

Pursuant to Article 9 and 25 of the Law on the Banking Agency of the Federation of Bosnia and Herzegovina ("Official Gazette of the FBiH", No. 9/96, 27/98, 20/00, 45/00, 58/02, 13/03, 19/03, 47/06, 59/06, 48/08, 34/12 and 77/12), Article 27, paragraph (4) of the Law on Factoring ("Official Gazette of the Federation of BiH", No. 14/16) and Article 18 of the Statute of the Banking Agency of the Federation of BiH ("Official Gazette of the Federation of BiH", No. 42/04), the Management Board of the Banking Agency of the Federation of BiH, at its 86<sup>th</sup> session held on 30 August 2016, adopted the

## **DECISION**

### **ON MINIMUM STANDARDS FOR THE CRITERIA, RULES AND ADDITIONAL REQUIREMENTS FOR CAPITAL IN FACTORING COMPANIES**

#### **I Introductory provisions**

##### **Article 1**

(1) This Decision closely defines the criteria and rules for capital and additional requirements for the creation and implementation of capital management programmes, which a factoring company shall secure, continuously maintain and implement, as well as the measures to protect the capital, which shall include:

a) the manner and rules for calculating capital,

b) the manner and deadlines for reporting to the Banking Agency of the Federation of BiH (hereinafter: the Agency), as well as

c) additional requirements for measures and procedures in relation to the conduct of the factoring company in ordinary and extraordinary circumstances.

(2) This Decision also closely describes the content of certain items which are taken into account when calculating the capital of a factoring company.

(3) Bound by this Decision are factoring companies, which have a licence for performing factoring operations issued by the Agency.

(4) For the purpose of the provisions of this Decision, certain terms shall have the meaning prescribed in Article 2 of the Law on Factoring (hereinafter: the Law).

(5) The provisions of the Law apply to matters related to the implementation of this Decision, which have not been regulated by this Decision.

#### **II The capital of a factoring company**

##### **Article 2**

(1) The following elements shall make up the capital of a factoring company:

a) core capital;

b) the reserve fund, in accordance with the provisions of the Law on Companies ("Official Gazette of the Federation of BiH", No. 81/15); and

c) other capital.

(2) Core capital may be invested in cash or property and rights whose value is stated in cash and appraised by a certified appraiser.

(3) The core capital of a factoring company in the process of being established should not amount to less than BAM 750,000 and it must be entirely paid in cash.

(4) Investments in core capital in property and rights in total shall not exceed 25% of the amount of core capital paid in cash.

(5) Core capital paid in cash shall also be considered an increase in core capital from:

(1) a share of profit after the adoption of the annual financial report verified by a report of the independent external audit and after the mandatory allocations to the reserve fund have been carried out, and

(2) the reserve fund in the amount above the mandatory amount of the reserve fund defined by the provisions of the Law on Companies.

(6) The following elements shall make up other capital:

a) retained profit from previous years in accordance with the decisions of the Assembly of a factoring company on the adoption of the annual financial reports verified by reports of the independent external audit and after the mandatory allocations to the reserve fund have been carried out (+);

b) funds from the reserve fund in the amount above the mandatory amount defined by the provisions of the Law on Companies (+);

c) reserves resulting from the difference of the nominal and selling price of the factoring company's issued shares (+) or (-);

d) all other reserves from net profit (+);

e) deductions by the amount of the items as follows:

- acquired own stock or shares of the factoring company (-);

- uncovered losses from previous years verified by the reports of the independent external audit (-);

- current year loss (-);

- negative revaluation reserves (-).

(7) Factoring companies shall ensure that the amount of capital as of the day of drafting and presenting the financial reports stays in an amount which shall not be lower than the amount of capital referred to in paragraph (3) of this Article.

(8) Factoring companies shall continuously maintain the amount of core capital in a minimum amount which shall not be lower than the amount of capital referred to in paragraph (3) of this Article, i.e. some other prescribed amount, whichever is greater.

### **Article 3**

The paid core capital should not be considered capital which was financed by loaned funds whose repayment was guaranteed by the factoring company whose capital received the payment, nor from loaned funds approved for other purposes.

### **III Capital management programme in factoring companies**

#### **Article 4**

(1) Capital management in a factoring company shall represent a continuous process for defining and maintaining the scope and quality, i.e. the structure of the company's capital, at the minimum of the prescribed, i.e. adequate level, as well as a clear understanding of the real needs for capital, bearing in mind the type, scope and complexity of the factoring company's business operations.

(2) A factoring company shall continuously monitor and identify the fulfilment of the conditions on the minimum amount of capital.

(3) The Supervisory Board of the factoring company shall, in accordance with the competences established by the law and company statute, adopt, in written form, a plan and programme of capital, policies and procedures which, as a minimum, shall include the following:

a) strategies and policies defining the manner of capital management in factoring companies in ordinary and extraordinary circumstances,

b) plans and measures of action for the prevention, i.e. conduct of factoring companies in the event that the company capital could drop below the minimum prescribed amount of capital, i.e. the amount of capital which corresponds with the type, scope and complexity of the factoring company's business operations.

#### **IV Responsibility of the bodies of factoring companies to maintain the prescribed amount of capital**

#### **Article 5**

(1) In accordance with their competences as established by the law and company statute, the Assembly and Supervisory Board of the factoring company are responsible for quantitatively and qualitatively securing and maintaining the company capital at the minimum level of the prescribed standards of the Law, this Decision and other regulations of the Agency.

(2) The Supervisory Board of factoring companies shall, as a minimum:

a) require that the company Management properly and in a timely manner submit proposals for the adoption of capital management programmes with policies pertaining to the quantity and quality of the capital which the company is required to secure and maintain;

b) adopt a capital management programme of the factoring company, with policies pertaining to the quantity and quality of the capital which the company is required to secure and maintain;

c) establish procedures for the creation and development of methods for monitoring the current and planning the future needs of the company regarding capital, including protective measures in order to maintain the quality of capital;

d) determine a minimum content of reports and an obligation to draft reports at least on a three-month basis regarding the minimum prescribed amount of capital to the Management Board, and ensure the compliance of the capital reports with the provisions of this Decision;

e) secure all necessary means for the realisation of the factoring company programmes and policies regarding the matter of the company capital in accordance with its general acts and this Decision;

f) decide on the proposals and review the reports of the Management;

- g) monitor and, in the context of the adoption of the annual business plan, consider at least once a year, and if necessary, an update of the periodic plan of the company's capital, and
- h) review and decide based on the reports, proposals, requests and orders of the Agency.

#### **Article 6**

The company Management shall:

- a) maintain the company capital at a minimum level or above the one specified by the Law, i.e. this Decision, the company statute, the capital programme and plan, policies and procedures adopted by the Supervisory Board,
- b) determine and submit for adoption to the Supervisory Board proposals of the programmes, policies and procedures regarding capital management in the company,
- c) implement the programme, policies and procedures regarding capital management in the company,
- d) continuously monitor whether the status and structure of the company capital ensures the fulfilment of the minimum standards prescribed by the Law and this Decision ,
- e) report to the Supervisory Board in detail regarding the adequate amount of the company capital within the set deadlines, but at least in accordance with the reporting requirement specified by this Decision,
- f) analyse and, if necessary, also propose an amendment to the periodic plan of the company capital, at least once a year in the context of drafting a proposal of the annual business plan for the Supervisory Board.

### **V Calculation of the capital of factoring companies**

#### **Article 7**

- (1) The basis of the calculation of a factoring company's capital is accounting data from the company's business books kept in accordance with laws and regulations, this Decision and the Agency's acts regulating the financial reporting of the factoring company.
- (2) The Agency's Director shall prescribe the instructions with a form for drafting reports for the calculation of the factoring company's capital.

### **VI Methods and deadlines of reporting to the Agency**

#### **Article 8**

- (1) A factoring company shall report to the Agency on the company capital within the deadlines established by this Decision.
- (2) The report referred to in paragraph (1) of this Article shall be submitted by the factoring company to the Agency on a quarterly basis, with the balance as of the last day of the calendar quarter, i.e. on the last day of the calendar year.
  - a) the deadline for the submission of the quarterly report shall be 30 days after the expiry of the reporting quarter,

b) the deadline for the last quarter of the previous year, drafted on the basis of preliminary data, shall be 31 January of the current year,

c) the deadline for the submission of the report prepared on the basis of the final data for the previous year shall be 5 March of the current year.

(3) The report referred to in paragraph (1) of this Article shall be submitted by the factoring company through the Agency's applications BA TEDIS, EXCOR, etc. and in accordance with the standards and deadlines prescribed by the Agency.

(4) As an exception in relation to the deadlines referred to in paragraph (2) of this Article, the Agency may request that the factoring company also submit other reports within a deadline set by the Agency.

#### **Article 9**

Factoring companies shall submit to the Agency the report referred to in Article 8 of this Decision for the last quarter of 2016, with the balance as of 31 December 2016, no later than 5 March 2017.

### **VII Special supervisory measures of the Agency in the event of a decrease in the factoring company's capital below the prescribed minimum**

#### **Article 10**

In the event that the Agency evaluates that the amount of the factoring company capital could decrease below the capital amount prescribed by the Law and this Decision, the Agency may, as a special supervisory measure, order the company to do the following:

- a) increase capital to the level prescribed by the Law,
- b) improve risk management strategies, policies and processes,
- c) further reduce the risks associated with the company's business operations,
- d) adopt measures for achieving and maintaining the required level of capital.

#### **Article 11**

(1) The measures for achieving and maintaining the required level of capital posted as a business projection for the next three years:

- a) quarterly for the first year, and
- b) annually for the remaining two years.

(2) The business projections referred to in this Article shall include, as a minimum, the following:

- a) a balance sheet projection,
- b) an income statement projection and
- c) a projection of the calculation of the factoring company's capital and a set of assumptions based on which the projections were made.

(3) The Agency's Director shall prescribe the methodology for drafting and submitting the business projection referred to in paragraph (2) of this Article by instructions and forms for factoring company business projections.

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

#### **Article 12**

This Decision shall enter into force on the eighth day following its publication in the "Official Gazette of the Federation of BiH".

**Number: U.O.-86-4/16**

**Sarajevo, 30 August 2016**

**Chairwoman of the Management Board**

**Rajka Topčić, BSc in Economics, m.p.**