

L A W
ON THE BANKING AGENCY OF THE REPUBLIC OF SRPSKA

REVISED TEXT
(Official gazette of the Republic of Srpska
no. 10/98, 16/00, 18/01, 71/02, 18/03 and 39/03)

I – GENERAL PROVISIONS

Article 1

By this law the Banking Agency of the Republic of Srpska is established (hereinafter referred to as: the Agency).

The Agency is an independent non-profitable institution of the Republic of Srpska.

The Agency is established to maintain healthy and stable banking system of the Republic of Srpska and to improve its safe, good quality and lawful operations.

Article 2

The Agency has the status of a legal entity.

The headquarters of the Agency is in Banja Luka.

Article 3

The Agency is named: “Banking Agency of the Republic of Srpska”.

The Agency has got the seal.

The seal of the Agency includes the name of the Agency and the coat of arms of the Republic of Srpska.

II – MANDATE OF THE AGENCY

Article 4

Primary tasks of the Agency are as follows:

- a) To issue the license for establishment and work of banks, license for application of any organizational capacity and type of works the banks do;
- b) To monitor the banking operations – control of the banks by revising the accounts and other documentation and taking necessary steps as provided for by the law;
- c) To terminate the bank license as provided for by the law;
- d) To manage and monitor the bank rehabilitation and bank bankruptcy procedures;
- e) To introduce the by-laws / regulations to regulate the work of the banks;
- f) To evaluate whether the requirements have been met and accordingly approve of the following issuance of shares.
- g) To take steps to combat the bank related terrorist activities upon the request of the authorized institution as provided for by the Law or according to the special resolution

- of the United Nations Security Council i.e. in co-operation with the relevant institutions in charge of this matter;
- h) To take all necessary steps, which may include freezing the account in any of the banks on the territory of the Republic of Srpska or the banks which are otherwise under the jurisdiction of the Banking Agency of the Republic of Srpska with purpose to prevent financing the activities obstructing or threatening peace implementation under the umbrella of the General Framework Peace Agreement in Bosnia and Herzegovina.
 - i) To request from the Central Bank of Bosnia and Herzegovina to open a special account for the reserves in the name of any commercial bank that has the account of any client described in the above item h) or the accounts with similar transaction as in the above item g);
 - j) To request from the bank or the banks in which the accounts have been frozen for the reasons described in the above item g) to make the transfer of funds from these accounts or the accounts with similar transactions as in the above item g) to the Central Bank of Bosnia and Herzegovina or one of its main offices;
 - k) To make and deliver the list of frozen accounts from the items g) and h) to be published in the Official gazette of the Republic of Srpska on a monthly basis;
 - l) To deliver to the Central Bank of Bosnia and Herzegovina all information related to the steps taken in regards with the Article 4, item g) to and including item j) of this Law as well as all information related to the attempted transactions from or to the frozen accounts of the client from the day the order to freeze the account has entered into force.

The Agency is bound to issue the license to open the bank and perform the banking operations to all the applicants who have met the legally prescribed requirements.

The bank, by this Law, is a legal entity whose business operations are regulated by the Law on the banks.

To avoid any misinterpretation, this Law has clearly defined that the Banking Agency of the Republic of Srpska may terminate the license to work to the bank which fails to follow the order issued with reference to the Article 4, items g) to l) of this Law (with no influence upon the entire package of measures available according to the Law on the banks of the Republic of Srpska).

Each individual, legal entity or body, bank or any other entity deliberately or unintentionally acting in such manner to avoid or attempting to avoid the order to freeze the account as per the previous paragraph by means of transfer or the attempted transfer of funds from or to the account is subject to possible termination of license if it is a bank or to have her / his account frozen and put on the list as previously determined if it is the owner of the account. This individual, legal entity or body may also be subject to administrative fine as stipulated by the following paragraph.

To each individual, legal entity or body deliberately or carelessly acting in such manner to avoid or attempting to avoid the order to freeze the account by means of transfer or the attempted transfer of funds from or to the account, the Banking Agency of the Republic of Srpska “may determine the administrative fine in the amount double of the above attempted evaded amount even if it is not the owner of the account, and furthermore the Agency is entitled to execute this fine in terms of costs determined by the court order in the course of legal proceedings.

In case that individual, legal entity or body should make the transactions to avoid or circumvent the order to freeze the account in terms of the Article 4, item g) or Article 4, item h) or attempts to make such transaction, the Agency is entitled to request from this individual, legal entity or body to present all the documentation related to the above transaction.

The Agency is authorized to initiate the proceedings at the authorized court (in the same manner as in the Article 3 of the Law on the banks of the Republic of Srpska) to seize the property, business books and documentation of each individual, legal entity or body deliberately or carelessly acting in such manner to avoid or attempting to avoid the order to freeze the account as previously described and to close down a business of the particular individual, legal entity or body.

III - INDEPENDENCE OF THE AGENCY

Article 5

Agency is independent to perform the operations within its jurisdiction as provided for by this Law.

Director of the Agency i.e. Deputy Director of the Agency have the same immunity as the National Parliament Deputies.

Director of the Agency i.e. the Deputy may not be detained without the approval of the National Parliament unless they have been detected committing a crime stipulating five year or more prison sentence.

Once the Agency has been established, the Agency, Management Board of the Agency, Director of the Agency, Deputy Director of the Agency, employees of the Agency as well as the Agency's appointees may not be prosecuted for the crimes nor held responsible in the civil lawsuits for any action taken in good faith while performing the duties within their jurisdiction.

Article 6

While performing the duties of the Agency and introducing herself/himself, the authorized representative of the Agency will use the identification and the badge in a form and manner determined by the Director of the Agency.

IV – INTERNATIONAL COOPERATION

Article 7

The Agency represents the Republic of Srpska at the international conferences, gatherings and events related to the mandate of the Agency.

The Agency cooperates with the international agencies authorized to perform the duties within the jurisdiction of the Agency.

V – ORGANIZATION AND MANAGEMENT OF THE AGENCY

Article 8

Organization and management of the Agency is regulated by this Law, Statute of the Agency and other general regulations (compliant with the law).

Article 9

Management Board of the Agency is the body that manages the Agency.

Management Board consists of five members proposed by the Government and appointed by the National Parliament of the Republic of Srpska.

Members of the Management Board are appointed for a five-year period.

Article 10

Management Board supervises the work of the Agency and takes steps for the efficient and rational operations under the authority of the Agency.

The general supervision performed by the Management Board from the paragraph 1 of this Article especially refers to:

- a) Management Board passes the Statute of the Agency;
- b) Passes other general regulations in accordance with the Law and Statute of the Agency,
- c) Adopts the financial plan and financial report of the Agency,
- d) Adopts the reports submitted by Agency according to the Article 27 of this Law.

For their performance the Management Board is responsible to the National Parliament of the Republic of Srpska.

Article 11

Director of the Agency represents and manages the Agency and takes responsibility for the work of the Agency.

Director and Deputy Director of the Agency are initially recommended by the Management Board and upon the proposal of the Government appointed by the National Parliament for a five-year period.

Director and Deputy Director take part in the work of the Management Board but do not have the right of vote.

Director and Deputy Director are responsible to the Management Board and National Parliament of the Republic of Srpska.

Article 12

Director will be liable to perform the following duties:

- a) To issue and terminate the licenses to the banks,
- b) To take the prescribed measures within the banks,
- c) To appoint the Agency staff,
- d) To represent the Agency in the court proceedings,
- e) Director of the Agency or President of the Management Board to represent the Management Board at the meetings with the representatives of the Central Bank to coordinate the banking operation, issuing licenses and supervision in the Republic of Srpska according to the Statute of the Agency,
- f) To pass separate regulations in accordance with this Law and Statute of the Agency,
- g) To perform any other duties prescribed by this Law and Statute.

Director may authorize the Deputy of the Chief Advisor or other Agency employees to act on behalf of the Director.

Article 13

Members of the Management Board, Director and Deputy Director of the Agency may be re-appointed provided that there are no barriers stipulated by the Article 15 of this Law.

Article 14

Management Board determines the amount of compensation to the members of the Management Board and salaries of the Director, Deputy Director and employees of the Agency in accordance with the general rules of the Agency.

Article 15

The person may be appointed Member of the Management Board, Director or Deputy of the Agency if she/he is the citizen of the Republic of Srpska and has a university degree in economy or law.

Member of the Management Board may not be an employee of the Agency or the commercial bank.

Director, Deputy Director and employees of the Agency may not be employed by some other company or other legal entity.

Article 16

Director, Deputy Director or member of the Management Board of the Agency may be replaced before termination of their mandate or contract in case that:

- They fail to abide by the law;
- Abuse their office or
- They are convicted of the crime against the economy and payment system or any crime related to the work of Agency.

Article 17

Members of the Management Board, Director and Deputy Director of the Agency may resign. Their resignation must be explained in writing.

In case of resignation, the officials from the paragraph 1 of this Article remain on duty until resolved and no longer then three months after the date of submitted resignation.

Article 18

Director and Deputy Director may not be appointed to the position of member of the Management Board of the Bank or Director of the Bank minimum two years after termination of their contract with the Agency.

VI – CONFIDENTIALITY

Article 19

Members of the Management Board, Director, Deputy Director, employees or representatives of the Agency are bound to keep the secrets of the Agency according to the regulations of confidentiality.

VII – STATUTE

Article 20

Agency has got its Statute.

Statute of the Agency regulates:

- Organization and methods of the Agency's operations;
- Method of work of the Management Board;
- Authority to represent the Agency and sign documentation;
- Rights, duties and responsibilities of persons with special authorities and responsibilities;
- Other structural issues related to the Agency's operations.

Statute of the Agency is delivered by the Management Board with the approval of the National Parliament of the Republic of Srpska.

VIII – FINANCING OF THE AGENCY

Article 21

Work of the Agency is funded by:

- Fees of the issued bank licenses;
- Monthly payments of the banks for supervision of the banking operations;
- Payments for other services the Agency provides within its jurisdiction;

Based on the annual inflow of funds, the surplus income proportionate to the expenses is transferred to the following year.

Article 22

In case the bank fails to pay the prescribed fee to the Agency, the Agency will terminate the work license of the bank.

Article 23

Regulations on the amount of payments and other income from the Article 21, paragraph 1 of this Law are passed by the Management Board with the approval of the Government of the Republic of Srpska.

Regulations from the previous paragraph may prescribe higher fees for the bank operations, which besides the usual operations may require some additional ones.

IX – BANK REPORTS

Article 24

The banks are bound to deliver their reports and other documents to the Agency using the form, scope and timeframes required by the Agency.

The banks are also bound to submit their revised balance sheets and other financial reports to the Agency no later than March 31 of current year for the previous year.

The Agency prescribes the minimum requirements for the scope, form and content of the program of the financial auditing designed for the banks.

The Agency may reject the report from the paragraph 2 of the Article and demand a new report that would be made by the authorized auditor appointed by the Agency at the expense of the bank.

X – GENERAL RULES

Article 25

Within its mandate, the Agency has passed the general rules required for the successful banking operations.

The rules from the paragraph 1 of the Article are published in the “Official gazette of the Republic of Srpska”.

The Agency keeps the record of the issued general rules.

Article 26

The Agency is authorized to control the banks, to review and collect copies of the business books, documents and accounts. Furthermore, the Agency is authorized to issue orders to ensure the lawful operations of the banks.

XI – REPORTING

Article 27

The Agency is bound to deliver quarterly work reports to the Government and semi-annual reports to the National Parliament of the Republic of Srpska. The report includes the analysis of the status of the bank sector in the Republic of Srpska, described activities of the Agency within the reporting period and statement of the account for that period (year).

The report must be approved by the Management Board before the release.

The Agency is bound to deliver semi-annual reports to the Government on its operations and status and development of the financial agencies under its jurisdiction.

VII – TRANSITIONAL AND FINAL PROVISIONS

Article 28

The Agency is a legal successor of the National Bank of the Republic of Srpska.

Article 29

As soon as this Law comes into effect, the institutions authorized to perform banking operations will continue their work provided that no later than 15 days after this Law becomes effective they request from the Agency temporary permit to perform the banking operations.

No later than 90 days after this Law comes into effect, the financial institutions from the paragraph 1 of this Article will submit the request for license to perform the banking operations with the attached documents as prescribed by the Law on the banks.

The Agency will make the decision on the paragraph 2 of this Article no later than 60 days upon the delivery of the request.

Article 30

The day this Law comes into effect the Law on the National Bank of the Republic of Srpska is no longer in force (Official gazette of the Republic of Srpska no. 15/96)

Article 31

This Law comes into effect the day it has been published in the “Official gazette of the Republic of Srpska”.

President of
the National Parliament
Dragan Kalinic, Ph.D.

LAW
ON THE AMENDMENTS TO THE LAW ON THE
BANKING AGENCY OF THE REPUBLIC OF SRPSKA

Article 1

In the Article 4, paragraph 1, behind the item f) new items from g) to l) are added as follows:

- g) To take steps to combat the bank related terrorist activities upon the request of the authorized institution as provided for by the Law or according to the special resolution of the United Nations Security Council i.e. in co-operation with the relevant institutions in charge of this matter;
- h) To take all necessary steps, which may include freezing the account in any of the banks on the territory of the Republic of Srpska or the banks which are otherwise under the jurisdiction of the Banking Agency of the Republic of Srpska with purpose to prevent financing the activities obstructing or threatening peace implementation under the umbrella of the General Framework Peace Agreement in Bosnia and Herzegovina;
- i) To request from the Central Bank of Bosnia and Herzegovina to open a special account for the reserves in the name of any commercial bank that has the account of any client described in the above item h) or the accounts with similar transaction as in the above item g);
- j) To request from the bank or the banks in which the accounts have been frozen for the reasons described in the above item g) to make the transfer of funds from these accounts or the accounts with similar transactions as in the above item g) to the Central Bank of Bosnia and Herzegovina or one of its main offices;
- k) To make and deliver the list of frozen accounts from the items g) and h) to be published in the Official gazette of the Republic of Srpska on a monthly basis;
- l) To deliver to the Central Bank of Bosnia and Herzegovina all information related to the steps taken in regards with the Article 4, item g) to and including item j) of this Law as well as all information related to the attempted transactions from or to the frozen accounts of the client from the day the order to freeze the account has entered into force.

Article 2

At the end of the Article 4 new final clauses are added as follows:

To avoid any misinterpretation, this Law has clearly defined that the Banking Agency of the Republic of Srpska may terminate the license to work to the bank which fails to follow the order issued with reference to the Article 4, items g) to l) of this Law (with no influence upon the entire package of measures available according to the Law on the banks of the Republic of Srpska).

Each individual, legal entity or body, bank or any other entity deliberately or unintentionally acting in such manner to avoid or attempts to avoid the order to freeze the account as per the previous paragraph by means of transfer or the attempted transfer of funds from or to the account is subject to possible termination of license if it is a bank or to have her / his account frozen and put on the list as previously determined if it is the owner of the account. This individual, legal entity or body may also be subject to administrative fine as stipulated by the following paragraph.

To each individual, legal entity or body deliberately or carelessly acting in such manner to avoid or attempts to avoid the order to freeze the account by means of transfer or the attempted transfer of funds from or to the account, the Banking Agency of the Republic of Srpska “may determine the administrative fine in the amount double of the above attempted evaded amount even if it is not the owner of the account, and furthermore the Agency is entitled to execute this fine in terms of costs determined by the court order in the course of legal proceedings.

In case that individual, legal entity or body should make the transactions to avoid or circumvent the order to freeze the account in terms of the Article 4, item g) or Article 4, item h) or attempts to make such transaction, the Agency is entitled to request from this individual, legal entity or body to present all the documentation related to the above transaction.

The Agency is authorized to initiate the proceedings at the authorized court (in the same manner as in the Article 3 of the Law on the banks of the Republic of Srpska) to seize the property, business books and documentation of each individual, legal entity or body deliberately or carelessly acting in such manner to avoid or attempts to avoid the order to freeze the account as previously described and to close down a business of the particular individual, legal entity or body.

Article 3

In the Article 5, paragraph 4 is amended as follows:

“Once the Agency has been established, the Agency, Management Board of the Agency, Director of the Agency, Deputy Director of the Agency, employees of the Agency as well as the Agency’s appointees may not be prosecuted for the crimes nor held responsible in the civil lawsuits for any action taken in good faith while performing their duties within their jurisdiction.”

Article 4

This law comes into effect instantly and will be published instantly in the “Official gazette of the Republic of Srpska”.

Ref: 01-346/03
April 30, 2003
Banja Luka

President of
the National Parliament
Dragan Kalinic, Ph.D.