

**CO-OPERATION AGREEMENT
BETWEEN
THE AUTORITE DE CONTRÔLE PRUDENTIEL
AND
THE NATIONAL BANK OF SERBIA
IN THE FIELD OF BANKING SUPERVISION**

PREAMBLE :

1. The Autorité de contrôle prudentiel (hereafter: the “ACP”) and the National Bank of Serbia (hereafter: the “NBS”) have reached the following understanding regarding arrangements for sharing information in order to facilitate the performance of their respective duties and to promote the safe and sound functioning of supervised institutions with cross-border establishments within their respective territories.

2. The overall aim of the Agreement is to improve the strength of the financial systems within the Authorities’ jurisdictions, in accordance with the Core Principles for Effective Banking Supervision of the Basel Committee on Banking Supervision (hereafter: the “Core Principles”),¹ thereby helping to maintain financial stability and confidence in the domestic and international financial systems and reducing any risk of loss to depositors and creditors.

ARTICLE I – LEGISLATION AND COMPETENT AUTHORITIES

1. The relevant French Law for the purposes of this Agreement is the *Code monétaire et financier*, in particular Articles L.632-7. The provisions relating to the disclosure of professional secrecy are determined at the Article L.612-17 of the *Code monétaire et financier*.

2. The relevant Serbian laws for the purposes of this Agreement are the *Law on the National Bank of Serbia* (hereafter: the “Law on the NBS”), particularly Article 11 and the *Law on Banks*. The provisions relating to the disclosure of the professional secrecy are stated at the Article 8 of the Law on Banks, Article 3 of the Law on Amendments and Supplements to the Law on Banks, as well as Article 86a of the Law on the NBS.

3. The ACP, as the prudential authority, has the task of licensing and supervising credit institutions, investments firms (except portfolio management firms), members of regulated markets, participants to clearing houses, some other financial undertakings and the insurance companies located within the jurisdiction of the French Republic (hereafter: “France”), including French overseas territories.

4. The NBS is the central bank of the Republic of Serbia (hereafter: “Serbia”) and, as such, its main responsibilities are the protection of price stability and the maintenance of financial stability. The NBS in carrying out its responsibilities acts as autonomous and independent institution. The supervisory function of the NBS is aimed at monitoring solvency and legal

¹ <http://www.bis.org/publ/bcbs129fre.pdf>

grounding of operations performed by commercial banks and insurance, leasing and voluntary pension fund management companies.

ARTICLE II – DEFINITIONS

The following definitions apply to this Agreement:

1. “Authority” means the ACP or the NBS.
2. “Branch” means a place of business which forms a legally dependent Part of a credit institution and which carries out directly all or some of the transactions inherent in the business of supervised institutions, and that is licensed in the respective other country.
3. “Cross-border establishment” means a branch or a subsidiary of a supervised institution operating on the territory of one Authority, whose parent undertaking is located and authorized in the territory of the other Authority.
4. “Home Authority” means the Authority located in France or in Serbia, responsible for the supervision on a consolidated basis of a supervised institution.
5. “Host Authority” means the Authority located in the other country, in which the supervised institution incorporated in the other country has a branch or a subsidiary.
6. “Qualifying holding” means direct or indirect right or ability of one person to realize 5 percent or more of voting rights of a legal entity, and/or direct or indirect ownership of 5 percent or more of capital of such legal entity; or the ability in fact to exercise influence over the management of a legal entity or over the business policy of such legal entity.
7. “Subsidiary” means a separate legal entity incorporated in one country which is controlled by a supervised institution incorporated in the other country.
8. “Supervised institution” means an institution subject to the control of the ACP in pursuance of the Code monétaire et financier as well as institution under the control of the NBS in pursuance of the Law on Banks.

ARTICLE III – INFORMATION SHARING FOR THE PRUDENTIAL CONTROL

1. The ACP and the NBS hereby recognise that closer co-operation during the authorisation process of a cross-border establishment, as well as sharing of information on the supervision of the current cross-border activities afterwards, would be mutually advantageous for the Authorities for effective consolidated supervision of supervised institutions.
2. Request for information pursuant to this article shall be made in writing (mail, e-mail, fax).

A request shall specify the following:

- (a) the information sought by the requesting Authority ;
- (b) a detailed description of the subject of the request and the purpose for which the information is sought ; and
- (c) the desired time period for reply and, where appropriate, the urgency thereof.

The Authority receiving a request shall immediately acknowledge receipt, by mail, fax or e-mail and, as far as possible, specify the considered time period to provide a written response.

Sharing of information during the process of a cross-border authorisation

3. During the process of authorization of a cross-border establishment, the Authorities agree to proceed in the following way :

- (a) The Host Authority shall inform the Home Authority of the receipt of all requests of granting authorization and require its prior opinion before the authorization is granted;
- (b) The Home Authority shall specify to the Host Authority whether the supervised institution, that originated the request, must also obtain its approval in order to perform its activity ;
- (c) In response to the request of the Host Authority, the Home Authority shall supply it with any information of the supervised institution regarding its compliance with the national legislation, degree of the fitness and properness, reputation and experience of prospective senior managers of a cross-border establishment ;

Sharing of information during the process of the acquisition of a qualifying holding

4. On the Host Authority's request, the Home Authority supplies any appropriate information on the natural person or legal entity that require the authorization to acquire a qualifying participation in a supervised institution located in the host country, if the information is available.

Sharing of information during the process of issuing prior consent regarding appointment of members of managing bodies

5. On the Host Authority's request, the Home Authority supplies with information that may reflect adversely on the capability, integrity, or experience of the prospective managers of a cross-border establishment. Prior to the actual appointment of managers of cross-border establishments, to the extent reasonable and consistent with law, on request, the Home Authority provides available information to the Host Authority that could :

- be useful in assessing the ability and professional skills of potential candidates for management positions, and
- makes doubts about the fit and properness of the prospective managers of the cross-border establishments.

Sharing of information for the purpose of consolidated supervision

6. Upon request and in order to meet the effective consolidated supervision requirements of a supervised cross-border institution, the Authorities intend to:

- (a) Share any relevant information ;
- (b) Inform each other of administrative penalties imposed or any other formal enforcement action taken on a cross-border establishment or its employees by the Host Authority, or a supervised institution by the Home Authority, if the latter Authority judges the information important to the other Authority ;

- (c) Respond to requests for information on any aspect of their respective national banking and control system, and inform each other about any major changes on the subject ;
- (d) Endeavor to inform the host supervisor, in a timely manner and to the extent reasonable, about any event which has the potential to endanger the stability of cross-border establishments' headquartered Serbia and/or in France.

7. Upon receipt of the Home Authority, the Host Authority endeavors to provide the information regarding the cross-border establishment of supervised institutions incorporated in Serbia or in France.

Crisis situation

8. Each Authority recognizes the unique importance of full and open co-operation in the case of a serious supervisory concern that might lead to a crisis situation. The ACP and the NBS intend to inform each other without delay if they learn of an incipient crisis relating to any Supervised Institution supervised by either of them which has cross-border establishments in the respective other jurisdiction.

Prevention of money laundering and struggle against terrorism financing

9. Each Authority shall do its best, in compliance with its legislation, to co-operate in the framework of the prevention of money laundering and struggle against terrorism financing, as in the event of suspicion of the illegal banking activity.

ARTICLE IV – CONFIDENTIALITY OF THE INFORMATION SHARED BETWEEN THE AUTHORITIES AND PROFESSIONAL SECRECY

1. The confidential information obtained by an Authority in the framework of this Agreement shall be used solely for the purpose of supervision, in compliance with the request of information and with the laws.
2. The Authorities consider that any information obtained in accordance with the provisions of this Agreement should remain confidential, except for the purposes determined in the paragraph below. In this regard it is recognised that members and employees of the Authorities, as the other persons to which the Authorities appealed for the control carrying out, are bound by an obligation to keep confidential the information obtained in the course of their duties. No provision of this Agreement shall give any person, entity or governmental authority other than the Authorities, directly or indirectly, to obtain any information or to challenge the execution of a request for information under this Agreement.
3. When an Authority is legally obliged to disclose confidential information received in the framework of this Agreement, it shall fully co-operate with the other Authority in order to keep the information confidential, to the extent permitted by the laws of the Authority to which the request has been addressed. It shall consult with the Authority having provided this information before transmitting it to the requesting entity. If the Authority that originated the information did not consent to share the information, the Authority legally obliged to disclose confidential information shall advise the requesting entity that a forced disclosure could adversely affect the future transmission of confidential information by foreign supervisory authorities and shall request that the information be kept confidential by the requesting body.

4. In the event of a breach of the provisions set out hereinabove, the other Authority may suspend the execution of co-operation under this Agreement with immediate effect. Such suspension shall not affect the obligation of confidentiality.

5. Each Authority shall keep confidential requests made within the framework of this Agreement, the content of such requests, and any other matters arising during the fulfilment of this Agreement, including consultation between the Authorities.

ARTICLE V – GENERAL PROVISIONS

1. Nothing in this Agreement shall affect the competence of the Authorities under their respective national laws, or, if the case arises, community law, the control methods, and can prevail over, alter, create any arrangement of information exchange between any one of the Authorities other entities.

Mutual information on laws and regulations

2. The Authorities have exchanged documents informing each other of the laws (including, where applicable, regulations and procedures) governing the supervised institutions and banking organizations in their respective jurisdictions.

3. The Authorities confirm that they have informed each other of all the laws, regulations and procedures governing the confidentiality of information to be shared pursuant to this Agreement.

4. The Authorities acknowledge that this Agreement has been executed in accordance with the applicable laws and regulations in France and in Serbia and is based on the representations made and supporting materials exchanged by the Authorities.

Restrictions providing information and assistance

5. The information has to be shared at a reasonable level and subject to all the applying legal provisions, including the provisions restricting the disclosure of the information. The Authorities understand that the provision of information or assistance to an Authority must be refused by the other Authority when carrying out the request is likely to result in a prejudice to sovereignty, security, essential economic interests or public policy, or when a criminal proceeding has been instituted against the same facts and the same persons, or when a final decision to impose a sanction has been given against the same facts. Nothing in this Agreement shall affect this obligation.

Implementation of the Agreement

6. This Agreement shall enter into force on the day of its signature by the Authorities.

7. The provisions of this Agreement may be amended of a written common accord.

8. The Secrétaire général of the ACP and the General Manager of the Banking Supervision Department of the NBS may issue practical arrangements regarding the method of co-operation between the Authorities.

9. The Authorities shall consult each other in the event of any changes in their respective laws or in the event of any other difficulty which might make it necessary to amend or interpret this Agreement. In the event of difficulty of enforcement of the Agreement, the parties will seek a common interpretation.

10. The Agreement will remain in effect for an indefinite period. Should an Authority consider that it can no longer continue to co-operate under the provisions of this Agreement, it gives written notice to the other Authority, as soon as possible, provided that Authorities have consulted together over this matter in advance. Termination of the Agreement does not discharge the Authorities of their duty for confidentiality referred to in Article IV with respect to any information disclosed.

This Agreement has been written in French and English language, each having an authentic value. In case of doubt regarding the interpretation of the Agreement due to the differences between the versions, the NBS and the ACP will deal with the question efficiently in order to be compliant with the basic principles of the Agreement.

IN WITNESS WHEREOF, the Undersigned have signed this Agreement.

National Bank of Serbia

Jorgovanka Tabaković
Governor

Date :



11.02.2013.

Dep. 624
12.2.2013.

Autorité de contrôle prudentiel

Christian Noyer
President

Date : 21/01/13