

THE BANK

BANKING AND FINANCE
IN SERBIA
LEGAL FRAMEWORK

JPM

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If you have any queries regarding the issues raised or other legal topics, please get in touch with your usual contact at JPM Jankovic Popovic Mitic.

In the modern system surrounding us, a large number of deals are conditioned by various transactions which entail cooperation with banks, insurance companies and other financial institutions. Therefore, banking and finance law is an unavoidable part of life for each individual and legal entity. Since this law has a significant impact on various business and private decisions, increased awareness can lead to optimal results. The fact that the supervision over transactions in this field is exercised by the National Bank of Serbia (hereinafter referred to as: NBS), as the head institution of the banking and financial system of Serbia, demonstrates the extent to which this area is deemed to be both important and sensitive.

We would like to share with you our vast experience within the banking and finance system and to present you the grounds on which this system functions, your rights within the system and also reflect on protection of your rights.

I. INTRODUCTION

Banking and insurance tradition in Serbia is not as established as in some other countries. The first Serbian bank was founded in 1869, with the capital of 200.000 florins, while the first insurance company in Serbia was founded in 1897 under the name “Belgrade Cooperative”.

Today the banking system in Serbia consists of NBS and 30 business banks and representative offices of 6 foreign banks. It is estimated that the number of business banks will diminish in the coming period.

In Serbia presently operate 25 insurance companies and 124 companies for mediation in insurance, companies for representation in insurance, agencies and business units for other services in insurance.

The control of legality of the financial institutions in Serbia is exercised by NBS, as an autonomous and independent institution reporting directly to the Republic of Serbia Parliament. The principal goal of NBS is to achieve and maintain stability of prices. NBS, without jeopardizing achievement of its principal goal, contributes to preservation and strengthening of the financial system stability.

The functions of NBS include:

1. establishing and implementing monetary and foreign currency policies;
2. foreign currency reserves management;
3. establishing and implementing, within its competencies, activities and measures for preservation and strengthening of the financial system stability;
4. issuance of notes and coins and cash flow management;
5. organizing, control and improvement of uninterrupted functioning of monetary transactions within the country and with foreign countries, in compliance with the law;
6. granting to the banks and depriving the banks of the operating licenses, control of financial standing of the banks and legality of business operations of the banks, in compliance with the laws governing banks;
7. granting to the insurance companies and depriving the insurance companies of the operating licenses, control and supervision of the insurance activities, granting the licenses and depriving of the licenses for engagement against certain activities within the field of insurance, etc., in compliance with the laws governing insurance;
8. granting to the companies and depriving the companies of the operating licenses for engagement in activities of financial leasing, supervising of financial leasing activities and other activities, in compliance with the laws governing financial leasing;
9. granting to the companies the licenses for operating and management of voluntary pension funds and depriving them of the same, supervising such activities, and other activities in compliance with the laws governing voluntary pension funds;

10. granting to the payment transaction institutions and depriving the payment transactions institutions of the operating licenses, and to e-money institutions the licenses for e-money issuance, and engages in other activities in compliance with the laws governing payment services;
11. protection of the rights and interests of beneficiaries of services rendered by banks, insurance companies, financial leasing providers, companies managing voluntary business funds, payment services providers and e-money services providers, in compliance with the law;
12. determines the fulfilment of requirements for initiating restructuring of banks or members of a group of banks and exercising relevant procedures, deciding upon instruments and measures to be undertaken during restructuring of banks, and other tasks in connection with restructuring, in compliance with the laws governing banks;
13. granting licenses to payment system operators to operate and depriving them of the licenses; supervision over their activities and other activities in compliance with the laws governing payment services;
14. engages in activities on behalf of the Republic of Serbia, as specified by the law, or under an agreement;
15. engages in other activities from its operating scope, in compliance with the law.

II. BANKING

Incorporation, operations and control of banks are governed by the Act on Banks. The banks may be incorporated only in the form of joint stock companies, with the purpose of engaging in banking activities.

A) Bank activities

Operations of banks include:

1. deposits (acceptance and laying of deposits);
2. loans (granting and taking of loans);
3. foreign currency, local currency and exchange operations;
4. payment transactions;
5. credit cards issuance;
6. transactions with securities (issuance of securities, custody, etc.);
7. broker and dealer transactions;
8. warranties, guaranties and other forms of bonds (guarantee deals);
9. purchase, sale and collection of claims (factoring, forfeiting, etc.);
10. representation in insurance (with prior NBS approval);
11. transactions a bank is authorized to engage in under the law;
12. other transactions the nature of which is similar or related to the transactions under 1) to 11), in compliance with the Incorporation Act and the By-laws of a bank.

Activities to be performed exclusively by banks are:

- **acceptance of deposits;**
- **granting of loans and**
- **issuance of credit cards**

Exception: loans may be granted and credit cards issued by other legal entities if authorized for such activities under the law.

If you wish to engage in one of the listed activities, there are 2 alternatives to do it:

- 1) incorporate a bank; or
- 2) purchase shares of one of the existing banks.

B) Incorporation of a bank

The first alternative – incorporation of a bank appears more attractive, in the sense that you may from the very beginning participate in setting grounds on which the bank will operate, however, such an undertaking will require significant financial funds. Namely, the pecuniary portion of initial capital of a bank shall not be below EUR 10.000.000 in RSD equivalent, subject to the official medium exchange rate as of the date of payment.

After you have managed to overcome the initial obstacle – financing, you will be encountered with other requirements you need to satisfy in order to incorporate a bank.

The stages in the bank incorporation process are the following:

- i) Preliminary approval for incorporation;
- ii) License to operate.

Preliminary approval

The first step in incorporation of the bank is obtaining the NBS approval for incorporation of a bank, in form of the preliminary approval. The founders shall submit to NBS the application for preliminary approval for incorporation of a bank, to which NBS shall decide within 90 days following submission of complete documentation.

Attached to the application, founders shall submit to NBS documentation specified by the law (data on bank founders and their contributions; on persons who will be members of the bank bodies, proposed bank activities program; proposed procedures, etc.) as well as other data and documents requested by NBS.

Founders of a bank whose application for the preliminary approval has been rejected or refused, or whose preliminary approval has expired, shall not be entitled to file this application again before expiry of one (1) year from the date of rejection or refusal, or expiry of the validity of preliminary approval.

After they have obtained the preliminary approval, and before registration of a bank with the Commercial Register, founders may, on behalf of a bank under incorporation, engage only in activities required for obtaining the license to operate and for registration with the Register.

License to operate

The next step in incorporation of the bank is obtaining the NBS license to operate. Namely, following obtaining of the preliminary approval, founders of a bank shall, no later than 60 days from the date the preliminary approval was obtained, submit to NBS the application for obtaining the license to operate.

Should the founders of a bank fail to file the application within the specified term, the preliminary approval shall be deemed invalid.



The application for the license to operate shall be accompanied by various documents relating to:

- Initial capital;
- Business premises and equipment;
- Engagement of an independent auditor;
- Organizational structure and human resources capabilities of a bank.

The founders of a bank shall hold the Incorporation General Meeting session no later than thirty (30) days following obtaining of the license to operate. The founder shall be obliged to deliver to NBS for approval all acts adopted at the Incorporation General Meeting session within five (5) days. After NBS has rendered the resolution on approval of the said acts within sixty (60) days, the founders shall have the thirty (30) days term to register incorporation of a bank with the Commercial Register at the Commercial Registers Agency.

A bank shall acquire the capacity of a legal entity at the moment of registration with the Commercial Register.

Should a foreign bank wish to expand its activities to the Republic of Serbia, it can do it by opening a representative office in the Republic of Serbia.

The representative office is an organizational unit of a Serbian bank abroad or of a foreign bank in the Republic of Serbia, without legal entity status, which shall not engage in activities a bank is allowed to perform, but may nevertheless engage in market research activities and represent a bank it belongs to.

In order to be registered in the Republic of Serbia, a foreign bank representative office shall obtain the NBS consent. Together with the application to be submitted to NBS, a foreign bank shall also submit various documentation (e.g. the resolution of foreign bank's authority in charge on opening of a representative office, a copy of the foreign bank's Incorporation Act, data on the foreign bank's financial standing, etc.). The foreign bank's representative office in the Republic of Serbia shall be registered in compliance with laws governing registration of commercial companies.

C) Purchase of shares of an existing bank - acquiring a share in a bank

If you are inclined to enter into the banking system, but you find incorporation of your own bank too complicated and overly demanding, you can always acquire a share in one of the existing banks by purchase of shares of the bank. In proportion to number of purchased shares, you will have voting rights and the opportunity to participate in bank management. However, you will need prior consent of NBS if you decide on purchasing bank shares in the amount which would secure the following percentages of voting rights:

- from 5% to 20%,
- from 20% to 33%,
- from 33% to 50% and
- over 50%.

Obtaining of the consent depends on the extent to which various requirements have been satisfied, depending on the percentage threshold of voting rights that you acquire. For example, if you intend to acquire 20% to 33% of voting rights in a bank, in addition to general documentation to be provided for percentage thresholds, NBS shall also assess your plan of activities for the following year, and if you wish to acquire over 33% of voting rights, NBS shall assess your plan of activities for the following two years, and if you wish to acquire over 50% of the voting rights, NBS shall assess your plan of activities for the following 3 years. These plans shall in particular contain the clearly defined strategy of operations, goals and guidelines relating to a bank, the shares of which you intend to acquire.

If you are submitting the application in capacity of a foreign bank or a foreign legal entity operating in finance sector, NBS shall grant its consent under the following conditions:

- that the applicant is controlled by a regulatory body of its country of origin in a manner that satisfies the NBS requirements;
- that there is appropriate cooperation between NBS and the regulatory body of applicant's country of origin;
- that other conditions specified by NBS are satisfied.

NBS shall specify the term within which the applicant, having been granted the consent, may acquire ownership in a bank, as follows:

- natural persons – no later than within one year following delivery of the resolution;
- legal entities – no later than the date of adoption of the first next annual financial reports or revised financial reports of those legal entities.

Should the applicant fail to acquire ownership within the given term, the granted consent shall no longer be valid.

The applicant shall notify NBS on acquisition of ownership, for which the consent has been granted, within 15 days following such acquisition

Rejection/annulment of the application for obtaining consent for acquisition of a share in the bank

NBS will **reject** the application for obtaining consent when the requirements relating to financial standing of an applicant, its business reputation and activities have not been satisfied.

NBS **may annul** the resolution on granting of consent in the following cases:

- if it has established that the requirements for granting consent are no longer satisfied, or
- if the person/entity who/which has been granted consent exercises his/her/its rights in a manner which jeopardizes stable operations of the bank.

Should NBS annul the resolution on granting consent for acquisition of a share in a bank, it shall, by the same resolution, prohibit a person/legal entity whose consent has been annulled, to exercise any rights from the shares on the ground of which he/she/it had acquired the ownership, and may also order that the ownership interest be relinquished.

Legal consequences of an unauthorized acquisition of shares in a bank

Should a person/legal entity, without NBS's prior consent acquire direct or indirect share in a bank, securing from 5% to 20%, over 20% to 33%, over 33% to 50% and over 50% of voting rights, NBS shall:

- order the person/legal entity to relinquish/relinquish the ownership, or
- prohibit the person/legal entity to indirectly or directly exercise voting rights in the bank, and to influence management or business policy of the bank.

Should a person/legal entity having acquired the ownership without the NBS consent, fail to relinquish the ownership in the manner and within the term specified by NBS, the legal transaction on the basis of which such ownership has been acquired shall be deemed null and void.

Exceptionally, there is a possibility that a person/legal entity acquires a share in a bank without the NBS's prior consent, but the so acquired ownership shall have certain limits with respect to exercising the voting rights, should the acquirer not be subsequently granted the NBS consent/ratification for such acquisition.

A person/legal entity may acquire the share without the NBS's consent in the following cases:

- through inheritance (natural persons),
- legal succession (legal entities) or
- other kind of acquisition, independent from the will of an acquirer.

III. INSURANCE

The insurance field is in its principal and major part governed by the Insurance Act ("RS Official Journal", No. 139/2014) and the appropriate subordinate acts.

A) Insurance activities and types of insurance

Nowadays, when potential risks are widespread, more and more people decide on some kind of insurance: life insurance, car insurance, loan insurance, etc.

The purpose of insurance is transfer of risk from the insured to the insurance company, in return for payment of the insurance premium. Through collection of premiums paid by insured to insurance company, a monetary fund is created from which each individual insured event is paid out, if it occurs. In this way, the insured is relieved since the risk of occurrence of an insured event passes onto the insurance company, while the insurance company acquires profit if the insured event does not occur.

Insurance activities include:

- insurance;
- co-insurance;
- reinsurance;
- mediation in insurance and
- representation in insurance

Insurance includes activities of execution and implementation of life and non-life insurance agreements, except for the mandatory social insurance.

Co-insurance includes the activities of execution and implementation of insurance agreements with several insurance companies which have agreed on joint bearing and distribution of risk.

Reinsurance is a repeated insurance – insurance of the insurance. Namely, each insurance company has a certain amount of risk it can bear, i.e. cover by its own funds – maximum self support of the risk. The excess of the undertaken risk and the proportionate part of insurance premium, the insurance company shall transfer, under an agreement, to a re-insurance company. The direct insurer is liable to the initial insured,, and not the re-insurer. The insurance company shall be obliged to reinsure its portion of the risk above its self support threshold.

The re-insurance company is a legal entity having its headquarters in the Republic of Serbia, registered with the authority in charge, subject to the NBS license for engaging in reinsurance activities.

The company for mediation in insurance (insurance broker) is a legal entity which, upon the insurance company's request establishes link between the insured and the insurance, in order to negotiate execution of the insurance agreement.

The company for representation in insurance (insurance agent) may be a commercial company / an entrepreneur engaging in representation in insurance activities on behalf and for the account of the insurance company pursuant to the agreement on representation in insurance.

The Act lists specific features relating to insurance brokers and insurance agents as follows:

- they shall have headquarters in the Republic of Serbia;
- exceptionally, they shall be entitled to engage in activities directly or indirectly connected with insurance activities, with NBS precisely defining these activities and engagement conditions;
- the insurance broker shall not engage in business dealings of the insurance agent, and vice versa;
- insurance agent activities, in addition to insurance agents, may also be performed by legal entities having headquarters in the Republic of Serbia, provided they have previously obtained the NBS consent, such as banks, financing leasing providers and public postal companies.

Types of insurance

Insurance is divided into life insurance and non-life insurance.

The life insurance includes:

1. life insurance;
2. wedding and childbirth insurance;
3. rent insurance;
4. additional insurance with life insurance;
5. tontine – the insurance in which insured agree to jointly capitalize their contributions, and the so capitalized assets are divided among those insured who have lived to a certain age, or between heirs of an insured deceased person;
6. insurance with capitalization of payment – the insurance based on actuarial calculations whereby the insured instead of a single or periodical payment of the premium receives payments in certain amount within a certain period.

The non-life insurance includes:

1. insurance against consequences of an accident, inclusive of work injuries and professional diseases;
2. voluntary health insurance;
3. insurance of motor vehicles, track vehicles, aircrafts, vessels, and product liability insurance;
4. insurance of transported goods and road assistance insurance;
5. insurance of property against fire and other risks, and other types of property insurance;
6. insurance against general liability damages;
7. insurance of loans, guarantees, financial losses;
8. insurance of legal protection costs.

A single joint stock insurance company shall not be entitled to engage in both life insurance and non-life insurance activities.

The exception is an insurance company which, as of the commencement date of the Insurance Act, is in possession of the license for engagement against certain or all kinds of life insurance activities and against certain or all kinds of non-life insurance activities.

B) Engaging in insurance activities

As in the case of banks, there are two types of engagement in the insurance activities:

1. incorporating an insurance company;
2. purchasing shares of an existing insurance company

C) Incorporation of insurance companies

Pecuniary portion of the initial capital shall not be below the RSD equivalent of amounts specified below, at the NBS medium exchange rate as of the date of payment:

1. Life insurances:

Subject to the Act, the initial capital for all types of life insurances shall be EUR 3.200.000.

2. Non-life insurances:

The Act provides for various amounts of the initial capital for different kinds of non-life insurances, as follows:

EUR 2.200.000 for:

- 1) insurance against consequences of an accident, inclusive of an injury at work and professional diseases;
- 2) voluntary health insurance;
- 3) insurance of motor vehicles, track vehicles, aircrafts, vessels;
- 4) insurance of transported goods;
- 5) insurance of property against fire and other risks;
- 6) other property insurance

EUR 3.200.000 for:

- 1) product liability insurance on due to use of motor vehicles, aircrafts and vessels;
- 2) insurance against general damage liability;
- 3) insurance of loans, guarantees, financial losses;
- 4) legal protection costs insurance;
- 5) road assistance insurance.

d) Reinsurance - EUR 3.200.000.

An insurance company may be incorporated only in the form of a joint stock company.

The founders of an insurance company shall file with NBS the application for obtaining the license to operate, together with appropriate accompanying documentation relating to company incorporation, its Articles of Association, shareholders, staff and technical equipment, etc.

The license shall be granted for one or more types of insurance in which the company will engage in. The NBS resolution shall specifically list types of insurance for which the license is granted. Should a company subsequently decide to engage in an insurance activity which is not listed in the license, or should it decide to terminate its engagement in certain activity, a company shall be obliged to file with NBS **the application for amendment of the license to operate**. In that case a new license shall be granted, while the former one shall no longer be valid.

To eliminate the risk of not being granted the NBS's license to operate, one shall satisfy all specified requirements relating to both organization and internal acts, as well as requirements relating to staff, equipment, etc.



The license to operate shall no longer be valid in the following cases:

1. If the incorporation General Meeting session is not held within the specified term;
2. If a founder fails, within 30 days after having been granted the license to operate, to file the application for registration with the authority in charge;
3. If a company fails to commence operating within one year from the date of registration with the authority in charge;
4. If a company is not engaging in insurance activities for a period longer than six months without interruption;
5. If a company assigns its complete insurance portfolio to another joint stock insurance company;
6. In case of the status change of a company;
7. On the date of the NBS's resolution granting consent for voluntary liquidation of the company;
8. After a company has been deprived of its license to operate.

D)Purchase of shares of an existing insurance company – acquiring shares in an insurance company

Another option for acquiring ownership in an insurance company is purchasing shares of an existing insurance company.

Should you wish to acquire a qualified share or increase your existing share in an insurance company, so that it exceeds the threshold of 20%, 30% or 50% of the voting rights or initial capital of that insurance company, you would have to obtain the NBS's consent for acquiring / increase of such share. The **application for acquiring the qualified share** shall be accompanied by documents required for the license for engagement in insurance activities. The qualified share exists when a natural person or a legal entity directly or indirectly has the right or the possibility to exercise 10% or more voting rights in a legal entity, or direct or indirect ownership over 10% or more capital of a legal entity, or the possibility of an effective impact on management and business policy of such legal entity.

NBS shall reject the application for acquiring the qualified share, if, on the ground of documentation and data available to it, it has established that operations of an insurance company might be jeopardized; supervision over an insurance company made impossible or aggravated; and in other cases as specified by law.

Legal consequences of illegal acquisition/increase of the qualified share

Should a natural person or a legal entity, without the NBS's consent, acquire shares of an insurance company, on the basis of which the qualified share in that company is gained, NBS would, under a resolution, order such shareholder to relinquish such acquired shares within a period which shall not exceed 3 months.

Should the qualified holder fail to relinquish the shares within the said period, the legal transaction on the basis of which such shares have been acquired, would be deemed null and void. After NBS has rendered the said resolution, the qualified shareholder would not be in position to exercise the ownership rights on the ground of the shares acquired in such a manner.

Withdrawal of the acquisition consent / qualified share increase

NBS shall, by way of a resolution, deprive a natural person/legal entity of the consent to acquisition of the qualified share in the following cases:

1. if a natural person or a legal entity having the qualified share has obtained the said consent on the basis of untrue and incorrect data;
2. a natural person or a legal entity having a qualified share, no longer satisfies at least one of the conditions required for acquiring the qualified share;
3. a natural person or a legal entity having a qualified share increases the share without previous NBS consent, over the threshold for which the consent is required (20%, 30% or 50%);
4. a natural person or a legal entity having a qualified share may jeopardize stable and safe operations of the company.

Subject to this resolution, the qualified shareholder shall be deprived of voting rights in the joint stock insurance company, the right to dividend or other rights arising from the acquired or increased qualified share, and shall not be entitled to have an impact on management or policy of such company.

IV. NBS CONTROL

NBS shall control both the legality and regularity of financial institutions operations.

NBS CONTROL		
	BANKS	INSURANCE COMPANIES
GOALS	<ul style="list-style-type: none"> • Assessment of safety and stability of bank's operations as compared to risks to which a bank is exposed or might be exposed in its operations; • Checking financial standing and capital adequacy of a bank and adequacy of bank management; • Legality of business operations of a bank. 	The priority is protection of interests of the insured and other beneficiaries of insurance.
SUBJECT	Control of financial standing and legality of operations of the banks.	<ul style="list-style-type: none"> • Legality of performance in insurance activities; • Application of management system within a company and risk management rules ; • Application of rules of insurance and actuarial profession, good business practice and ethics.
METHOD	<ol style="list-style-type: none"> 1. Directly – by verifying reports and notifications delivered by a bank/insurance company to NBS and 2. Indirectly – by exercising control over business operations of a bank / insurance company. 	

NBS CONTROL		
	BANKS	INSURANCE COMPANIES
CONTROLLER	Authorized person in NBS	
MEASURES	<p>When supervising operations of banks, NBS may undertake one of the following measures:</p> <ol style="list-style-type: none"> 1. send a written warning; 2. send a letter of order; 3. order measures for elimination of established irregularities; 4. introduce a receiver; 5. deprive a bank of the license to operate. <p>Should NBS during the process of exercising control estimate that a bank has committed severe irregularities and that its financial standing has significantly deteriorated, or that there is a possibility that its financial standing may be significantly deteriorated, it shall, under the resolution on temporary measures, order a bank to undertake one or more of the following activities:</p> <ol style="list-style-type: none"> 1. adjust its business activities with the regulations; 2. increase the amount of capital; 3. increase the adequacy of capital; 4. Undertake or cease undertaking other activities. 	<p>When supervising the operations of insurance companies, NBS may:</p> <ol style="list-style-type: none"> 1. order the measures for elimination of illegalities and irregularities; 2. order assignment of insurance portfolio to another insurance company; 3. deprive an insurance company of the license for engagement in some or all insurance activities for which the license has been granted; 4. order introduction of temporary measures; 5. order other measures specified by law.

NBS CONTROL		
	BANKS	INSURANCE COMPANIES
REPORTING TO NBS	<p>In order that its financial standing and financial standing of its subsidiaries be assessed, a bank shall be obliged to, within certain terms, submit reports to NBS, regarding the following:</p> <ol style="list-style-type: none"> 1. bank management, 2. organizational structure operations, 3. projected business activities, 4. liquidity, solvency and profitability of the bank and its subsidiaries. 	<p>An insurance company shall submit to NBS the following documents in accordance with specified terms:</p> <ol style="list-style-type: none"> 1. financial report and the annual statement of account; 2. report on implementation of co-insurance and reinsurance policies; 3. annual business plan of the company; 4. By-laws and other general acts, as well as associated amendments and supplements; 5. Other documents specified by law. <p>The insurance company shall provide NBS with quarterly reports on the following:</p> <ol style="list-style-type: none"> 1. Structure and change of shareholders; 2. Number and amount of reported and resolved litigation claims for damages; 3. Financial standing and changes in remaining assets; 4. Liquidity of the company; 5. Other specified data. <p>The insurance company shall be obliged, upon the NBS request, to also submit other reports, information and data of significance for the NBS supervision.</p>

NBS CONTROL		
	BANKS	INSURANCE COMPANIES
SURRENDERING THE LICENSE TO OPERATE	<p>NBS may deprive a bank of its license to operate, provided it has established that:</p> <ol style="list-style-type: none"> 1. the bank has a critically low level of liquidity; 2. the bank has been granted the license to operate on the basis of false data; 3. the activities of the bank are connected with money laundering, financing of terrorism or engagement in other illegal activities; 4. the bank failed to enable NBS to exercise control of the bank's financial standing and legality of its business operations; 5. in other cases specified by law. <p>NBS will deprive a bank from its license to operate in the following cases:</p> <ol style="list-style-type: none"> 1. if the bank is under receivership, and if until expiry of the receivership term the bank fails to eliminate the reasons which have lead to the receivership, and NBS estimates that the requirements for initiation of the restructuring procedure have not been satisfied; 2. if after initiation of the restructuring procedure NBS estimates that the goals of restructuring cannot be achieved; 3. if the bank, for six months without interruption, ceases to accept the deposits or grant the loans, except in case it has been ordered so by the NBS' corrective measure; 4. in other cases specified by the laws. 	<p>NBS may deprive an insurance company of its license to engage in some or all insurance activities in the following cases:</p> <ol style="list-style-type: none"> 1. if the license has been granted on the basis of false and inaccurate data; 2. the company engages in activities in a manner infringing the rights of insured, insurance beneficiaries and third parties, and the company is neither paying for damages nor settling its other commitments; 3. the company engages in insurance activities for which it does not have the license to operate; 4. in other cases specified by law. <p>NBS shall deprive the insurance company of the license to operate in the following cases:</p> <ol style="list-style-type: none"> 1. when the receivership has not lead to business stabilisation stabilization and liquidity of the company; 2. when the company has failed to settle commitments relating to the capital adequacy ; 3. in other cases specified by law <p>Surrender of the license to operate shall not relieve the insurance company of fulfillment of its obligations owing under the executed insurance agreements.</p>

V ADEQUACY OF CAPITAL, RISKS AND RESERVES

ADEQUACY OF CAPITAL, RISKS AND RESERVES		
	BANKS	INSURANCE COMPANIES
ADEQUACY OF CAPITAL	<p>The capital adequacy indicator is the relationship between the capital and risky assets of the bank. It shall not be below 12%.</p> <p>The bank shall be obliged to maintain the capital in the amount of at least EUR 10.000.000 in RSD equivalent, subject to the official minimum exchange rate.</p>	<p>The capital adequacy of an insurance company indicates the insurance company's exposure to various risks which might occur during the course of various insurance activities.</p> <p>The insurance company shall be obliged to maintain its capital in the amount specified subject to the insurance activities it performs.</p>
RISKS	<p>The bank identifies, measures and assesses risks it is exposed to in the course of its operations and manages the risks.</p> <p>Types of the risk</p> <ol style="list-style-type: none"> Liquidity risk – may occur due to the bank's inability to settle its overdue commitments; Loan risk – may occur due to the failure of debtors to settle their commitments towards the bank; Interest and foreign currency risk and other market risks – may occur due to fluctuations of interest rates/exchange rates; Investment risks in other legal entities and fixed assets – the bank's investment in a legal entity outside of finance sector shall not exceed 10% of the bank's capital. Total investment of the bank in legal entities outside of finance sector and in fixed assets shall not exceed 60% of the bank's capital; Other risks specified by the law. <p>Bank's exposure to one legal entity or a group of affiliated legal entities shall not exceed 25% of the bank's capital.</p>	<p>The insurance company identifies, measures and assesses risks it is exposed to within its operations and manages such risks accordingly.</p> <p>Types of the risk</p> <ol style="list-style-type: none"> Risk of insurance – inability of the company to manage risks connected with insurance activities; Market risk – arises from unfavorable fluctuations on markets, primarily the market for insurance and finance; Risk of other contractual parties failing to settle its obligations – arises from the company's inability to fully or partially collect its claims on various grounds; Legal risk – arises from non-compliance of business operations and acts of the company with regulations; from agreements which cannot be fully or partially fulfilled (e.g. invalid agreements); and from possible litigation losses. <p>Other risks depending from nature, amount and complexity of business operations of the company.</p>

ADEQUACY OF CAPITAL, RISKS AND RESERVES		
	BANKS	INSURANCE COMPANIES
RESERVES	<p>Banks are obliged to deposit a certain amount as the mandatory reserve to the NBS accounts designated for this purpose.</p> <p>The mandatory reserve is applicable to total deposits, a portion of deposits, or other categories may be included on the basis of other commitments, such as loan obligations and funds acquired through issue of securities.</p>	<p>Insurance companies shall have the reserves specified by the law, securing liquidity of the company and settlement of the company's obligations arising from insurance activities.</p> <p>The insurance company's reserves may be divided in two groups:</p> <ol style="list-style-type: none"> Technical reserves Guarantee reserve <p>1. Technical reserves are funds from which the insurance company settles its obligations arising from insurance activities. The insurance company shall, at the end of calculation period, establish the technical reserves for covering obligations arising from its insurance operations.</p> <p>Technical reserves include reserves for the following:</p> <ul style="list-style-type: none"> Transferable premiums, Reserved damages, Reserves for share in the profit, Mathematical reserve, and Reserves for risks settlement. Reserves for bonuses and discounts and Reserves of unexpired risks. <p>Technical reserves are presented subject to the type of insurance, separately for life insurances and non-life insurances.</p> <p>Transferable premium is the portion of a premium used for covering insurance obligations arising in the next calculation period.</p> <p>Reserved damages are formed in the amount of estimated commitments for damages which have occurred, have been reported, but have remained unsettled, and for damages which have occurred but have not been reported in the current period.</p>

ADEQUACY OF CAPITAL, RISKS AND RESERVES		
	BANKS	INSURANCE COMPANIES
RESERVES		<p>Reserves for participation in profits are formed in the amount the insured are entitled to on the basis of specified share in the life insurance agreement, if the insured have accepted to participate in the risk of depositing and investing technical reserves funds.</p> <p>Mathematical reserve is intended for settlement of future obligations deriving from life insurance.</p> <p>Reserves for risks settlement are formed at the expense of the insurance company's expenditures, separately for each type of non-life insurance and are used for time settlement of the course damage in certain types of insurance.</p> <p>Reserves for unexpired risks are calculated for coverage of expected amounts of damages and costs in the following period, if such expected amount exceeds the amount of transferable reserves and claims for premium under the insurance agreement.</p> <p>Reserves for bonuses and discounts are formed in the amount the insured are entitled to on the following basis:</p> <ul style="list-style-type: none"> • Participation in profits, and other rights under the insurance agreement, unless a mathematical reserve is formed for such insurances; • Future partially reduced premiums; • Refunding of the premium portion for an unconsumed term of insurance on the basis of termination of the insurance before its expiry term. <p>2. Guarantee reserve is formed for the purpose of securing permanent settlement of present and future obligations of the insurance company. This is a mandatory reserve for all insurers</p> <p>The laws specify conditions and usage methods for utilization of the reserve funds by insurance companies.</p>

VI. INVESTMENT FUNDS AND INVESTMENT FUNDS MANAGEMENT COMPANY

If you have decided to invest money, and you are not sure in what you can invest and which investment would be the most profitable for you, perhaps you should engage professionals to make that decision for you. With that purpose in mind, various investment funds are in existence.

Investment funds are collective investment institutions through which monetary funds are collected. The collected funds are invested in various kinds of assets, for the purpose of generating profit and reducing the investment risk.. The investment funds are managed by an Investment Funds Management Company.. An investment fund's assets are owned by members of an investment fund, in proportion with their participation in such fund, being separate from a company which manages a fund. Incorporation of an investment fund requires consent of the Securities Commission, which concurrently supervises operations of investment funds and investment funds management companies. Operations of investment funds are governed by the Investment Funds Act.

Types of the investment funds

The investment funds are classified as: open, closed and private investment funds. Below is the table setting out principal characteristics of each fund type .

TYPE	Legal form	Method of collection of monetary funds	Minimum amount of monetary funds in EUR	Withdrawal of invested funds
OPEN	Do not have the capacity of a legal entity	Issuance of investment units	200.000	Redemption of investment units upon request by a fund member
CLOSED	Legal entity organized as a public joint stock company	Sale of shares by public tender	200.000	The closed fund shares are issued by a public tender along with the approval to publish a prospectus; closed fund may acquire direct shares only with prior consent of the Securities Commission
PRIVATE	Legal entity organized in the form of a limited liability company	Contributions of private investment fund members	50.000 per an investment fund member	Application of the Companies Act provisions governing assignment of shares

Managing company is a legal entity organizing, incorporating and managing an investment fund. It shall be incorporated exclusively in the form of a joint stock company, which is not a public company with respect to the laws governing capital markets. It is entitled to organize, incorporate and manage several investment funds.

Activities of a managing company:

1. Open funds incorporation, organization and management;
2. Close funds incorporation and management;
3. Private funds management;
4. Other activities in compliance with the laws governing capital markets.

VII CONSUMER PROTECTION IN FINANCIAL SERVICES

Banks, leasing providers and tradersstraders (jointly here referred to as: Providers), are in a superior position compared to individuals – beneficiaries of financial services (jointly here referred to as: Beneficiaries), since Providers are setting conditions under which they will render financial services, while Beneficiaries may either fully agree to conditions and enter into a financial relationship, or give up. In such an unequal relationship, Provider is often in the position to demonstrate its financial superiority, at the expense of Beneficiary. In order to avoid detrimental consequences, various measures and avenues have been introduced with the aim of protecting Beneficiary's rights in the financial relationship with Provider. Apart from that, NBS exercises supervision over Providers and their legality of operations.

Some of Beneficiary's rights include the following:

1. The right to equality with financial services Provider;
2. The right to protection from discrimination;
3. The right to information;
4. The right to precision or definability of a contractual obligation;
5. The right to protection of rights and interests.

The Beneficiaries' rights are protected by law prescribing the following:

1. obligation to make Beneficiary aware of general operating conditions of a specific financial institution;
2. mandatory elements for each type of an agreement executed for providing financial services;
3. Provider's obligation to inform Beneficiary in detail about conditions for rendering financial services, prior to execution of an agreement;
4. Provider's obligation to request Beneficiary's prior consent for amendment of material elements of an agreement and to timely inform Beneficiary of non-material amendments;
5. Beneficiary's 'cooling-off' period for an executed financial agreement within 14 days from the date of execution, without the need to specify reasons for cancellation of such agreement;
6. minimum professional ability of employees engaged in financial services sale or providing financial services advice;
7. other rights of Beneficiary and obligations of Provider, in particular for all contracts governing provision of financial services

i) Within extrajudicial procedure

The right to raise objections and complaints

The Beneficiary shall be entitled to object to Provider if he/she deems that Provider does not observe legal provisions, general operating conditions, good business practice and obligations contained in a contract executed with Beneficiary. Beneficiary may file an objection to Provider actions in writing – addressed to business premises of Provider; by mail, through the Internet presentation of Provider, and by e-mail, within three years from the date on which his/her right or legal interest was infringed. Should Beneficiary file an objection following expiry of this term, Provider shall be obliged to immediately notify him/her that the objection has been filed after expiry of the specified term, on of the basis of which Provider is not under obligation to consider it.

Provider shall be obliged to reply to Beneficiary's objection within 15 days from its receipt. This term might be extended for additional 15 days, in case Provider is not in position to respond for reasons beyond its control, about which Provider is obliged to inform Beneficiary. Should Provider estimate that the objection is justifiable, it will inform Beneficiary whether the reasons on account of which the objection has been filed are addressedaddressed or on term and measures to be undertaken for the purpose of addressing the reasons for objection.

Should the Beneficiary not be satisfied with Provider's response, or should he/she not receive the response within 15 days (maximum 30), he/she shall be entitled to lodge a complaint with NBS within 6 months from the expiry of the said term, or from the date on which he/she has received Provider's reply. NBS shall, no later than 8 days from the date of receiving the complaint, request Provider to provide a statement on the complaint, and provide evidence within 8 days (3 months for more complex complaints). Should Provider fail to provide the statement within the specified term (which shall not be more than 8 days), NBS shall be entitled, regardless of subsequent consideration of the claim, to impose a fine under a resolution on Provider in the amount of RSD 100.000.

The right to mediation

Should Beneficiary not receive Provider's response to an objection within 15 days (maximum 30) or not receive it at all, the dispute may be settled by a mediation procedure.

The mediation procedure shall be initiated by acceptance of the initiation proposal, and may be finalized by an agreement between parties, suspension or withdrawal. An agreement reached during the mediation procedure shall not have the effect of a binding document. The NBS mediation does not either exclude or have an impact on exercising the right to judicial protection, however it is generally recommended to attempt this manner of dispute resolution, primarily due to substantial costs associated with judicial proceedings.

However, after the mediation procedure has been initiated, Beneficiary shall no longer be entitled to lodge a complaint, unless the mediation procedure has been finalized by either a suspension or a withdrawal. Should the complaint already be lodged, NBS shall either suspend acting upon the complaint, or withdraw it, in cases where the mediation has been finalized by an agreement. The mediation procedure may be carried out before NBS or other authority or a person authorized for mediation, at the discretion of parties.

The mediation procedure might be finalized by an agreement of parties, suspension or withdrawal. The agreement between parties reached within the mediation procedure carried out before NBS shall have the effect of a binding document if it contains required elements specified by law.

Should NBS establish irregularities in Provider's operations, at the detriment of Beneficiary, it will render a resolution under which it may declare some of the following measures:

- Order Provider to eliminate proven irregularities;
- Impose a fine;
- Public announcement of information regarding Provider in cases where Provider's irregularities have been established

The NBS resolution shall be subject to administrative proceedings, however, the claim against the resolution shall not prevent nor postpone its execution.

ii) Within judicial proceedings

If the Beneficiary has not managed, within an amicable procedure, to exercise his/her rights within financial relationship with Provider or has not attempted to find a solution by this way, he/she may attempt to have it resolved in the Court. A party may initiate Court proceedings by a claim, and particulars of a claim may seek:

- Termination of the agreement;
- Amendment of the agreement;
- Compensation for damages.

VIII LEASING

The leasing may be financial or operative. In case of the operative leasing, a leasing provider is an owner of subject of leasing, and following expiry of lease term, a lessee shall always return a leased object. The operative leasing is not specially governed by regulations and parties mutually agree by applying rules of governing lease agreement and associated obligations. The financial leasing is a deal in which one, as a recipient of financial leasing, with a provider of financial leasing, executes an agreement (financial leasing agreement), under which a provider of financial leasing undertakes an obligation, from a supplier of your choice, to procure a subject of leasing, also at your choice (e.g. a car of certain characteristics), and to provide you such product for utilization.

In order to engage in financial leasing activities, a financial leasing provider shall be granted the license for engaging in financial leasing activities by NBS.

NBS shall exercise supervision over a leasing provider operations and might render a resolution depriving a provider of the financial leasing license, should provider no longer satisfy the requirements for obtaining the license and the capital requirements, and also where provider makes exercise of the NBS's supervision impossible.

An owner of a financial leasing subject is a financial leasing provider with which you have executed the leasing agreement, and you are a beneficiary of a subject of leasing until you have purchased it. Although the right to purchase a subject of the financial leasing is frequent in financial leasing agreements, should the agreement not provide for purchase of a subject of leasing upon expiry of the agreement, you shall be obliged to return a product to provider. If the agreement provides for the possibility of purchase, you will become an owner of a subject of leasing following expiry of the agreement term, however only after you have paid an agreed upon leasing consideration.

By executing the financial leasing agreement, you, as a recipient of a leasing object undertake the obligation to pay to financial leasing provider an agreed upon consideration (leasing consideration) in an agreed amount and within an agreed term, and to bear all costs and risks in connection with a subject of leasing, such as costs of maintenance, insurance and registration, in the amount legal entities pay for registration of vehicles, since an owner of product, a financial leasing provider, is a legal entity. Should a subject of leasing be destroyed or damaged, compensation for the damage shall be paid to financial leasing provider, since it is the owner of the product, and not to yourself, although you have been paying the insurance premium.


During the term of the agreement, the subject of the leasing shall not be sold, leased, mortgaged, nor shall you dispose of the product in any other way whatsoever. The financial leasing subject shall serve to the financial leasing provider as the collateral, in case of your failure to pay the leasing consideration in compliance with the agreement. If, for example, for the car you use, on the basis of financial leasing, you fail to make payment of the leasing consideration within the agreed term, you shall be obliged to return the subject of financial leasing to the financial leasing provider and pay all unpaid installments of the leasing consideration, default interest and the consideration specified in the agreement.

The subject of the financial leasing may be a movable inconsumable thing (equipment, plants, vehicles, etc.) and an immovable thing.

Termination of the leasing agreement

The leasing agreement shall terminate in the following cases:

1. By expiry of the agreement validity term;
2. Destruction of leasing subject by force majeure occurrence;
3. Termination of the agreement (due to failure to deliver, failure to pay the consideration).



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