

Pursuant to Article 267, Paragraph 9 of the Banking Law of Republika Srpska (“Official Gazette of Republika Srpska”, No.: 04/17), Article 5, Paragraph 1, Item b, Article 20, Paragraph 2, Item b and Article 37 of the Law on Banking Agency of Republika Srpska (“Official Gazette of Republika Srpska”, No.: 59/13 and 4/17), and Article 6, Paragraph 1, Item b and Article 19, Paragraph 1, Item b of the Statute of Banking Agency of Republika Srpska (“Official Gazette of Republika Srpska”, No.: 63/17), the Management Board of the Banking Agency of Republika Srpska, on its 44th session held on 11 December, 2017 issued the

**DECISION  
ON PROCEDURE OF DETERMINING RECEIVABLES AND  
DISTRIBUTION OF ASSETS AND DETERMINING AND  
PERFORMING OF BANK’S OBLIGATIONS IN LIQUIDATION  
PROCEDURE**

**General provisions**

**Article 1**

- (1) This Decision shall stipulate the procedure of determining receivables and asset distribution, as well as determining and performing of bank’s obligations in liquidation procedure.
- (2) The provisions of regulation governing liquidation and bankruptcy procedure shall be applied on the bank under liquidation if not stipulated otherwise by the Banking Law of Republika Srpska (hereinafter: Law).

**Liquidation assets**

**Article 2**

- (1) The bank’s liquidation asset is comprised of overall asset belonging to the bank at the time of liquidation initiation, as well as asset the bank acquires in liquidation procedure, if not stipulated otherwise by other regulation.
- (2) The funds of the public revenue account to which public revenue payments are made on behalf of Republika Srpska, Federation of Bosnia and Herzegovina, Brcko District of Bosnia and Herzegovina, Bosnia and Herzegovina, municipalities, cities and funds are exempt from the liquidation asset, and accounts from which the distribution of public revenue beneficiaries is being performed, and which are upon the request of the Ministry of Finance of Republika Srpska transferred to another bank.
- (3) Liquidation assets serves as a settlement of costs in liquidation procedure of creditors which at the time of liquidation initiation have main property request towards the bank, as well as creditors which in liquidation procedure acquire the right to receivables towards liquidation assets.
- (4) The rights of third parties to subjects and rights of assets must be taken into account.

**Initial liquidation balance sheet of the bank**

**Article 3**

- (1) Liquidation administrator shall, without delay, take in possession the bank’s assets, perform daily tasks in the bank, collect receivables, settle obligations, and shall be authorized and responsible to cash in bank’s assets.
- (2) Liquidation administrator shall immediately after taking office perform the inventory of assets, draft initial liquidation balance sheet and deliver them to the Agency no later than 60 days from the appointment date.

- (3) The initial bank liquidation balance sheet is an integral part of the first financial statement which the liquidation administrator shall draft and deliver to the Agency for adoption.
- (4) The initial bank liquidation balance sheet should contain all elements determined in a manner as stipulated in accordance with the Law on Accounting and Audit of Republika Srpska and other regulation governing the area of accounting and audit and regulation governing the issues significant for liquidation procedure:
  - 1) stock of assets (receivables) of the bank and liabilities (obligations) of the bank, such as: guarantees issued, issued letters of credit and other similar instruments,
  - 2) all bank's asset shall be included in the balance sheet under their market price or estimated value,
  - 3) activities necessary for liquidation execution.
- (5) Liquidation administrator shall, within 15 days from the expiration of deadline referred to in Article 4, Paragraph 2 of this Decision, draft and deliver to the Agency for adoption the liquidation plan, which must contain deadlines for its execution.
- (6) In liquidation procedure, determining of receivables and obligations of the bank shall be assessed in accordance with standards and procedures defined by the Decision on conditions when the bank is deemed as insolvent, whereas the real assessment of the amount of income and expense of the bank for that period shall also be included in the value of assets and obligations of the bank for the future period.

### **Reporting creditors' receivables towards the bank**

#### **Article 4**

- (1) Liquidation administrator shall, in one or more daily newspapers available on the territory of BiH, issue notifications to creditors to report all their receivables towards the bank, and first within 7 days from the date of receipt of decision on appointment and second within 30 days from the date of the first notification.
- (2) All creditors shall be obliged according to the Law to report all their receivables towards the bank to the liquidation administrator within 60 days from the issue of first notification of the bank liquidation administrator.
- (3) The bank liquidation administrator shall identify the list of recognized receivables, data on the creditor, type and amount of recognized receivables, priority order, and type and amount of disputed receivable and shall enter them into the table of reported receivables.

Liquidation administrator shall notify each creditor on his/her decision regarding the report.
- (4) In case liquidation administrator disputes certain receivable, he/she shall direct the creditor to initiate litigation within 15 days in order to prove the justification of disputed receivable. The creditor who initiates litigation shall be obliged to, upon the expiration of a deadline for filing a lawsuit, in the next 15 days notify the liquidation administrator on the litigation initiation.
- (5) If the creditor in a given deadline initiates litigation, the liquidation administrator shall ensure funds for possible repayment of such obligation, depending on the priority order, and in case the creditor does not initiate litigation, its receivable shall not be taken into account in the distribution process.

## **Priority of payments of bank's obligations in liquidation procedure**

### **Article 5**

- (1) Repayment of obligations in bank liquidation procedure shall be applied per priorities according to the provisions of Article 269 of the Law.
- (2) Repayment of bank's obligations in liquidation procedure shall be performed in accordance with the liquidation plan. Liquidation administrator shall at least quarterly submit to the Agency the report on liquidation plan realization.
- (3) Liquidation administrator has powers to execute repayment of obligations with funds which are available and on installment basis, if applicable.
- (4) Liquidation administrator shall suspend repayment of any obligations of the bank towards members of bank governing bodies, audit committee, bank shareholders with at least 5% of voting rights, i.e. ownership of capital, related persons and related banks until obligations towards other bank creditors are repaid.
- (5) Third persons which act on behalf of individuals and legal persons referred to in Paragraph 4 of this Article, as well as members of immediate family, blood and in-law relatives of persons referred to in that Paragraph up to third line also have no right to the repayment while all other bank creditors are not fully repaid.

## **Settlement of receivables and debts**

### **Article 6**

Settlement of receivables with debts of the bank may be performed only while adhering to the priority order of repayment in liquidation procedure, as stipulated by the Law.

## **Sale of bank's assets and obligations in liquidation procedure**

### **Article 7**

- (1) In liquidation procedure, liquidation administrator shall have powers to, in accordance with Law, with previously obtained approval by the Agency:
  - 1) sell portion or whole bank's assets,
  - 2) sell portion or whole bank's assets and obligations to another bank or person authorized for performance of such activities,
  - 3) sell or merger the bank and
  - 4) liquidate the bank, whereas he/she decides on justification and repayment upon requests of creditors towards the bank.
- (2) Sale and acquisition of portion or whole assets and obligations of the bank shall be performed without consent of deponents, other creditors and debtors of the bank.
- (3) Liquidation administrator shall perform sale of assets and redemption of obligations of the bank in order to preserve appropriate values of the bank or to protect interests of deponents and other bank creditors, i.e. to sell or merge the bank in accordance with the Law in a way that:
  - 1) achieve maximum price with such sale or distribution in order to protect deponents and other bank creditors,
  - 2) ensure equality among possible buyers or partners for a merger and
  - 3) disable any kind of discrimination in the course of bidding and consideration of offers.

- (4) In implementing the sale or merger plan of the bank, the Agency may suspend such procedure and issue a ruling on continuation of liquidation procedure or other appropriate acts in accordance with the Law.

### **Final report on liquidation procedure**

#### **Article 8**

- (1) Liquidation administrator shall, upon the end of mandate, draft and deliver to the Agency the final report on liquidation procedure and its finalization, with explanation on realized measures, as well as the final balance sheet of the bank.
- (2) The final balance sheet of the bank should contain:
- 1) overview of inflow of funds and their utilization,
  - 2) the list of sold assets and inflows generated in such manner and
  - 3) the amount of liquidation costs.

### **Transitional and final provision**

#### **Article 9**

- (1) On the day this Decision coming into force, the Decision on procedure for determining receivables and distribution of assets and obligations in banks' liquidation ("Official Gazette of Republika Srpska", No.: 12/03) shall cease to be valid.
- (2) This Decision shall come into force on the 8<sup>th</sup> day after its publication in the "Official Gazette of Republika Srpska".

Number: UO-335/17

Date: 11 December, 2017

PRESIDENT OF THE  
MANAGEMENT  
BOARD  
Mira Bjelac