

Pursuant to Article 20, Paragraph 2, Item b and Article 37 of the Law on the Banking Agency of Republika Srpska ("Official Gazette of Republika Srpska", No. 59/13 and 4/17), and Article 6, Paragraph 1, Item i and Article 19, Paragraph 1, Item h of the Statute of the Banking Agency of Republika Srpska ("Official Gazette of Republika Srpska", No. 63/17), the Management Board of the Banking Agency of Republika Srpska, at its 32<sup>nd</sup> session, held on 15 June, 2021 adopted the

**DECISION  
ON  
THE MANNER OF CONDUCTING INSPECTION AND IMPOSING MEASURES  
IN ORDER TO PERFORM TASKS AND OBJECTIVES WITHIN THE COMPETENCES OF BANK RESOLUTION**

**CHAPTER I  
GENERAL PROVISIONS**

**General provisions**

**Article 1**

(1) This Decision shall regulate in more detail:

- 1) conditions and manner of implementing activities referred to in Article 6, Paragraph 1 of the Law on the Banking Agency of Republika Srpska and Article 235, Paragraph 1, Item 1 of the Banking Law of Republika Srpska (hereinafter: the Law),
- 2) procedure for imposing measures referred to in Articles 228 and 250 of the Law,
- 3) obligations of the bank during and after the implementation of activities referred to in Items 1 and 2 of this Paragraph.

(2) The provisions of this Decision shall apply to banks to which the Banking Agency of Republika Srpska (hereinafter: the Agency) has issued an operating license and a banking group subject to supervision by the Agency on a consolidated basis, in the part referring to performing of objectives and tasks of the Agency within the competences of bank resolution.

**CHAPTER II  
INSPECTION**

**Type of inspection**

**Article 2**

(1) The Agency is authorized to inspect the bank and the banking group in accordance with the Law and other laws and regulations.

(2) The inspection referred to in Paragraph 1 of this Article shall include:

- 1) off-site inspection and
- 2) on-site inspection.

(3) For the purpose of performing the inspection referred to in Paragraph 2 of this Article, the Agency may meet with the bank management, senior management, external auditors, the head of the internal audit function, and, if necessary, with the bank supervisory board.

### **Off-site inspection**

#### **Article 3**

(1) Off-site inspection of the bank's operations shall be performed by the employees of the Agency on the premises of the Agency.

(2) The Agency shall perform off-site inspection continuously, by gathering reports and information from banks, and by means of their analysis and review.

(3) Reports and information referred to in Paragraph 2 of this Article are reports that a bank, i.e. a parent bank in a banking group or a bank with its registered office in Republika Srpska which is under the control of a parent holding company or ultimate parent company (hereinafter: parent bank) is obliged to submit to the Agency in accordance with the Decision on data and information submitted to the Banking Agency of Republika Srpska for the purposes of drafting and updating resolution plan of a bank and a banking group, correspondence with the bank and the parent bank, information, reports and statements submitted by the bank and the parent bank upon the Agency's request, and other available information, reports and notices related to the bank and the banking group.

(4) The Agency shall perform off-site inspection in the following cases:

1) when it is necessary to check the completeness and accuracy of reports and information submitted in accordance with the Decision on data and information submitted to the Banking Agency of Republika Srpska for the purposes of drafting and updating resolution plan of a bank and a banking group;

2) when it is necessary to determine whether there are significant obstacles to the implementation of the resolution procedure pursuant to Article 228 of the Law, and whether the bank is carrying out activities to eliminate the identified obstacles;

3) when it is necessary to determine the minimum requirement for capital and eligible liabilities, and whether the bank meets the minimum requirement for capital and eligible liabilities in accordance with Article 250 of the Law;

4) in other cases when it is necessary to perform the objectives and tasks within the competence of bank resolution.

(5) Off-site inspection of the bank shall be performed by:

1) review of accounting documents, business books, auxiliary and other records and calculations, reports that the bank is obliged to compile, policies and other internal acts, and other documentation related to the bank's operations, in material (paper) form and / or in the form of electronic record on the media and in the form requested by the Agency's employees and

2) obtaining written and oral explanations from the bank management and the bank supervisory board or its employees.

## **On-site inspection**

### **Article 4**

- (1) On-site inspection shall be performed by the Agency's employees on the basis of the authorization of the Director of the Agency (hereinafter: authorized persons).
- (2) On-site inspection shall be performed at the seat or outside the seat of the bank, as well as at other locations in cases stipulated by the Law, in which the bank performs operations and activities in connection with which the Agency performs on-site inspection.
- (3) The authorization referred to in Paragraph 1 of this Article shall determine the subject and time period of inspection, and if authorized persons determine the need to expand inspection beyond the framework determined by the existing authorization, they shall request additional authorization from the Director of the Agency.
- (4) Notwithstanding Paragraph 3 of this Article, in case of resolution procedure, the Agency may hire a certified auditor, audit company or other authorized expert for the purposes of performing an independent assessment in accordance with Articles 232 and 257 of the Law.
- (5) The fee for performing the independent assessment referred to in Paragraph 4 of this Article shall be borne by the bank.
- (6) The persons referred to in Paragraph 4 of this Article shall have the same powers and responsibilities as the authorized persons of the Agency when performing tasks related to the on-site inspection of the bank for which they have been authorized by the Agency.
- (7) Authorized persons of another competent regulatory body that has the authority to perform resolution of members of the same banking group as the bank may participate in the procedure of on-site inspection of the bank, in accordance with the cooperation agreement concluded between the Agency and that regulatory body.
- (8) Authorized persons shall perform on-site inspection on working days during working hours, and when this is necessary due to the scope and nature of inspection, they may also perform it outside working hours.
- (9) The Agency shall perform on-site inspection in the following cases:
  - 1) when it is necessary to check the completeness and accuracy of reports and information submitted in accordance with the Decision on data and information submitted to the Banking Agency of Republika Srpska for the purposes of drafting and updating resolution plan of a bank and a banking group,
  - 2) when it is necessary to determine whether there are significant obstacles to the implementation of the resolution procedure pursuant to Article 228 of the Law, and whether the bank is carrying out activities to eliminate the identified obstacles,
  - 3) whether the bank meets the minimum requirements for capital and eligible liabilities pursuant to Article 250 of the Law and
  - 4) in other cases when it is necessary to perform the objectives and tasks within the competence of bank resolution.
- (10) On-site inspection of the bank shall be performed by:
  - 1) review of accounting documents, business books, auxiliary and other records and calculations, reports that the bank is obliged to compile, policies and other internal acts, and other documentation related to the bank's operations, in material (paper) form and / or in the form of electronic record on the media and in the form requested by the authorized persons of the Agency and

2) obtaining written and oral explanations from the bank management and the bank supervisory board or its employees.

### **Inspection planning**

#### **Article 5**

(1) The Agency shall compile a bank inspection plan at least once a year, which shall contain:

- 1) the manner in which the Agency performs its tasks and allocates resources,
- 2) identification of banks that require enhanced inspection and
- 3) defining the place of inspection (off-site or no-site inspection).

### **Obligations of a bank**

#### **Article 6**

(1) The bank shall enable the authorized persons of the Agency to perform on-site inspection at the seat of the bank and in all its organizational units.

(2) The bank shall enable authorized persons to perform inspection of its business books and other documentation, as well as inspection of information technologies to the extent necessary for performing on-site inspection.

(3) The bank is obliged to provide the authorized persons, at their request, with access to the business book and other documentation in written or electronic form, as well as access to the bank's information system, if specialized software tools are used during on-site inspection.

(4) The bank shall, at the request of the authorized persons of the Agency, during the on-site inspection procedure provide:

- 1) access to all organizational units and premises of the bank, while respecting its security procedures,
- 2) a special room for performing inspection activities,
- 3) copies of documents related to the subject of inspection and insight into the original documentation and
- 4) direct communication with the bank's managers and bank employees in order to obtain the necessary clarifications.

(5) The bank that processes data and keeps business books and other documentation in electronic form shall, at the request of authorized persons, provide the necessary technical support during the performance of on-site inspection.

(7) The bank is obliged to appoint its representative who provides authorized persons and employees with all necessary assistance for unhindered performance of inspection.

(8) The provisions of this Article shall also apply in the case of inspection of persons from the banking group to which the supervised bank belongs, as well as persons who are authorized providers of outsourced services.

(9) Members of the bank supervisory board and the bank management, procurators, heads and employees of the bank are obliged to provide authorized persons and employees of the Agency, at their request, with written answers to questions important for inspection, and confirm them with adequate documentation.

## **Notification on on-site inspection**

### **Article 7**

- (1) The Agency shall submit a notification on on-site inspection no later than 10 working days before the commence of the inspection.
- (2) Notwithstanding Paragraph 1 of this Article, the Agency may submit a notification on on-site inspection before the very beginning of performing on-site inspection.
- (3) The notification on on-site inspection, except for the subject of inspection, contains data on the planned beginning and duration of on-site inspection, list of documentation and information that is minimally necessary for preparation and implementation of on-site inspection, and other information necessary for performing on-site inspection.
- (4) If specialized software tools are used during the preparation and implementation of on-site inspection that require direct access to the bank's information system, the notification on planned on-site inspection shall also contain a list of authorized persons who will perform preparation and implementation, the period in which the bank should provide access to the bank's information system, resources that the bank should ensure at a minimum to provide access to the bank's information system, and other information necessary for the preparation and implementation of on-site inspection.

## **CHAPTER III**

### **MINUTES**

#### **Minutes on performed off-site inspection**

##### **Article 8**

- (1) After the off-site inspection referred to in Article 3, Paragraph 4, Item 1, 2, 3 and 4 of this Decision has been performed, the authorized persons of the Agency are obliged to draft and submit minutes on the performed inspection within 10 working days from the day of completion of the off-site inspection.
- (2) By submitting the minutes to the bank, it is considered that it has been delivered to the members of the bank's governing bodies, control functions, and senior management in whose jurisdiction the area that was subject to inspection is and cannot be proven otherwise.
- (3) The bank has the right to object to the minutes referred to in Paragraph 1 of this Article within 10 working days from the day of receipt of the minutes.
- (4) Notwithstanding Paragraph 3 of this Article, the Agency may, at the request of the bank, extend the deadline for submitting objections to the minutes, but only in the case when the findings from the minutes relate to the competence of the bank's supervisory board.
- (5) If the bank, within the period stipulated by Paragraph 3 of this Article, does not dispute the findings from the minutes which established deficiencies and irregularities in operations, the Agency shall impose an appropriate measure stipulated by the Law.
- (6) It is considered that the bank did not cooperate with the employees, nor did it enable them to perform off-site inspection, if it did not act in accordance with Article 3 of this Decision, as well as in the following cases:
  - 1) if it has not submitted all required data and evidence within a specified period of time, and in particular the data that the bank is obliged to dispose of according to the Law, bylaws or standards of prudent banking operations,
  - 2) if it intentionally or through gross negligence submits data that are not accurate, i.e. not complete and

3) if it fails to submit the reports that it is obliged to submit periodically in accordance with the Law or bylaws, and if it fails to submit the required reports or data within the specified deadline, even at the repeated request of the Agency.

(7) The minutes on the performed off-site inspection shall be signed by the Agency's employees.

### **Minutes on performed on-site inspection**

#### **Article 9**

(1) After the performed on-site inspection referred to in Article 4, Paragraph 9, Item 1, 2, 3 and 4 of this Decision, the authorized persons of the Agency are obliged to draft and submit minutes on the performed inspection within 10 working days from the day of completion of the on-site inspection.

(2) By submitting the minutes to the bank, it is considered that it was delivered to the members of the bank's governing bodies, control functions, and senior management in whose jurisdiction the area that was the subject of on-site inspection is and cannot be proven otherwise.

(3) The day of completion of on-site inspection is the last day of performing inspection in the premises of the bank and / or the Agency.

(4) Exceptionally, if the bank submits additional documentation and information that it considers relevant for on-site inspection, after the authorized persons have left the bank's premises, the deadline referred to in Paragraph 1 of this Article may be extended by a decision of the Director of the Agency, which will state the time required for adequate review of additional documentation and information, depending on the scope of submitted documentation and information.

(5) The Director of the Agency may, by a conclusion, determine another deadline for the submission of the minutes on the performed on-site inspection.

(6) The bank may object to the submitted minutes referred to in Paragraph 1 of this Article, within 10 working days from the day of receipt of the minutes.

(7) Notwithstanding Paragraph 6 of this Article, the Agency may, at the request of the bank, extend the deadline for submitting objections to the minutes, but only in the case when the findings from the minutes refer to the competence of the bank's supervisory board.

(8) If the bank fails to submit an objection to the minutes within the stipulated deadline or by means of its objection does not reasonably dispute the findings from the minutes which identify deficiencies and irregularities in operations, the Agency shall order one or more measures to eliminate the identified deficiencies and irregularities stipulated by Article 11 of this Decision.

(9) The Agency shall suspend the procedure of on-site inspection if the bank prevents the inspection from being performed in accordance with Articles 4, 6 and 7 of this Decision, and will draft the minutes and the conclusion on the suspension of the procedure.

(10) When during the on-site inspection it is determined that there is a previous issue whose discussion is not within the competence of the Agency, the procedure shall be suspended until the competent authority resolves the disputed issue.

(11) The Agency shall make the minutes and the conclusion on the termination of the procedure, but only in relation to the issue that is disputable, while in relation to other issues, i.e. issue of subject inspection, shall continue to perform inspection without the adoption of a special act.

(12) It shall be considered that the bank failed to enable the Agency to perform on-site inspection and failed to cooperate with the authorized persons of the Agency if it failed to act in accordance with Articles 4, 6 and 7 of this Decision, as well as in the following cases:

- 1) if it has not submitted all required data and evidence within a specified period of time, and in particular the data that the bank is obliged to dispose of according to the Law, bylaws or standards of prudent banking operations,
- 2) if it intentionally or through gross negligence submits data that are not accurate, i.e. are not complete,
- 3) if it does not provide the authorized persons with the conditions necessary for performing on-site inspection of the bank, i.e. does not ensure that they are not hindered by the employees of the bank and other persons, and
- 4) if it does not submit the reports that it is obliged to submit periodically in accordance with the Law or bylaws and if it does not submit the required reports or data within the specified deadline, even at the repeated request of the Agency.

(13) The conclusion from Paragraphs 6 - 9 of this Article shall be submitted to the bank, and the latter may file an appeal to the Director of the Agency within 10 working days from the day of delivery of the conclusion.

(14) The minutes on the performed on-site inspection shall be signed by the authorized persons who performed the inspection.

### **Amendments to the minutes on the performed inspection**

#### **Article 10**

- (1) In the case when by means of considering the bank's objection to the minutes the justification of the objection has been determined, i.e. if it has been determined that the bank's objections are well-founded, the Agency shall make an amendment to the minutes.
- (2) The amendment to the minutes shall be submitted to the bank within 10 working days from the day of submitting the objection to the minutes.
- (3) The bank may not file an objection to the submitted amendment to the minutes.

## **CHAPTER IV**

### **MEASURES**

#### **Measures to eliminate deficiencies and irregularities**

##### **Article 11**

- (1) If the Agency, during the performance of inspection, determines deficiencies or irregularities in the area of bank resolution, the Agency shall issue a ruling on imposing measures for:
  - 1) removal of obstacles to resolution in accordance with Article 228 of the Law,
  - 2) fulfillment of the minimum requirement for capital and eligible liabilities in accordance with Article 250 of the Law,
  - 3) elimination of identified deficiencies and irregularities in the reports submitted by the bank in accordance with the Decision on data and information submitted to the Banking Agency of Republika Srpska for the purposes of drafting and updating resolution plan of a bank and a banking group and
  - 4) in other cases, provided by the Law.
- (2) The ruling referred to in Paragraph 1 of this Article shall determine the deadline and manner in which the bank will eliminate the identified deficiencies and irregularities, as well as the deadline for submitting

reports to the Agency on implemented activities with the aim of executing imposed measures with appropriate evidence.

(3) If it deems as necessary, the Agency may order the bank to submit the opinion of the bank's external auditor on the elimination of irregularities and illegalities.

(4) The Agency shall control the implementation of orders and measures after the expiration of the deadlines for their execution, or before the expiration of that deadline if it receives a notification from the bank that the orders have been executed.

### **Issuance of a misdemeanor order and filing a request to initiate misdemeanor proceedings**

#### **Article 12**

In addition to imposing measures to eliminate deficiencies and irregularities referred to in Article 11 of this Decision, the Agency may impose a fine by a misdemeanor order in accordance with the penal provisions referred to in Articles 285, 287, 288, 289 and 290 of the Law or submit a request for initiating misdemeanor proceedings in accordance with the regulations governing misdemeanor proceedings, if it finds that the bank acted contrary to the provisions of the Law, other laws or bylaws of the Agency.

## **CHAPTER V**

### **TRANSITIONAL AND FINAL PROVISIONS**

#### **Transitional and final provisions**

#### **Article 13**

(1) This Decision shall enter into force on the eighth day after its publication in the "Official Gazette of Republika Srpska".

(2) On the day this Decision enters into force, the Decision on the manner of conducting inspection and imposing measures for the purpose of performing tasks and objectives within the competence of bank resolution shall cease to be valid ("Official Gazette of Republika Srpska" No. 51/19).

Number: UO-235/21

Date: 15 June, 2021

PRESIDENT OF THE  
MANAGEMENT BOARD  
Bratoljub Radulović