exposures, and the provision of the financial support will not lead to the infringement of those provisions;

8) the provision of financial support would not undermine the resolvability of the entity providing the support.

The decision to provide intra-group financial support in accordance with the agreement on such support shall be taken by the management body of the entity from paragraph 1 hereof. The decision shall explain the objective of the proposed financial support and the satisfaction of conditions for its provision.

The National Bank of Serbia may regulate in detail the conditions referred to in paragraph 1 hereof.

Prior assessment of the provision of intra-group financial support

Article 127e

Before providing intra-group financial support, the management body of the entity that intends to provide financial support shall notify the National Bank of Serbia of its intention.

The notification from paragraph 1 hereof shall include in particular a reasoned proposal of the decision referred to in Article 127d, paragraph 2 of this Law and details of the proposed financial support, including a copy of the intra-group financial support agreement.

Within five business days from the receipt of a duly completed notification referred to in paragraph 2 hereof, the National Bank of Serbia may prohibit or restrict the provision of financial support if it assesses that the conditions for group financial support laid down in Article 127d, paragraph 1 of this Law have not been met.

The National Bank of Serbia shall without delay submit its decision to prohibit or restrict the provision of intra-group financial support to the regulatory authority in charge of consolidated

supervision and to the regulatory authority in charge of supervision over the group member which is to receive the support.

If the National Bank of Serbia fails to take the decision within the timeframe specified in paragraph 3 hereof – the entity from paragraph 1 may provide financial support pursuant to the notification submitted to the National Bank of Serbia, but shall inform thereof without delay the National Bank of Serbia, and/or the regulatory authority in charge of consolidated supervision and the regulatory authority in charge of supervision over the group member receiving the support.

If a foreign regulatory authority restricts or prohibits the provision of financial support to a recipient entity from the Republic of Serbia and the group recovery plan envisages intra-group financial support as a recovery option, the National Bank of Serbia may request from the regulatory authority in charge of consolidated supervision to initiate re-assessment of the group recovery plan, or, if the recovery plan was drawn up on an individual basis, to request the recipient entity to submit a revised recovery plan.

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 the provisions of this Law or regulations adopted 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 these 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 activities (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 decision granting consent to the bank holding company to acquire controlling participation in the bank;
- 3) request the bank holding company to dispose of 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 Va

BANK RESOLUTION

Section 1

Objectives and principles

Resolution objectives

Article 128a

Bank resolution is conducted in order to:

- 1) ensure the continuity of critical functions;
- 2) avoid a significant adverse effect on the stability of the financial system;
- 3) protect budgetary funds and other public funds;
- 4) protect depositors and investors;
- 5) protect client funds and other assets.

The objectives set out in paragraph 1 hereof (hereinafter: resolution objectives) shall be of equal significance and shall be balanced in the resolution procedure as appropriate to the circumstances of each individual case.

Principles governing resolution procedure

Article 128b

The resolution procedure shall be implemented in accordance with the following principles:

- 1) shareholders of the bank bear losses first;
- 2) creditors of the bank bear losses after the shareholders by ensuring equal treatment of creditors whose claims are of the same order of priority in the bankruptcy procedure under the law governing bankruptcy and liquidation of banks and insurance companies, unless provided otherwise in this Law;
- 3) shareholders and creditors of the bank cannot incur greater losses than they would have incurred had the bank been placed under the bankruptcy procedure;

- 4) insured deposits are fully protected up to the level of the insured amount laid down in the law governing deposit insurance;
- 5) members of the bank's management bodies are removed, unless provided otherwise in this Law;
- 6) members of the bank's management bodies and persons holding managing positions in the bank are obliged to provide all necessary assistance for the achievement of the resolution objectives;
- 7) members of the bank's management bodies and other persons who contributed to bank's meeting of the condition under Article 128h, paragraph 1, item 1) of this Law are made liable, in accordance with law, for omissions in their work and the damage they have caused;
- 8) safeguards for shareholders and creditors of the bank, as well as for third parties, are applied in accordance with this Law;
- 9) when resolution of a member of a banking group is conducted, the negative effects of resolution on other members of the banking group and on the stability of the financial system as a whole are minimised.

Section 2

Resolution planning

Bank resolution plan

Article 128c

The National Bank of Serbia shall draw up a resolution plan for each bank.

The resolution plan envisages the application of appropriate resolution tools and measures and the exercise of powers by the National Bank of Serbia once the decision to initiate the resolution procedure is taken, if the conditions for bank resolution pursuant to this Law are met.

When making the decision on resolution and/or the application of appropriate resolution tools for the bank, the National Bank of Serbia is not obliged to implement the resolution tools envisaged by the resolution plan for that bank.

The National Bank of Serbia shall update resolution plans at least once a year.

The National Bank of Serbia shall update resolution plans also in case of changes to the bank's legal or organisational structure, business or financial position, when these changes have a material effect on the implementation of the resolution plan, as well as in case of other changes affecting the contents of the resolution plan and its applicability.

The resolution plan shall contain in particular:

- 1) a summary of key elements of the plan;
- 2) a summary of substantial changes that have occurred in the bank after the latest update to the resolution plan;

- 3) a demonstration of how critical functions and core business lines could be separated, to the extent necessary, from other functions so as to ensure business continuity if the conditions for resolution are met;
- 4) a timeframe for executing substantial elements of the resolution plan;
- 5) a detailed description of the assessment of resolvability and the measures needed to remove impediments to resolvability, identified in accordance with Article 128f of this Law;
- 6) a description of the procedures for determining the market value of critical functions, core business lines and assets of the bank;
- 7) a detailed description of the arrangements for ensuring that the information and data required from the bank are up to date;
- 8) an explanation as to how the resolution options and tools proposed in the plan could be financed without the assumption of any extraordinary financial support, loans for maintaining liquidity or liquidity loans provided under non-standard collateralisation, repayment and interest rate terms;
- 9) a detailed description of different possibilities to apply resolution tools, with relevant timeframes, based on consideration of a range of scenarios of severe macroeconomic and financial stress relevant to the bank's business;
- 10) a description of potential systemic consequences of the bank's resolution;
- 11) a description of options for preserving access to payment services and systems and an assessment of the portability of client positions;
- 12) an analysis of the plan's impact on the bank's employees, including an assessment of any associated costs;
- 13) a plan for communicating with the media and the public in relation to bank resolution;
- 14) the minimum requirements for capital and eligible liabilities under Article 128r and a timeframe to reach the prescribed level;
- 15) a description of essential operations and systems for maintaining the continuous functioning of the bank's operational processes;
- 16) an analysis of when, how and under what conditions the bank may apply for loans for maintaining liquidity or other facilities of the National Bank of Serbia, as well as identification of the assets to be provided as eligible collateral for the use of those loans and facilities.

After drawing up the resolution plan, the National Bank of Serbia shall submit to the bank the data specified in paragraph 6, item 1) hereof.

The bank shall provide to the National Bank of Serbia, at the National Bank of Serbia's request, all necessary assistance, information and data in the process of drawing up and updating the resolution plan.

The contents of information and data referred to in paragraph 8 hereof, as well as the manner and timeframe for their submission, shall be prescribed in detail by the National Bank of Serbia.

Group resolution plan

Article 128d

The National Bank of Serbia shall draw up a resolution plan for the banking group subject to its consolidated supervision pursuant to this Law (hereinafter: group resolution plan), which shall include either the resolution of the ultimate parent company of the banking group or of other members of the group.

The provisions of Article 128c, paragraphs 1–4 of this Law shall apply accordingly to the drawing up of the group resolution plans.

A group resolution plan shall contain in particular:

1) a description of actions and measures to be taken in relation to members of the banking group;

2) a detailed description of different possibilities to apply group resolution tools, based on consideration of a range of scenarios of severe macroeconomic and financial stress relevant to the group's business;

3) an explanation as to how the resolution options and tools envisaged by the group resolution plan could be financed without the assumption of any extraordinary financial support, loans for maintaining liquidity or liquidity loans provided under non-standard collateralisation, repayment and interest rate terms;

4) an assessment of the possibility to take mutually coordinated actions and measures for resolution of a banking group when the supervision of its members is not exercised only by the National Bank of Serbia, including measures of sale to a third party of the group as a whole and the separation of core business lines that are delivered by particular group entities, and a description of the measures needed to remove any potential impediments to resolution, particularly those relating to coordination of activities between different competent authorities;

5) a description of appropriate arrangements for cooperation with foreign regulatory authorities and authorities in charge of resolution, regarding the resolution of a banking group when members of the group are headquartered outside of the Republic of Serbia;

6) a description of the measures to separate particular functions or business lines, which are necessary to remove impediments to smooth resolution of the banking group;

7) a description of other measures and actions to be taken for the purposes of group resolution which are not expressly laid down in this Law.

The provisions of Article 128c, paragraphs 7 and 8 of this Law shall apply accordingly to the obligations of the ultimate parent company and a member of the banking group when the National Bank of Serbia is drawing up a group resolution plan.

Assessment of resolvability

Article 128e

In drawing up and updating a resolution plan, the National Bank of Serbia shall assess whether the bank can be resolved and shall identify and analyse any impediments to bank resolvability, and identify measures to be taken to remove those impediments.

A bank shall be deemed resolvable if it is feasible to conduct bankruptcy, liquidation or resolution procedure over that bank while avoiding to the maximum extent possible any significant adverse effect on the stability of the financial system and with a view to ensuring the continuity of critical functions carried out by the bank.

When assessing the resolvability of a bank, the National Bank of Serbia shall consider in particular:

- 1) the feasibility of achieving resolution objectives by applying available resolution tools;
- 2) the impact of the bank's resolution on the stability of the financial system, the economy of the Republic of Serbia and confidence in the banking system, as well as whether the application of resolution tools will prevent contagion to the banking system;
- 3) the impact of resolution on the bank's creditors, depositors, counterparties and employees;
- 4) the impact of the bank's resolution on the smooth functioning of payment and clearing and settlement systems;
- 5) the bank's ability to ensure the continuity of critical functions and core business lines;
- 6) the extent to which legal and organisational structures are aligned with critical functions and core business lines;
- 7) the extent to which the bank can ensure, in accordance with concluded agreements, minimum staff and infrastructure capacities, as well as funding, liquidity and capital sufficient to maintain critical functions and core business lines;
- 8) the separation of core business lines from other bank's activities;
- 9) the applicability of risk management procedures and measures;
- 10) the amount and type of eligible liabilities under Article 128q of this Law;
- 11) the adequacy of the IT system risk management in relation to providing access to information and data necessary for the implementation of the resolution procedure.

The assessment of resolvability of a bank shall not be based on the assumption of any extraordinary financial support, loans for maintaining liquidity or liquidity loans provided under non-standard collateralisation, repayment and interest rate terms.

When drawing up and updating a group resolution plan, the National Bank of Serbia shall assess the resolvability of a banking group in accordance with paragraphs 1–4 hereof.

Removal of impediments to resolvability

Article 128f

If the National Bank of Serbia detects in accordance with Article 128e that there are substantive impediments to the resolvability of a bank, it shall order the bank, by virtue of a decision, to submit, within four months of receiving the decision, a proposal of possible measures to address or remove those impediments.

If the National Bank of Serbia assesses that the measures proposed by the bank in accordance with paragraph 1 hereof do not effectively reduce and/or remove the impediments to

resolvability, it shall issue a decision ordering the bank to take alternative measures to address or remove the impediments referred to in paragraph 1 hereof and setting the timeframe for the application of those measures.

In the event described in paragraph 2 hereof, the National Bank of Serbia may order the bank in particular:

- 1) to revise an intra-group financial support agreement or consider the conclusion of such agreement if it has not been concluded already, and/or enter into a service agreement either intra-group or with third parties;
- 2) to limit its exposure to a single entity or to a group of related entities;
- 3) to regularly report additional information and data relevant for the bank's resolution or to report specific information and data relevant for the resolution in a particular case;
- 4) to dispose of specific assets;
- 5) to limit or cease the performance or development of specific activities, and/or not to start new activities or to cease to develop them;
- 6) to make and/or enable appropriate legal and/or organisational changes to the bank and/or any other member of the banking group to which the bank belongs, so as to reduce complexity of the bank and/or group and ensure that critical functions may be separated from other functions in the resolution procedure;
- 7) to ensure eligible liabilities to cover the losses that meet the requirements under Articles 128q and 128r of this Law;
- 8) to take other measures to meet the minimum requirements for capital and liabilities under item 7) hereof which are laid down in Article 128r of this Law.

When taking the decision referred to in paragraph 2 hereof, the National Bank of Serbia shall assess the potential effect of the application of measures from that decision on the stability of the financial system and on the business and stability of the bank.

The bank shall submit to the National Bank of Serbia a plan for alignment with the measures specified in the decision from paragraph 2 hereof within one month of receiving the decision.

Paragraphs 1–5 hereof shall apply accordingly to the removal of impediments to the resolvability of a banking group.

The National Bank of Serbia shall take the measures laid down in this Article in relation to a member of the banking group headquartered in the Republic of Serbia but not subject to the National Bank of Serbia's supervision only after obtaining the opinion of the regulatory authority that supervises the operations of that group member.

Section 3

Write-down and conversion of capital

Article 128g

Before initiating the resolution procedure, the National Bank of Serbia may write down or convert relevant capital instruments of a bank into shares or other instruments of ownership of

the bank, whereas after initiating the resolution procedure it shall write down or convert capital before the application of an appropriate resolution tool.

The National Bank of Serbia may issue a decision to write down or convert a bank's capital before initiating the resolution procedure if it has established that at least one of the following conditions is met:

1) the conditions for initiating the resolution procedure laid down in Article 128h of this Law are met;

2) having regard to all circumstances of an individual case, the bank is failing or likely to fail within the meaning of Article 128h of this Law unless the write-down or conversion is carried out and there is no reasonable prospect that any other measure by the bank or a private sector entity, or any supervisory measure taken pursuant to this Law, other than the write-down and/or conversion, could within a reasonable period of time remove impediments to the continuation of the bank's operation;

3) the bank has requested extraordinary financial support, except in the case laid down in Article 128h, paragraph 2, item 4), subitems 1), 2) and 3) of this Law.

The write-down and conversion from paragraph 1 hereof shall be implemented without the consent of shareholders, depositors and other creditors of the bank or any third party.

Before carrying out the write-down or conversion from paragraph 1 hereof, the National Bank of Serbia shall ensure an independent valuation of the assets and liabilities of the bank referred to in Article 128i of this Law, based on which it shall calculate the amount of the write-down, and/or the level of conversion of capital instruments required for the coverage of losses and/or recapitalisation of the bank.

The National Bank of Serbia shall write down and/or convert the bank's capital in the following order of sequence:

1) core capital is reduced first, in proportion to the losses and to the extent of its capacity, and the National Bank of Serbia takes one or both measures under Article 128t, paragraph 1 of this Law in respect of the bank's shareholders;

2) supplementary capital items are written down and/or converted into the bank's shares which may be included in the bank's core capital to the extent required to achieve the resolution objectives or to the extent of the capacity of the relevant capital items, whichever is lower.

In the event of a write-down, no liability to the holder of the relevant capital instrument shall remain in connection with the amount of the instrument which has been written down, except for liability already accrued, and no compensation on account of the write-down shall be paid out to the holder.

In order to effect the conversion under paragraph 5, item 2) hereof, the National Bank of Serbia may require the bank to issue shares which may be included in the bank's core capital to the holders of the relevant capital instruments referred to therein.

The conditions for the conversion of capital instruments from paragraph 7 hereof shall be prescribed in detail by the National Bank of Serbia.

Where the conversion of capital instruments of a bank would lead to the acquisition or increasing of ownership in a bank over the percentage amounts laid down in Article 94, paragraph 1 of this Law, the National Bank of Serbia shall make a timely assessment of the conditions for granting consent to the acquisition so that the assessment would not delay the conversion.

A banking group shall be deemed failing or likely to fail within the meaning of paragraph 2, item 2) hereof if it infringes or is likely to infringe the provisions of this Law governing risk management-related ratios at the level of the banking group, on account of which the National Bank of Serbia may impose a measure under this Law, and particularly if the banking group has incurred or is likely to incur losses that will deplete all or a significant amount of its capital.

The write-down and conversion of capital instruments of a member of a banking group other than a bank shall be subject to paragraphs 1–8 hereof.

The National Bank of Serbia shall carry out the write-down and conversion of capital instruments of a member of the banking group headquartered in the Republic of Serbia but not subject to the National Bank of Serbia's supervision only after obtaining the opinion of the regulatory authority that supervises the operations of that group member.

Section 4

Initiating the resolution procedure

Conditions for initiating the resolution procedure

Article 128h

The National Bank of Serbia shall initiate the resolution procedure when it establishes that the following conditions are met:

- 1) the bank is failing or likely to fail;
- 2) having regard to all circumstances of an individual case, there is no reasonable prospect that any other measure by the bank or a private sector entity, a supervisory measure taken pursuant to this Law or a measure under Article 128g of this Law – could in a reasonable period remove impediments to the continuation of the bank's operation;
- 3) the bank's resolution is in the public interest.

For the purposes hereof, a bank shall be deemed to be failing or likely to fail if at least one of the following conditions is met:

- 1) the reasons set out in Article 130 of this Law justifying withdrawal of the bank's operating licence by the National Bank of Serbia have occurred or are likely to occur, especially if the bank has incurred or is likely to incur losses that would deplete all or a significant amount of its capital;
- 2) the bank's assets are lower than its liabilities or are likely to be so in the near future;

3) the bank is illiquid or is likely to be illiquid in the near future, except if it has been granted financial support under item 4), subitems (1) and (2) of this paragraph;

4) the bank has requested extraordinary financial support, except in an exceptional case when, taking into account the principles under Article 128b, items 1) and 2) of this Law, such support is provided to a solvent bank in order to remedy a serious disturbance in the economy and to preserve the stability of the financial system, as a temporary and proportionate measure, taking any of the following forms:

(1) a guarantee issued by the Republic of Serbia in favour of the National Bank of Serbia to back the settlement of the bank's liabilities under loans for maintaining liquidity or other facilities granted to the bank under the National Bank of Serbia's conditions;

(2) the Republic of Serbia's guarantee of the bank's newly issued liabilities;

(3) recapitalisation or purchase of instruments of ownership on terms that do not confer a market advantage upon the bank and limited to the injection necessary to address capital shortfall in accordance with the conditions prescribed by the National Bank of Serbia – and this only if at the time the support is granted, neither the conditions set out in items 1) to 3) of this paragraph nor the conditions for the write-down and conversion of capital under Article 128g of this Law are met.

Resolution shall be deemed to be in the public interest, within the meaning of paragraph 1 hereof, if the bank is systemically important, as well as if the resolution can achieve one or more resolution objectives which could not be achieved to the same extent by placing the bank under the bankruptcy or liquidation procedure.

For the purposes of establishing whether the resolution is in the public interest, and taking into account the assessment under Article 128i made prior to the resolution, the National Bank of Serbia is required in particular to draw up a report on the least cost test, which establishes whether the resolution procedure and the application of specific resolution tools and measures would be more effective than the bankruptcy or liquidation procedure, especially having regard to potential costs of the payment of insured deposits and granting of financial support, as well as to the limits prescribed in Article 128z of this Law.

The National Bank of Serbia shall submit the draft report referred to in paragraph 4 hereof, for opinion, to the Agency.

The Agency shall submit to the National Bank of Serbia the opinion on the draft report referred to in paragraph 4 hereof within five days of receiving the draft report.

After receiving the opinion referred to in paragraph 6 hereof, and/or if the opinion is not submitted within the timeframe specified therein, the National Bank of Serbia shall draw up the final version of the report on the least cost test.

Initiating of the resolution procedure shall not be conditional on the taking of early intervention measures under Articles 113–115 of this Law.

A bank shall without delay notify the National Bank of Serbia of the occurrence of the circumstances referred to in paragraph 1, item 1) hereof.

When it receives the notification from paragraph 9 hereof or if it learns of the circumstances referred to therein during the supervision or in any other way, the National Bank of Serbia shall without delay determine whether the conditions laid down in paragraph 1 hereof are met.

Paragraphs 1–10 hereof shall apply accordingly to the meeting of conditions for initiating the resolution procedure in respect of a banking group.

Independent valuation of assets and liabilities of a bank

Article 128i

Before initiating the resolution procedure, the National Bank of Serbia shall ensure an independent, fair and realistic valuation of the bank's assets and liabilities.

The purposes of the valuation referred to in paragraph 1 hereof shall be to provide information and data to the National Bank of Serbia relevant for determination whether the conditions for bank resolution are met, and/or for selection of appropriate resolution tools and measures if the conditions are met, as well as to ensure that all of the bank's losses are fully recognised in its business books and financial statements.

The valuation referred to in paragraph 1 hereof shall be carried out by any auditor included in the list specified in Article 52, paragraph 3 of this Law, or by any other person in accordance with the regulation of the National Bank of Serbia.

The person referred to in paragraph 3 hereof shall be independent from any public authority or institution entrusted with the exercise of public powers, as well as from the bank to which the valuation relates or the banking group of which such bank is a member.

The valuation referred to in paragraph 1 hereof shall be based on prudent assumptions, including as to the severity of losses on account of default. The valuation shall not be based on the assumption of any extraordinary financial support, loans for maintaining liquidity or liquidity loans provided under non-standard collateralisation, repayment and interest rate terms.

The valuation referred to in paragraph 1 hereof shall also take into account potential claims of the National Bank of Serbia on account of recovering the expenses incurred in the resolution procedure, as well as the expenses of interest and fees in respect of loans or guarantees provided to the bank from funds for financing resolution.

The valuation referred to in paragraph 1 hereof shall be supplemented with up-to-date financial statements of the bank, analysis and estimate of the accounting value of its assets, as well as a list of outstanding on- and off-balance sheet liabilities shown in the business books and records of the bank, with an indication of priority levels for classification of liabilities under the law governing the bankruptcy and liquidation of banks and insurance companies.

The valuation referred to in paragraph 1 hereof shall also include an estimate of the total amount that each class of creditors would have been expected to receive if the bank were placed under the bankruptcy procedure, but shall not exclude the obligation to carry out a separate independent valuation under Article 128w of this Law.

Where due to the urgency it is not possible to carry out the valuation in accordance with paragraphs 7 and 8 hereof, the person referred to in paragraph 3 hereof shall make a provisional valuation which shall be used in the resolution procedure until the said person makes the definitive valuation of the bank's assets and liabilities (hereinafter: definitive valuation).

By way of exception, if it is not possible to ensure an independent valuation referred to in paragraph 1 hereof before initiating the resolution procedure, the National Bank of Serbia shall make a provisional valuation of the assets and liabilities of a bank, which shall be temporary and used in the resolution procedure until the person from paragraph 3 hereof makes the definitive valuation.

Provisional valuation referred to in paragraphs 9 and 10 hereof shall also include a buffer for additional losses, with appropriate justification.

The National Bank of Serbia may initiate the resolution procedure and apply resolution tools and measures also based on the provisional valuation referred to in paragraphs 9 and 10 hereof.

In the event described in paragraphs 9 and 10 hereof, as well as in other cases where the valuation from paragraph 1 was not made before initiating the resolution procedure in accordance with the requirements laid down in this Article, the person from paragraph 3 hereof shall make the definitive valuation as soon as practicable.

If the value of net assets of a bank established in the definitive valuation is higher than the one established in the provisional valuation, the National Bank of Serbia may, by virtue of a decision, amend the amounts of claims of creditors or shareholders whose claims were written down or will be written down by applying the resolution tool under Article 128q of this Law, and/or require the bridge bank, the Agency or the legal person from Article 128p of this Law to make additional payment to the bank, and/or shareholders in respect of the transfer of shares, assets or liabilities.

The valuation referred to in paragraph 1 hereof shall be an integral part of the statement of reasons in decisions under Articles 128g and 128j of this Law and may be contested only by appealing against the decisions.

The National Bank of Serbia shall select the person from paragraph 3 hereof to carry out the valuation from that paragraph, while the fee for carrying out this valuation shall be charged to the bank.

Provisions of this Article shall apply accordingly to the independent valuation of assets and liabilities of a banking group member.

The conditions and manner of carrying out the valuation referred to in this Article shall be prescribed in detail by the National Bank of Serbia.

Decision to initiate the resolution procedure

Article 128j

If it establishes that the conditions under Article 128h of this Law are met, the National Bank of Serbia shall take a decision to initiate the resolution procedure.

The decision referred to in paragraph 1 hereof shall specify resolution tools and measures to be applied in respect of a bank or a member of the banking group, based on the results of the least cost test from Article 128h, paragraph 7 of this Law.

The decision referred to in paragraph 1 hereof may specify that the bank resolution tools and measures will be applied also in respect of a member of the banking group headquartered in the Republic of Serbia but not subject to the National Bank of Serbia's supervision only if both the ultimate parent company and the member meet the conditions under Article 128h of this Law, and only after obtaining the opinion of the regulatory authority that supervises the operations of that member.

If the resolution procedure is initiated in respect of a bank whose operating licence is revoked, the decision from paragraph 1 hereof shall be taken at the time of the decision on revoking the bank's operating licence.

On the date of its issuing, the decision from paragraph 1 hereof shall be submitted to the bank, the Agency, the ministry in charge of finance, the Business Registers Agency and the operator of the system referred to in Article 128x, paragraph 5 of this Law in which the bank participates.

The initiation of the bank resolution procedure shall be entered in the register of business entities as of the date of issuing the decision from paragraph 1 hereof.

A summary of the decision referred to in paragraph 1 hereof and the explanation of the effects of resolution on the consumers of financial services provided by the bank shall be published on the websites of the National Bank of Serbia and the bank.

Legal transactions concluded by the bank before the date of issuing of the decision from paragraph 1 hereof shall remain in force, and neither the application of resolution tools and measures nor any other circumstance directly connected with those tools and measures may in themselves constitute a reason for the counterparty to cancel or amend existing agreements or to require offsetting or enforcement of collateral instruments under those agreements if the obligations under the agreements continue to be smoothly performed.

Powers of the National Bank of Serbia in the resolution procedure

Article 128k

In the resolution procedure, the National Bank of Serbia shall take all the measures it determines to be necessary for the application of resolution tools.

The measures referred to in paragraph 1 hereof shall include in particular:

- 1) removing the bank's managing and executive boards;
- 2) assuming the powers of the managing board, executive board and the bank's assembly and entrusting them to the special manager from Article 128l of this Law;
- 3) reducing the nominal value of shares (write-down) and cancelling the bank's shares;
- 4) issuing ordinary and preference shares of the bank;
- 5) cancelling the right to further acquisition of shares;
- 6) requesting the Securities Commission to annul the decision on the approval of the publication of the prospectus, and/or the decision on the approval of the prospectus for admission of securities to a regulated market;
- 7) amending and cancelling the agreements concluded by the bank;
- 8) requesting the Agency to ensure that the bank under the bankruptcy procedure whose assets and liabilities have been transferred to the acquirer provides the necessary operational assistance to the acquirer to effectively perform the operations transferred;
- 9) requesting the court to suspend the procedure in which the bank is a party until the end of the resolution procedure at the latest;
- 10) suspending all payments and the execution of other obligations under agreements concluded by the bank, as well as rights of the counterparty to cancel the agreements and enforce collateral – from the moment of publishing the decision on the suspension until midnight on the next business day, except for liabilities arising from insured deposits and obligations owed to payment systems and clearing and settlement systems designated in accordance with law as important systems, and/or operators of and participants in these systems, arising from the participation in such systems.

The National Bank of Serbia has the right to access all the data it may need in the bank resolution procedure, in the manner prescribed in Article 102 of this Law, while the bank, its employees, shareholders and other persons are obliged to ensure such access at its request, and/or to provide those data.

Special management

Article 128l

If it assesses that a change to the governance and management of a bank under resolution would contribute to the achievement of resolution objectives, the National Bank of Serbia shall take a decision to introduce special management in the bank, whereby it shall appoint one or more special managers.

The National Bank of Serbia may take the decision from paragraph 1 hereof at any time during the resolution procedure.

The National Bank of Serbia shall take the decision from paragraph 1 hereof when the resolution procedure is initiated in respect of a bank whose operating licence is to be revoked.

A special manager shall be appointed for a term not longer than a year. That term may exceptionally be extended by one year if the National Bank of Serbia assesses that this is necessary in order to complete the activities launched with a view to achieving resolution objectives, and/or that the conditions referred to in paragraph 1 hereof continue to be met.

The decision referred to in paragraph 1 hereof shall set the level of remuneration to be received by the special manager, which shall be charged to the bank.

During the special manager's term, the National Bank of Serbia may take a decision to remove him and to appoint another special manager.

A special manager must be a person independent from the bank and must meet the requirements laid down in Article 72 of this Law.

As of the date of issuing the decision from paragraph 1 hereof, the functions of members of the bank's managing and executive boards and the powers of the bank's assembly shall cease and shall instead be assumed by the special manager.

A special manager shall take all the measures necessary to achieve the resolution objectives, as well as apply resolution tools and measures, in accordance with the decision of the National Bank of Serbia referred to in Article 128j of this Law.

A special manager may employ, at the expense of the bank, independent specialists in the fields of banking and financial law, accounting or other appropriate profession, on such terms as the National Bank of Serbia shall approve.

A special manager shall submit to the National Bank of Serbia a report on the bank's business and financial condition and on the actions taken in the discharge of his duties at minimum quarterly intervals or more frequently if the National Bank of Serbia so requests. A special manager shall submit a report to the National Bank of Serbia both at the start and end of his term.

The exercise of functions and powers of a special manager shall be supervised by the National Bank of Serbia.

The decision referred to in paragraph 1 hereof may set limits to the functions and powers of a special manager or require that certain legal actions of the special manager be subject to the National Bank of Serbia's prior consent.

The National Bank of Serbia shall announce the appointment of a special manager on its website.

The introduction of special management, the appointment and removal of special manager and the termination of special management in a bank shall be entered in the register of business entities as of the date of issuing the decision referred to in paragraph 1 hereof, which shall be submitted to the Business Registers Agency by the National Bank of Serbia on the date of its issuing.

Section 5

Resolution tools

Types and main features of resolution tools

Article 128m

The resolution tools are the following:

- 1) the sale of shares, and/or assets and liabilities, i.e. the sale of business tool;
- 2) the transfer of shares, and/or assets and liabilities to a bridge bank tool (hereinafter: the bridge bank tool);
- 3) the asset separation tool;
- 4) the bail-in tool.

In the resolution procedure, the National Bank of Serbia may apply the resolution tools referred to in paragraph 1 hereof individually or in any combination. However, it may apply the asset separation tool only together with another resolution tool from that paragraph.

The transfer of shares, and/or assets and liabilities by applying the tools referred to in paragraph 1, items 1)–3) hereof and the adoption of acts and implementation of actions by applying the bail-in tool shall take place without the consent of shareholders, depositors and other creditors of the bank under resolution or any third party other than the acquirer.

The transfer referred to in paragraph 3 hereof may be exercised more than once during the bank resolution procedure.

The transfer referred to in paragraph 3 hereof shall not be subject to the law governing the capital market, unless stipulated otherwise by this Law.

The transfer referred to in paragraph 3 hereof shall not be subject to the law governing companies, except for the provisions of that law regulating competences of companies' bodies. If the decision on acquiring shares and/or assets and liabilities referred to in paragraph 1, items 1) and 3) hereof is within the competence of the acquirer's shareholder assembly – the timeframe for its adoption shall be seven days from the day of submission of invitation for assembly meeting.

The transfer referred to in paragraph 3 hereof shall not be subject to the payment of any taxes, duties or other charges to the competent authorities.

The income from the transfer of shares referred to in paragraph 3 hereof from a shareholder to an acquirer, reduced by the amount of funds used for financing resolution and the costs of the resolution procedure – shall belong to shareholders, while the income from the transfer of all or any assets or liabilities from the bank under resolution or the bridge bank to the acquirer, reduced by the amount of funds used for financing resolution and costs of the resolution procedure – shall belong to the transferring bank.

The acquirer to whom shares of the bank under resolution were transferred by applying the tools referred to in paragraph 1, items 1)–3) hereof shall assume the place of the shareholder, while the acquirer to whom assets or liabilities of this bank were transferred by applying the above tools shall assume the place of the bank in contracts concluded by the bank, relating to such assets and liabilities, unless stipulated otherwise by the decision referred to in Article 128j of this Law.

The acquirer referred to in paragraph 9 hereof shall assume the place of the bank in all judicial, administrative and other procedures in relation to shares, assets and liabilities from that paragraph, unless stipulated otherwise by the decision referred to in Article 128j of this Law.

The bank's rights arising from the membership of payment, clearing and settlement systems, stock exchanges etc. shall be transferred to the acquirer referred to in paragraph 9 hereof, provided that it is eligible under the membership criteria. The acquirer that does not meet these criteria may continue to exercise these rights within the timeframe determined by the decision referred to in Article 128j of this Law.

Licences, consents, special rights, other incentives and divestments given or recognised for the bank in relation to shares, assets or liabilities being transferred – shall be transferred to the acquirer referred to in paragraph 9 hereof, unless stipulated otherwise by the decision referred to in Article 128j of this Law or regulations governing their issue or recognition.

In case of application of the tool referred to in paragraph 1, items 1)–3) hereof – the shareholders and creditors of the bank under resolution and other third parties whose assets or liabilities are not transferred by applying such tool, shall not exercise any rights in respect of shares, assets or liabilities being transferred by applying such tool, or in relation to the acquirer and its management bodies.

In case of initiating the bankruptcy procedure over the bank whose assets and liabilities were transferred by applying the tool referred to in paragraph 1, items 1)–3) hereof – provisions of the bankruptcy law which govern the contesting of bankruptcy debtor's legal transactions shall not apply to the transfer of these assets and liabilities.

If the application of a resolution tool would lead to the acquisition or increase in ownership in the bank above the percentage defined by Article 94, paragraph 1 of this Law – the National Bank of Serbia shall timely assess the fulfilment of criteria for granting the consent for acquisition of ownership, whereas such assessment shall not delay the application of the tool.

The National Bank of Serbia shall inform the bank's depositors, creditors and debtors of the performed transfer referred to in paragraph 3 hereof without delay on its website and in the media.

In the resolution procedure, a member of the banking group shall be subject to the instruments and measures referred to in paragraph 1 hereof which apply to banks.

The National Bank of Serbia may order other members of the banking group whose member is the bank undergoing resolution to continue to provide relevant services in a particular period to the bank or the acquirer of shares, assets and liabilities of the bank, for the purpose of ensuring continuity in the performance of the bank's critical functions.

Sale of business tool

Article 128n

The National Bank of Serbia may sell to an acquirer other than a bridge bank the shares of a bank under resolution or all or any assets or liabilities of that bank.

The National Bank of Serbia shall conclude a contract on the sale referred to in paragraph 1 hereof with the acquirer of shares and/or assets and liabilities of the bank under resolution.

The National Bank of Serbia shall take all reasonable steps to obtain commercial terms for the transfer in respect of the sale referred to in paragraph 1 hereof, taking account of the independent valuation of the bank's assets and liabilities referred to in Article 128i of this Law.

The ownership right of the acquirer of shares of the bank under resolution shall be entered in the Central Securities Depository immediately upon the conclusion of the contract referred to in paragraph 2 hereof.

The National Bank of Serbia may transfer shares and/or assets and liabilities referred to in paragraph 1 hereof back to their original owners and/or the bank under resolution, without their consent, but with the acquirer's consent.

The National Bank of Serbia may prescribe in detail the terms and conditions for inviting and selecting bids for acquisition of shares, assets and liabilities referred to in paragraph 1 hereof, and/or sale referred to in this Article.

Bridge bank tool

Article 128o

The National Bank of Serbia may take a decision to transfer to a bridge bank:

- 1) shares of one or more banks under resolution;
- 2) all or any assets and/or liabilities of one or more banks under resolution.

The Republic of Serbia shall set up a bridge bank so that, by acquiring shares, assets or liabilities of the bank under resolution, the critical functions of that bank will be maintained and the sale of transferred shares, and/or assets and liabilities be performed later.

The total value of liabilities transferred to the bridge bank cannot exceed the total value of assets transferred to the bridge bank from the bank under resolution or provided from other sources.

The National Bank of Serbia may transfer shares, assets and liabilities back to the bank under resolution, provided this option is explicitly provided by the decision referred to in paragraph 1 hereof, or if specific shares, assets or liabilities do not in fact fall within the classes of shares, assets or liabilities determined in that decision or do not meet the transfer criteria specified in that decision.

The transfer referred to in paragraph 4 hereof shall take place without the consent of shareholders, depositors and other creditors of the bank under resolution or any third party other than the bridge bank, and may be performed within the timeframe and under the conditions determined in the decision from that paragraph.

The National Bank of Serbia shall issue an operating licence to a bridge bank based on the application submitted by the Republic of Serbia.

Along with the application referred to in paragraph 6 hereof, the Republic of Serbia shall submit:

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

The National Bank of Serbia shall decide on the application referred to in paragraph 6 hereof by a decision, by no later than the day following the receipt of the duly completed application.

The decision on granting the operating licence to the bridge bank shall specify the period during which the bank shall operate, which shall not be longer than two years from the date of last effected transfer referred to in paragraph 1 hereof, and the possibility of extending that period in accordance with this Law. The decision shall be published in the Official Gazette of the Republic of Serbia.

The bridge bank is required to contain the words "new" and "bank" in its business name.

The Republic of Serbia shall ensure that at the time of its submission of the application referred to in paragraph 6 hereof, the bridge bank shall have minimum initial capital of at least EUR 5,000,000 in the dinar equivalent, and that upon obtaining the licence, it shall operate in accordance with the provisions of this Law as regards bank's capital and performance indicators.

Notwithstanding paragraph 11 hereof, the bridge bank may be set up without meeting the criteria referred to in that paragraph, i.e. it may operate without being aligned with the provisions of this

Law relating to bank's capital and performance indicators in the period not longer than three months, provided the National Bank of Serbia assesses this is necessary for the purpose of achieving the resolution objectives.

In the event referred to in paragraph 12 hereof, the operating licence referred to in paragraph 6 hereof shall also specify the timeframe within which the bridge bank must harmonise its operation with the provisions of this Law which relate to its capital and performance indicators.

The Republic of Serbia shall submit the application for entering the bridge bank in the register of business entities by no later than the day following the issuance of the operating licence referred to in paragraph 6 hereof.

The setting up of the bridge bank shall not be subject to the provisions of the law governing the capital market, while competent authorities shall adopt acts in regard to the setting up of the bank and shall implement actions prescribed by law by no later than the business day following the day of submission of the application.

The National Bank of Serbia shall:

- 1) give prior consent to the founding act and articles of association of the bridge bank;
- 2) give prior consent to the nomination of management bodies of the bridge bank;
- 3) give prior consent to the remuneration of members of management bodies referred to in item 2) hereof and the act on determining their duties;
- 4) approve the strategy and risk profile of the bridge bank.

Notwithstanding paragraph 9 hereof, the National Bank of Serbia may, by virtue of a decision, extend the timeframe referred to in that paragraph for another year if it assesses that this is necessary to achieve the resolution objectives, particularly if this would result in the completion of activities referred to in paragraph 18, items 1), 2) and 4) hereof.

The National Bank of Serbia shall take the decision on revoking the licence of the bridge bank if:

- 1) the bridge bank is merged or merged by acquisition with another bank, in accordance with this Law;
- 2) all or substantially all of the bridge bank's assets and liabilities are sold to a third party;
- 3) the period referred to in paragraph 9 and/or paragraph 17 hereof has expired;
- 4) the bridge bank's assets are fully wound down and/or liquidated, and its liabilities fully discharged.

The decision referred to in paragraph 18 hereof shall be submitted to the competent court for the purpose of initiating the bankruptcy or liquidation procedure against the bridge bank, in accordance with the provisions of the law governing bankruptcy and liquidation of banks and insurance companies, which relate to the bankruptcy and/or liquidation of banks.

If shares of the bridge bank are sold to a third party, following the entry of the third party as the owner of the bank's shares in the Central Securities Depository, the bridge bank shall continue to operate as a bank in accordance with this Law.

The National Bank of Serbia shall prescribe in detail the contents of documents and evidence referred to in paragraphs 7 and 16 hereof, and may prescribe in detail the conditions and manner of selling the bridge bank's assets and/or liabilities, and/or of advertising such sale.

Asset separation tool

Article 128p

The National Bank of Serbia may take the decision to transfer assets and liabilities of the bank under resolution or the bridge bank to the Agency or another legal person not being a bridge bank, if at least one of the following conditions is met:

- 1) the market situation is such that the sale of assets in the bankruptcy procedure could have an adverse effect on the financial market;
- 2) the transfer is necessary to ensure smooth operation of the bank whose assets or liabilities were transferred;
- 3) the transfer is necessary to maximise proceeds from cashing-in and/or sale of transferred assets at the lowest possible cost.

The other legal person referred to in paragraph 1 hereof (hereinafter: asset management company) may be established by the Republic of Serbia, for the purpose of taking over all or any assets or liabilities of one or more banks under resolution or the bridge bank.

The National Bank of Serbia shall:

- 1) give prior consent to the founding act of the asset management company;
- 2) give prior consent to the nomination of management bodies of the asset management company;
- 3) approve remuneration of the members of management bodies of the asset management company and the act on determining their duties;
- 4) approve the strategy and risk profile of the asset management company.

The Agency and/or asset management company shall manage the transferred assets to maximise their value through sale or cashing-in otherwise.

By the decision referred to in paragraph 1 hereof, the National Bank of Serbia may transfer assets and liabilities of the transferring bank to the Agency and/or one or more asset management companies.

The National Bank of Serbia may transfer assets and liabilities referred to in paragraph 1 hereof back to the bank under resolution, provided this option is explicitly determined by the decision referred to in that paragraph, if specific assets or liabilities do not in fact fall within the classes of assets or liabilities determined in the decision or do not meet the transfer criteria specified in the decision.

The transfer referred to in paragraph 6 hereof shall take place without consent of shareholders, depositors and other creditors of the bank under resolution or any third party.

The National Bank of Serbia shall determine the level of the fee that the Agency and/or the asset management company pays for assets and liabilities being acquired, which may have a negative value.

The fee referred to in paragraph 8 hereof may be paid also in the form of a debt instrument issued by the Agency and/or the asset management company, with the prior consent of the ministry in charge of finance.

The Agency and the asset management company shall perform activities relating to the transferred assets and liabilities from paragraph 1 hereof with diligence of a prudent businessman and shall report thereon to the National Bank of Serbia within the timeframes and in the manner determined by the decision from that paragraph.

The National Bank of Serbia shall prescribe in detail the conditions and manner of granting consent referred to in paragraph 3 hereof.

Bail-in tool

Article 128q

The National Bank of Serbia may apply the bail-in tool to:

- 1) recapitalise the bank under resolution to the extent sufficient for further smooth operation of the bank in accordance with this Law, and to sustain sufficient financial market confidence in the bank;
- 2) convert to equity or write down (reduce) the principal amount of liabilities or debt instruments that are transferred to the bridge bank with a view to providing capital for that bridge bank, or are transferred within the sale of business tool or the asset separation tool.

The National Bank of Serbia may apply the bail-in tool for the purpose of recapitalisation of the bank under resolution only if there is a reasonable prospect that the application of that tool together with other measures, including measures implemented in accordance with the business reorganisation plan referred to in Article 128u will, in addition to achieving relevant resolution objectives, restore the bank's appropriate financial position and long-term viability.

The liabilities of the bank under resolution which may be subject to write-down and conversion referred to in paragraph 1 hereof (hereinafter: eligible liabilities) shall cover all liabilities of such bank apart from the following:

- 1) liabilities arising from insured deposits, up to the amount insured in accordance with law;
- 2) liabilities secured by lien, financial collateral or other related right, including repo operations, covered bonds and liabilities in the form of financial instruments used for hedging

purposes which form an integral part of the cover pool and which are secured in a way similar to covered bonds;

3) liabilities arising from the management of client assets and client money, including client assets or client money held by the bank under resolution on behalf of investment and pension funds;

4) liabilities to domestic and foreign banks and investment companies, excluding entities that are part of the same group, with an original maturity of less than seven days;

5) liabilities with a remaining maturity of less than seven days, owed to payment systems and clearing and settlement systems designated in accordance with law as important systems, and/or operators of and participants in these systems, arising from the participation in such systems;

6) liabilities to employees arising from accrued, but unpaid salaries, pension or other fixed remuneration, except for the part of salary relating to the employee's contribution to employer's business success (rewards, bonuses etc.) and other variable component of remuneration which the employer has no statutory obligation to pay to employees;

7) liabilities to creditors in relation to the sale of goods or provision of services to the bank under resolution, which are critical for its continuous daily operation, including IT services, utilities and the rental, servicing and upkeep of premises;

8) tax liabilities and liabilities in respect of mandatory social insurance contributions;

9) liabilities to the Agency in respect of the deposit insurance premium.

Initiation of the resolution procedure and application of the bail-in tool shall not affect secured assets relating to covered bonds. They shall remain protected, segregated and with enough funding.

Notwithstanding paragraph 3, item 2) and paragraph 4 hereof, the National Bank of Serbia may also apply the bail-in tool to any part of liabilities exceeding the value of assets, pledge, lien or other collateral against which these liabilities are secured.

Notwithstanding paragraph 3 hereof, the National Bank of Serbia may fully or partially exclude other eligible liabilities from the write-down and conversion referred to in paragraph 1 hereof where at least one of the following requirements has been fulfilled:

1) where it is not possible to write down or convert that liability within a reasonable time notwithstanding the necessary activities that the National Bank of Serbia would take for the purpose of timely and efficient application of that tool;

2) where the exclusion is necessary and proportionate to achieve the continuity of critical functions and core business lines of the bank under resolution;

3) where the exclusion is necessary and proportionate to avoid giving rise to widespread contagion, in particular as regards deposits held by natural persons, enterprises and micro, small- and medium-sized legal persons, which would severely disrupt the stability of the financial system in a manner that could cause a serious disturbance to the economy;

4) where the write-down or conversion of those liabilities would cause such a reduction in value that the losses borne by other creditors would be higher than if those liabilities were excluded from the write-down or conversion.

If the National Bank of Serbia fully or partially excludes the application of write-down or conversion to some eligible liabilities in accordance with paragraph 6 hereof and if losses that would be covered by the write-down or conversion of these liabilities are not fully transferred to other creditors, the funds of the Republic of Serbia provided for bank resolution may be used to:

1) cover all losses not covered by the write-down or conversion of these liabilities and the restoration of the zero net value of assets of the bank under resolution in accordance with Article 128s, paragraph 1, item 1) of this Law,

2) purchase shares of the bank under resolution for the purpose of recapitalising the bank in accordance with Article 128s, paragraph 1, item 2) of this Law.

The National Bank of Serbia shall prescribe in detail the terms and manner of performing the write-down and conversion of liabilities of the bank under resolution and conditions of using funds provided for resolution for the purposes referred to in paragraph 7 hereof.

Article 128r

A bank shall, at all times, meet the minimum requirement for capital and eligible liabilities.

The minimum requirement referred to in paragraph 1 hereof shall be calculated as the amount of capital and eligible liabilities expressed as a percentage of capital and total liabilities of the bank.

The National Bank of Serbia shall determine for each bank the minimum requirement referred to in paragraph 1 hereof on the basis of the following criteria:

1) the need to ensure that the bank may be resolved by the application of the resolution tools including the bail-in tool, in a way that meets the resolution objectives;

2) the need to ensure that the bank has sufficient eligible liabilities to ensure that, if the bail-in tool were to be applied, losses could be absorbed and the capital adequacy ratio could be restored to a level necessary to enable it to continue to carry out its operation and to sustain sufficient financial market confidence in the bank;

3) the need to ensure that, if the resolution plan anticipates that certain classes of eligible liabilities might be excluded from bail-in under Article 128q, paragraph 6 of this Law or that certain classes of eligible liabilities are transferred to a recipient in full under a partial transfer, that the bank has sufficient other eligible liabilities to ensure that losses could be absorbed and the capital adequacy ratio could be restored to a level necessary to enable it to continue to carry out its operation;

4) the size, business model, funding model and risk profile of the bank;

5) the extent to which the deposit insurance fund could contribute to the financing of the resolution procedure in accordance with this Law;

6) the extent to which the failure of the bank would have adverse effects on financial stability, including, due to its interconnectedness with other banks or with the rest of the financial system through contagion to other banks.

Provisions of this Article shall apply accordingly to the ultimate parent company and/or the banking group on a consolidated basis.

The National Bank of Serbia shall prescribe in detail the conditions for inclusion of eligible liabilities in calculation of a minimum requirement for capital and eligible liabilities, and may prescribe additional criteria to determine this requirement.

Article 128s

When applying the bail-in tool, the National Bank of Serbia shall assess, on the basis of independent valuation referred to in Article 128i, the aggregate of:

- 1) the amount by which eligible liabilities must be written down in order to restore the zero net asset value of the bank under resolution;
- 2) the amount by which eligible liabilities must be converted into capital in order to restore the prescribed capital adequacy ratio of the bank under resolution or the bridge bank.

In determining the amount referred to in paragraph 1 hereof, the National Bank of Serbia shall take into account funds that are provided for financing resolution in accordance with this Law, and the need to sustain financial market confidence in the bank under resolution or the bridge bank and ensure that it continues to carry out the activities for at least one year.

Where the National Bank of Serbia intends to use, in addition to the bail-in tool, the asset separation tool, the amount by which eligible liabilities need to be written down shall take into account an estimate of capital needs of the asset management company.

Article 128t

When applying the bail-in tool or the write-down or conversion of capital referred to in Article 128g of this Law, the National Bank of Serbia shall take one or both of the following measures:

- 1) cancel shares or transfer them to bailed-in creditors,
- 2) significantly dilute the nominal value of shares and other respective rights of bank shareholders as a result of the conversion of elements of supplementary capital or eligible liabilities of the bank under resolution into its shares, provided that, in accordance with the independent valuation referred to in Article 128i of this Law the assets of the bank under resolution have a positive net value.

The measures referred to in paragraph 1 hereof shall also be taken in respect of shareholders and holders of other instruments of ownership where the shares or other instruments of ownership in question were issued or conferred in the following circumstances:

- 1) conversion of debt instruments into shares or other instruments of ownership in accordance with contractual terms of relevant debt instruments, by no later than the day when the National Bank of Serbia determined that conditions have been met for bank resolution, or
- 2) conversion of relevant capital instruments into core capital instruments in accordance with Article 128g of this Law.

When considering which measure to take in accordance with paragraph 1 hereof, the National Bank of Serbia shall have regard to the following:

- 1) the independent valuation referred to in Article 128i of this Law;

2) the amount up to which the National Bank of Serbia has assessed that core capital items must be written down (reduced) and relevant supplementary capital items be written down (reduced) or converted, pursuant to Article 128g, paragraph 5 of this Law;

3) the aggregate sum of the amounts from Article 128s, paragraph 1 of this Law.

Notwithstanding provisions of Article 128q, paragraphs 3 and 6 of this Law, when applying the bail-in tool, the National Bank of Serbia shall carry out write-down and conversion, in the following order of priority:

1) core capital items are reduced in accordance with Article 128g, paragraph 5, item 1) of this Law;

2) if the total reduction in core capital items in accordance with item 1) hereof is less than the sum of the amounts referred to in paragraph 3, items 2) and 3) hereof, the principal amount of supplementary capital items shall be reduced to the extent required and to the extent of their capacity;

3) if the total reduction in core and supplementary capital items referred to in items 1) and 2) hereof is less than the sum of the amounts referred to in paragraph 3, items 2) and 3) hereof, the principal amount of subordinated liabilities not included in supplementary capital calculation shall be reduced to the extent required and to the extent of their capacity;

4) if the total reduction in core and supplementary capital items and subordinated liabilities referred to in items 1)–3) hereof is less than the sum of the amounts referred to in paragraph 3, items 2) and 3) hereof, the principal amount or the outstanding amount of the rest of eligible liabilities shall be reduced to the extent required, in accordance with the hierarchy of the collection of claims in the bankruptcy procedure, in accordance with the law governing bankruptcy and liquidation of banks, to the extent of their capacity.

The National Bank of Serbia shall equitably allocate the losses among shareholders and creditors in accordance with paragraph 4 hereof by reducing the amounts of core and supplementary capital items, subordinated and other eligible liabilities to the same extent pro rata to their value, except where the National Bank of Serbia fully or partially excludes some eligible liabilities from the write-down or conversion in accordance with Article 128q, paragraph 6 of this Law.

When applying the conversion referred to in paragraph 4 hereof, the National Bank of Serbia may apply different rates of such conversion to different categories of shareholders and creditors referred to in that paragraph, considering that the same rate be applied to all creditors with the same level of priority in accordance with the law governing bankruptcy and liquidation of banks and insurance companies, whereas a more favourable conversion rate shall apply to the higher level of priority.

Before applying the write-down or conversion referred to in paragraph 4, item 4) hereof, the National Bank of Serbia shall reduce or convert the principal amount of instruments referred to in items 2) and 3) of that paragraph, when these instruments have not already been converted, whereas the terms under which they were issued and/or acquired provide for the principal amount of the instruments to be reduced and/or provide for the conversion of the instruments into shares or other instruments of ownership on the occurrence of particular circumstances relating to the financial condition, solvency or levels of capital of the bank.

Article 128u

If the National Bank of Serbia applies the bail-in tool for the purpose of recapitalisation of the bank in accordance with Article 128q, paragraph 1, item 1) of this Law, the managing board of the bank and/or special management referred to in Article 128l of this Law shall, within one month after the application of the bail-in tool, draw up a business reorganisation plan and submit it to the National Bank of Serbia.

When the bail-in tool referred to in paragraph 1 hereof is applied to two or more members of the banking group subject to supervision by the National Bank of Serbia on a consolidated or sub-consolidated basis, the business reorganisation plan shall be prepared and submitted to the National Bank of Serbia by the ultimate parent company, and shall cover all group members.

Notwithstanding paragraph 1 hereof and if necessary for achieving the resolution objectives, the National Bank of Serbia may extend the period referred to in that paragraph for up to another month.

The business reorganisation plan shall set out measures aiming to restore the long-term viability of the bank or part of its business within a reasonable timeframe. These measures shall be based on realistic assumptions as to the market conditions under which the bank will operate, allowing for the identification of the bank's main vulnerabilities and risks.

The business reorganisation plan shall include at least the following elements:

- 1) a detailed diagnosis of circumstances, factors and problems that caused the bank to fail or to be likely to fail;
- 2) the description of measures aiming to restore the long-term viability of the bank;
- 3) a timetable for the implementation of these measures.

Measures aiming to restore the long-term viability of the bank may include:

- 1) the reorganisation of the bank's operation, particularly to ensure the restoration of the bank's competitiveness;
- 2) changes to the systems of bank management, risk management, internal controls, IT and other systems, as well as changes to the bank's infrastructure;
- 3) the withdrawal from loss-making activities;
- 4) the sale of assets or business lines.

Within one month from the date of receipt of the business reorganisation plan, the National Bank of Serbia shall assess the likelihood that the implementation of the proposed plan will achieve long-term viability and shall, by virtue of a decision, give consent to the plan, if it believes that this objective can be achieved.

If it believes that it is unlikely that the plan will achieve long-term viability, the National Bank of Serbia shall notify the bank's managing board and/or special management of its remarks and require the amendment to the plan in a way that addresses those remarks.

Within 14 days from the date of receipt of the notification referred to in paragraph 8 hereof, the managing board of the bank and/or special management shall submit an amended plan to the

National Bank of Serbia for consent. The National Bank of Serbia shall assess the amended plan and shall notify the managing board and/or special management, within seven days from receiving the plan, of whether the plan also addresses the remarks referred to in paragraph 8 hereof or whether a further amendment to the plan is required.

The managing board of the bank and/or special management shall implement the reorganisation plan to which the National Bank of Serbia granted consent, and shall submit a report to the National Bank of Serbia at least every six months on progress in the implementation of the plan. They shall amend the plan if, in the opinion of the National Bank of Serbia amendments are necessary to achieve the aim referred to in paragraph 7 hereof, and shall obtain the National Bank of Serbia's prior consent to such amendments.

The National Bank of Serbia may regulate in more detail the contents of the business reorganisation plan referred to in paragraph 1 hereof.

Article 128v

When the National Bank of Serbia takes the measure of the write-down and conversion of capital, and/or when it applies the bail-in tool, such measure and/or tool shall have immediate legal effect for the bank under resolution and the bank's affected shareholders and creditors.

The National Bank of Serbia may take necessary actions or require the adoption of relevant regulations and implementation of all necessary actions of other competent bodies and persons necessary for the execution of the measure and/or application of the tool referred to in paragraph 1 hereof, including in particular:

- 1) entry of or amendment to relevant data in registers and records held by the Business Registers Agency, Central Securities Depository and other competent bodies and organisations;
- 2) the removal of shares or other instruments of ownership or debt instruments from trading and/or from listing on a relevant market;
- 3) admission to trading of new shares or other instruments of ownership and/or admission to listing on a relevant market;
- 4) readmission to trading and/or relisting on a relevant market of debt instruments which have been written down, without the requirement to issue a prospectus.

If the National Bank of Serbia fully writes down some liabilities, these liabilities, as well as all related liabilities and claims that are not accrued at the time when the measure is taken, shall be treated as discharged, and shall not be provable in any procedure in relation to the bank under resolution or its legal successor.

If the National Bank of Serbia partly writes down (reduces) the principal or outstanding amount of liability:

- 1) the liability shall be considered discharged to the extent of the amount reduced;
- 2) the relevant instrument or agreement that created the original liability shall continue to apply in relation to the residual principal or outstanding amount payable in respect of the liability following the reduction, subject to any change to the amount of interest payable to reflect the

reduction in the principal amount and any other change in the terms and timeframes that the National Bank of Serbia may unilaterally carry out.

During the resolution procedure and when necessary to achieve the resolution objectives, the National Bank of Serbia may unilaterally change the maturity of debt instruments or other eligible liabilities as well as the amount of interest payable in respect of such instruments and liabilities, or the date on which the interest becomes payable, including the suspension of payment for a specific period, except for the liabilities referred to in Article 128q, paragraph 3, item 2) of this Law.

The National Bank of Serbia may require from the bank to maintain the number of approved shares at the level necessary for efficient conversion of eligible liabilities into these shares, taking into account the possibility of applying this tool according to the resolution plan.

The bank shall ensure that contracts creating the bank's liabilities shall include a provision by which the creditor recognises that the liability may be subject to write-down or conversion and agrees to be bound by any reduction, conversion or cancellation of the principal or outstanding amount, as a consequence of the measures taken by the National Bank of Serbia in accordance with this Law, provided that such liability is governed by the law of a third country, that the liability is not excluded subject to Article 128q, paragraph 3 of this Law, and that such liability does not concern an insured deposit.

The National Bank of Serbia may take the measures of debt write-down and conversion in respect of the liabilities referred to in paragraph 7 hereof even if the contract concluded by the bank does not contain the provisions from that paragraph.

Section 6

Safeguard for shareholders, creditors and third parties

Independent valuation of losses of shareholders, creditors and the deposit insurance fund in the resolution procedure and bankruptcy procedure

Article 128w

Immediately upon initiating the resolution procedure or immediately upon applying resolution tools or the measures referred to in Article 128g of this Law, the National Bank of Serbia shall ensure that the independent valuation is carried out as to whether the bank's shareholders and creditors would be in a more favourable position if the bankruptcy procedure was initiated instead of the resolution procedure.

The valuation referred to in paragraph 1 hereof shall determine:

- 1) losses borne by the bank's shareholders and creditors and/or the deposit insurance fund in the resolution procedure;
- 2) losses that the bank's shareholders and creditors and/or the deposit insurance fund would have suffered provided the bankruptcy procedure was initiated against the bank on the day of initiating the resolution procedure;
- 3) the difference, if any, between these losses, and the amount of difference.

The valuation referred to in paragraph 1 hereof may be carried out only by the person meeting the conditions referred to in Article 128i, paragraphs 3 and 4 of this Law, whereas the valuation costs shall be borne, as a rule, by the bank under resolution.

If the valuation referred to in paragraph 1 hereof is performed by the person that carried out the independent valuation of the bank's assets and liabilities referred to in Article 128i of this Law, these two different valuations must be separated.

If the bank under resolution has received extraordinary financial support, the amount of the support shall not be taken into account during the valuation referred to in paragraph 1 hereof.

If the valuation referred to in paragraph 1 hereof determines that the bank's shareholder or creditor and/or the deposit insurance fund suffered in the resolution procedure higher losses than those they would have suffered in the bankruptcy procedure, these entities are entitled to the reimbursement of the difference up to the level of losses they would suffer in the bankruptcy procedure from the funds for bank resolution, provided by the Republic of Serbia based on the decision of the Government of the Republic of Serbia.

Paragraphs 1–6 hereof shall apply accordingly to the rights of shareholders and creditors of a member of the banking group that is not a bank undergoing resolution under this Article or is not subject to the measure referred to in Article 128g hereof.

The National Bank of Serbia may prescribe the methodology to carry out the valuation referred to herein.

Safeguards for counterparties in financial arrangements

Article 128x

In the resolution procedure, it is not possible to transfer to the acquirer only a part of rights and liabilities in regard to which it has been established, under a title transfer financial collateral arrangement, a settlement arrangement or a netting arrangement concluded by the bank, that they may be subject to settlement or netting, nor is it possible, through the use of ancillary rights based on these arrangements, to require the modification and/or termination of contractual provisions governing these rights and liabilities because of the initiation of the resolution procedure or effected transfer in this procedure.

In the resolution procedure, it is not possible to transfer to the acquirer either a part of rights and liabilities subject to the structured finance arrangement or covered bonds, nor is it possible, through the use of ancillary rights based on these activities, to require the modification and/or termination of these rights and liabilities because of the initiation of the resolution procedure or effected transfer in this procedure.

In the resolution procedure:

1) it is not possible to transfer to the acquirer the assets against which the liability is secured, if along with the transfer of assets the acquirer did not assume such liability and if the creditor did not maintain all rights towards the acquirer which it had also in respect of the earlier debtor based on a secured claim;

2) it is not possible to transfer to the acquirer the liability referred to in Article 128q, paragraph 3, item 2) of this Law if the creditor did not maintain all rights towards the acquirer which it had also in respect of the earlier debtor and issuer of collateral based on a secured claim;

3) it is not possible to transfer rights towards the issuer of collateral under Article 128q, paragraph 3, item 2) of this Law if the claim secured by such collateral is not transferred as well.

4) it is not possible, through the use of rights arising from the activity under this Article, to request its modification or termination if, due to this, the claim arising from such activity would no longer be secured.

Notwithstanding paragraphs 1–3 hereof, the National Bank of Serbia may transfer the insured deposits subject to the arrangement referred to in those paragraphs without simultaneously transferring other assets or liabilities subject to that arrangement, and may also transfer, modify or write down these assets and liabilities without simultaneously transferring the insured deposits, provided this is necessary to ensure full protection of these deposits.

The application of resolution tools and measures in the resolution procedure shall not affect the rights and obligations of third parties determined by the law governing settlement finality in payment and securities settlement systems.

Paragraphs 1–5 hereof shall apply accordingly in the resolution procedure of a nonbank member of the banking group.

The National Bank of Serbia may prescribe in detail the types of contracts and financial instruments subject to paragraphs 1–5 hereof.

Section 7

Funding resolution

Assets to fund resolution

Article 128y

Assets to fund bank resolution shall be provided from the deposit insurance fund, subject to limitations from Article 128z of this Law, and from financial support funds which, under the conditions from this Article, may be provided by the Republic of Serbia.

If assets from the deposit insurance fund provided in accordance with Article 128z of this Law are insufficient to fund bank resolution, based on the least cost test from Article 128h, paragraph 7 of this Law and the assessment of possibilities to achieve the resolution objectives to the greatest possible extent by applying other resolution tools, and particularly to preserve financial stability – the National Bank of Serbia shall submit to the ministry in charge of finance the application for a positive opinion on ensuring financial support funds from paragraph 1 hereof,

which shall contain an overview of envisaged resolution tools and measures, along with a rationale, including the amount, manner and timeframe for the provision of financial support, bearing in mind the principles from Article 128b of this Law.

Along with the application from paragraph 2 hereof, the National Bank of Serbia shall submit the report on the least cost test from Article 128h, paragraph 7 of this Law and the Agency's opinion on the report, including the valuation of assets and liabilities of the bank from Article 128i of this Law.

Based on the positive opinion of the ministry in charge of finance, the National Bank of Serbia shall submit to the Government the proposal for ensuring financial support funds, which shall contain an overview of envisaged bank resolution tools and measures with a rationale, including the amount, manner and timeframe for the provision of such support, which shall be accompanied with the documentation from paragraph 3 hereof.

Based on the proposal from paragraph 4 hereof, the Government shall issue a decision on ensuring financial support funds and shall submit it to the National Bank of Serbia and the Agency without delay.

Financial support provided based on this Article shall be treated as permitted state aid aimed at eliminating threats of damage in extraordinary circumstances, within the meaning of the law governing the control of state aid.

If the Government does not adopt the proposal from paragraph 4 hereof, the National Bank of Serbia shall adopt the decision on revoking the bank's licence, unless the bank's licence was revoked in the course of determining the conditions to initiate the resolution procedure.

The National Bank of Serbia may not bear the costs of resolution funding.

More detailed conditions and manner of ensuring financial support funds referred to in this Article shall be regulated by a cooperation agreement concluded between the National Bank of Serbia and the ministry in charge of finance.

Paragraphs 2–9 hereof shall apply accordingly to the provision of financial support funds of the Republic of Serbia for resolution of a member of the banking group.

Use of assets of the deposit insurance fund in the resolution procedure

Article 128z

If it has been envisaged by the application of resolution tools and/or implementation of measures in the resolution procedure that depositors of the bank under resolution shall continue to have access to their deposits, assets of the deposit insurance fund shall be used to fund resolution as follows:

1) when the bail-in tool is applied, in the amount of losses that depositors would have suffered had their claims in respect of insured deposits been included in eligible liabilities and

written down in order to absorb losses of the bank under resolution, together with claims of other creditors with the same level of priority, in accordance with the law governing bankruptcy and liquidation of banks and insurance companies;

2) where another resolution tool is applied, in the amount of losses that depositors would have suffered in respect of insured deposits had they participated with other creditors with the same level of priority in covering these losses.

Assets of the deposit insurance fund for the purpose of financing resolution shall be provided only in cash.

Assets of the deposit insurance fund may not be used for direct coverage of losses of the bank under resolution or its recapitalisation, or for providing capital of the bridge bank.

The amount referred to in paragraph 1 hereof being used to fund resolution shall not exceed the amount that would have been paid by the deposit insurance fund had the bankruptcy or liquidation procedure been initiated against the bank instead of the resolution procedure, whereas the amount may not exceed 50% of the target level of the deposit insurance fund, in accordance with the law governing deposit insurance.

The use of assets of the deposit insurance fund for financing bank resolution shall be determined by the decision of the National Bank of Serbia, whereas the Agency shall transfer these funds within the timeframe and in the manner determined by that decision.

Chapter VI

TERMINATION OF BANK'S OPERATIONS

Grounds for cessation of validity of the operating licence

Article 129

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

- 1) the bank's operating licence is revoked;
- 2) the 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 timeframe prescribed by this Law.

Section 1

Revocation of operating licence

Article 130

The National Bank of Serbia shall revoke a bank's operating licence in the following cases:

- 1) if temporary administration was introduced and the reasons for its introduction have not been eliminated by the expiry of the period over which such administration was introduced, whereas the National Bank of Serbia assesses that conditions for initiating of the resolution procedure

have not been fulfilled;

- 2) if assets and liabilities of the bank under resolution have been transferred by applying the tools referred to in Articles 128n and 128o of this Law and the National Bank of Serbia assesses that that resolution objectives have been met by the effected transfer;
- 3) if after the resolution procedure was initiated, the National Bank of Serbia assesses that resolution objectives cannot be achieved;
- 4) if the bank stops accepting deposits or approving loans during six consecutive months, unless so ordered by a corrective measure of the National Bank of Serbia, or a measure in the resolution procedure;
- 5) if the Government does not adopt the proposal to approve financial support from Article 128y, paragraph 4 of this Law.

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

- 1) it determines that the bank has critically strained liquidity;
- 2) it determines that the bank's operating licence 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 in the register of business entities;
- 5) it determines that the 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 undercapitalised;
- 7) *deleted*;
- 8) it determines that the bank committed serious or longer-lasting violation of this Law or other regulation;
- 9) within the prescribed time period, the bank fails to act in compliance with the orders specified in Articles 112 and 113 of this Law;
- 10) the bank does not pay the deposit insurance premium in accordance with the law governing deposit insurance;
- 11) the bank's activities are connected with 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 the 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 prudential supervision.

On the day of rendering the decision on revocation of the bank's operating licence, the National Bank of Serbia shall block all of the bank's accounts, and by the same decision it shall simultaneously declare the measure of prohibition of using bank's assets until the initiation of the bank resolution procedure and/or bankruptcy procedure.

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 application for consent to the decision on termination of bank's operations.

Along with the application 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 bank guarantee payable on first demand, 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 application 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 application from paragraph 1 hereof by rendering a decision within seven days from the receipt of the duly completed application.

By virtue of the decision on granting consent referred to in paragraph 1 hereof, the Agency shall be appointed administrator with the rights and obligations determined by the law governing companies.

If the National Bank of Serbia does not give the 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 licence.

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

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

Section 3

Status changes

Merger of banks

Article 132

The National Bank of Serbia shall issue the operating licence to a bank which is established by merging of two or more banks, based on the application of banks being merged.

Along with the application 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) proposed 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 proposed 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 the economic justifiability of merging, made 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.

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 application specified in paragraph 1 hereof within 90 days from the day of receipt of the duly completed application.

The National Bank of Serbia may prescribe detailed requirements and the 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 application for consent to the 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 application 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 the economic justifiability of merger by acquisition, made 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 showing that the merger by acquisition cannot have any negative impact on the situation in the financial market.

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 application 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.

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

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

(Title deleted)

Article 134

(deleted)

Chapter VII

PENALTY PROVISIONS

Criminal offences

Article 135

A person who engages in accepting deposits without an operating licence 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 licence 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 licence issued by the National Bank of Serbia, and is not authorised to do so by law, 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 granting loans and issuing of payment cards without an operating licence of the National Bank of Serbia and is not authorised to do so by law.

Article 136a

A person which has the word “bank” or derivatives thereof in its business name and/or uses that word or derivatives thereof in the performance of its activity without an operating licence 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 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) *deleted*;
- 2) it appoints the external auditor whose income arising from the audit of that bank in the previous year exceeds a half of its total income, and/or engages the external auditor that has already performed more than five consecutive audits of the bank’s annual financial statements, and/or the external auditor that performed the audit of the bank’s financial statements and provided to the bank consultancy services in the same year, and/or the external auditor that performed audit for the business year in which it provided these 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 dispose of its own shares within one year from the day of their acquisition, or fails to withdraw and cancel them at the expense of its share capital (Article 26, paragraph 7);
- 2) it concludes a legal transaction dealing with granting of a loan, advance payment, warranty or a 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 (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, along with a prescribed statement, 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.

Misdemeanours committed by other persons

Article 139

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

- 1) he fails to decide on the application of the bank's founders for preliminary permit within 90 days from the receipt of the duly completed application (Article 15, paragraph 3);
- 2) he fails to decide on the application of a bank for an operating licence within 30 days from the receipt of the duly completed application (Article 18, paragraph 3);
- 3) he 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 fails to decide on the application of the person from Article 94, paragraph 1 of this Law within 60 days from the receipt of the duly completed application (Article 94, paragraph 2);
- 5) he fails to decide on the applications 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 the timeframes stipulated in those Articles.

Article 139a

A temporary administrator shall be fined for a misdemeanour with RSD 100,000 to 150,000 if he fails to report to the National Bank of Serbia on the bank's financial condition and the actions he has taken (Article 115, paragraph 7).

A special manager shall be fined for a misdemeanour with RSD 100,000 to 150,000 if he fails to report to the National Bank of Serbia on the bank's operation and financial condition, and the actions he has taken in the discharge of his duties (Article 128l, paragraph 11).

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 a bank founder, it withdraws the funds invested in the 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 consultancy 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 timeframes;
- 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.

(Title deleted)

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 decision on entry in that register within five days following the receipt of such decision (Article 20, paragraphs 1 and 4).

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

A natural person – the bank’s founder 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 does not present truthfully and objectively the financial position 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 effectiveness of internal audit, risk management system and internal controls 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 and/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) 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) 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);
- 7) fails to enable the National Bank of Serbia to have insight into the total amount, types and regularity of execution of obligations of natural and legal persons who are the bank’s clients, and/or into business books and documentation, or fails to submit other data at the request of the National Bank of Serbia (Article 102, paragraph 4).

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 misdemeanour specified in paragraph 2 hereof, 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 may also be imposed on the responsible person.

Article 141

A natural person shall be fined for a misdemeanour with RSD 10,000 to 50,000 if he:

- 1) *deleted*;
- 2) *deleted*;
- 3) *deleted*;
- 4) 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 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 of 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 the 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, 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 in accordance with 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 licence 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 shall submit to the National Bank of Serbia an application for consent to a plan regarding mandatory harmonisation under paragraph 4 of this Article.

The National Bank of Serbia shall decide on the application 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 application 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 licence 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 licence, 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 shall 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 licences to banks initiated 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 initiated 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 apply as of 31 December 2006.

Entry into force

Article 148

This Law repeals the Law on Banks and Other Financial Organisations (FRY Official Journal, 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 10 December 2005 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 act as set out in paragraph 1 of this Article.

Article 51

The National Bank of Serbia shall harmonise the regulations adopted based on the Law on Banks (RS Official Gazette, No 107/2005) 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 the 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 11 December 2010.

*Separate articles of the Law on Amendments and Supplements to
the Law on Banks
(RS Official Gazette, No 14/2015)*

Article 60

Banks shall harmonise their internal general acts with the provisions of this Law by 1 July 2015.

Banks shall submit their recovery plans referred to in Article 20 of this Law to the National Bank of Serbia by 30 September 2015.

Article 61

The National Bank of Serbia shall draw up resolution plans referred to in Article 51 of this Law for banks which, on the day this Law enters into force, are licensed to operate by the National Bank of Serbia – by no later than one year after this Law enters into force. It shall draw up resolution plans for the banking group by no later than within two years after this Law enters into force.

The National Bank of Serbia may initiate the resolution procedure and apply resolution tools in accordance with this Law irrespective of whether the resolution plans from paragraph 1 of this Article or recovery plans from Article 60 of this Law are drawn up.

Article 62

This Law shall enter into force on 12 February 2015 and shall apply as of 1 April 2015.