

Pursuant to Article 9 and 25 of the Law on the Banking Agency of the Federation of Bosnia and Herzegovina ("Official Gazette of the Federation of BiH", 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 47(4) and Article 51(3) 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 Bosnia and Herzegovina, at its 86th session held on 30 August 2016, adopted the

DECISION

ON MINIMUM STANDARDS FOR THE REQUIREMENTS TO BE MET BY MEMBERS OF THE FACTORING COMPANY SUPERVISORY BOARD AND MANAGEMENT

I Introductory provisions

Article 1

- (1) This Decision of the Banking Agency of the Federation of BiH (hereinafter: the Agency) shall closely regulate the following:
 - a) mandatory requirements to be met by members of the factoring company Management, the approval issuance procedure and the documentation accompanying the application for performing the function of a member of the factoring company Management,
 - b) mandatory requirements to be met by members of the factoring company Supervisory Board, the approval issuance procedure and the documentation accompanying the application for performing the function of a member of the factoring company Supervisory Board.
- (2) 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 referred to as: Law).
- (3) The provisions of the Law apply to matters related to the implementation of this Decision, which have not been regulated by this Decision.

II Mandatory requirements to be met by members of the factoring company Management

Article 2

- (1) A member of the factoring company Management may be a person who meets the following requirements:
 - a) holds the appropriate qualifications, capacity and experience required for managing the factoring company's business activities,
 - b) was not a member of the Supervisory Board, a member of the Management or a person holding some other managerial position in the factoring company, i.e. in some other company at the time when bankruptcy proceedings were initiated against it, a decision on liquidation was issued or the operating licence revoked, unless the Agency determines that that person did not influence the occurrence of the bankruptcy, liquidation or

revocation of the operating licence with their negligent or incompetent work and conduct,

- c) has not been sentenced by a final judgement for a minor offence or a criminal offence which constitutes a severe violation of respective regulations governing the establishment and functioning of companies, the securities market, the banks' business operations, operations regulating the area of funds and companies managing such funds, regulations governing the establishment and functioning of obligatory and voluntary funds and companies managing such funds, regulations governing pension insurance companies, regulations governing the takeover of joint-stock companies, regulations governing the area of accounting, regulations governing taxes,
 - d) has a good reputation,
 - e) has not been sentenced by a final judgement for a criminal offence against values protected by international law or for any of the following criminal offences: property-related frauds, where criminal proceedings are initiated ex officio, a criminal offence against the economy, the administration of justice, counterfeiting, against official duty, for the disclosure of confidential information, for money laundering, for terrorism financing, and against humanity and human dignity,
 - f) in relation to whom it is reasonable to conclude based on their previous conduct that they shall honestly and conscientiously perform the duties of a member of the factoring company Management,
 - g) meets the requirements for a member of the Management prescribed by the law regulating the establishment and functioning of companies,
 - h) is not a member of the Management, i.e. a procurator in another company,
 - i) is not a person to whom the Agency refused to issue an approval for performing the function of a Management member, at least one year from the date of the decision rejecting the request for the issuance of an approval for performing the function of a Management member,
 - j) has not been relieved of their duty as a member of the Management of an institution supervised by the Agency, upon an order of the Agency imposing special supervisory measures.
- (2) A Management member or a factoring company procurator may not be a member of the Management, Supervisory Board or procurator in any other legal entity operating based on an approval or licence of the Agency.
- (3) When deciding on a request for the issuance of an approval for performing the function of a member of the factoring company Management, the Agency shall take into account all elements that may affect the assessment of whether the candidate meets the set requirements in order to secure the continuous operations of the factoring company.

Article 3

- (1) The professional qualifications referred to in Article 2, paragraph (1), item a) of this Decision shall mean that the candidate has acquired higher education qualifications over a period of at least four years, i.e. that they acquired 240 ECTS points.
- (2) When assessing the candidate's expertise, apart from the level of education in accordance with paragraph (1) of this Article, the Agency may also take into account the candidate's continuous professional development.
- (3) Experience shall mean the work at the managerial positions in a factoring company, i.e. the work experience in a factoring company Management and/or in managing a factoring company's

organisational parts, a procurator's experience in a factoring company and other experiences in running business activities which are comparable to those of a factoring company or managing the operations of companies performing the business activities which are comparable to those of a factoring company.

- (4) When assessing the good reputation from Article 2, paragraph (1), item d) of this Decision, it shall be taken into account whether an appropriate approval or authorisation for performing certain business activities under the laws falling within the competences of the Agency or another relevant body was revoked from or denied to the candidate, i.e. if a foreign Supervisory Board revoked an approval of theirs or imposed any measure to prohibit them from performing certain activities in the factoring industry or some other area of financial services.

Article 4

- (1) When assessing other requirements referred to in Article 2, paragraph (1) of this Decision, the Agency shall:
- a) take into account all available information related to this kind of judgement, the stage of the proceedings, administered legal remedies, imposed sanctions, the existing circumstances, the significance of a misdemeanour or a minor offence, the period of time which has passed since the offence was committed and the person's behaviour during that period of time. The Agency shall also consider a large number of petty offences which individually do not undermine but together may undermine the person's good reputation.
 - b) analyse information indicating the candidate's unfair conduct in their professional work so far, in particular non-transparent conduct, a lack of cooperation with the relevant bodies or a failure to comply with the measures imposed by the Agency or another relevant body.
 - c) take into account financial and business results and the stability of the company in which the candidate has a significant share and/or a managerial position.
 - d) analyse all available information based on which it is possible to reach a conclusion on the non-existence of disadvantages concerning the candidate's previous conduct, for example, information on the possible denial or revocation of a licence for performing managerial functions or performing professional activities or business activities and, if possible, also analyse the reasons for the termination of an employment contract, the dismissal from a managerial or similar position and the prohibition to manage the business operations or represent a legal entity as imposed by a competent body.

Article 5

- (1) Prior to the adoption of a decision by the factoring company's relevant body on the appointment of a Management member, the applicant shall obtain an approval from the Agency in accordance with the provisions of the Law and this Decision.
- (2) The request for the issuance of an approval referred to in paragraph (1) of this Article shall be submitted by a candidate for a member of the factoring company Management, and shall be accompanied by a written decision or approval of the factoring company's body responsible for the appointment of Management members to a term which shall be no longer than four years.
- (3) The request referred to in paragraph (2) of this Article shall be accompanied by the proof referred to in Article 2, paragraph (1) of this Decision. The request shall also indicate the function to which the candidate intends to be appointed, the duration of the term to which the candidate is proposed, and the following shall also be enclosed:

- a) personal data of the person being appointed, including the person's full name, maiden name, place and date of birth, permanent or temporary place of residence, nationality and other personal data, and a photocopy of an ID or a passport or other travel documents for non-residents shall also be submitted as proof,
 - b) information on education, including a chronological list of all levels of education and the year of completion of such education, the duration and the acquired academic title and a photocopy of the completion of a relevant level of education shall also be submitted as proof,
 - c) information on professional development, including a chronological list of all forms of professional development, which should also include the topics, organisers and trainings and duration, the years in which professional examinations were taken, certificates, etc.,
 - d) foreign nationals shall provide a statement on the level of knowledge of the official languages on the territory of the Federation of BiH,
 - e) proof of work experience, including a chronological list of information on all employers and positions occupied, i.e. functions performed outside the positions they held, indicating the period of time during which they performed certain functions, and a relevant document or certificate shall be submitted as proof of the candidate's length of service,
 - f) a statement on whether the candidate or a company the candidate managed became a debtor in bankruptcy or similar proceedings, i.e. a statement on whether enforcement or bankruptcy proceedings were initiated against the candidate's property,
 - g) a statement on whether the candidate is currently on the list of debtors (e.g. a list of tax debtors of the Tax Administration of FBiH, loan registers, etc., and adequate records for foreign nationals),
 - h) a statement on the financial and business results of the companies in which the candidate is or was an important shareholder/stakeholder and in which the candidate performed the function of a Management member or some other managerial function, including information on whether bankruptcy or liquidation proceedings were initiated against the company or whether its operating licence was revoked,
- (4) When one and the same person is to be reappointed as Management member, the request shall be submitted at least three months before the expiry of the term of the Management member and there is no need for the documents referred to in paragraph (3), item b), c), d) and e) of this Article to accompany the request.
- (5) In addition to the documents referred to in paragraph (3) of this Article, the request may also be accompanied by other documents to confirm the candidate's good reputation, expertise, skills and experience.
- (6) The Agency may request that the applicant or the factoring company provide other documents, data and information proving that the candidate meets the prescribed requirements.
- (7) The documentation required by this Decision shall be submitted in the form of originals or certified copies. If the applicant provides a document in a foreign language, the applicant shall also provide a certified translation into one of the official languages in the Federation of BiH.

Article 6

- (1) Based on the available documents and data, the Agency shall adopt a decision on the request for the issuance of an approval for a Management member.
- (2) When deciding upon the request for the issuance of an approval for performing the function of a Management member, the Agency shall take into account all elements which may affect the

assessment of whether the candidate meets the set requirements in order to secure the continuous operations of the factoring company.

- (3) The Agency shall decide on the request referred to in paragraph (1) of this Article by issuing a Decision within 30 days of the receipt of an appropriate request.

Article 7

The factoring company, i.e. the factoring company's competent body shall inform the Agency on a regular basis on changes in the information which accompanied the request and based on which the Agency issued the approval for the appointment of a Management member, no later than eight (8) days following the identification of the change.

III Requirements to be met by members of the factoring company Supervisory Board

Article 8

- (1) Prior to the adoption of a decision by the factoring company's competent body on the appointment of Supervisory Board members, the factoring company shall obtain the Agency's approval in accordance with the provisions of the Law and this Decision.
- (2) The request for the issuance of an approval referred to in paragraph (1) of this Article shall be submitted by the factoring company and it shall be accompanied by a written decision or approval of the company's body responsible for the appointment of Supervisory Board members to a term which shall be no longer than four years.
- (3) The request referred to in paragraph (1) of this Article shall be accompanied by the proof referred to in Article 5, paragraph (3) of this Decision.

Article 9

- (1) In addition to the requirements for the appointment of the Supervisory Board members prescribed in the provisions of the Law on Companies and those referred to in Article 3 of this Decision, a person with a good reputation, adequate qualifications and experience in supervising the business operations of factoring companies may be selected or appointed a member of the factoring company's Supervisory Board.
- (2) The requirements referred to in Article 2, 3, 4, 5, 6 and 7 of this Decision shall be appropriately applied to the requirements which are to be met by members of the factoring company's Supervisory Board.
- (3) As an exception to the provisions of Article 3, paragraph (1) of this Decision, one member of the factoring company's Supervisory Board who, by virtue of their relevant experience and performance in the factoring company's Supervisory Board, can prove that they meet the other requirements referred to in Article 3 of this Decision, shall not need to have a four-year university degree.

Article 10

As proof that the requirements for a member of the Supervisory Board have been met, the factoring company shall, within 8 days prior to making a decision on the selection, i.e., appointment, submit to the

Agency a signed declaration of accepting the membership of a person proposed for the selection, i.e. appointment as a member of the Supervisory Board of the factoring company.

IV Transitional and final Provisions

Article 11

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. – 86-7/16

Chairwoman of the Management Board

Sarajevo, 30 August 2016

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