

Law on the Deposit Insurance Agency
(Official Gazette of the Republic of Serbia, No. 14/2015)

(Unofficial Translation)

I. GENERAL PROVISIONS

Article 1

This Law governs the status, organization, powers and functions of the Deposit Insurance Agency (hereinafter: “the Agency”) established by the Law on the Deposit Insurance Agency (“Official Gazette of the Republic of Serbia”, Nos: 61/05, 116/08 and 91/10).

The Agency is an autonomous legal entity, which performs activities set forth by this and other laws and is functionally independent from any state institution.

The Agency has the capacity of a legal entity and it is evidenced in the court registry of legal and other entities.

The seat of the Agency is in Belgrade.

Article 2

The Agency performs the activities pertaining to statutory deposit insurance and payout of insured amounts, in accordance with the law governing deposit insurance.

In addition to the activities referred to in Paragraph 1 of this Article, the Agency:

- 1) manages the assets transferred in the process of bank resolution and performs other activities related to bank resolution procedure pursuant to the law governing banks;
- 2) acts as a bankruptcy or liquidation administrator for banks, insurance companies and leasing companies pursuant to the law governing bankruptcy and liquidation of banks and insurance companies and the law governing financial leasing;
- 3) organizes the investor protection fund, pursuant to the law governing the capital market.

Article 3

The Agency has a statute, adopted by the Agency’s Managing Board (hereinafter: the Managing Board).

The Agency’s statute shall regulate the following:

- 1) organization and manner of performance of the Agency’s activities;
- 2) the Agency bodies’ remit;
- 3) representation of the Agency;
- 4) data and documents considered as classified and the manner of dealing with such data and documents;
- 5) other matters of importance for the Agency’s operations.

The statute of the Agency shall be published in “Official Gazette of the Republic of Serbia”.

Article 4

The labour-related rights, obligations and responsibilities of the Agency's employees shall be governed by the general labour regulations, unless otherwise set forth herein.

The Agency shall not be considered as a user of the budget and public funds in terms of the law governing the public procurement in case of the selection of the payout agent bank in the manner prescribed by the law regulating the deposit insurance, the law governing the activities of public agencies, the regulations limiting the number of employees in the public sector, and the budget system regulations.

II. ACTIVITIES OF THE AGENCY

1. Deposit Insurance

Article 5

The Agency insures deposits with banks under the terms and in the manner set by the law governing the deposit insurance and pays out the insured amounts in accordance with that law.

2. Management of Assets Transferred in the Course of Bank Resolution

Article 6

The Agency shall manage the assets and liabilities of a bank in resolution or a bridge bank, transferred to the Agency by decision of the National Bank of Serbia.

The Agency shall perform the activities related to the transferred assets and liabilities referred to in Paragraph 1 of this Article with due care and diligence of a prudent businessman and report thereon to the National Bank of Serbia within the timeframe and in the manner set by the decision of the National Bank of Serbia.

III. AGENCY FUNDS

Article 7

The funds that the Agency uses in its operations shall consist of the following:

- 1) deposit insurance fund assets (hereinafter: the Deposit Insurance Fund) for conducting the activities set out in Article 2, Paragraph 1 hereof;
- 2) investor protection fund assets (hereinafter: the Investor Protection Fund) for conducting activities set out in Article 2 Paragraph 2 item 3) hereof;
- 3) the funds used by the Agency in performing activities referred to in Article 2, Paragraph 2, items 1) and 2) hereof;
- 4) the funds used by the Agency in performing activities referred to in Article 27 hereof.

The assets of the Deposit Insurance Fund shall be allocated for the purpose of covering the operating costs of the Agency related to the deposit insurance activities, in an annual amount that does not exceed 1.7% of the funds collected in that period from the paid in regular premiums, in accordance with the law governing deposit insurance.

The Director of the Agency shall set the criteria for allocating the operating costs of the Agency referred to in Paragraph 2 of this Article and for separating these costs from the costs incurred in the course of performance of other activities of the Agency, in order to ensure that the Agency shall use the deposit

insurance fund assets earmarked in accordance with that paragraph solely for covering the operating costs referred to in that paragraph.

The Agency shall provide the funds for the performance of activities referred to in Article 2 hereof from its operating income, fees for activities referred to in Article 2 Paragraph 2 hereof, donations, budget of the Republic of Serbia, domestic and foreign borrowing and in other ways, in accordance with law.

For the amount of revenues in excess of expenses, or the amount of expenses in excess of revenues generated by using the Deposit Insurance Fund assets, as set forth in the law governing accounting, the funds of the Deposit Insurance Fund will be increased or decreased, respectively.

The assets of the Deposit Insurance Fund are not subject to taxation.

Article 8

The Agency shall keep the funds referred to in Article 7, Paragraph 1, items 1) and 2) hereof in separate deposit accounts with the National Bank of Serbia.

Dinar funds referred to in Paragraph 1 of this Article shall be invested by the Agency in debt securities issued by the Republic of Serbia or the National Bank of Serbia, while foreign currency funds referred to in that paragraph shall be invested by the National Bank of Serbia in foreign securities, based on the agreement concluded with the Agency and upon the order of the Agency, in its own name and on behalf of the Agency, or deposited with foreign banks, in accordance with the foreign reserve management policy.

Article 9

In case the funds referred to in Article 7, Paragraph 1, item 1) of this law are not sufficient for conducting the Agency's activities, the Government shall, upon the Agency's request and as a matter of urgency, adopt a decision on providing the funds from the budget of the Republic of Serbia, or from domestic or foreign borrowings based on a document enacted by the National Assembly and in accordance with the law on budget and the law regulating the public debt.

The Government shall decide on the specific amount of borrowing by the Republic of Serbia for the purpose defined in Paragraph 1 of this Article.

IV. AGENCY'S BODIES

Article 10

The Agency's bodies are the Managing Board and the Director of the Agency.

The Agency may have one director or three or more directors that comprise the Board of Directors. The exact number of directors and the manner of operations of the Board of Directors shall be set out in the Statute. Unless otherwise specified in the Statute, the Agency shall have one director.

Unless otherwise provided for by this law, all provisions referring to the Agency's director shall accordingly refer to directors comprising the Board of Directors, i.e. to the Board of Directors of the Agency.

Article 11

The Managing Board of the Agency consists of five members, three of which are independent.

One member is appointed and dismissed by the Government at the proposal of the ministry in charge of finance.

One member is appointed and dismissed by the National Bank of Serbia.

Independent members of the Managing Board are appointed by the Government at the proposal of the ministry in charge of finance, subject to the prior approval of the National Bank of Serbia.

Independent members of the Managing Board are dismissed by the Government at the proposal of the ministry in charge of finance or the National Bank of Serbia, subject to the prior mandatory positive opinion of the institution which did not submit the proposal.

Reasons for dismissal of the members of the Managing Board are defined in Article 17 hereof.

All members of the Managing Board shall be appointed for a term of four years and may be re-appointed for an additional term of one year.

The Managing Board shall elect the Chairperson among its independent members by majority vote of all members.

Article 12

To be eligible to become a member of the Managing Board a person must:

- 1) meet the general requirements for employment;
- 2) hold a university degree (second-level studies) and have at least 8 years of professional experience in the fields of finance, banking, insurance or commercial and financial law;
- 3) have never been convicted of a criminal offence to an unconditional prison sentence or of a criminal offence which makes him/her unfit for performing the office of a member of this board;
- 4) have never been dismissed from employment for violation of his/her work duties;
- 5) not currently be an official within the meaning of the regulations governing the prevention of conflict of interest in performing public functions, not hold an office in a political party or trade union organization, not be a member of a management body of a bank, another financial institution or bank association, the audit company auditing financial statements of the Agency, other legal persons the Agency cooperates with in performing its activities under Article 2 hereof or banks, insurance companies and other financial institutions or be employed in those entities or be their associate.

Apart from the requirements referred to in Paragraph 1 of this Article, the person to be appointed as an independent member of the Managing Board may not:

- 1) be an official, employee or a person directly or indirectly associated with the Government, the National Bank of Serbia, Agency or any other legal person founded by the Republic of Serbia;
- 2) be a natural person related to a bank, in accordance with the law governing banks;
- 3) be a member of the management body of a bank or bank association, or employed in or otherwise associated with those legal entities for a year preceding his/her appointment.

Article 13

The Managing Board shall:

- 1) adopt the Statute, a document regulating the procedure for selection of payout agent bank, a document regulating the public selection procedure for the appointment of independent

- members of the Managing Board and a document regulating the public selection procedure for the appointment of the Director of the Agency;
- 2) provide opinions on draft least cost test reports submitted by the National Bank of Serbia and take any steps necessary to effect the transfer of assets of the deposit insurance fund to finance bank resolution, within the time frames and in the manner determined by the National Bank of Serbia, in accordance with the law governing banks;
 - 3) adopt decisions on the management and disposal of the Agency's assets, in accordance with law;
 - 4) adopt general regulations pertaining to deposit insurance, in accordance with the law governing deposit insurance;
 - 5) adopt general regulations pertaining to the performance of investor protection activities, in accordance with the law governing the capital market;
 - 6) adopt general regulations governing the Agency's activities as the bankruptcy or liquidation administrator, in accordance with the law governing bankruptcy and liquidation of banks and insurance companies;
 - 7) adopt the strategy for managing the assets transferred in the course of bank resolution;
 - 8) adopt the regulation on internal organisation and job classification of the Agency, appoint and dismiss the Director of the Agency, and managers of the Agency's organisational units;
 - 9) supervise the regulatory compliance of the Agency Director's work;
 - 10) adopt the Agency's financial plan;
 - 11) adopt the Agency's annual accounts;
 - 12) adopt the Agency's annual performance report;
 - 13) select the company to audit the Agency's financial statements and review such statements;
 - 14) adopt the internal audit plan, review and adopt internal audit reports;
 - 15) adopt and enforce the rulebook on code of conduct of the Agency employees;
 - 16) adopt the rules of its procedure and operation;
 - 17) carry out other activities prescribed by the law, the Statute and regulations of the Agency.

The Managing Board shall unanimously adopt the Statute and the regulations referred to in Paragraph 1, Item 1 of this Article.

The Managing Board's decisions shall be made by a majority vote of all serving members unless this law or the Statute provide for a qualified majority for the adoption of certain decisions.

The Managing Board may decide to invite independent experts in certain areas of importance for the Agency's operation to attend its meetings, without granting them voting rights.

Article 14

Members of the Managing Board shall receive fees for their work in accordance with the Statute of the Agency.

Article 15

No member of the Managing Board or their family member may hold shares, initial capital, or debt securities of banks, other financial institutions, audit companies or other legal persons the Agency cooperates with in performing activities within its remit, nor be party to any contractual relationship with the Agency except for the one arising from the membership in the Managing Board. He/she must deliver a written statement to that effect to the Government no later than on the day following the day of his/her appointment, as well as every following year during his/her term of office, by 31 January of the current year at the latest.

For the purposes of Paragraph 1 of this Article, family members shall be the spouse, children and other descendants, parents and other ancestors, relatives up to the 3rd degree, adoptive children, adoptive parents, as well as persons without full legal capacity, placed under the custody of the members of the Managing Board.

The statement referred to in Paragraph 1 of this Article shall contain the following information on the members of the Managing Board and their family members: name and surname, residence address, personal identification card number and the place of issuance of the personal identification card.

Article 16.

Upon the expiry of his/her term of office, resignation or dismissal, a member of the Managing Board shall cease to serve.

Member of the Managing Board appointed by the Government shall tender his/her resignation to the Government and shall inform the Managing Board of the resignation tendered without delay.

Member of the Managing Board appointed by the National Bank of Serbia shall tender his/her resignation to the National Bank of Serbia and shall inform the Managing Board of the resignation tendered without delay.

Member of the Managing Board who tendered his/her resignation shall cease to serve upon the election of a new member, but not later than 90 days from the date of his/her resignation, whereas the dismissed member of the Managing Board shall cease to serve on the day of his/her dismissal.

Article 17

Reasons for dismissal of the members of the Managing Board are the following:

- 1) if he/she was indicted or convicted by final sentence for a criminal offence against the economic interests, labour rights, property, government authorities, judiciary, public order and legal transactions and abuse of office or if he/she was convicted to final unsuspended prison sentence;
- 2) initiation of the investigation proceedings for economic crimes, crimes against labour rights, property, state bodies, judicial bodies, police and official duties, as well crimes for which non-conditional imprisonment is stipulated;
- 3) if it has been established that his/her unprofessional, conscienceless and improper exercise of office, serious misconduct in the adoption and implementation of decisions, as well as in the organisation of operations of the Agency have resulted in substantial deviations from the accomplishment of the Agency's primary goal;
- 4) if, on the basis of findings and opinions of the competent medical institution, it is established that, due to his/her health status, he/she has permanently lost his/her capacity to work and perform his/her duties or is temporarily incapable of performing his/her duties in a period exceeding six months;
- 5) if he/she failed to submit or submitted a false declaration concerning the data referred to in Article 15 of this law;
- 6) if it is established that he/she does not meet the appointment requirements referred to in Article 12 of this law.

A member of the Managing Board appointed instead of a member whose office was terminated before the expiry of his/her mandate shall perform the function until the expiry of such mandate.

Article 18

The Director of the Agency (hereinafter: the Director) shall be appointed by the Managing Board based on the conducted public selection procedure.

The Director shall enter into a time-limited employment agreement with the Agency until the end of his/her term of office.

The Director's term shall be five years, with a right to re-election.

A person may be appointed as a Director if he/she meets the requirements referred to in Article 12 hereof and has at least eight years of experience in managerial positions in government authorities, institutions entrusted with public authority, financial institutions or other companies.

The Director shall submit a written statement regarding the information referred to in Article 15 hereof no later than 15 business days from the day of his/her appointment, as well as every following year during his/her term of office, by 31 January of the current year at the latest.

The Director shall report to the Managing Board.

The Director's office shall be terminated by expiry of his/her term, by his/her resignation tendered to the Managing Board, or by dismissal.

Reasons for dismissal of the members of the Managing Board, as prescribed in Article 17, Paragraph 1 hereof, apply to the dismissal of the Director accordingly.

If the Director's office is terminated before the expiry of his/her term, the Managing Board shall appoint an Acting Director for the period not longer than six months.

Article 19

The Director shall:

- 1) represent the Agency;
- 2) organize the activities of the Agency and manage its operations;
- 3) propose the regulations adopted by the Managing Board;
- 4) propose the regulation on job classification in the Agency and propose the appointments of managers of organisational units in the Agency to the Managing Board;
- 5) carry out the decisions of the Managing Board and take measures for their execution;
- 6) be responsible for the regulatory compliance and efficiency of the Agency's operations as well as for the use of the Agency's funds;
- 7) perform other activities prescribed by the law and the Statute of the Agency.

The Director shall regularly, or at least once every quarter, report to the Managing Board on the Agency's operations.

Article 20

The Agency, its employees, members of the Agency's Managing Board, as well as the persons who, by order of the Agency, perform duties determined by the law, shall not be held liable for any damage that may occur during the performance of such duties, unless it is proven that while performing their duties they did not act in good faith.

Persons referred to in Paragraph 1 of this Article cannot be held liable for the damage referred to in the same paragraph even after the termination of their employment with the Agency, or termination of their term of office.

The Agency shall reimburse the expenses for representation of its employees in court and administrative proceedings initiated in relation to the duties that these employees perform on the basis of this law. The Agency shall also reimburse such expenses to the persons whose employment with the Agency has terminated.

If it is established by a legally binding decision that the persons referred to in Paragraph 1 of this Article have caused a loss referred to in Paragraph 1 intentionally or by gross negligence, these persons shall be obliged to pay compensation for the cost of representation referred to in Paragraph 3 of this Article, and the amount of damages paid in accordance with the law.

V. AGENCY REPORTS

Article 21

Not less than once a year, the Agency shall submit its performance report to the National Assembly of the Republic of Serbia, via the Government, and to the National Bank of Serbia.

Article 22

Annual financial reports of the Agency shall be compiled in accordance with the law governing accounting.

Article 23

The audit of the annual financial reports of the Agency is performed in the manner as set forth in the law governing audit of financial statements, whereby the Managing Board shall cause and secure the additional audit of the operations of the deposit insurance fund.

Annual financial reports of the Agency shall be audited by an audit company from the list of external auditors authorised to audit financial statements of banks, which is published by the National Bank of Serbia.

The Managing Board shall submit the annual financial report of the Agency with the external audit report to the Government and the National Bank of Serbia by 15 May of the following year.

Article 24

The Agency shall have an internal auditor performing the internal audit activities in accordance with the Statute and general regulations of the Agency.

The internal auditor shall be selected by the Managing Board at the proposal of the Director. The internal auditor is accountable to the Managing Board for his performance.

Subject of internal audit may be all business processes and activities conducted in the Agency, and in particular the internal controls established for the purpose of ensuring the reliability of the accounting and financial information system and relevant financial statements and ensuring financial statement compliance with law and general acts.

Internal audit shall be performed in line with the plan adopted by the Managing Board and may be performed on an ad hoc basis, at the request of the Managing Board.

VI. DATA SECURITY

Article 25

Data relating to bank operations, finances and resolution, including the data on deposit insurance, the financial status of insurance and leasing companies, as well as the documents containing such data, learnt by any member of the Managing Board or any employee of the Agency in any manner in the course of performing their activities or offices, 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.

Persons referred to in Paragraph 1 of this Article shall 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.

Confidentiality requirement for persons referred to in Paragraph 1 of this Article shall not cease after the termination of their employment or office.

Notwithstanding Paragraph 2 of this Article, the Agency may make data and documents referred to in Paragraph 1 hereof available to domestic and foreign regulatory authorities, on condition that these authorities use them solely for the purposes for which they were disclosed.

Disclosure of data referred to in Paragraph 1 of this Article in the aggregate form preventing identification of individual banks or natural and legal persons shall not be considered a breach of the confidentiality requirement.

VII. COOPERATION OF THE AGENCY WITH OTHER BODIES

Article 26

The Agency shall cooperate with foreign and domestic regulatory bodies with a view to performing and improving its activities set forth by this and other law.

The Agency may exchange the data obtained in the course of performing its activities set forth by this and other law with the bodies referred to in Paragraph 1 of this Article if those bodies are under the same or stricter data confidentiality requirement relative to the requirement referred to in Article 25 hereof.

The Agency may exchange data (information) obtained from the bodies referred to in Paragraph 1 of this Article with other foreign and domestic regulatory bodies, at their request and subject to prior consent of the body that provided such data (information), provided that this data (information) is exchanged only for the purposes set forth by such consent.

VIII. TRANSITIONAL AND FINAL PROVISIONS

Article 27

The Agency shall continue to perform the activities it performs in accordance with the Law on the Deposit Insurance Agency (“Official Gazette of the Republic of Serbia”, Nos. 61/05, 116/08 and 91/10 – hereinafter: the Law), which are not included in this law, until they are taken over by the ministry in charge of finance or other competent body, in accordance with law and these are:

- implementation of the procedure for the sale of shares of the banks whose shareholder is the Republic of Serbia, initiated up to the date this law enters into force, in accordance with the law and instructions of the ministry in charge of finance, for a fee in the amount of up to 0.1% of the actual sales price of the shares, which is decided upon by the Government;

- implementation of the procedure for the sale of the socially owned capital in insurance companies as set forth in the law governing insurance;
- implementation of the procedure for the collection of receivables assumed on behalf and for the account of the Republic of Serbia, including the Autonomous Province of Vojvodina, initiated up to the date this law enters in force, with the right to the compensation for the court and other costs in the amount of actual costs incurred for managing those proceedings and for a fee at the level of 3% of the amount collected.

In the implementation of the activities defined in Paragraph 1 of this Article, the Agency primarily compensates for the actual costs and fees set forth in this Article, while the remainder is paid into the budget of the Republic of Serbia, or the Autonomous Province of Vojvodina.

Article 28

The members of the Managing Board shall be appointed in accordance with this law within not more than 90 days from the date this law enters into force.

The ministry in charge of finance shall, without delay and after this law enters into force, conduct the procedure for selecting and proposing candidates for the independent members of the Managing Board to the Government, by the deadline referred to in Paragraph 1 of this Article.

When members of the Managing Board are appointed for the first time in accordance with this law, the members appointed at the proposal of the ministry in charge of finance and the National Bank of Serbia shall be appointed for the period of four years, two independent members for a period of three years and one for a period of two years.

The Ministry in charge of finance shall, without delay and after this law enters into force, conduct the procedure of selecting and proposing of the candidates for the Director to the Managing Board of the Agency in line with this law and the Managing Board shall appoint the Director within 30 days from the expiry of the deadline referred to in Paragraph 1 of this Article.

Members of the Managing Board appointed in accordance with the Law on Deposit Insurance Agency (“Official Gazette of the Republic of Serbia” Nos. 61/05, 116/08 and 91/10) shall perform the activities of the Managing Board until the persons referred to in Paragraph 1 of this Article are appointed.

Article 29

The Agency shall, in accordance with the provisions of this law, adopt the Statute within 30 days from the appointment of members of the Managing Board.

Until the adoption of the regulations referred to in Paragraph 1 of this Article, the Statute and other general regulations of the Agency shall remain in force unless they are contrary to this law.

Article 30

The Law on the Deposit Insurance Agency (“Official Gazette of the Republic of Serbia”, Nos. 61/05, 116/08 and 91/10) shall cease to apply on the day this law is enforced.

Article 31

This law shall come into effect on the eighth day from the day of its publication in “Official Gazette of the Republic of Serbia” and shall apply as of 1 April 2015.