

Pursuant to Article 116 and Article 118 of the Banking Law of Republika Srpska (“Official Gazette of Republika Srpska” No. 4/17), Article 5, Paragraph 1, Item b, 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 b and Article 19, Paragraph 1 Item b 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 session held on 19 September 2017, adopted the following

DECISION

ON THE PURCHASE AND SALE OF BANK PLACEMENTS

Subject of the Decision

Article 1

- (1) This Decision determines: coverage of placements for purchase and sale, financing of purchase and sale of placements, general and special conditions for purchase and sale of placements, materially significant amount of placements, documentation submitted by the bank to the Banking Agency of Republika Srpska (hereinafter: Agency) for the needs of fulfilling the stipulated conditions and other issues related to the purchase and sale of placements.
- (2) All banks headquartered in Republika Srpska, including organizational units of banks from the Federation of Bosnia and Herzegovina and all other entities in the financial sector to which the Agency issued an operating license are obliged to comply with this Decision.
- (3) Issues concerning the purchase and sale of placements that are not defined by this Decision, and are defined by law or other bylaws, the provisions of that law or other bylaw shall apply.

Definitions

Article 2

- (1) For the purpose of this Decision, placements shall have the meaning:
 - 1) receivables from loans, borrowings, held-to-maturity investments, other than investments in debt securities and similar, or risks and rewards of placements,
 - 2) receivables on loan principal, interest and fees,
 - 3) other receivables based on which the bank may be exposed to credit risk of default of the counterparty.
- (2) For the purpose of this Decision, due placement is a placement that is deemed fully matured, for which the bank has terminated the contract.
- (3) Materially significant amount of placements for purchase and sale of placements shall be considered the nominal book value, before deduction for determined impairment, of one or more individual placements whose cumulative amount for the past 12 months from the day of submitting the request for approval to the Agency is equal to 10% of the regulatory capital of the seller's bank or larger. Exceptionally for the seller's bank, whose regulatory capital exceeds 100,000,000 KM, the materially significant amount of placements for purchase and sale of placements is considered to be the nominal book value, before deduction for determined impairment, of one or more individual placements, whose cumulative amount for the past 12 months from the day of submitting the request for approval to the Agency is equal to or greater than 10,000,000 KM.

- (4) Derecognition means removing previously recognized financial assets or financial liabilities from an entity's financial position report. The purchase and sale contract must stipulate that a placement should be fully transferred to the acquirer, including all rights, risks and benefits arising therefrom, and thus the placement ceases to be recognized in the balance sheet of the seller's bank.
- (5) For the purpose of this Decision, the banking service user means a private individual who establishes a relationship with a bank for purposes other than his/her business or any other commercial activity.

The subject matter of the purchase and sale contract

Article 3

- (1) With the contract on purchase and sale of placements, the bank seller transfers the placement or risks and benefits on the basis of placements to the buyer of placements, the consequence of which is permanent termination of recognition of placements in the bank's balance sheet, in accordance with international financial reporting standards.
- (2) The bank may conclude an agreement on the purchase and sale of outstanding placements only with another bank.
- (3) The seller bank may not contract the purchase and sale of parts of the placement, nor parts of the rights and obligations from the placement (partial cash flows from the placement), nor may assess whether the sold placement will be recorded in the balance sheet or not but must agree on the purchase and sale of the entire placement and all rights and obligations arising from the placement and stop recognizing the placement in the bank's balance sheet in full.
- (4) The contract of sale shall specifically stipulate that the subject of the contract of sale may not be further transferred from the buyer of the placement subject.
- (5) The bank may conclude a contract on the sale of placements after obtaining the prior consent of the Agency that the general and special conditions for the sale of the bank's placements, stipulated by this Decision and the Banking Law of Republika Srpska have been met.
- (6) The bank may transfer placements on the basis of loans and other services approved to the user of banking services only to other banks or financial organizations licensed by the Agency.

General conditions for purchase and sale of placements

Article 4

- 1) The seller bank may purchase and sell placements if the following conditions are met:
 - 1) the contract on purchase and sale of placements has economic justification,
 - 2) the seller bank has made an assessment of the effects of the sale of placements,
 - 3) financing of sale, management and collection of placements is performed in accordance with the provisions of this Decision and the Banking Law of Republika Srpska,
 - 4) the purpose of the sale is not to generate income that would not otherwise be achievable for the seller's bank and
 - 5) if it requests the written consent of the Agency on that intention no later than 30 days before the conclusion of the contract on purchase and sale of placements.
- (2) When the seller's bank concludes a contract on the purchase and sale of placements with the buyer from the banking group, in addition to the conditions referred to in Paragraph 1 of this Article, it is obliged to meet the following conditions:

- 1) the purpose of the sale of placements is not to avoid meeting capital requirements, other prudential requirements, as well as other requirements prescribed by the Banking Law of Republika Srpska and the regulations of the Agency, and
 - 2) the purpose of the sale is not to generate income that would not otherwise be achievable for the seller's bank individually or on a consolidated basis for a banking group.
- (2) The seller bank shall not assume, directly or indirectly, responsibility for the quality of the sold placements, including their collectability and the credit rating of the debtor, on the basis of which the agreed sale price was determined, but shall be responsible for the existence of the sold placement.

Special conditions for purchase and sale of placements

Article 5

- (1) The selling bank may conclude a contract on the sale and purchase of a materially significant amount of placement where the following specific sales conditions have been met in addition to the general sales conditions:
- 1) a permanent transfer of the placement or of risks and benefits arising therefrom is ensured,
 - 2) the selling bank may not assume, either directly or indirectly, the responsibility for the quality of the placement sold, including the collectability thereof and the borrower's creditworthiness based on which the sale price has been contracted, but shall be held liable for the existence of the placement sold, and
 - 3) the management and collection of the placement sold is carried out in accordance with Article 12 of this Decision.
- (2) The selling bank is required to file an application for the Agency's consent on the compliance with general and specific sale conditions at least 60 days prior to concluding a contract on the sale of a materially significant amount of placement.
- (3) Where the selling bank has concluded more than one individual contract on the sale of the placement with a single acquirer and persons related to the acquirer the cumulative value of which over the preceding 12 months is not material under Article 2, Paragraph 3 of this Decision, the selling bank shall comply with the specific conditions set forth in Paragraph 1 of this Article when concluding a new contract on the sale of placement that would render the cumulative amount of placement as materially significant.

Obligations of the selling bank prior to the decision on purchase and sale of placement

Article 6

- (1) Prior to deciding to conclude a contract on purchase and sale of the placement, the selling bank shall:
- 1) ensure that an independent appraiser assesses the value of the receivables;
 - 2) verify that the amount of the placement to be sold meets the criteria concerning the materially significant amount of the placement referred to in Article 2 of this Decision;
 - 3) irrespective of the amount of the placement or risks and benefits arising from the placement to be transferred from the selling bank to an acquirer by way of a contract, conduct the assessment of effects of the placement sale on the bank, after the sale in relation to:
 1. the bank's financial result,

2. the continuity of the bank's operations,
 3. the bank's reputation,
 4. the bank's exposure to risks,
 5. the bank's solvency,
 6. the bank's liquidity, and
 7. the protection of banking service users, if the subject matter of sale is the placement approved to the banking service user;
- 4) conduct the assessment of the acquirer in terms of its financial, staff and technical capacities to acquire the subject matter of sale.
- (2) The independent appraiser referred to in Paragraph 1, Item 1 of this Article may be:
- 1) a private individual holding the title of an independent appraiser or court expert at economics;
 - 2) an economic appraisal firm whose appraisal reports must be signed by a certified appraiser or court expert at economics.

Requirements to be met by the acquirer of the sale matter

Article 7

- (1) For the purpose of this Decision, an acquirer means any legal entity authorized under law to purchase and sell placements; however, the acquirer of immature placements may be a bank only, and the acquirer of placements granted to banking service users must be licensed and supervised by the Agency.
- (2) Prior to concluding a sales contract, the selling bank is required to assess the acquirer's financial, staff and technical capacities for acquiring the subject matter of sale.
- (3) The selling bank shall assess the acquirer's financial capacity by verifying its financial soundness and ability to purchase placements, which includes verifying whether the source of financing of the contracted price is secured, as well as the eligibility under Article 9 of this Decision.
- (4) The selling bank shall assess the acquirer's staff and technical capacities by checking its staff and technical capacities to monitor and collect placements as well as report to relevant institutions unless it has been agreed that the selling bank should perform those activities on behalf of and for the account of the acquirer.
- (5) Where the acquirer is a bank or a microcredit organization or foundation licensed by the Agency, the selling bank is not required to verify the acquirer's staff and technical capacities referred to in Paragraph 4 of this Article.
- (6) Where the acquirer belongs to the same banking group in BiH, or the selling bank has qualifying holding in the acquirer, the selling bank shall act in line with Article 4, Paragraph 2 of this Decision.
- (7) The acquirer may not be a person related to the borrower within the meaning of Article 2, Paragraph 1, Item 23 of the Banking Law of Republika Srpska.

Durability of placement transfer

Article 8

- (1) The seller bank is obliged to ensure that placements or risks and benefits based on placements are permanently transferred to the acquirer.
- (2) The selling bank is required to derecognize the placement sold in its balance sheet as of the fulfilment of the obligations stipulated in the sales contract where it has, for the difference between the nominal and the agreed price of the placement in question, secured the decision of the competent authority or other body of the bank on permanent write-off of uncollected placement in writing obtained, in line with its internal enactments.
- (3) In the event of a reason for termination of the contract on the sale of placements, the bank seller and the acquirer of placements may not agree on the return of placements, but have the right to compensation for damages due to termination of the contract.

Financing of placement purchase and sale

Article 9

- (1) The seller bank is obliged to agree that the acquirer fulfills its obligation to pay the agreed price to the seller's account immediately, and no later than within 60 days from the day of concluding the contract on the sale of placements.
- (2) Notwithstanding Paragraph 1 of this Article, in special cases and where requested by the selling bank, the Agency may allow other methods and time frames for effecting the above payment.
- (3) The seller bank may not directly or indirectly finance the sale of its placements or risks and benefits on the basis of placements, unless the exposure arising on the basis of financing would be fully secured by a dedicated, unconditional time cash deposit placed with the seller's bank, which is aligned with that exposure in terms of amount, currency and term.

Documentation

Article 10

- (1) In order to obtain the prior consent for the purchase and sale of a bank's placement, the bank shall submit to the Agency:
 - 1) the decision of the bank on the purchase and sale of placements,
 - 2) draft contract on purchase and sale of placements,
 - 3) explanation of economic justification and reasons for purchase and sale of placements, with evidence of fulfillment of general and special conditions referred to in Articles 4 and 5 of this Decision,
 - 4) assessment of an independent appraiser on the value of receivables,
 - 5) assessment of the value of the effects of the sale of placements on the bank's financial result, business continuity, reputation, risk exposure, solvency, liquidity, and on the protection of users of banking services, if the subject of sale are placements approved to users of banking services,

- 6) assessment of the acquirer by the seller's bank in accordance with the conditions set out in Article 7, Paragraph 3 of this Decision, and evidence of the method of financing or providing a source of financing for the sale of placements,
- 7) statement of the acquirer on the fulfillment of the conditions referred to in Article 7, Paragraph 7 of this Decision.
- (2) In addition to the information and documentation referred to in Paragraph 1 of this Article, the Agency may request, and the selling bank is required to submit other documentation as deemed necessary for assessing the eligibility for the sale of placements as stipulated by the Law and this Decision.
- (3) On reviewing the documentation referred to in Paragraph 1 and Paragraph 2 of this Article, the Agency shall decide whether to grant approval for the sale of placements within 30 days.
- (4) In the event that the request for obtaining prior consent for the sale of the bank's placement has not been submitted with all necessary documents or information, the Agency may request additional documents or information from the applicant. They must be submitted within the deadline set by the Agency. If the requested document or information is not submitted within the specified deadline, the Agency will reject the request with a conclusion as irregular.
- (5) If in the period from the day of submission of the request for prior consent for purchase and sale of placements, and before issuing the prior consent for purchase and sale of placements, changes in circumstances and facts related to purchase and sale of placements occur, the seller shall notify the Agency on those changes, which shall take into account facts and circumstances when giving an opinion on the fulfillment of the conditions from this decision. Exceptionally, if the Agency assesses that changes in facts and circumstances are important for the assessment of compliance with the conditions stipulated by this Decision, it shall notify the seller's bank that the new deadline referred to in Paragraph 3 of this Article shall commence.
- (6) If in the period after the issuance of the prior consent for the sale of placements, and before the conclusion of the contract on the sale of placements, there are changes in facts and circumstances related to the sale of placements, the seller bank shall notify the Agency. From the date of that notification, the new deadline referred to in Paragraph 3 of this Article shall commence. Exceptionally, the Agency may assess that the change of facts and circumstances did not affect the given prior consent for the purchase and sale of placements and will notify the seller's bank within a reasonable time.

Concluding contract on the purchase and sale of placements

Article 11

- (1) The seller bank may enter into a contract for the sale of placements after obtaining the prior consent of the Agency referred to in Article 8 of this Decision, which assessed that all the necessary conditions stipulated by this Decision have been met.
- (2) The seller may enter into a contract for the sale of placements within 60 days from the receipt of the prior consent of the Agency. If the seller's bank does not enter into a contract for the sale of placements within the specified period, the prior consent of the Agency shall cease to be valid.
- (3) The seller bank shall, within 7 (seven) days from the signing of the contract on purchase and sale of placements, submit a copy of the contract to the Agency.
- (4) The seller may not change the contract on purchase and sale of placements without the prior consent of the Agency.
- (5) The seller bank shall, within 7 (seven) days, notify the Agency of the possible withdrawal from the conclusion of the contract on the sale of placements.

Management and collection of placements sold

Article 12

- (1) Where assuming the responsibility for managing and collecting the placements sold, the selling bank should contract a compensation for such operations which, as a minimum, must cover the actual costs incurred while providing such services.
- (2) Where assuming the responsibility for managing and collecting the placements sold, the selling bank is required to clearly stipulate in the contract that the same business policies and procedures will apply as those that it applies when collecting placements for its own purposes. The selling bank shall ensure that all risks and costs arising from these processes should be transferred to the acquirer.
- (3) If the management and collection of sold placements is carried out by the acquirer, the seller is obliged to contractually carry out these procedures in such a way as to respect and protect the integrity and reputation of all debtors whose obligations are subject to purchase and sale of placements, and that they are not put in a less favorable position in relation to the one they had as debtors towards the seller, including the obligation and manner of delivery, and updating data for placements that are subject to sale in the Central Credit Registry in accordance with CBBH regulations.
- (4) For the purpose of this Article, placement collection includes activities necessary for collection from security instruments and bankruptcy related procedures.

Debtor protection when purchasing and selling placements

Article 13

- (1) When concluding the contract on purchase and sale of placement, the seller bank and the acquirer of placements who manages the purchased placements and collects their placements, are obliged to ensure that the debtor is not put in a less favorable position than he/she would have had if the placement had not been transferred, and the debtor cannot therefore be exposed to additional costs.
- (2) The bank seller and acquirer of placements on the basis of loans granted to the user of banking services are obliged to apply the provisions of the Banking Law of Republika Srpska which regulate the protection of rights and interests of users of banking services and other regulations governing consumer protection.
- (4) The seller bank shall, within 15 days, notify the debtor of the transfer of the placement to the acquirer of the placement.

Records

Article 14

- (1) The selling bank shall maintain records of all placements sold, which must include data on sales contracts concluded, acquirers, terms and conditions of the sale and other information pertinent to the sale of bank placements, as well as any other information necessary for reporting under Paragraph 2 of this Article using templates that will be specified by the Agency in a separate document.
- (2) The selling bank shall submit reports to the Agency in hardcopy and electronic formats on a quarterly basis, i.e. within 30 days as of the last day of the reporting quarter.

Transitional and final provisions

Article 15

- (1) This Decision shall take effect eight days as of the date of its publication in the “Official Gazette of Republika Srpska”.
- (2) Banks are required to align their operations with this Decision within nine months as of the date on which the Banking Law of Republika Srpska has taken effect (“Official Gazette of Republika Srpska”, No. 4/17).

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Date: 19 September, 2017

PRESIDENT OF THE
MANAGEMENT BOARD

Mira Bjelac