

Pursuant to Article 210 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 CONDITIONS FOR INTRODUCING AND
PERFORMING PROVISIONAL
ADMINISTRATION IN A BANK**

General provisions

Article 1

This Decision shall stipulate detailed conditions and manner of performing provisional administration in a bank, i.e. conditions for appointing provisional administrator, his/her powers and obligations, objectives and tasks of provisional administration, provisional administrator’s mandate, reporting to the Banking Agency of Republika Srpska (hereinafter: Agency) and other issues significant for performing provisional administration in the bank.

Conditions for introducing provisional administration

Article 2

- (1) The Agency shall introduce provisional administration in the bank by means of issued ruling where one or more persons shall be appointed as provisional administrator(s).
- (2) The Agency may introduce provisional administration by appointing one or more provisional administrators who will replace the governing bodies when it assesses that the bank significantly violates provisions of the law and other regulation or if there are significant deficiencies in the bank’s business operations and when the appointment of new members of governing bodies is insufficient for improving the bank’s business operations and management.

Ruling on appointment of provisional administrator

Article 3

- (1) Ruling on appointment, dismissal or extension of mandate of the bank’s provisional administrator shall be deliver without delay to the provisional administrator and the bank for which he/she was appointed, competent registry court, Central Bank of Bosnia and Herzegovina, Deposit Insurance Agency of Bosnia and Herzegovina, regulatory body of Federation of Bosnia and Herzegovina, i.e. Brcko District of Bosnia and Herzegovina, regulatory body for securities market, legal person authorized to perform recording of securities and other bodies in accordance with regulation.
- (2) Ruling on appointment, dismissal or extension of mandate of the bank’s provisional administrator shall be published in the “Official Gazette of Republika Srpska” and on the web page of the Agency and the bank, and shall be entered into the banks’ recordings referred to in Article 27 of the Banking Law of Republika Srpska (hereinafter: Law), according to the Decision on bank’s recordings.
- (3) By means of the ruling on appointment of provisional administrator the Agency shall particularly determine the following:

- 1) objectives and tasks of provisional administration,
- 2) powers and obligations of provisional administrator,
- 3) reporting to the Agency,
- 4) remuneration for the work of provisional administration and
- 5) duration of mandate of provisional administrator.

Conditions provisional administrator must meet

Article 4

- (1) Person to be appointed as provisional administrator must be independent from the bank and must meet conditions required for the appointment of the bank management member referred to in Article 69 of the Law.
- (2) The person independent from the bank shall be the person meeting the following conditions:
 - 1) has no direct or indirect ownership in the bank or member of the banking group the bank belongs to, i.e. members of his/her family have no such ownership,
 - 2) is not the member of the bank supervisory board, the bank board determined by the Law, as well as the member of governing and managing body of the member of the banking group the bank belongs to, i.e. members of his/her family are not members of such bodies and boards and
 - 3) is not a contractual party with the bank or member of the banking group the bank belongs to where such contractual relation could have negative effect on his/her impartiality and independence, nor was in such contractual relation in the period of one year prior from the date of provisional administration introduction.
- (3) Family members referred to in Paragraph 2 of this Article shall have the meaning defined by Article 2, Paragraph 1, Item 23 of the Law.

Objectives and tasks of provisional administration

Article 5

Objectives and tasks of provisional administration shall refer to determining of real financial condition of the bank, managing of overall bank's business operations or its part in order to preserve or reestablish appropriate financial position of the bank and/or its stable and safe operations, supervision over implementation of activities imposed to the bank by means of the Agency's ruling and similar.

Cessation of governing body powers

Article 6

- (1) On the day of issuance of the ruling on appointment of provisional administrator, all powers of the governing body shall cease to be in force, and the powers of bank management and supervisory boards shall be assumed by the provisional administrator. Powers and obligations of provisional administrator shall be defined in accordance with powers of the bank management and supervisory board, i.e. rights, duties and responsibilities of members of such bodies as stipulated by the Law, the bank's statute and the law governing companies.
- (2) On the day of issuance of the ruling on appointment of provisional administrator, all contracts based on which prior members of managing bodies were employed in that bank shall cease to be in force.

Powers and obligations of provisional administrator

Article 7

Provisional administrator shall manage the bank's business operations, represent the bank, and shall be empowered and responsible for protection of the bank's assets, as well as for

prevention of theft and misuse of documentation and property of the bank and its depended persons, and shall be empowered to:

- 1) access all bank's business premises with no limitations,
- 2) control financial statements, accounting and other recordings and other asset of the bank and its depended persons,
- 3) propose one or more measures referred to in Article 213, Paragraph 2 of the Law,
- 4) hire other experts for the purpose of performing tasks within his/her competences, along with obtained Agency's approval,
- 5) make decision on dismissal, suspension, and distribution of employees in the bank to other workplace, and decide on employees' salaries,
- 6) conclude and sign contracts and assume obligations on behalf and on the expense of the bank,
- 7) submit and file requests and litigations on behalf and on the expense of the bank in court and administrative procedure and
- 8) perform other tasks within the competences of the bank management and supervisory board stipulated by the bank's statute.

Bank asset protection

Article 8

Provisional administrator shall, immediately after receiving the ruling on appointment, undertake measures of protection and prevention of theft or misuse of assets and documentation of the bank and its depended persons, and undertake all necessary measures and activities needed for the continuation of the bank's business operations and protection of its assets, also including:

- 1) remedy of identified irregularities in the bank's business operations,
- 2) collection of bank's receivables, especially non-performing loans,
- 3) limitation of growth of assets and off-balance sheet liabilities of the bank and
- 4) reduction of costs of bank's business operations.

Convening a general shareholder assembly

Article 9

The Agency may order provisional administrator to convene the bank general shareholder assembly with defined agenda and decision proposal, which the provisional administrator shall convene at latest within 8 days from the date of receipt of Agency's order.

Obligations of previous members of management and other employees

Article 10

- (1) Previous members of management and other persons with specific powers and responsibilities of the bank shall provide provisional administrator access to overall bank documentation, and provide all explanations or additional information on the bank's business operations.
- (2) All employees shall be obliged to cooperate with the provisional administrator.

Assistance by other competent bodies

Article 11

In undertaking measures within their competences, the Agency and the provisional administrator shall be empowered to request assistance from internal affairs bodies and other competent bodies.

Duration of provisional administration and mandate of provisional administrator

Article 12

- (1) The provisional administration procedure may last at maximum one year, with the possibility of extension for one more year if the Agency assesses that this is necessary in order to finalize and achieve objectives of the provisional administration procedure.
- (2) The provisional administration procedure over the bank may be finalized before the expiration of deadline referred to in Paragraph 1 of this Article if the Agency or the provisional administrator assesses that the introduction of provisional administration failed to result in improvement of financial condition of the bank or that the financial condition of the bank improved to the extent due to which the provisional administration procedure is no longer necessary.
- (3) The Agency shall determine duration, powers and obligations of the provisional administrator.
- (4) The Agency may, in the course of provisional administration, dismiss the provisional administrator if he/she fails to perform his/her duties in a satisfactory manner, as well as due to other justified reasons, whose mandate may last at a maximum up to the expiration of commenced mandate of previous provisional administrator.

Continuation of provisional administration after the expiration of request for initiation of bankruptcy procedure

Article 13

- (1) If the Agency issued a decision on submitting a proposal for initiation of bankruptcy procedure over the bank in which the provisional administrator was appointed, after the deliverance of notification he/she shall continue to perform task and duties up to the appointment of bankruptcy administrator.
- (2) If at the moment of issuing the decision on submitting the proposal for initiation of bankruptcy procedure in that bank no provisional administrator is appointed, the Agency may appoint the provisional administrator.
- (3) The provisional administrator shall after submitting the proposal:
 - 1) continue to protect and maintain bank assets and
 - 2) upon the request of bankruptcy judge inquire whether the costs of bankruptcy procedure may be covered by the bank assets.

Reporting to the Agency

Article 14

- (1) Provisional administrator shall within a deadline defined by the Agency, and at latest within 60 days from the appointment date, draft and deliver to the Agency the report on bank's business operations and its financial condition, with the activity plan of provisional administration, which shall contain at least the elements stipulated by Article 213 of the Law, along with the proposal of one or more of the following measures:
 - 1) increase of bank's capital up to the amount defined by this law and the Agency's by-laws,
 - 2) sale of portion or whole assets,
 - 3) simultaneous sale of portion or whole assets and obligations to a bank or other entity empowered to perform such activities,
 - 4) sale or merger with another bank,
 - 5) initiation of bank resolution procedure,

- 6) revoking of operating license and bank liquidation procedure, with the assessment of amount of assets which shall be realized in bank liquidation procedure,
 - 7) revoking of operating license and initiation of bankruptcy procedure, if conditions for initiation and implementation of liquidation procedure are not met and
 - 8) other measures.
- (2) Provisional administrator shall be obliged to, in case he/she in his/her report proposes the bank merger with another bank, draft elaborate on economic justification of status change and decision on behalf of that bank.
 - (3) Along with the report referred to in Paragraph 1 of this Article, the provisional administrator shall also deliver to the Agency the activity plan which the bank shareholders are obliged to draft and deliver to the provisional administrator within the deadline he/she defines, and which must contain proposal of required activities which the bank shall undertake for remedy of irregularities and deficiencies in bank's business operations and for improvement of its financial condition, with defined deadlines for implementation of such activities.
 - (4) When deciding on plan of measures proposed in the report of provisional administrator, the Agency shall also assess the need for protection of interests of deponents and other bank creditors, and determine the existence of realistic assumptions that the proposed plan can be successfully implemented in the period of provisional administration duration.
 - (5) When adopting the report or in the course of plan implementation the Agency may change or supplement the plan proposed by the provisional administrator.
 - (6) Provisional administrator shall regularly, at least on a monthly basis, 15 days after the expiration of reporting month, and upon the Agency's request even more often, report to the Agency on the bank's business operations under provisional administration, on its financial condition, as well as on implementation of the provisional administrator plan, i.e. without delay shall inform the Agency on all circumstances which may have an effect on deterioration of the bank's financial condition.
 - (7) Provisional administrator shall, apart from financial statements delivered to the Agency, draft and deliver financial statements to other institutions, within deadlines, and in the form and manner defined by regulation governing the area of accounting and audit and other regulation governing the issues of significance for the provisional administration procedure.
 - (8) Provisional administrator shall, at the end of mandate, draft final report on the course of provisional administration and its finalization, with explanation of realized measures in the provisional administration procedure, and shall deliver it to the Agency within 30 days from the date of mandate expiration.

Remuneration for provisional administrator's work

Article 15

- (1) Provisional administrator has the right to remuneration for his/her work, which shall be at the burden of the bank, and whose amount shall be defined by the Agency.
- (2) The Agency shall define the amount of remuneration, particularly taking into account the scope of powers and obligations, and objectives and tasks of the provisional administrator defined in the ruling on introduction of provisional administration, the amount of funds secured for the bank's business operations under provisional administration, the bank's financial condition and other data significant for determining such remuneration.

Cessation of provisional administration and powers of provisional administrator

Article 16

- (1) Provisional administration shall cease:
 - 1) by the expiration of deadline referred to in the ruling on appointment of provisional administrator, i.e. the ruling referred to in Article 3 of this Decision,
 - 2) before the expiration of deadline referred to in the ruling on introduction of provisional administration, if the Agency assesses that the objectives and tasks referred to in Article 5 of this Decision have been achieved, or that the bank's financial condition has improved to such an extent that the provisional administration is no longer required,
 - 3) by initiating the bank resolution procedure,
 - 4) by revoking bank operating license and issuing the ruling on appointment of liquidation administrator and
 - 5) by initiating bank bankruptcy procedure.
- (2) Provisional administrator powers shall cease on the day of:
 - 1) expiration of deadline to which he/she was appointed,
 - 2) dismissal and appointment of a new provisional administrator,
 - 3) appointment of special administration in the resolution procedure,
 - 4) issuing the Agency's ruling on appointment of liquidation administrator and
 - 5) issuing the ruling of competent court on appointment of bankruptcy administrator.

Transitional and final provisions

Article 17

This Decision shall come into force on the 8th day after its publication in the Official Gazette of Republika Srpska.

Number: UO-336/17

Date: 11 December, 2017

PRESIDENT OF THE
MANAGEMENT
BOARD
Mira Bjelac