

Chapter 9: Financial services

The *acquis* covered by this chapter includes rules for the authorisation, operation and supervision of financial institutions and regulated markets. Financial institutions covered by the *acquis* can operate across the EU in accordance with the ‘Single passport’ and the ‘home country control’ principles either by establishing branches or by providing services on a cross-border basis. The *acquis* covers three major areas for which these principles apply: banking services, investment services and insurance services.

In the field of banks and financial conglomerates, the *acquis* sets out requirements for the authorization, operation and prudential supervision of credit institutions, as well as requirements concerning the calculation of capital adequacy requirements applying to credit institutions and to investment firms. Together, the Codified Banking Directive and the Capital Adequacy Directive implement the new capital requirements framework based on the Basel II accord developed by the Basel Committee on Banking Supervision (BCBS). Directives seek to ensure consistent application throughout the Union of the new international framework and replace the old credit risk capital requirements with a range of more comprehensive and risk sensitive approaches to the different categories of risks so that banks can choose the approaches that suit them.

The *acquis* in this sector also lays down rules relating to supplementary supervision of financial conglomerates and to the taking up, pursuit of and prudential supervision of the business of electronic money institutions. Credit institutions are required to join an officially recognised deposit guarantee scheme, which must provide for a minimum protection of €50 000 per depositor and it has in principle been agreed to increase this to €100 000 by the end of 2010. The *acquis* lays down rules regarding the annual and consolidated accounts of banks and other financial institutions. It also harmonises certain provisions concerning the reorganisation and winding up of credit institutions with branches in more than one Member State. A directive adopted in 2007 regulates the supervisory approvals of mergers and acquisitions in the financial sector.

In the field of insurance and occupational pensions, several directives set out rules concerning the authorisation, operation and supervision of life assurance and non-life insurance undertakings. Specific provisions exist in the non-life sector for co-insurance, tourist assistance, credit insurance and legal expense insurance. The *acquis* establishes rules for the supplementary supervision of insurance groups. In addition, the *acquis* establishes supervision of reinsurers by competent authorities in their ‘home’ country, on the basis of which they could operate throughout the EU. The Directive contributes to reinforcing international financial stability, an issue over which there has been concern in major international fora. It also establishes a regulatory framework as far as specialized reinsurers are concerned.

The directive on insurance mediation establishes a legal framework for the taking up and pursuit of the activities of insurance mediation by natural and legal persons operating in the EU. In the field of motor insurance, several directives harmonise requirements concerning insurance against civil liability in respect of motor vehicles with a view to facilitating the free movement of goods and people, in particular by abolishing frontier controls on motor insurance. Directive 2003/41/EC regulates the activities and supervision of institutions for occupational retirement provision. The *acquis* lays down rules regarding the annual accounts and consolidated accounts of insurance undertakings. It also harmonises certain provisions concerning the reorganisation and winding up of insurance undertakings with branches in more than one Member State.

An important and recent development is the Solvency II Directive, which has recently been adopted by the European Parliament and the Council and will be implemented until 31 October 2012. This directive introduces a new solvency system for insurance companies, risk based and pro-active, as well as a new supervisory set-up not only for individual insurance companies but also for insurance groups. Another important and recent development is the adoption of a codified Motor Insurance Directive.

In relation to financial market infrastructure, the directive on financial collateral arrangements aims to reduce and harmonise the formal requirements and procedures to create and enforce collateral across the EU, while the Directive on Settlement Finality aims to reduce the systemic risk linked to the insolvency of a participant in payment and securities settlement systems.

In the field of securities markets and investment services, the Directive on Markets in Financial Instruments (MiFID) and its implementing measures set out a comprehensive regulatory regime covering the authorisation, operation and supervision of investment firms and regulated markets. The Prospectuses Directive and its implementing measures reinforce the protection for investors by guaranteeing that all prospectuses, wherever in the EU they are issued, provide them with the clear and comprehensive information they need to make investment decisions. The *acquis* also prescribes minimum transparency requirements for listed companies concerning both periodic and ongoing information. The Directive on Market Abuse and its implementing measures introduce a harmonised and comprehensive administrative regime for prohibiting and prosecuting insider dealing and market manipulation. The *acquis* also requires that Member States ensure that at least one officially recognized investor compensation scheme is established offering compensation up to €20 000. The legislation on investment funds (UCITS) sets out common basic rules for the authorisation, supervision, structure and activities of investment funds to facilitate the cross-border distribution of units of funds in the EU and to ensure adequate investor protection. The recast UCITS directive of 2009 introduces provisions on fund mergers and master-feeder structures. It replaces simplified prospectus with key investor information, improves notification procedure and strengthens supervisory co-operation mechanism. The transposition deadline is 30 June 2011.

As regards supervision, currently three committees exist at the EU level in the financial services sector, with advisory powers, the Committee of European Banking Supervisors (CEBS), the Committee of European Insurance and Occupational Pensions Committee (CEIOPS) and the Committee of European Securities Regulators (CESR). The Commission has now proposed to transform these three Committees into European Authorities, with commensurately increased powers to co-ordinate the work of national supervisors, arbitrate between national supervisors in supervisory colleges in cases of disagreement on supervisory issues regarding a cross-border financial institution, take steps to harmonise national regulatory rules and move towards a common European rulebook and directly supervise certain pan-European institutions which are regulated at EU level, such as Credit Rating Agencies.

The Stabilisation and Association Agreement already lays down specific obligations in the areas covered by this Chapter. When answering the questions below, please make reference to the state of implementation of such obligations.

I. BANKS AND FINANCIAL CONGLOMERATES

General questions

- 1. What is the current situation with regard to right of establishment and cross-border supplies of services in your country for EU credit institutions? Which conditions apply? Are there specific conditions regarding the opening of branches by foreign banks? Regarding the establishment of a foreign subsidiary?**

According to the valid Law on Banks (RS Official Gazette Nos. 107/2005 and 91/2010), foreign credit institutions have right to establish banks in Serbia which , according to current legislation are domestic legal entities. Significant changes to the present banking regulations are under preparation and these changes would make it possible for foreign credit institutions to establish their branches in Serbia.

Current Law on Financial Leasing (RS Official Gazette Nos. 55/2003 and 61/2005, hereinafter: Law) neither prohibits cross-border provision of financial leasing services, nor limits conditions for entering into a financial leasing agreement in terms of leasing companies'/lessees' residence. Branches of foreign legal persons may not provide financing leasing services in Serbia. Only legal persons authorised by the NBS may engage in financial leasing activities. According to the valid regulations, branches are not considered legal persons – they are only organisational parts of legal persons performing business activities for these legal persons. A foreign natural/legal person is permitted to have subsidiaries in Serbia. According to the Law, domestic and foreign natural/legal persons can be founders of a financial leasing company.

Out of the total of 17 financial leasing companies, 11 are foreign subsidiaries (wholly-owned or majority-owned by foreign legal persons), 5 financial leasing companies are wholly- or majority-owned by domestic persons, while 1 financial leasing company is owned by a domestic bank with foreign capital and a foreign legal person, with 50 % share each.

- 2. Are foreign credit institutions, once authorised, treated in every respect as a national undertaking?**

Upon being authorised, foreign credit institutions are treated in every respect as national undertaking. Upon being authorised, a foreign credit institution is fully treated as a national undertaking and must conduct its business in conformity with domestic regulations.

A financial leasing company owned by a foreign credit institution, other foreign legal or natural person, authorised to perform financial leasing activities, is in every respect considered a resident leasing company.

A foreign owner in financial leasing company enjoys equal position, rights and obligations as domestic natural and legal persons. A foreign financial leasing company in foreign ownership enjoys equal position and operates under equal conditions and in equal manner as domestic legal persons.

Legal framework:

Conditions of admission

3. What are the essential requirements for the authorisation to take up the business of credit institutions (legal form, level of own funds, number and conditions concerning the persons who direct the business, others?)

Founding of a bank and procedure for granting a provisional permit to set up a bank and for granting operating license are regulated in more detail by the following regulations:

- The Law on Banks and
- the Decision on Implementing the Provisions of the Law on Banks Relating to Granting of a Provisional Permit and Subsequent Issuing of a Full Operating License to a Bank, as well as on Implementing Specific Provisions Relating to Granting Approvals of the National Bank of Serbia (RS Official Gazette Nos. 51/2006 and 129/2007).

A bank is set up as a joint-stock company – open or closed. Bank founders may be one or more domestic and foreign legal and natural persons who provide funds for the equity capital of the bank. Equity capital of the bank may take pecuniary and non-pecuniary form (assets and rights serving for the bank's operation). The pecuniary portion of the initial capital of a bank cannot be less than the dinar equivalent of EUR 10 000 000 at the official middle exchange rate on the day of its payment, except for a bridge bank, for which this amount cannot be less than the dinar equivalent of EUR 5 000 000 at the official middle exchange rate on the day of its payment.

Procedure for granting a provisional bank founding permit

The National Bank of Serbia grants provisional bank founding permit under the conditions laid down by the Law on Banks and the Decision on Implementing the Provisions of the Law on Banks Relating to Granting of a Provisional Permit and Subsequent Issuing of a Full Operating License to a Bank, as well as on Implementing Specific Provisions Relating to Granting Approvals of the National Bank of Serbia. Potential bank founders submit an application for a provisional bank founding permit to the National Bank of Serbia, attaching to it the following:

- data on the founders, amount of their stakes and number, type and nominal value of shares they are acquiring;
- memorandum of association and draft articles of association;
- statement declaring that the pecuniary portion of initial capital will be paid to a suspense account with the National Bank of Serbia;
- statement declaring that the non-pecuniary assets will be transferred to the bank's equity capital;
- data on all persons holding a stake in the bank and grounds on which such stake was acquired;

- names and data regarding the qualifications, experience and business reputation of the nominated members of the bank's managing and executive board;
- the bank's proposed program of activities for the period of three years and the draft business policy plan for the year in which the bank is to be founded;
- draft procedures for risk management and internal control;
- if the bank is to be founded as a subsidiary of a foreign bank or another foreign financial sector entity subject to foreign regulatory authority supervision and/or monitoring, evidence that the competent regulatory authority of the home country has issued approval to the foreign bank or other foreign financial sector entity regarding the participation in the founding of the bank in the Republic of Serbia, or evidence that no such approval is required under the regulations of the country concerned;
- if the founder is a foreign bank or foreign financial sector entity subject to supervision and/or monitoring by the home country regulatory authority, evidence that requirements specified by the Law on Banks have been met;
- letter of authority for the person to cooperate with the National Bank of Serbia in the process of granting a provisional permit, and
- evidence of the payment of fee prescribed by the decision governing uniform fees charged for services provided by the National Bank of Serbia, as well as evidence of the payment of the republic administrative tax in line with the law governing republic administrative taxes.

The above documentation has to be submitted in the original form or in certified copy and may not be older than six months. The documents have to be in the Serbian language; if they are written in a foreign language, the original or certified copy of such document has to be submitted along with certified translation in the Serbian language rendered by sworn-in-court translator.

The National Bank of Serbia shall render a decision on the application for the issue of a provisional bank founding permit within 90 days from receiving the duly completed application. If the potential bank founders fail to submit to the National Bank of Serbia an application for the issue of operating license within 60 days following the granting of provisional bank founding permit, such permit will cease to be valid.

Procedure for issuing a bank operating license

After obtaining a provisional bank founding permit, potential bank founders have to submit to the National Bank of Serbia an application for the issuing of a full operating license and the following documents:

- evidence of payment of the pecuniary portion of initial capital, evidence of transfer of non-pecuniary assets into the initial capital of the bank, as well as statement regarding the origin of such assets;
- evidence that they have provided adequate business premises, acquired and prepared equipment for unimpeded operation of the bank, that the premises meet the legal requirements regarding technical facilities, work safety and health and environmental protection and upgrading, as well as that the premises and equipment enable access to all relevant data and information

required for the conduct of supervisory function by the National Bank of Serbia;

- evidence that the founders have hired an external auditor for the bank from the list specified in Article 52, paragraph 3 of the Law on Banks;
- data on organisational structure and human resource capacity of the bank;
- letter of authority for the person to cooperate with the National Bank of Serbia in the process of issuing a bank operating license, and
- evidence of the payment of fee prescribed by the decision governing uniform fees charged for services provided by the National Bank of Serbia, as well as evidence of the payment of the republic administrative tax in line with the law governing republic administrative taxes.

The above documentation has to be submitted in the original form or in certified copy and may not be older than six months. The documents have to be in the Serbian language; if they are written in a foreign language, the original or certified copy of such document has to be submitted along with certified translation in the Serbian language rendered by sworn-in-court translator.

The National Bank of Serbia shall render a decision on the application for the issuing of bank operating license within 30 days from receiving the duly completed application. Inaugural general meeting of the bank's shareholders is due to be held not later than 30 days after receiving the National Bank of Serbia's decision on granting a bank operating license. Constitutional documents adopted by the inaugural general meeting have to be submitted for approval to the National Bank of Serbia within five days following their adoption. The National Bank of Serbia shall decide on approval regarding the constitutional documents adopted by the bank's shareholders' meeting within 60 days from receiving them. Not later than 30 days after obtaining the National Bank of Serbia's approval regarding the above documents, the bank founders are required to submit an application for entering the bank in the register of business entities. The bank acquires the capacity of a legal entity as of the moment of being entered in the register of business entities.

Setting up a financial leasing company and procedure for issuing a license for engaging in financial leasing:

- The Law on Financial Leasing
- The Decision on the Implementation of the Provisions of the Financial Leasing Law Relating to the Issuance of Licenses and Approvals by the National Bank of Serbia (RS Official Gazette Nos. 81/2005 and 60/2007)

Regarding regulations governing the activities of the financial leasing companies, there is no specific legal form prescribed for these financial institutions. They can be established as: general partnerships, limited partnerships, limited liability companies and joint stock companies - each of the legal forms prescribed by the Law that governs business companies.

Article 10, paragraph 2 of the Law sets out that the pecuniary part of equity capital may not be below the dinar equivalent of EUR 100 000 at the middle exchange rate of the National Bank of Serbia on the date of payment.

According to Article 13a of the Law and Decision on the Implementation of the Provisions of the Financial Leasing Law Relating to the Issuance of Licenses and Approvals by the National Bank of Serbia, founders of a leasing company submit to the National Bank of Serbia an application for the issuance of a license to engage in financial leasing. The founders have to submit the following documentation along with the application:

- memorandum of association;
- evidence that pecuniary part of initial capital (not less than EUR 100 000 at the middle exchange rate of the NBS on the date of payment) has been paid into a suspense bank account;
- evidence on adequate personnel and technical resources for engaging in financial leasing;
- company's programme of operations for the period of three years;
- list of persons nominated to be members of managing bodies, or persons with special authorisations and responsibilities, references on their competence and professional qualities, evidence that such persons have not been sentenced for criminal offences that would render them unfit to perform these duties, as well as evidence that they are not subject to the measure of disqualification from the practice of relevant activities.

When reviewing the application and documentation, the National Bank of Serbia will evaluate the business reputation of the founder(s) of the company and nominated members of managing bodies on the basis of criteria it defined for evaluation of business reputation.

The number of employees is not specified by the mentioned regulations, but is generally required that financial leasing companies should be adequately staffed and possess adequate technical facilities to perform financial leasing operations.

Evidence on possessing adequate technical facilities shall include: documentation showing manner of provision of business premises, specification of computer and other equipment and program support corresponding to the planned number of employees and planned volume of operations.

Adequate staffing implies employees' qualification structure and years of experience for each position as defined by the relevant internal company regulation.

Conditions of operation

4. Does Serbia have a special pre-insolvency /early intervention/ resolution system for banks? What are the conditions for this regime to apply? What are the powers of the authorities?

Article 2 of *the Law on Banks* prescribes, among other things, the following:

Undercapitalized bank means a bank whose capital adequacy ratio is below the prescribed one, and/or whose capital is lower than the prescribed amount, but which is not a significantly undercapitalized bank.

Significantly undercapitalized bank means a bank whose capital adequacy ratio is, by one-third or more lower than the prescribed one, and/or whose capital is, by one-third or more, lower than the prescribed amount, but which is not a critically undercapitalized bank.

Critically undercapitalized bank means a bank whose capital adequacy ratio is, by one-half or more lower than the prescribed one, and/or whose capital is, by one-half or more, lower than the prescribed amount.

In compliance with Article 110 of the Law on Banks, if a bank is *undercapitalized*, such bank shall promptly inform the National Bank of Serbia of that, and submit the information containing the reasons why the bank is undercapitalized. From the moment when an undercapitalized bank becomes aware of the fact that it is undercapitalized, it may not engage in any new line of business without the consent of the National Bank of Serbia, nor increase its risk-weighted assets without its consent, which reflects the role of the National Bank of Serbia in this situation.

In addition, an undercapitalized bank may not pay dividends or perform distribution of capital in any form, and may not pay higher than defined fees to members of the bank's board of directors and executive board.

In compliance with Article 111 of the Law on Banks, if a bank is *significantly undercapitalized*, such bank shall promptly inform the National Bank of Serbia of that, and submit the information containing the reasons why the bank is significantly undercapitalized. From the moment when a significantly undercapitalized bank becomes aware of the fact that it is significantly undercapitalized, it may not perform activities specified in Article 110, paragraph 2, of this Law, nor may it:

- 1) Accept new deposits;
- 2) Pay interest rates on deposits in excess of average market ones;
- 3) Increase salaries or other form of compensation for work, or pay any bonuses to members of the bank's board of directors and executive board;
- 4) Conclude legal transactions with related persons without the consent of the National Bank of Serbia, and/or undertake legal transactions on behalf of related persons or persons related to related persons.

In compliance with *Article 109 of the Law on Banks*, except from provisions of Article 102 of this Law, which among other things, prescribes that the National Bank of Serbia conducts off-site supervision – by reviewing reports and other documents

that a bank submits to the National Bank of Serbia in compliance with this Law, as well as by reviewing other data on bank's operations available to the National Bank of Serbia, and that the National Bank of Serbia also conducts on-site supervision – by inspection of business books and other bank's documents; if the National Bank of Serbia, during the on-site supervision or based on the reports acquired through off-site supervision assesses that the bank has committed serious irregularities, and/or that the financial situation of the bank has deteriorated significantly, and/or that there is a possibility of significant deterioration of financial situation or liquidity of the bank, and/or that the interests of the bank's depositors are or may be threatened, the National Bank of Serbia shall, by the resolution on temporary measures, order the bank to undertake one or more activities referred to in Article 116, paragraph 1 of this Law (It shall issue a Resolution by which orders and measures for eliminating the established irregularities determined in business activities).

In addition, according to Article 117 of *the Law on Banks*, the National Bank of Serbia shall render a solution on introducing receivership in a bank:

- If it determines the *possibility* for a bank to be *critically undercapitalized*;
- If it determines that a bank is *critically undercapitalized*, and the bank in question is of systemic significance;
- If supervision of business activities of such bank has established acting and/or failure to act, which are in breach of regulations or standards of safe and sound banking business activities, that have jeopardized its financial condition or interest of depositors;
- Which financial situation deteriorates during the period before the deadline for carrying out the orders in the resolution specified in Article 116 of this Law.

The National Bank of Serbia shall render the resolution if it assesses that a change in manner of management of a bank might eliminate irregularities in its business activities, improve its financial condition or protect interest of depositors.

Criteria for determining a bank of systemic significance shall be established via special agreement between the National Bank of Serbia and the ministry in charge of financial affairs; the criteria shall be established relative to the volume and significance of consequence which the deterioration of the bank's financial condition may have on maintenance of the stability of the financial system, particularly bearing in mind such influence on business operations of other banks, unhindered functioning of the payment system and share of such bank in the overall amount of insured deposits.

Article 120 of the Law on Banks lays down that the National Bank of Serbia shall render the decision on a measure it takes regarding a bank in which operation it established irregularities according to its discretionary evaluation of:

- 1) severity of established irregularities;

- 2) demonstrated readiness and competence of the bank's bodies to eliminate the established irregularities;
- 3) extent to which such bank jeopardizes financial discipline and unimpeded functioning of the banking system.

5. What are the provisions concerning prudential ratios:

a) solvency ratio;

a) liquidity ratio.

Indicate the average level of these ratios for the industry.

Capital adequacy of a bank is a ratio between the bank's capital and the sum of credit risk-weighted assets plus capital requirement relating to foreign exchange risk multiplied by the reciprocal value of the capital adequacy ratio and capital requirements relating to other market risks multiplied by the reciprocal value of the capital adequacy ratio. Other market risks include price risks (on debt securities and equity securities), settlement/delivery risk and counterparty risk.

The bank is required to maintain its capital adequacy ratio at the level of at least 12%. The capital of a bank is the sum of its core capital (Tier 1), supplementary capital I (Tier 2) and supplementary capital II (Tier 3), less deductibles. In the course of its operations, the bank must ensure that its capital never declines below the dinar equivalent of EUR 10 000 000 as at the official middle exchange rate, except for the bridge bank which is required to keep that amount at the level not less than the dinar equivalent of EUR 5 000 000 as at the official middle exchange rate. This requirement for bridge banks comes into force 6 months from the date of issuance of its operating license.

Bank liquidity ratio is the ratio between the sum of first- and second-degree receivables of the bank, on the one hand, and the sum of liabilities payable on demand with no agreed maturity and liabilities falling due within a month from the date of liquidity ratio calculation, on the other.

First-degree liquid receivables of a bank imply cash and receivables falling due within a month from the date of the liquidity ratio calculation, including the following;

- vault cash, gyro account balances, gold and other precious metals;
- balance in accounts with banks that have been awarded at least BBB by the latest Standard&Poor's or Fitch-IBCA rating or at least Baa3 by the latest Moody's rating;
- deposits with the National Bank of Serbia;
- cheques and other monetary receivables under collection;
- irrevocable credit facilities approved to the bank;
- listed shares and bonds.

Other receivables of a bank falling due within a month from the calculation of the liquidity ratio are understood as such bank's second-degree liquid receivables.

Bank's liabilities payable on demand and with no agreed maturity constitute a part of the bank's liabilities, including:

- 40 % of demand deposits by banks,

- 20 % of demand deposits by other depositors,
- 10 % of savings deposits,
- 5 % of guarantees and other sureties, and
- 20 % of undisbursed irrevocable credit facilities.

Other liabilities of a bank falling due within a month from the calculation of the liquidity ratio are understood as such bank's liabilities with agreed maturity.

Banks are required to maintain the level of liquidity so that their liquidity ratio equals:

- at least 1.0 if calculated as the average liquidity ratio for all business days in a month;
- not less than 0.9 for more than three consecutive business days;
- at least 0.8 if calculated for one business day only.

Critically low level of liquidity is indicated by the liquidity ratio below the levels specified above.

As at 30.09.2010, banking sector liquidity ratio was 1.93 and capital adequacy ratio 20.12 %.

Regulations governing financial leasing do not specify any solvency and liquidity indicators.

6. Is there a deposit guarantee scheme? Describe its main elements.

Deposit guarantee scheme in Serbia is governed by the Law on Deposit Insurance ("RS Official Gazette", No. 61/05) and the Law Amending the Law on Deposit Insurance ("RS Official Gazette", Nos. 116/08 and 91/10).

Institution in charge of deposit insurance in Serbia is the Deposit Insurance Agency.

Type of scheme:

- The law prescribes statutory insurance of deposits of natural persons, entrepreneurs, small and medium-sized legal entities for the purpose of protecting these persons' deposits and maintaining financial stability in the Republic of Serbia
- Operates as a 'paybox system with extended mandate'
- *Ex ante* financing of the Fund
- The Republic of Serbia guarantees for liabilities of the Agency in respect of reimbursement of insured deposits

Insured amount:

- up to EUR 50 000 per depositor per bank, determined after the set-off between the depositor and the bank (includes only due liabilities)

Deposits covered by the insurance:

- savings deposits, giro or transaction accounts, current accounts of natural persons, entrepreneurs, small and medium-sized legal entities

Deposits excluded from the scheme:

- deposits of legal or natural persons connected with the bank
- coded or bearer deposits
- deposits resulting from money laundering or financing of terrorism

Special measures for ensuring financial system stability

- The Government of the Republic of Serbia may render a decision to provide enhanced protection of depositors for a specified period of time (by increasing the insured amount and/or extending the scope of depositors whose deposits are covered by the scheme)

Members of the scheme:

- all banks holding operating license of the National Bank of Serbia for the performance of deposit operations

Competence for supervision and interventions:

- The National Bank of Serbia is competent for supervision and interventions in scheme member banks
- The Deposit Insurance Agency is authorised to set standards and instructions and carry out on-site supervision in banks of data relating to deposit insurance

Institutional relations:

- Memorandum of Understanding between the National Bank of Serbia and the Deposit Insurance Agency

Insured event:

- insured event occurs when the competent court issues a decision to institute bankruptcy or liquidation proceedings against a bank
- payout of insured deposits starts within three days from the occurrence of the insured event
- depositor's claim for the payment of insured amount is settled within 30 days from the date of submitting
- depositor is required to submit the claim within three years from the date of occurrence of the insured event
- the insured amount is reimbursed in dinars for dinar deposits and in euros for foreign-currency deposits

Deposit Insurance Fund is financed from:

- premiums paid by banks;
- revenues from investment of Fund assets;
- the Agency's claims for payment of insured amounts recovered from the bankruptcy or liquidation estates;
- sale of a bridge bank;
- recovery of claims in respect of initial capital from bankruptcy or liquidation estate of a bridge bank;
- grants;
- appropriations from the budget of the Republic of Serbia;
- borrowings;
- the target amount of the Fund is 5 % of the total insured deposits.

Insurance premium:

- insurance premium is collected quarterly at the rate of 0.1 % of the total insured bank deposits
- insurance premium is calculated by applying the linear rate. The law provides for the possibility of determining insurance premium in accordance with the total risk balance in the bank
- the premium is collected:
 - for dinar deposits in dinars,
 - for foreign-currency deposits in euros,
- besides quarterly, members of the scheme also pay initial (0.3 % of the pecuniary part of the bank's minimum initial capital) and extraordinary premium (maximum 0.4 % annually)

Fund assets are used for:

- payout of insured amounts in the event of bankruptcy or liquidation of the bank
- payment of administrative costs relating to the payout of the insured amount and for management of the Deposit Insurance Fund assets
- repayment of borrowed funds used for payout of insured amounts
- financial support to a bank buying all assets or part thereof of a bank undergoing administrative management pursuant to a Government decision
- founding of a bridge bank, pursuant to a Government decision

7. What are the activities which a credit institution is authorised to carry on?

According to Article 4 of the Law on Banks, a bank may perform the following activities:

- 1) deposit activities (accepting and placing deposits);
- 2) credit activities (granting and taking credits);
- 3) foreign exchange, foreign exchange-currency transactions and exchange operations;
- 4) activities regarding payment operations;
- 5) issuing payment cards;
- 6) activities regarding securities (issuing securities, custody bank activities, etc.);
- 7) brokerage-dealership activities;
- 8) issuing guarantees, sureties and other types of warranties (guarantee operations);
- 9) purchase, sale and collection of receivables (factoring, forfeiting, etc.);
- 10) insurance agency activities;
- 11) activities for which it is authorised by law;
- 12) other activities which are essentially similar or connected to activities specified in items 1) to 11) of this paragraph and are in compliance with the memorandum of association and articles of association of the bank.

Banks may perform activities referred to in paragraph 1, point 10 of this Article subject to prior consent granted by the National Bank of Serbia.

Article 5 of the Law on Banks lays down that no person other than a bank shall engage in acceptance of deposits and that no person other than a bank shall engage in granting credits and issuing payment cards unless authorised by law.

According to Article 10, paragraph 3 of the Law, a financial leasing companies may only engage in financial leasing activity.

8. Which accounting, prudential and statistical information is the bank required to give to the supervisory authority in respect of its business? Please indicate periodicity of such information.

Reports submitted to the Bank Supervision Department include:

a) Basic bank reports on individual basis:

- 1) *Major bank shareholders – quarterly;*
- 2) *Investments in non-financial sector entities and own fixed assets – quarterly;*
- 3) *Investments in financial sector entities – quarterly;*
- 4) *Large exposures to a single entity or to a group of related entities – quarterly;*
- 5) *Exposure to related entities – quarterly;*
- 6) *Reports on the classification of balance-sheet assets and off-balance sheet items – quarterly;*
- 7) *Report on the structure of non-performing loans – monthly;*
- 8) *Monthly report on bank liquidity ratio;*
- 9) *Monthly cash-flow report;*
- 10) *Monthly report on total loans and lending to households;*
- 11) *Balance sheet – monthly;*
- 12) *Profit and loss account – monthly;*
- 13) *General bank data – monthly;*
- 14) *Report on received and approved loan applications and on loans with extended maturity and loans repaid early – monthly;*
- 15) *Major bank depositors – weekly;*
- 16) *Daily report on bank liquidity ratio;*
- 17) *Daily report on bank foreign-exchange risk ratio;*
- 18) *Report on taken and granted loans and deposits – daily;*
- 19) *Report on daily balance in foreign-exchange accounts in domestic and foreign banks – daily;*
- 20) *Report on planned cash inflows/outflows – liquidity gap – daily;*
- 21) *Report on a new issue of bank shares – after a new event;*
- 22) *Report on equity capital increase/decrease – after a new event;*

b) A bank which is a part of a banking group supervised on a consolidated basis by the National Bank of Serbia is required to produce and submit to the Bank Supervision Department the following reports:

- 1) *Investments in non-financial sector entities and own fixed assets – semi-annually;*
- 2) *Large exposures to a single entity or to a group of related entities – semi-annually;*

- 3) *Exposure to related entities* – semi-annually;
- 4) *Daily report on bank foreign-exchange risk ratio* – semi-annually.

c) For the purpose of implementing the Decision on Capital Adequacy of Banks (RS Official Gazette Nos. 129/2007 and 63/2008), the following reports are submitted to the Bank Supervision Department:

- 1) *Report on capital requirements and capital adequacy ratio of the bank* – quarterly;
- 2) *Report on the elements of bank capital* – quarterly;
- 3) *Report on elements of the bank's trading book* – quarterly;
- 4) *Report on the risk-weighted balance sheet assets of the bank* – quarterly;
- 5) *Report on the risk-weighted off-balance sheet items of the bank* – quarterly;
- 6) *Report on the amount of derivatives not traded on the stock exchange market which are included in the risk-weighted assets of the bank* – quarterly;
- 7) *Report on capital requirement for foreign exchange risk of the bank* – quarterly;
- 8) *Report on the daily valuation of items on the trading book and total bank operations* – monthly.

d) Banks which are required to calculate and cover capital requirements relating to other market risks arising from trading book items submit also the following reports:

- 1) *Report on capital requirement for general price risk on debt securities* – quarterly;
- 2) *Report on capital requirement for specific price risk on debt securities* – quarterly;
- 3) *Report on capital requirement for price risk on equity securities* – quarterly;
- 4) *Report on capital requirement for risk on position in options* – quarterly;
- 5) *Report on capital requirement for settlement/delivery risk* – quarterly;
- 6) *Report on capital requirement for counterparty risk* – quarterly;

e) Banks are required to notify the Bank Supervision Department on their obligations assumed under the Decision on Special Facilities Supporting the Country's Financial Stability (RS Official Gazette Nos. 34/2009, 36/2009, 51/2009, 83/2009, 95/2009, 104/2009 and 12/2010) and submit the following report:

- 1) *Data on the conversion of loans, and/or rescheduled repayment terms of loan receivables* – monthly;

f) For the purpose of incorporating them into the credit information system of the National Bank of Serbia, banks submit to the NBS, on a monthly basis, data relating to balance-sheet receivables and off-balance sheet items (exceeding RSD 5 000 000), principal activity of debtors under these receivables, and the category in which receivables have been classified according to the collectibility level in compliance with the decision laying down criteria for classification of balance-sheet assets and off-balance sheet items.

g) Banks submit to the Bank Supervision Department quarterly reports on events relating to operational risk that resulted in loss exceeding (or estimated to exceed) RSD 10 000 in gross amount, and on events relating to operational risk that could have (but have not) resulted in loss exceeding (or estimated to exceed) RSD 10 000 in gross amount – quarterly.

Reports submitted to the Supervision Department relating to financial leasing companies According to Articles 13e and 13f of the Law on Financial Leasing, Decision on Data to be Reported by Lessors to the National Bank of Serbia and the Reporting Manner and Timeframe (RS Official Gazette, No. 75/2010), and the Decision on the Obligation of Lessors to Maintain a Reserve Balance (RS Official Gazette No. 21/2010), a Leasing Company is required to submit to the National Bank of Serbia:

- Annual business report, along with financial statement and certified auditor's opinion;
- Notification on any status and other changes to be entered in the register of business entities and any other data as requested by the NBS;
- Report on assets, liabilities and capital as at the last day of the reporting period, as well as comparative data as at the last day of the previous year – quarterly;
- Report on revenues, expenditures and performance since the beginning of the current year until the last day of the reporting period, as well as comparative data as at the same period of the previous year – quarterly;
- Report on composition of receivables arising from financial leasing, shown by the lease object and lessee, as well as by sector – quarterly;
- Report on the composition of securities by issuer, share in capital, composition of other financial assets and of financial liabilities and liabilities arising from interests and costs – quarterly;
- Report on matured and unmatured receivables, with matured receivables broken down by the number of days of delay in payment, calculated until the last day of the reporting period – quarterly;
- Report on leasing company's amount receivable from 20 major debtors, ranked by the total net book value of receivables under all contracts with the same debtor – quarterly;
- Report on leasing company's liabilities to his major creditors – quarterly;
- Report on book value of lease objects returned at the beginning of reporting period and on book value of lease objects returned during the reporting period, as well as data on the activities undertaken in relation to these objects – quarterly;
- Report on changes in accounting policies and assessments – semi-annually;
- Report on the calculation of reserves - monthly.

The following data are provided monthly to the Economic Analyses and Research Department:

- 1) Data on book value and composition of bank lending, receivables and liabilities;
- 2) Data on interest rates on bank loans and deposits;
- 3) Data on payment transactions with foreign countries.

Reports submitted to the Monetary System and Policy Department include:

a) For the purpose of implementing the Decision on Banks' Required Reserves with the National Bank of Serbia (RS Official Gazette Nos. 12/2010 and 78/2010), banks submit to the Monetary System and Policy Department:

- Report on the calculation of required reserve in dinars, OR-din form – monthly;

- Report on the calculation of required reserve in foreign currency, OR-dev form – monthly;
- Report on the calculation of increment in long-term housing loans insured with the National Mortgage Insurance Corporation, OR-pr.sk form – monthly;
- Report on the calculation of increment in loans extended in accordance with the Government of Serbia's Programme of Measures, OR-pr.pv form – monthly;
- Calculation of obligation for foreign-currency required reserve allocation and its composition by currency, OR-vsi – monthly;
- Report on obligation for dinar and foreign-currency required reserve allocation, IOR – monthly;
- Review of data on dinar and foreign-currency liabilities and interest margins in respect of funds received by banks in accordance with Section 3, provision 4) of the Decision on Banks' Required Reserves, OR-mfo form – monthly;
- Calculation of base foreign-currency required reserve, OR-bd form – monthly, as needed.

b) For the purpose of implementing the Decision on Banks' Required Reserves with the National Bank of Serbia in Respect of ForeignCurrency Balances Held by Leasing Companies in a SpecialPurpose Accounts with Banks (RS Official Gazette Nos. 12/2010), banks submit to the Monetary System and Policy Department:

- Report on the calculation of leasing required reserve, LOR form – monthly;

c) For the purpose of implementing the Instruction on Bank Data Reporting for the Purpose of Monitoring Selected Monetary Flows (No. 2/10.07.08, No. 3/11.03.09. and No. 7/23.09.10), banks submit to the Monetary System and Policy Department:

- MA form – balance of selected dinar and foreign-currency monetary aggregates, daily and monthly.

d) For the purpose of implementing the Instruction for Providing Data to the National Bank of Serbia on Bank Operations with Payment Cards (O.No. 46/20.05.05), banks submit to the Monetary System and Policy Department:

- PPK form – quarterly.

e) For the purpose of implementing the Decision on Submitting Data on Overnight Interbank Money Market Loans to the National Bank of Serbia (RS Official Gazette No. 125/2007), banks submit to the Monetary System and Policy Department:

- BEONIA form – data on overnight loans between banks – daily;

f) For the purpose of implementing the Decision on Operating Terms and Procedures in the Foreign Exchange Market (RS Official Gazette Nos. 34/2009, 20/2010, 36/2010 and 40/2010), banks submit to the Monetary System and Policy Department:

I. Daily reports submitted by banks for the current business day:

1. report on direct spot trade and trade with execution date before spot currency date – sale and purchase of foreign currency (euros) to/from another bank, concluded by 12:30 – by 13:30 at the latest
2. report on direct spot trade and trade with execution date before spot currency date – sale and purchase of foreign exchange (euros) to/from another bank, concluded from 12:30 to 16:00 – by 17:00 at the latest

3. exchange rate lists for foreign exchange and foreign cash, as well as the report on the lowest offer price when buying foreign cash and on the highest asking price when selling foreign cash, for all currencies contained in their exchange rate lists – by 9:00 at the latest

II. Daily reports submitted by banks on every business day by 11:00 for the previous business day:

4. Daily report on the foreign-exchange risk ratio of the bank,
5. Foreign-currency position of the bank,
6. Report on spot purchase and sale of foreign exchange from residents and nonresidents,
7. Report on purchase and sale of foreign exchange from residents and nonresidents with execution date other than spot currency date,
8. Report on swap purchase and sale of foreign exchange from residents and nonresidents,
9. Report on purchase and sale of foreign cash from residents and nonresidents,
10. Report on direct spot sale of foreign exchange and foreign cash to another bank,
11. Report on direct sale of foreign exchange and foreign cash to another bank with execution date other than spot currency date,
12. Report on direct swap sale of foreign exchange and foreign cash to another bank.

According to the Instruction on Submission of Bank Data Intended to Monitor Foreign Currency Savings Deposited with Banks (No. 34/12.12.05):

13. Daily report on inflows and outflows in respect of foreign currency savings.

III. Monthly reports:

14. Report on foreign-currency savings position with banks
15. Report on the number of savings accounts broken down by the amount of savings deposits
16. Report on the amounts deposited to and withdrawn from foreign currency savings deposits

9. Is there a specific regulation concerning the annual accounts and consolidated accounts of banks? Explain the main rules applying to the format of the balance sheet and to the publication of the annual accounts.

Annual and consolidated accounts of banks are regulated by the Rules on the Chart of Accounts and Content of Accounts within the Chart for Banks (RS Official Gazette Nos. 98/2007, 57/2008 and 3/2009). The Rules lay down three-digit accounts. Banks may further subdivide the accounts prescribed by the Chart of Accounts according to their needs.

The balance sheet form is laid down by the Rules on the Forms and Content of Items in Financial Statement Forms to be Completed by Banks (RS Official Gazette, Nos. 74/2008, 3/2009, 12/2009 and 5/2010).

The form of consolidated balance sheet is laid down by the Rules on the Forms and Content of Items in Consolidated Financial Statement Forms to be Completed by Banks (RS Official Gazette Nos. 74/2008, 3/2009, 12/2009, 26/2009 and 5/2010).

When filling out the balance sheet, data are entered in designated positions in columns for the current and previous year from groups of accounts and accounts prescribed by the Rules on the Chart of Accounts and Content of Accounts in the Chart for Banks.

Amounts in the balance sheet are entered in thousand dinars.

10. How are capital requirements determined? Can banks use their own models for determining risk and regulatory capital?

Capital requirement for credit risk is calculated by multiplying total credit risk-weighted assets by 12%. Credit risk-weighted assets of a bank comprise a sum of risk-weighted balance-sheet assets, risk-weighted off-balance sheet items and derivatives not traded on stock exchange market. A bank calculates risk-weighted balance-sheet assets and risk-weighted off-balance sheet items by applying risk weights and credit conversion factors for certain receivables and contingent liabilities, while the value of derivatives is calculated using either original exposure method or current exposure method.

Capital requirement for foreign-exchange risk is calculated by multiplying the sum of total net open foreign-exchange position and absolute value of net open position in gold by 12%.

Capital requirement for price risks encompasses capital requirement for price risk on debt securities and capital requirement for price risk on equity securities. Capital requirement for price risk on debt securities is a sum of capital requirement for general price risk on debt securities and capital requirement for specific price risk on debt securities. For the calculation of capital requirement for general price risk on debt securities a bank applies the maturity method or, subject to prior approval of the National bank of Serbia, the duration method. Bank calculates capital requirement for specific price risk on debt securities by applying relevant risk weights on net long and net short positions in debt securities. Capital requirement for price risk on equity securities is equal to the sum of capital requirements for general and specific price risk on equity securities. Capital requirement for specific price risk on equity securities equals 12% of the total gross position of the bank in equity securities, while capital requirement for general price risk on equity securities equals 12% of the total net position of the bank in equity securities.

Capital requirement for settlement/delivery risk is calculated by multiplying the exposure of the bank to this risk by relevant percentage.

Capital requirement for counterparty risk equals 12% of the value of securities or cash owed to the bank multiplied by credit risk weight that would be assigned to balance-sheet claim from the counterparty.

At present, according to the valid regulations, banks are not allowed to use their own models for risk exposure calculation or for the calculation of regulatory capital. Upon coming into force of the new regulations of the National Bank of Serbia in this field, due early in 2011, banks will be allowed, subject to prior compliance with certain conditions, to calculate exposure to other risks using their own and advanced models.

Capital requirements are not stipulated for financial leasing companies. Forthcoming amendments to the relevant law will lay down capital requirements for financial leasing companies.

11. Is there a regulation concerning the capital adequacy relating to risks other than credit risks?

There are regulations in place relating to capital adequacy coverage for risks other than credit risk – see answer to question 10.

Applicable regulations in the area of financial leasing do not stipulate capital adequacy.

12. Is there a regulation concerning the large exposures? *Describe its main elements.*

Article 33 of the Law on Banks stipulates that large exposure of a bank to a single person or a group of related persons is exposure amounting to at least 10% of the bank's capital.

Exposure of a bank to a single person or a group of related persons must not exceed 25% of the bank's capital.

Exposure of a bank to a person related to the bank must not exceed 5% of the bank's capital.

Aggregate exposure of a bank to persons related to the bank must not exceed 20% of the bank's capital.

The National Bank of Serbia prescribes total of all large exposures of a bank, which may not be less than 400% nor may be more than 800% of the bank's capital.

This issue is also regulated by the Decision on Risk Management by Banks (RS Official Gazette Nos. 129/2007, 63/2008 and 112/2008).

Regulations in the area of financial leasing do not address the issue of large exposure.

13. Is there a regulation concerning the supervision on a consolidated basis? Describe its main elements.

Article 122 of the Law on Banks sets forth that the National Bank of Serbia exercises supervision of a banking group on a consolidated basis.

This supervision is exercised by the regulatory authority of the home country of a bank holding company if:

- 1) the head office of the bank holding company is located outside the Republic of Serbia;
- 2) the regulatory authority of the bank holding company's home country exercises supervision on a consolidated basis in the manner which meets conditions prescribed by the National Bank of Serbia;
- 3) there is adequate cooperation between the National Bank of Serbia and the regulatory authority specified in item 2 of this paragraph.

The National Bank of Serbia may order a bank whose bank holding company is outside the Republic of Serbia to perform consolidation of financial statements of the members of the banking group with the head office in the Republic of Serbia.

The National Bank of Serbia has adopted a Decision on Implementing Provisions of the Law on Banks Relating to Consolidated Supervision of a Banking Group (RS Official Gazette Nos. 86/2007, 63/2008 and 112/2008), which sets forth detailed conditions and manner of supervision of a banking group on consolidated basis.

In the above mentioned context, financial leasing companies may be subject of supervision on a consolidated basis.

14. Are the institutions issuing electronic money regulated? If so, in which way?

There are no institutions engaging in issuing of electronic money in Serbia. Issuing of electronic money at present is not regulated by a separate law. The Draft new Law on Banks, which is currently being drafted, is introducing issuing of electronic money as a new financial service.

Issuing of electronic money, according to the draft of the new law governing financial leasing (which is supposed to be soon adopted in the Parliament) remain prohibited for financial leasing companies

Supervisory authorities

15. Which is the competent authority to grant a license to a credit institution and to supervise it? Please indicate name and address. Has this authority other functions? Which? Does the supervisory authority publish an annual report? If so, could it provide the Commission with a copy or a summary in one of the EU languages? Please provide information on the number, importance and outcome of investigation carried out by the supervisory authority over the last five years. What are your plans for improving enforcement capacity of the supervisory authority over the next 5 years?

The competent authority for issuing operating licenses for banks, voluntary pension funds, leasing companies and insurance companies and for supervising their operation is the National Bank of Serbia. The address of the National Bank of Serbia is: Kralja Petra I No. 12, Belgrade, Serbia.

Article 2 of the Law on the National Bank of Serbia (RS Official Gazette Nos. 72/2003, 55/2004, 85/2005 – other law and 44/2010) lays down that the National Bank of Serbia shall be the central bank of the Republic of Serbia, performing the tasks set forth by this and other laws.

The National Bank of Serbia shall be autonomous and independent in carrying out its tasks as laid down by this and other laws and shall be accountable to the National Assembly. In carrying out their tasks, the National Bank of Serbia, the bodies of the National Bank of Serbia and the members of these bodies shall neither seek nor take instructions from government bodies and institutions, or other persons.

Government bodies and institutions, and other persons may not threaten the autonomy and independence of the National Bank of Serbia nor seek to influence the National Bank of Serbia, the bodies of the National Bank of Serbia, or the members of these bodies in carrying out their tasks.

Article 3 of the Law on the National Bank of Serbia sets forth that the primary objective of the National Bank of Serbia shall be achieving and maintaining price stability.

Without prejudice to its primary objective, the National Bank of Serbia shall contribute to the maintenance and strengthening of the stability of the financial system.

Without prejudice to its objectives referred to in paragraphs 1 and 2 of this Article, the National Bank of Serbia shall support the pursuance of economic policy of the Government of the Republic of Serbia operating in accordance with the principles of market economy.

Article 4 of the Law on the National Bank of Serbia sets out that the tasks of the National Bank of Serbia shall be to:

- 1) define and implement the monetary and foreign exchange policies;
- 2) manage foreign exchange reserves;
- 3) define and implement, within its scope of authority, the activities and measures aimed at maintaining and strengthening the stability of the financial system;
- 4) issue and revoke operating licenses of banks, exercise prudential supervision of bank operations and perform other activities in accordance with the law on banks;
- 5) issue and revoke licenses for the performance of insurance business, oversee and supervise such business, issue and revoke authorisations for the conduct of specific activities within the insurance business and perform other activities in accordance with the insurance law;
- 6) issue and revoke licenses for the performance of leasing operations, exercise supervision of such operations and perform other activities in accordance with the law on leasing;

- 7) issue and revoke operating licenses of voluntary pension fund management companies as well as issue and revoke fund management licenses, exercise supervision of this business and perform other activities in accordance with the law on voluntary pension funds;
- 8) issue banknotes and coins and manage cash flow;
- 9) regulate, oversee and promote smooth operation of the payment system;
- 10) perform operations on behalf of the Republic of Serbia, as provided by law and/or contract, without prejudice to its autonomy and independence set out in Article 2 of this Law.

In accordance with the Law on the National Bank of Serbia, the National Bank of Serbia shall communicate the monetary policy programme for the forthcoming year to the National Assembly, for information thereof, no later than 15 December of the current year.

The National Bank of Serbia shall submit to the National Assembly, no later than 30 June of the following year, an annual report on monetary policy, with an explanation of all the factors affecting the implementation of that policy, as well as the annual report on the stability of the financial system.

The National Bank of Serbia shall submit to the National Assembly, no later than 30 September of the current year, a semi-annual report on monetary policy, with an explanation of all the factors affecting the implementation of that policy.

The National Bank of Serbia shall submit to the National Assembly no later than 30 June of the following year, an annual report on its operations and work results.

The requested reports are available on the website of the National Bank of Serbia at the following address: <http://www.nbs.rs/internet/english/90/index.html>

-Please provide information on the number, importance and outcome of investigation carried out by the supervisory authority over the last five years. What are your plans for improving enforcement capacity of the supervisory authority over the next 5 years?

1. In the period starting from 2006 to 2010, the Banking Supervision Department conducted the total of 127 examinations, out of which 24 were comprehensive examinations, 53 were targeted examinations and 50 of those were examinations of implementation of orders and measures. Conducted comprehensive examinations include examination of bank's financial condition, risks the bank is exposed to, risk management processes and implementation of regulation (including examinations of payment transactions and money laundering prevention). Implemented targeted examinations pertain to examination of implementation of regulations and risk management related to bank's activities subject to examination, as well as to targeted examination of payment transactions and money laundering prevention. According to findings of examinations, the National Bank of Serbia undertook measures in compliance with the established irregularities, and notifications are delivered to the Administration for Prevention of Money Laundering, on the basis of findings of examination of payment transactions and money laundering prevention, for the purposes of taking measures from their jurisdiction.

Also, the National Bank of Serbia conducted 40 diagnostic review in the observed period, out of which the largest part (31) relates to diagnostic review of credit risk, conducted during 2009, for the purposes of implementation of stress tests within the arrangement with the International Monetary Fund.

In the end of 2007, the National Bank of Serbia started a process of introducing Basel II Standard, and full implementation is scheduled to begin on December 31st 2011. The main objectives of implementation of standards pertain to strengthening of the stability of the banking and financial sector, development of risk management processes in banks and risk-based supervision processes, strengthening of transparency and market discipline, harmonization with operating conditions in the international financial market, harmonization with European Union regulations, creation of stronger bonds between capital requirements and risk exposure at the bank level.

In order to improve possibilities and capacities for conducting bank supervision, the following activities have been planned in the next period:

- Change in organization of the Banking Supervision Department, for the purposes of enhancing efficiencies,
- Specialization of employees per specific types of risk,
- Establishment of information system supervision,
- Continuing education and training of employees through seminars and training, as well as through international cooperation with supervisors from the regional countries and the European Union,
- Increase of number of employees, in compliance with the planned activities.

The National Bank of Serbia participates in the Eurosystem programme financed by the European Union - "Strengthening macro and micro-prudential supervision in EU candidates and potential candidates". The Component One of the Program was completed during 2010, which included trainings during which the employees of the National Bank of Serbia had the opportunity to acquire knowledge and experiences from the central banks of the EU member states. The next phase (Component Two), which will be implemented in the first half of 2011, will include implementation of certain standards and practices, while during the second half of 2011, through third phase (Component Three), analysis of need for improvement of international cooperation of supervisors (home-host cooperation) will be conducted.

2. National Bank of Serbia issues licenses for conducting activities regarding financial leasing and conducts supervision over financial lessors since 2006. There were no on-site examinations in the mentioned period; based on findings from the off-site examination, due to determined irregularities and violations, corrective measures have been initiated against 4 (four) financial lessors.

Activities on improvement of exercise of competence in the area of financial leasing have included changes of regulations that are expected to be adopted soon. These changes contribute to strengthening of legal framework for prudential supervision, including, among other things, the competence of the National Bank of Serbia to prescribe business indicators that are mandatory for financial lessors.

16. How is operational independence of the supervisory authority ensured, in line with international standards (Basle Committee, the International Organisation of Securities Commissions (IOSCO) and the International Association of Insurance Supervisors (IAIS) core principles)?

Operational independence of the National Bank of Serbia is in compliance with the standards laid down by the Basel Core Principles for Effective Banking Supervision, published by the Basel Committee on Banking Supervision in October 2006. The Constitution of the Republic of Serbia (RS Official Gazette No.98/2006, adopted on 10 February 2006, in Article 95) and, particularly, the Law on the National Bank of Serbia (Article 2) guarantee the autonomy and independence of the National Bank of Serbia. This article prescribes that the the National Bank of Serbia shall be the central bank of the Republic of Serbia, performing the tasks set forth by this and other law. The National Bank of Serbia shall be autonomous and independent in carrying out its tasks as laid down by this and other law and shall be subject to oversight by the National Assembly, to which it shall also be accountable for its work. In carrying out their tasks, the National Bank of Serbia, the bodies of the National Bank of Serbia and the members of those bodies shall neither seek nor take instructions from government bodies and institutions, or other persons. Government bodies and institutions, and other persons may not threaten the autonomy and independence of the National Bank of Serbia nor seek to influence the National Bank of Serbia, the bodies of the National Bank of Serbia, or the members of these bodies in carrying out their tasks.

The Securities Commission, as IOSCO member, has adopted the core principles of this international organisation relating to regulators. In the operational sense, the Commission is an autonomous and independent organization of the Republic of Serbia, which is accountable for the performance of tasks within its competencies to the National Assembly of the Republic of Serbia.

The Commission has adequate authorizations set forth by the Law on the Market of Securities and other Financial Instruments (Official Gazette of RS No. 47/06), it is financed from its own resources and is capable of carrying out its tasks and implementing its authorisations.

According to the valid Law on the Market of Securities and Other Financial Instruments, the Commission performs the tasks within its competence as the tasks entrusted to it.

17. Are professionals employed by the supervisory authority subject to limitations (time or other) regarding the possibility to be employed as senior staff in commercial banks? Please explain.

According to Article 29, paragraph 1 of the Law on the National Bank of Serbia, an official of the National Bank of Serbia may not, for six months after termination of office, get employed with a bank or other legal entity that the National Bank of Serbia supervises or which it cooperates with in the performance of its tasks.

According to Article 26. of the Law on the National Bank of Serbia, the officials of the National Bank of Serbia are: Governor, Vice-Governors and members of the Council.

Article 86a of the Law on the National Bank of Serbia sets forth that officials of the National Bank of Serbia and its employees shall be bound to keep secret data irrespective of the manner in which they have learned such data. This obligation shall remain in force even after termination of employment with or engagement at the National Bank of Serbia.

Other employees of the National Bank of Serbia can be employed as senior staff in commercial banks without any limitations.

Code of Ethical Standards for Bank Supervision, adopted by the Commission for Bank Supervision in June 2008, lays down ethical standards that have to be observed by the National Bank of Serbia staff employed in the Bank Supervision Department.

18. Does the supervisory authority have institutional cooperation with other domestic supervisory authorities and with home supervisory authorities of foreign banks present in the market?

Yes, through conclusion of bilateral and multilateral cooperation agreements. Thus, the National Bank of Serbia has signed Memorandum of Understanding with the following home authorities and institutions:

- the Association of Banks of Serbia
- the Deposit Insurance Agency
- the Tax Administration of the Republic of Serbia
- the Securities Commission
- the Belgrade Stock Exchange
- the Commission for the Protection of Competition
- the Administration for the Prevention of Money Laundering.

The National Bank of Serbia has signed Memorandum of Understanding with the following foreign supervisory authorities:

- the Central Bank of Cyprus – 27/11/2006
- the Bank of Greece – 27/12/2002
- the National Bank of the Republic of Macedonia – 28/05/2008
- the Central Bank of Montenegro – 22/04/2003
- the Bank of Slovenia – 02/06/2004
- the Central Bank of the Federation of Bosnia and Herzegovina, the Banking Agency of the Federation of Bosnia and Herzegovina and the Banking Agency of the Republic of Srpska – 23/07/2004
- Banca d'Italia – 02/02/2007
- the Hungarian Financial Supervisory Authority – 10/01/2008
- the Bank of Russia – 19/06/2008
- CBFA, Belgium – 04/08/2008.

The National Bank of Serbia has also signed the following multilateral agreements:

- the Bank of Albania, the Bank of Greece, the National Bank of the Republic of Macedonia, the National Bank of Romania, the Bulgarian National Bank, the National Bank of Serbia, the Central Bank of Cyprus – 06/07/2007
- the Banking Agency of the Federation of Bosnia and Herzegovina, the Bank of Albania, the Bank of Greece, the National Bank of the Republic of Macedonia, the Banking Agency of the Republic of Srpska, the National Bank of Romania, the Bulgarian National Bank, the National Bank of Serbia, the Central Bank of Bosnia and Herzegovina, the Central Bank of Montenegro, the Central Bank of Cyprus – 08/02/2008

The National Bank of Serbia is conducting negotiations toward conclusion of the Memorandum on Understanding with the FMA (Austrian supervisory authority), BaFin (Germany) and Commission Bancaire (France), but very successful cooperation with these supervisory bodies has already been established, since these authorities supervise the operations of banks which have their subsidiaries in Serbia.

The National Bank of Serbia cooperates successfully with all the mentioned supervisory authorities whenever the need arises for exchange of information in accordance with the provisions of signed Memoranda of Understanding.

As regards supervision over the operation of financial leasing companies, the National Bank of Serbia has signed cooperation agreements with:

- the Association of Banks of Serbia (Credit Bureau)
- the Tax Administration of the Ministry of Finance,
- the Securities Commission,
- the Belgrade Stock Exchange,
- the Commission for the Protection of Competition,
- the Administration for the Prevention of Money Laundering.

19. Explain how do the Serbian supervisory authorities coordinate with the European Central Bank and other countries' Central Banks, notably home supervisory authorities of foreign banks established in Serbia?

The National Bank of Serbia cooperates successfully with all the mentioned supervisory authorities whenever the need arises for exchange of information in accordance with the signed Memoranda of Understanding. Cooperation is mainly implemented in the processes of issuing operating licenses, appointment of members of managing bodies, purchase of shares, as well as in ongoing supervision of operations of banks and insurance companies (Belgium, Hungary and Austria).

Supervisory authorities exchange information on any event that can potentially threaten the stability of a credit institution with parent undertaking in another country. They also exchange information on imposed measures or any other action taken in relation to the credit institution concerned by the supervisory authority of the host country or taken in relation to the parent undertaking by the supervisory body of the home country.

The National Bank of Serbia also participated in a number of colleges of supervisors, founded by supervisory bodies of home countries, in the aim of coordinating and implementing efficient cooperation of banking groups. During 2008, 2009 and 2010, the National Bank of Serbia was actively involved in the colleges of supervisors of NBG Group, NLB Group, Volksbank Group, Raiffeisen Group, Intesa Group, UniCredit Group, Hypo Group, KBC Group, Alpha Group and OTP Group.

Having in view that consolidated supervision of Komercijalna banka a.d. Beograd is in the competence of the National Bank of Serbia, during May 2010 the first college of supervisors was organized for host supervisors – representatives of the Central Bank of Montenegro and the Central Bank of Bosnia and Herzegovina, held at the National Bank of Serbia.

In accordance with this, the National Bank of Serbia has already signed Multilateral Memorandum of Understanding (MMOU) on consolidated supervision of a banking group with several supervisory authorities of home countries.

- Hungarian Financial Supervisory Authority for the supervision of OTP Group,
- Austrian Financial Market Authority and Österreichische Nationalbank for the supervision of Erste Group, Raiffeisen Group and Volksbank Group,
- Banca d'Italia for the supervision of Intesa Group and UniCredit Group,
- Bank of Greece for the supervision of Alpha Group and NBG Group,
- Banking, Finance and Insurance Commission (CBFA) – Belgium, for the supervision of KBC Group
- Central Bank of Cyprus for the supervision of Marfin Popular Group.

It is expected that the National Bank of Serbia and the central bank of Slovenia will shortly sign a MMOU for the supervision of NLB Group.

These agreements will enable supervisors to develop understanding of the risk profile of banking groups, put in place plans for risk mitigation, organise division of tasks, joint on-site supervision and coordinate major decisions to be taken by supervisory authorities.

20. What specific measures have been taken in order to improve the evaluation of credit risk and the quality of the loans' portfolios? Are international standards in relation to the recognition of bad debts and provisions in place?

As part of an overall risk management system, a bank is required to define rules and procedures for the identification, measuring, monitoring and management of credit risk.

A bank is required to define an internal model for the assessment of credit risk and adopt methodology (in conformity with IAS and IFRS) for calculating allowances for impairment of balance-sheet assets and reserves for losses on off-balance sheet items.

The internal model for the assessment of credit risk shall:

- unambiguously define different rating levels for receivables based on financial position, timeliness in the settlement of obligations, as well as other data

- significant for the assessment of risk assigned to the relevant investments (quality of collateral, etc.);
- ensure rating of receivables based on accurate and current data;
- enable analysis of the bank's receivables, and in particular analysis by group of similar receivables;
- enable assessment of the likelihood of occurrence of default status of the borrower, etc.

The bank is obliged to calculate, in accordance with the adopted methodology, the allowance for balance-sheet assets and reserves for losses on off-balance-sheet items as follows

- 1) on individual basis, for receivables not belonging to the group of minor claims, if it assesses that significant increase in credit risk has occurred;
- 2) on group basis for receivables:
 - which belong to the group of small receivables,
 - which do not belong to the group of minor claims, if it assesses that significant increase in credit risk has not occurred;
 - for which by the calculation on individual basis did not result in the establishment of the amount of allowance of balance-sheet assets or reserves for losses on non-balance sheet items.

The bank is obliged to test at least once a year the quality of implemented internal model for the assessment of credit risk.

The bank is required to classify all its receivables (that are subject to classification) into categories A, B, C, D and G – on the basis of the estimate of financial condition and credit worthiness of the debtor, his timely fulfilment of obligations toward the bank and quality of collateral, as well as in accordance with the prescribed classification criteria.

Banks calculate special reserve for estimated losses on the basis that represents the sum of 0% of receivables classified in category A, 5–10% of receivables classified in category B, 20–35% of receivables classified in category C, 40–75% of receivables classified in category D and 100% of receivables classified in category E. If the amount of special reserve for estimated losses is higher than the allowance for balance-sheet assets and reserves for losses on off-balance sheet items at the level of the debtor, for the sum of established positive differences the bank is required to establish reserve from profit for estimated losses, in accordance with the bank's Assembly decision.

The definition of NPL applied by the bank (in accordance with the methodology of the National Bank of Serbia) is fully in compliance with international standards.

21. Are there particular areas of difficulty in banking supervision? What is the degree of independence of the supervisory authorities and how has this changed in recent years and/or are expected/planned to change? How efficient is co-ordination of supervisory authorities and institutions?

Independent operation of the National Bank of Serbia is guaranteed by the Constitution of the Republic of Serbia (Article 95) [‘The National Bank of Serbia shall be a central bank of the Republic of Serbia, independent and subject to supervision by the National Assembly to which it accounts for its work. The National Bank of Serbia shall be managed by the Governor elected by the National Assembly. The Law on the National Bank of Serbia shall be enacted.’], as well as by the Law on the National Bank of Serbia (Article 2), which sets forth, *inter alia*, that ‘the National Bank of Serbia is autonomous and independent in carrying out its tasks as laid down by this and other laws and shall be subject to oversight by the National Assembly, to which it shall also be accountable for its work’.

Cooperation between the National Bank of Serbia with other supervisory authorities and institutions may be assessed as efficient and very successful.

22. How many professionals are employed by the supervisory authority? What are the professional qualifications required?

The number and professional structure of employees in the Bank Supervision Department is presented in the following table:

Organisational unit	2006	2007	2008	2009	31.10.2010
Director General’s Office	3	3	4	4	4
On-site bank supervision division	22	22	20	21	20
Off-site bank supervision division	13	12	20	20	20
Research and development division	2	3	3	3	3
Legal affairs division	13	9	11	11	11
Payment operations and exchange operations supervision division	40	42	41	40	39
Supervision of financial leasing companies division	0	7	6	6	5
Total	93	98	105	105	102

Most of the staff are highly-qualified professionals.

23. What powers does the supervisory authority possess in order to require supplementary periodical information? Can the authority carry out on the spot verification?

According to the provisions of the Law on Banks, banks in Serbia are required to submit to the National Bank of Serbia any data and information necessary for the

implementation of efficient supervision. In this context, the National Bank of Serbia may carry out on-site supervision whenever it finds it necessary.

Pursuant to the Law, financial leasing companies are required to submit to the National Bank of Serbia all data and information necessary for on- and off-site supervision.

With this in view, the National Bank of Serbia may carry out on-site supervision whenever it finds it necessary.

24. How can the supervisory authority ensure that managers and directors act in a fit and proper way? Intervene if they do not?

According to Article 71 of the Law on Banks, a board of directors of a bank consists of at least five members, including the chairman, with at least one third of members being persons independent of the bank. A person not holding direct or indirect ownership in the bank and in a member of the bank's banking group shall be considered as a person independent of the bank. The National Bank of Serbia may prescribe additional requirements which a person must fulfil so as to be considered independent of the bank (e.g. a person may not be employed in the bank, in the banking group or with the bank's shareholder). Members of the bank's board of directors must have good business reputation and adequate qualifications, as prescribed by the National Bank of Serbia. In addition, at least three members of the bank's board of directors must have appropriate experience in the field of finance. At least one member of the bank's board of directors must be fluent in Serbian language and have permanent residence in the Republic of Serbia.

Article 72 of the Law on Banks lays down that a bank must submit to the National Bank of Serbia a request for granting prior consent regarding appointment of a member of the board of directors of the bank, together with which it submits documents and provides data proving adequate business reputation and qualifications of the person proposed for a member of the bank's board of directors.

The National Bank of Serbia shall reject the request referred to in paragraph 1 of this Article if the person nominated for a member of the bank's board of directors:

- 1) is a person who on the date of revocation of the operating license of the bank and/or on the day of instituting of bankruptcy proceedings and/or six months prior to that day was authorised to represent and to act on behalf of the bank, and/or was a member of a management body of the bank;
- 2) is a member of any management body of another bank or an employee in a bank;
- 3) has been finally and effectively convicted of a criminal offence and pronounced unconditional prison sentence or has been finally and effectively convicted of a criminal offence which renders him/her unsuitable to discharge such an office.

For a member of the bank's board of directors, evidence that the incumbent has at least three years of experience in management position in a financial sector or six years of experience in the field of finance and banking and that he/she is a

distinguished expert or scientist in such fields should be submitted along with the request. For other members of the board of directors, evidence to be submitted with a request shall include proof that the person has at least six years of experience in management position in a business company.

Within ten days following removal or resignation of any member of the bank's board of directors, the bank shall notify the National Bank of Serbia of that fact, stating the reasons for such removal or resignation.

A member of the bank's board of directors may not be a member of the executive board of the bank.

According to Article 75 of the Law on Banks, the executive board of a bank shall consist of at least two members, including the chairman.

The chairman of the bank's executive board shall represent the bank and act on its behalf.

When concluding legal transactions and undertaking legal actions within the competence of the executive board, its chairman shall secure a signature of one member of that board.

Members of the bank's executive board must have good business reputation and adequate qualifications, as prescribed by the National Bank of Serbia.

At least one member of the bank's executive board must be fluent in Serbian language and have permanent residence in the Republic of Serbia, while all members of the executive board must have residence in the Republic of Serbia.

Provisions of this law relating to the appointment of the members of the bank's board of directors shall apply accordingly to the appointment of members of the bank's executive board.

The National Bank of Serbia lays down detailed conditions and manner of appointment of the bank's managing bodies by its Decision on Implementing the Provisions of the Law on Banks Relating to Granting of a Provisional Permit and Subsequent Issuing of a Full Operating License to a Bank, as well as on Implementing Specific Provisions Relating to Granting Approvals of the National Bank of Serbia, points 28 and 29.

According to Article 73 of the Law on Banks, the bank's board of directors is responsible for business operations of the bank to be in compliance with the law, regulations and enactments of the National Bank of Serbia, as well as with enactments and other procedures established by the bank's bodies.

A bank's board of directors is responsible for the implementation and supervision of a consistent system of risk management in the bank

Article 76, paragraph 2, indent 2 sets forth that the executive board of the bank ensures legal compliance of the bank's activities.

According to Articles 118 and 119 of the Law on Banks, the National Bank of Serbia may order removal from office of a member of the board of directors or executive board of a bank if it determines that such person fails to meet the requirements set forth in that Law or has acted in breach of provisions of that Law and/or is responsible for irregularities in business operations of the bank.

In such a case, the National Bank of Serbia must take into consideration the severity of the established irregularities, as well as whether such person's remaining in the office of a member of the bank's board of directors or executive board could adversely affect the interests of depositors and creditors of the bank.

The National Bank of Serbia may:

- 1) prohibit such person from or limit such person's participation in any activity in the bank;
- 2) prohibit the person from direct or indirect exercise of the voting right in the bank;
- 3) require the person concerned to dispose of any direct or indirect ownership held in the bank, within the deadline determined by the NBS;
- 4) prohibit the person from discharging office in any bank or member of a banking group or from engaging in activities without prior consent of the National Bank of Serbia.

If a member of the board of directors or executive board of a bank has been finally and effectively convicted of a criminal offence and sentenced to unconditional prison sentence or has been finally and effectively convicted of a criminal offence that renders him/her unsuitable to discharge such an office, the National Bank of Serbia will issue and order by which such person shall be removed from his/her position, in addition to which it may also declare one or more measures specified in Article 118, paragraph 3 of this Law. If the person concerned has been charged with a criminal offence referred to in that paragraph, the National Bank of Serbia may issue and order temporarily prohibiting such person from executing that function in the bank and prohibiting such person from direct or indirect exercise of the voting right in the bank, until the conclusion of criminal proceedings.

According to Article 113 of the Law on Banks, the National Bank of Serbia may independently of the undertaken measure from Article 112, paragraph 1 of this Law, impose a fine on a bank, as well as on a member of the board of directors and executive board of a bank.

By the decision on imposing a fine, the National Bank of Serbia shall impose a fine on a bank, which cannot be less than 1 ‰ nor higher than 5 % of the prescribed pecuniary portion of the initial capital, and on a member of the board of directors and executive board of a bank, a fine which cannot be less than one salary, nor higher than the total of 12 salaries that such persons received in the period until the day such decision is passed, taking into consideration the criteria specified in Article 120 of this Law.

According to Article 13e of the Law on Financial Leasing and the Decision on the Implementation of the Provisions of the Financial Leasing Law Relating to the Issuance of Licenses and Approvals by the National Bank of Serbia, a leasing

companies shall submit to the National Bank of Serbia an application for the issuing of consent regarding the appointment of the members of management bodies and/or persons with special authorities and responsibilities. The following documentation for the evaluation of business reputation should be enclosed with the application:

- references on competence and professional qualities of these persons, provided by the director or other equivalent body of the legal entity with which the person concerned is employed or maintains business cooperation;
- evidence of having acquired at least two-year college degree;
- evidence of adequate professional qualifications and work experience in the field of financial leasing, finance or any other economic activity;
- evidence of work experience and demonstrated competences, as well as experience in managerial duties;
- evidence that the person concerned has not been convicted of criminal offences that render him/her unfit to discharge the duty involved, and that he/she has not been subject to the measure of disqualification from the practice of relevant activity;
- In the process of supervision, in the context of on-site inspection of financial leasing companies, the NBS assesses readiness of the management to eliminate irregularities and unlawful conduct and depending on this evaluation decides which of the prescribed measures to take.

25. What are the powers of intervention of the supervisory authority in case of undertakings in difficulties? Under what circumstances may the authorisation of a credit institution be withdrawn?

According to Article 112 of the Law on Banks, if in the supervision specified in Article 102 of this Law it is determined that a bank acted in breach of provisions of this Law, regulations of the National bank of Serbia and other regulations, as well as standards of prudent banking activities, and/or in any other way which jeopardises its safety and soundness, the National Bank of Serbia shall, in compliance with the criteria prescribed in Article 120 of the Law, take one of the following measures:

- 1) send a written warning;
- 2) send an ordering letter;
- 3) impose orders and measures for eliminating the established irregularities;
- 4) introduce receivership;
- 5) revoke operating license of the bank.

The National Bank of Serbia shall render a decision on implementing the above measures.

Article 109 of the Law on Banks lays down that by way of derogation from Article 102 of this Law, if the National Bank of Serbia establishes, during on-site supervision or based on the reports obtained through off-site supervision, that the bank has committed serious irregularities, and/or that the financial situation of the bank has deteriorated significantly, and/or that there is a possibility of significant deterioration of financial situation or liquidity of the bank, and/or that the interests of the bank's depositors are or may be threatened, the National Bank of Serbia shall, by the decision on interim measures, order the bank to undertake one or more activities referred to in Article 116, paragraph 1 of this Law.

Article 120 of the Law on Banks lays down that the National Bank of Serbia shall render a decision on a measure to take in respect of a bank where irregularities in operation have been established according to its discretionary evaluation of:

- 1) gravity of established irregularities;
- 2) demonstrated readiness and competence of the bank's bodies to eliminate the established irregularities;
- 3) extent to which such bank jeopardises financial discipline and unimpeded operation of the banking system.

In evaluating gravity of the established irregularities in a bank's operation, the following shall be evaluated in particular:

- financial position of the bank,
- capital adequacy level in relation to assumed risks,
- the bank's exposure to specific types of risk,
- effects of the committed irregularity on the future position of the bank,
- number and mutual dependence of the established irregularities,
- duration and frequency of the irregularities,
- legal compliance of the bank's activities.

In evaluating the demonstrated readiness and capability of the bank's bodies to eliminate the established irregularities, the following shall be evaluated in particular:

- capability of the bank's management to identify, evaluate and monitor the risks in business activities of the bank and to manage those risks,
- effectiveness of the internal audit system in the bank,
- efficiency in eliminating any previously established irregularities, and particularly in implementing the measures referred to in Article 112 of this Law,
- awareness of the bank's shareholders, persons holding participation in the bank, board of directors and executive board of the bank, of difficulties in the bank's operations,
- level of cooperation of the bank's management and board of directors with the authorised persons during supervision,
- acting and/or failure to act by the bank's bodies regarding previously established irregularities and warnings by the National Bank of Serbia.

In evaluating the extent to which a bank affects financial discipline and unimpeded operation of the banking system, the following shall be evaluated in particular:

- the importance of the respective bank in the financial system,
- the scope and type of the bank's business activities,
- the scale of the bank's business network at home and abroad,
- the bank's relationship with other banks and other financial sector entities in respect of ownership, management and debtor-creditor relations.

According to Article 130, paragraph 1 of the Law on Banks, the National Bank of Serbia shall revoke the bank's operating license if:

- 1) it establishes that the bank which is not significant for the system is critically undercapitalised, unless it is placed under receivership;
- 2) it establishes that the shareholders of the bank which is placed under receivership failed to draw up a plan of activities by the set deadline;

- 3) it estimates that the plan of activities referred to in point 2) of this paragraph cannot eliminate irregularities in the bank's operation nor improve its financial condition;
- 4) it establishes that the plan of activities approved by the National Bank of Serbia is not being implemented in the bank which is placed under receivership;
- 5) it establishes that activities implemented in accordance with the plan of activities approved by the National Bank of Serbia are not resulting in improved financial condition of a bank placed under receivership;
- 6) the bank ceases to receive deposits or grant loans continuously over the period of six months, unless this was ordered by the corrective measure imposed by the National Bank of Serbia;
- 7) if in the bank placed under receivership reasons that resulted in introduction of receivership are not eliminated by the specified deadline.

The National Bank of Serbia may revoke the bank's operating license if:

- 1) it determines that the bank has critically strained liquidity;
- 2) it determines that the bank's operating license was issued on the basis of false data;
- 3) the bank's founder withdraws the funds invested in initial capital of the bank;
- 4) it establishes that the bank has failed to commence its operations within 60 days following entry into the register of business entities;
- 5) it determines that the requirements of Article 16, paragraph 1, items 5 and 6 and Article 19, paragraph 1 of this Law are no longer met;
- 6) it determines that the bank is significantly undercapitalised;
- 7) it determines that the undercapitalised bank fails to meet any of performance indicators set forth by this Law or a regulation of the National Bank of Serbia;
- 8) it establishes that the bank has committed gross or persistent violations of the law or other regulation;
- 9) the bank, within the prescribed time period, fails to act in compliance with the orders specified in Article 116 of this Law;
- 10) the bank fails to pay deposit insurance premium in compliance with the law governing deposit insurance;
- 11) the activities of the bank are related to money laundering, financing of terrorism or performance of other punishable acts;
- 11a) it establishes that the bank will not be able to settle its obligations to depositors and other creditors;
- 11b) it establishes that the bank, acting contrary to regulations and standards of sound banking operation, is using its resources (assets) uneconomically which may result in deterioration of the bank's financial situation;
- 11c) the bank fails to enable the National Bank of Serbia to perform prudential supervision and verify the legality of the bank's operations.

Article 13h of the Law on Financial Leasing lays down that should any irregularities or illegalities be detected in the course of supervision procedure, the following measures shall be implemented against the leasing company:

- sending a written letter of warning;
- sending an ordering letter, and possibly pronouncing a fine;

- issuing orders for eliminating detected irregularities, with the possibility of pronouncing a fine to the leasing company, as well as to the members of its management bodies and/or persons with special authorities and responsibilities;
- revoking the license to engage in financial leasing.

Article 13i of the Law on Financial Leasing sets forth that the National Bank of Serbia shall issue a decision on the revocation of license to engage in financial leasing if:

- the license was issued based on false and inaccurate data provided by the founder of the company;
- the leasing company ceases to comply with the requirements necessary for acquiring the license;
- the leasing company fails to submit the prescribed reports, documentation and other data on its operations in the manner and within deadlines prescribed;
- the leasing company fails to provide conditions for the conduct of supervision of its operations;
- it has been found that the pecuniary portion of the leasing companies Tier 1 capital is less than the level prescribed by the Law;
- the leasing company failed to implement measures ordered by the National Bank of Serbia within the given deadline and/or failed to eliminate the reasons for the introduction of such measures.

26. Do you apply any special measure for the supervision of financial conglomerates, as defined in Directive 2002/87/EC? If so, please describe them.

Measures of supervision relating to credit institutions as defined by the Directive 2002/87/EC are laid down in the Law on Banks and are implemented in practice.

Minor practical problems are present as regards ‘measures to facilitate supplementary supervision’ (i.e. the role of the coordinator), primarily due to absence of such cases or because they are not materially significant in the Serbian banking sector.

II. INSURANCE AND OCCUPATIONAL PENSIONS

General questions

27. What is the current situation with regard to right of establishment and cross-border supplies of services in your country for EU insurance companies? Which conditions apply?

Pursuant to Article 3, paragraph 1, Article 23 and Article 39 of the Insurance Law (RS Official Gazette Nos. 55/2004, 70/2004 - corrigendum, 61/2005, 61/2005 – other Law, 85/2005 – other Law, 101/2007, 63/2009 – decision of the CC and 107/2009), an insurance company headquartered in the territory in Republic of Serbia and a branch of a foreign insurance company (after 5 years from Republic Serbia’s accession to the World Trade Organization), licensed by the National Bank of Serbia, may perform insurance activities.

Insurance companies from the EU may, subject to the reciprocity condition, establish a domestic insurance company, with no restrictions to capital share. The reciprocity condition shall be repealed from the date of accession of the Republic of Serbia (RS) to the World Trade Organization.

As a rule, property and persons are insured with an insurance company headquartered in the territory of the RS. By way of exception, property and persons may be insured with a foreign insurance company against risks that are not insured in the RS, as well as other property and persons, as prescribed by the RS Government (cross-border supply of insurance services).

Pursuant to the Regulation on Property and Persons that May be Insured with a Foreign Insurance Company (RS Official Gazette Nos. 47/2006 and 111/2009), adopted by the RS Government, legal and natural persons may insure with a foreign insurance company investment works performed abroad by domestic companies, as well as equipment for the performance of such works, foreign credits for the purpose of insuring their repayment, ships under construction or repair, goods exported from or imported into the RS. Property and employees of domestic companies owned by domestic persons or in joint ownership of domestic and foreign persons, founded for the performance of an activity abroad, may also be insured with foreign insurance companies.

Furthermore, as of Republic of Serbia's accession to the World Trade Organization, risks relating to maritime shipping, commercial aviation, space launching and freight (including satellites), as well as goods in international transit may also be insured with a foreign insurance company.

Also, persons requesting a license of a RS competent authority for clinical testing of medications and medicaments and for marketing medicaments of foreign producers may take insurance with a foreign insurance company against liability for damage sustained as a consequence of application of such medications or medicaments. According to this Regulation, foreign persons in the RS and the property of such persons may be insured with a foreign insurance company, unless compulsory insurance is prescribed for such property and such persons in the RS.

28. Are foreign insurance companies, once authorised, treated in every respect as a national undertaking?

Pursuant to the Insurance Law, an insurance company licensed for the performance of insurance activities in the RS is granted the status of a domestic legal entity (domestic insurance company) and operates under equal conditions as other companies, regardless of whether the owners of such companies are domestic or foreign entities.

29. Is there a legal monopoly in one or more insurance branches (e.g. motor insurance, accident insurance)?

There is no legal monopoly in the insurance activity, i.e. there is no regulation granting exclusive right to an insurance company to provide services in specific insurance class.

Insurance companies registered for the provision of motor third party liability insurance are obliged to apply common insurance terms, the premium system with unique insurance premium bases for these activities and the minimum tariff set by the Association of Serbian Insurers, with the prior approval of the National Bank of Serbia. This provision shall cease to be valid on the 90th day of Serbia's accession to the EU.

Legal Framework

30. Please indicate the principal legislation adopted in this area and its implementation.

1. The legal framework for insurance activities in the Republic of Serbia is regulated by the Insurance Law, the Law on Compulsory Traffic Insurance (RS Official Gazette, No. 51/2009), the Law on the National Bank of Serbia and the Law on Bankruptcy and Liquidation of Banks and Insurance Companies (RS Official Gazette, Nos. 61/2005, 116/2008 and 91/2010).

The Law on Contract and Torts ("Official Gazette of SFRY" No. 29/78, 39/85, 57/89 and FRY Official Gazette, No. 31/93) applies to insurance contracts, as well as legislation that regulates in detail insurance contracts for certain types of transport: aviation, railway, maritime.

The framework also consists of specific laws governing certain issues related to insurance (i.e. the introduction of compulsory insurance for travel agencies, transport of dangerous materials, insurance against work accidents and other laws.).

Also, the Law on Business Companies (RS Official Gazette, No. 125/2004) applies to subjects of insurance supervision, as well as the Law on Accounting and Auditing (RS Official Gazette No. 46/2006 and 111/2009) and the Law on Private Entrepreneurs (SRS Official Gazette No. 54/89 and 9/90 and RS Official Gazette No. 19/91, 46/91, 39/93, 53/93, 67/93, 48/94, 53/95 and 35/2002) and other laws.

The Government of the Republic of Serbia has adopted the Regulation on Property and Persons that May be Insured with a Foreign Insurance Company.

The National Bank of Serbia passes regulations in order to implement the Law, and/or by-laws. The National Bank of Serbia has passed 26 insurance-related by-laws and 5 guidelines, whereas the Government of the Republic of Serbia passed 4 regulations in this area.

The most important by-laws passed by the National Bank of Serbia are:

1. Decision on the Implementation of the Provisions of the Insurance Law Relating to the Issuance of Licenses and Approvals of the National Bank of Serbia (RS Official Gazette No. 42/2005, 106/2006 – decision of the CC),

2. Decision on Internal Controls System and Risk Management in Insurance Companies (RS Official Gazette No. 12/2007),
3. Rules on the Chart of Accounts and Contents of Accounts in the Chart of Accounts for Insurance Companies ("RS Official Gazette", No. 15/2007, 3/2009 and 35/2010),
4. Decision on the Manner of Determining the Level of the Solvency Margin ("RS Official Gazette", No 31/2005 and 21/2010),
5. Decision on Restrictions on Specific Forms of Depositing and Investing Technical Reserve Assets and on Maximum Levels of Specific Deposits and Investments of Guarantee Reserves of Insurance Companies ("RS Official Gazette", No 35/2008 and 111/2009),
6. Decision on the Content and Manner of Taking the Professional Exam for Insurance Brokerage and/or Agency Services and Manner of Proving Eligibility for Obtaining the Relevant Certificates (RS Official Gazette, No. 80/2006).

According to the Law on Compulsory Traffic Insurance, the Association of Insurers of Serbia, in line with its public function, has adopted: the Rulebook on the Content of Data on Insured Persons, Vehicles, adverse events and for the evaluation and liquidation of claims, on May 28th 2010, the Common Conditions for Compulsory Insurance for Owners of Motor Vehicles against Liability for Damage Caused to Third Parties, on October 12th 2009, the Premium System for Insurance of Owners of Motor Vehicles against Liability for Damage Caused to Third Parties with uniform insurance premium basis and the Minimum Premium Tariff for Insurance of Owners of Motor Vehicles against Liability for Damage caused to Third Parties, both adopted on May 28th 2010.

2. Regulatory framework for insurance activities is implemented in such a manner that the insurance undertaking directly implements regulations or through taking out insurance contract with an insurance writer.

The National Bank of Serbia passes regulations and/or by-laws in order to implement the Law.

The National Bank of Serbia shall exercise supervision of the execution of regulation in this area, with respect to implementation of the Law on Insurance. Supervision over operations of an insurance undertaking shall be done via off-site and on-site examination. On the basis this supervision, the NBS shall order measures to eliminate violations and irregularities in the operations of an insurance undertaking. In order to protect the rights of the insured, policyholders and third parties that suffered damage, a separate organizational unit has been organized within the NBS, which mediates in settling claims for damages in order to prevent insurance disputes, reviews complaints of the insured, policyholders and third parties that suffered damage and protects the rights and interests of these persons.

When it comes to the supervision performed by the National bank of Serbia, the NBS at least once annually submits to the National Assembly of RS a report on the condition of the insurance market.

Also, appropriate types of supervision are performed by other supervisory authorities – inspections for certain areas.

Supervisory Authority

31. What is the set-up and structure of the financial supervisory authority in your country? Who supervises the insurance company's business overall, its state of solvency and its technical provisions and the assets covering them (please indicate name and address)?

Pursuant to the RS Constitution, the National Bank of Serbia is the central bank of the Republic of Serbia, independent and subject to supervision of and accountable to the National Assembly. As laid down in Article 4 of the Law on the National Bank of Serbia, the National Bank of Serbia issues and revokes licenses to conduct insurance activities, supervises and controls these activities, issues and revokes authorizations to perform certain activities within insurance business and performs other duties in accordance with the Insurance Law.

Pursuant to Article 142 of the Insurance Law, the National Bank of Serbia supervises insurance activities primarily to protect the interests of the insured and other insurance beneficiaries. In addition, the National Bank of Serbia licenses insurance, reinsurance, brokerage, agency and other activities directly related to insurance, it approves regulations and activities regulated by this Law, renders acts prescribed by this Law, processes statistical and other data, keeps records in line with the Law and examines complaints of the insured, insurance beneficiaries and third damaged parties against operations of insurance companies and other entities engaged in insurance activities. Furthermore, the National Bank of Serbia issues regulations for the purpose of implementing the Insurance Law.

NAME: National Bank of Serbia – Insurance Supervision Department
ADDRESS: 17 Nemanjina Street
CITY: Belgrade
EMAIL: osiguranje@nbs.rs

The Insurance Supervision Department operates within the National Bank of Serbia and consists of 4 lower organizational units – divisions, in charge of on-site and off-site inspection, actuarial activities and statistics and legal queries in the insurance field. The Department currently employs 42 persons (41 with university background and 1 with post-secondary school background).

32. Which authority is in charge of the financial supervision over occupational pension funds?

The National Bank of Serbia is in charge of the financial supervision over occupational pension funds.

33. What powers does the supervisory authority have:

- a) in order to require the necessary supplemental information**

Pursuant to Article 158 of the Insurance Law, the National Bank of Serbia, as a supervisory authority, is entitled to request the submission of additional information, other reports, information and data that are important for supervision.

Insurance companies are obliged to submit data according to the Decision Specifying Elements of Data that Insurance Companies Submit to the National Bank of Serbia and Manner and Deadlines for the Submission of Such Data (RS Official Gazette Nos. 15/2007 and 24/2010).

b) to carry out on-site inspections

Pursuant to the Insurance Law, supervision over insurance companies is carried out through off-site inspection, i.e. collection, monitoring and verification of reports and information of insurance companies and through on-site inspection of insurance companies. Supervision of insurance companies is carried out by the National Bank of Serbia's authorised person – insurance inspector.

While performing on-site inspection over the insurance company's business activities, the insurance inspector is authorised:

- to have access to general acts, business policy acts and business books of the insurance company and all other acts, documentation and data regarding the company's activities;
- to request management members, and members of the supervisory board, internal auditor, certified actuary and key functionaries in the company to provide information and explanations within the scope of their activities;
- to temporarily confiscate IDs and case documents provided it is established they have been used and/or planned to be used to commit a criminal act, economic offence or violation;
 - execute necessary checks on persons related to the company, if such checks are needed for supervision of the insurance company;
 - request an excerpt from data on a particular medium.

Authorised persons – insurance inspectors carry out on-site supervision based on the order issued by Governor of the National Bank of Serbia or a person employed by the National Bank of Serbia and authorised by the Governor.

c) in order to ensure that managers work in a fit and proper way

Pursuant to Article 39, paragraph 2, subparagraph 10 and Article 48 of the Insurance Law, the National Bank of Serbia gives approval for the performance of functions of a member of the board of directors and supervisory board of an insurance company. The person proposed for a member of an insurance company body is obliged to have adequate educational background, qualifications and professional experience, to provide evidence that he/she has not been unconditionally sentenced to imprisonment for more than three months, evidence that he/she has fulfilled tax obligations, evidence that he/she is not subject to limitations regarding election and that he/she has not been a member of the board of directors or supervisory board or that he/she is not an individual endowed with special authorisations in a legal entity which is subject to initiated liquidation and/or bankruptcy proceedings for the past three years.

A person cannot be nominated a member of the board of directors and supervisory board of an insurance company according to the provisions of the Law on Business Companies (Article 45) and according to the Insurance Law, if related to the legal entity in which the insurance company holds more than 5% of stake in capital or stake in voting rights, nor a person who is a member of the board of directors and supervisory board in another insurance company (Article 50).

If a member of the board of directors or supervisory board of the insurance company has been appointed without the approval of the National Bank of Serbia, the appointment is considered invalid.

The National Bank of Serbia shall reject the application for approval to carry out the function of a member of the board of directors or supervisory board of the insurance company if the candidate does not fulfil the conditions established by the Law or if it is evident, based on the available data, that due to the activities the candidate is and/or has been engaged in, the activities of the insurance company can be jeopardized in line with risk management rules.

The National Bank of Serbia shall withdraw its approval to carry out the function of a member of a board of directors and/or supervisory board of the insurance company if it was granted against false and inaccurate data, and if a member of the board of directors or supervisory board acts contrary to his/her prescribed obligations.

Furthermore, the National Bank of Serbia can order the insurance company to dismiss a member and/or members of the board of directors or supervisory board and to nominate a new member and/or members if the company fails to act in accordance with the order to eliminate ascertained irregularities and illegalities, if the company's management fails to implement supervision measures prescribed by the Law, if the company violates the duty to provide accurate and timely reporting to the National Bank of Serbia after being given a written warning by the National Bank of Serbia or in any other way obstructs the supervision over its business activities.

If the National Bank of Serbia, while engaging in supervision, discovers that a member of the board of directors or supervisory board violates the provisions of the law and other regulations and general acts and thus causes material damage to the company or illegally gains property or undertakes an operation which is deemed to be bad business practice, the National Bank of Serbia may propose to the insurance company to take appropriate measures against that person.

d) in case of insolvency

If during supervision of an insurance company the National Bank of Serbia ascertains that the company is insolvent, it may order measures to eliminate illegalities and irregularities, measures due to violation of risk management rules; order the transfer of the insurance portfolio to another insurance company; take over control of the insurance company, withdraw the license to engage in certain or all licensed insurance activities; order interim measures and propose measures against the general manager, members of the board of directors and supervisory board, persons with special authorisations and qualified holders.

Further, in case of reasonable doubt that determined illegalities and irregularities contain elements of a criminal offence, economic offence or violation, the National Bank of Serbia shall file complaints to competent state authorities.

e) to sanction and remedy violations of the law?

Pursuant to the Insurance Law, if during supervision of an insurance company the National Bank of Serbia ascertains illegalities and irregularities, it may:

- 1) order measures to eliminate illegalities and irregularities;
- 2) order measures due to violation of risk management rules;
- 3) order the transfer of the insurance portfolio to another insurance company;
- 4) take over control of the insurance company;
- 5) withdraw the license to engage in certain or all licensed insurance activities;
- 6) order interim measures
- 7) propose measures against members of the board of directors, supervisory board, persons with special authorisations and qualified holders.

If determined by the Insurance Law that the National Bank of Serbia may pronounce several measures, it shall first pronounce the measure that is least adverse to the company.

Further, penalty provisions of the Insurance Law set out criminal offences (unauthorised performance of insurance activity, submission of false opinions and reports and submission of false assessment) in respect of which liability of responsible persons in legal entities and natural persons is envisaged in case of acting contrary to the Law, as well as offences in respect of which sanctions against legal entities and natural persons are envisaged in case of violation of a greater number of provisions of the Law.

Pursuant to the Law on Compulsory Traffic Insurance, when in carrying out supervision of compulsory insurance the National Bank of Serbia determines that an insurance company has violated obligations arising from this Law, the National Bank of Serbia may impose, irrespective of the measures foreseen by the Insurance Law, the following measures:

- 1) public disclosure of information on a company's failure to execute obligations or failure to execute them in a timely manner, or on company's operation in contravention to regulations, indicating the company as responsible;
- 2) revoke the approval granted to the general manager or another responsible person in the company in line with the Insurance Law;
- 3) temporarily prohibit company's operation in the area of compulsory insurance;
- 4) revoke the company's license for conducting operations in the area of compulsory insurance;
- 5) impose a fine to a company, as well as to the president and/or member of the company's body.

The National Bank of Serbia adopts a decision on the abovementioned measures based on the estimate of criteria prescribed for pronouncement of measures.

Penalty provisions of the Law on Compulsory Traffic Insurance envisage the procedure of liability for violation of prescribed obligations both for companies and citizens, compulsory insurance beneficiaries and insurance companies. To this end, legal entities and responsible persons in these entities are responsible for economic offences, within the scope of the law that regulates economic offences. Further, offences are envisaged for entrepreneurs and natural persons.

In addition, the Criminal Code (RS Official Gazette Nos. 85/2005, 88/2005 – corrigendum, 107/2005 – corrigendum, 72/2009 and 111/2009) and other laws that insurance companies enforce, provide for the appropriate sanctions for violations of these regulations. Also, according to the Law on the Liability of Legal Persons for Criminal Acts (RS Official Gazette No. 97/2008), the insurance company is subject to criminal liability for crimes that responsible persons in a company commit with the intention of securing benefit for the company.

34. How many actuaries and officials in charge of supervisory functions are employed by the supervisory authority? Please provide information on the number, importance and outcome of the investigations carried out by the supervisory authority. What are your plans for improving enforcement capacity of the supervisory authority over the next 5 years?

–How many actuaries and officials in charge of supervisory functions are employed by the supervisory authority?

In the National Bank of Serbia, 42 members of staff are employed in the Insurance Supervision Department, as follows: 6 employees in the Head office division, 12 employees in the On-site division (10 insurance inspectors and 2 who participate in on-site inspections), 9 economists in the Off-site division, 8 employees in the Actuarial and statistical division (3 certified actuaries and 5 employees who perform actuarial activities) and in the Legal division there are 7 employees (6 lawyers and 1 person who is in charge for administration).

–Please provide information on the number, importance and outcome of the investigations carried out by the supervisory authority.

On-site supervision of insurance companies and other subjects of supervision is carried out by authorised persons – insurance inspectors. Insurance inspector has to satisfy professional and ethical requirements prescribed by the Insurance Law (to have a University degree in economics or law, to be an insurance expert and to have at least three years of working experience in financial-accounting, actuarial or other appropriate insurance activities, not to have been sentenced unconditionally to imprisonment for more than six months, nor to have criminal charges filed against them).

Planned assignments for 2010, especially for the third and the fourth quarter were to conduct on-site supervision procedures for six insurance companies (four life insurance companies and two non-life insurance companies). These insurance

companies have been conducting business activities in the Republic of Serbia only for a few years and this was their first on-site supervision procedure by the NBS. The National Bank of Serbia supervised overall business activities of these insurance companies for the last 12 and 18 months, with the focus on issues like general and business policy regulations, management quality, distribution channels and system of internal controls. The National Bank of Serbia has concluded six planned on-site supervision procedures for 2010. The minutes of the completed supervision process for one of these insurance companies are still being drafted at this moment (January 2011).

In addition, the National Bank of Serbia conducted follow-up inspections to previously concluded on-site supervision procedures for two insurance companies. In one case the reason was partial check on whether the imposed measures have been implemented, and in another – verification of facts and evidence that subsequently came to the attention of the National Bank of Serbia.

During 2010, the National bank of Serbia also conducted on-site supervision procedures of 17 insurance agents and 1 insurance broker. The reasons for conducting supervision procedures of insurance agents were indications that they have been selling life insurance in breach of the relevant regulations.

The National Bank of Serbia issued five decisions ordering the elimination of identified non-compliances – four of them for insurance companies (three relate to on-site supervision procedures concluded by the end of 2009) and one for an insurance agent. In addition, one insurance agent's license was revoked. Implementation of imposed measures is continuously monitored and analyzed.

–What are your plans for improving enforcement capacity of the supervisory authority over the next 5 years?

Since the implementation of Solvency II Directive will be the biggest challenge for insurance supervision in the next five years, relevant training of employees in this field and employment of new staff will be of great importance for the development of insurance supervision process. Also, improved enforcement capacity of the supervisory authority, in the next 5 years, will be achieved through the implementation of new legal solutions, in accordance with The National Programme for Integration of the Republic of Serbia to the European Union – NPI.

To strengthen professional capacities, engagement of new staff is planned in the coming year as follows: 3 employees in the Actuarial and statistical division, 2 employees in the On-site division (a specialist in the legal field and a specialist in the field of information technology), 1 employee in the Off-site division and 2 employees in the Legal division.

35. What are the requirements of professional secrecy with respect to the members of the supervisory authority?

According to Article 86a of the Law on the National Bank of Serbia, individual data and operating indicators of entities supervised by the National Bank of Serbia generated in the course of National Bank of Serbia's operation are, amongst others,

designated as secret data. Officials of the National Bank of Serbia and its employees are bound to keep secret data irrespective of the manner in which they have learned such data. The obligation shall remain in force even after termination of employment with or engagement at the National Bank of Serbia.

Also, the Law on Secrecy of Data (RS Official Gazette No. 104/2009) regulates a unique system for the determination and protection of confidential information relating to public authorities, which also applies to the National Bank of Serbia.

Professional secrecy requirement is also established by the Code of Insurance Supervision Ethical Standards, adopted by the National Bank of Serbia.

36. Which provisions exist with regard to the exchange of information with supervisory authorities of third countries?

The Law on the National Bank of Serbia prescribes that in order to improve its supervisory function, the National Bank of Serbia cooperates with foreign institutions in charge of the supervision of operations of insurance companies and with local authorities and institutions responsible for supervision in the financial field. The National Bank of Serbia may exchange data obtained in carrying out its supervisory function with these agencies and institutions.

Pursuant to the Insurance Law, the National Bank of Serbia's remit in terms of insurance supervision envisages National Bank of Serbia's cooperation with other supervisory authorities in the country and abroad, and performance of other activities prescribed by the Law. Based on these provisions, the memoranda of cooperation in the insurance supervision field have so far been concluded between the National Bank of Serbia and The Hungarian Financial Supervisory Authority (10.1.2008), The Banking, Finance and Insurance Commission (Belgium) (4.8.2008) and The Federal Ministry of Finance, Austria and the Financial Market Authority, Austria (20.5.2009). Conclusion of memorandum of cooperation with one more state is underway.

Further, the Insurance Law prescribes that in supervision of insurance companies and other entities subject to supervision (primarily brokers and agents), the National Bank of Serbia cooperates with supervisory and other competent authorities in the country and abroad and international organizations.

37. Does the supervisory authority publish an annual report? Could it provide the Commission with a copy or a summary of the report in one of the EU languages? What are the powers of intervention in case of insolvency, abuses of authorization?

The National Bank of Serbia prepares an annual report on developments in the Serbian insurance market and posts it on its website (Annex 1).

Powers of intervention of the National Bank of Serbia in case of insolvency of an insurance company and abuses of authorization are specified in answer to Q33, point d) of this section of the Questionnaire.

38. How is the operational independence of the supervisory authority ensured, in line with international standards and the International Association of Insurance Supervisors – (IAIS) core principles)?

In terms of the IAIS insurance core principle No 3 – supervisory authority, the National Bank of Serbia's operational independence is achieved as follows:

Regulatory framework – The Law on the National Bank of Serbia and the Insurance Law provide adequate powers to the National Bank of Serbia as an insurance supervisory authority and offer legal protection in the performance of this function.

The legal framework envisages independence and autonomy of the National Bank of Serbia which is accountable for its work to the National Assembly of the Republic of Serbia.

Under the Law on the National Bank of Serbia, in carrying out their tasks, the National Bank of Serbia, bodies of the National Bank of Serbia, members of these bodies shall neither seek nor take instructions from government bodies and institutions, or other persons. Government bodies and institutions, and other persons may not threaten the autonomy and independence of the National Bank of Serbia nor seek to influence the National Bank of Serbia, bodies of the National Bank of Serbia, or members of these bodies in carrying out their tasks.

Independence and accountability – The Law on the National Bank of Serbia stipulates the governance structure in the National Bank of Serbia. Pursuant to the Rules on Internal Organisation of the National Bank of Serbia, consolidated version from July 2010, the Insurance Supervision Department is set up within the NBS, comprising of 4 lower organisational units – divisions.

Authorised persons in charge of operational supervision are independent in their work and in proposing measures during insurance supervision. The National Bank of Serbia's operational independence is enshrined through its status – the measures pronounced during supervision are subject to control only by the highest court instance in terms of legality.

The National Bank of Serbia promotes transparency as one of its main principles. Decisions made during supervision are based on the prescribed criteria that promote consistency in application.

Participants in the insurance market are consulted during the drafting of the National Bank of Serbia's regulations by giving comments on draft acts and at meetings with leading representatives of the insurance industry.

Responsibilities – The Insurance Law prescribes the National Bank of Serbia's responsibilities regarding the protection of rights of policyholders, insurance beneficiaries and third damaged parties.

Financial assets – As a rule, the National Bank of Serbia is financed through its own revenues, including the insurance supervision fee paid by insurance companies.

In line with general acts, the National Bank of Serbia engages in vocational training and education of its employees.

Human resources and legal recourse – The National Bank of Serbia adopted the Code of Insurance Supervision Ethical Standards, stipulating ethical standards that the National Bank of Serbia's insurance supervision staff are obliged to comply with.

Pursuant to the Law on the National Bank of Serbia and the Insurance Law, the National Bank of Serbia reimburses the expenses of representation of the National Bank of Serbia's employees in judicial and administrative proceedings initiated in relation to duties that such employees exercise or exercised pursuant to this Law.

Confidentiality of data – Confidentiality of data in insurance supervision activities is ensured in line with Republic of Serbia's regulations and exchange of data between supervisory bodies in line with memoranda of cooperation.

Conditions of admission and licensing

39. Which conditions are required of new insurance companies by national law before taking up the business of direct insurance? In particular, what are the requirements regarding:

- a) prior authorisation;**
- b) schemes of operations / soundness of business plan;**
- c) suitability of shareholders / owners;**
- d) limiting itself to the business of insurance;**
- e) legal form;**
- f) needs test?**

Pursuant to the Insurance Law, the National Bank of Serbia issues licenses for the performance of insurance activity.

An insurance company is incorporated as a joint-stock company or a mutual insurance company and may engage solely in insurance activities. An insurance company may engage only in those types of insurance that it is licensed for by the National Bank of Serbia.

A joint-stock company may engage in direct insurance (life or non-life insurance) or reinsurance activities.

The procedure for issuing licenses to insurance companies is largely aligned with EU directives in the field of life and non-life insurance.

- a) prior authorisation;**

The application for obtaining a license to engage in insurance activities is submitted by founders of an insurance company. Pursuant to Article 39 of the Insurance Law, the following documents shall be attached to the application: Memorandum of Incorporation; draft Articles of Association; evidence that the pecuniary part of core capital as defined in Article 28 of this Law has been deposited in the bank temporary account; business plan; draft of the business policy acts with the opinion of a certified actuary; list of shareholders with their family name, name and address, and/or name of the company and its head office address, total nominal value of shares and percentages of stake in the core capital of the joint-stock insurance company; for shareholders – legal entities that are qualified holders: resolution on register entry, transcript of shareholders from the shareholder register and/or evidence from any other appropriate public register provided the shareholder is a joint-stock insurance company, financial statements with the certified auditor's opinion, for the last three years, evidence from the competent administration body of tax payment, not older than six months, and certified photocopy of the resolution of the competent administration body on determination of the tax amount and collection of the tax for the current and/or previous year and other evidence of significance for the appraisal of shareholders' safety and soundness; for shareholders – natural persons who are qualified holders: evidence that the person has not been a member of the board of directors or supervisory board, or an individual endowed with special authorisations in a legal entity which is subject to initiated or completed liquidation and/or bankruptcy proceedings, evidence that the person has not been unconditionally sentenced to imprisonment for more than three months due to criminal offences against industry, property, official capacity and corruption, evidence from the competent administration body on tax payment, not older than six months, and certified photocopy of the decision of the competent administration body on tax amount determination and payment of the tax for the current and/or previous year; the list of entities related to qualified holders with the evidence of the nature of such relationships; for natural persons proposed to be nominated members of management (members of the board of directors and general manager) and supervisory board: evidence that they meet the requirements in terms of their education, skills and professional experience, evidence that the person has not been a member of the board of directors or supervisory board, or an individual endowed with special authorisations in a legal entity which is subject to initiated or completed liquidation and/or bankruptcy proceedings, evidence that the person is not subject to limitations under this Law, regarding elections of the members of the board of directors and supervisory board of a joint-stock insurance company, evidence that the person has not been unconditionally sentenced to imprisonment for more than three months, evidence, not more than 6 months old, from the competent administration body on the amount of paid taxes, and certified photocopy of the resolution of the competent administration body on tax amount determination and payment of the tax for the current and/or previous year; name and family name of the person nominated as the certified actuary, with data previously specified for natural persons who are proposed for members of the board of directors or supervisory board, or a preliminary contract with a legal entity licensed for engagement in actuarial activities, and the evidence of insurance against liability for the damage a certified actuary can cause by the given opinion; evidence that the joint-stock insurance company has the prescribed organisational, personnel and technical equipment allowing it to fulfill the tasks defined in the Memorandum of Incorporation and business policy acts.

For founders – foreign persons, the above documents are submitted in certified translation into Serbian.

The Decision on the Implementation of the Provisions of the Insurance Law Relating to the Issuance of Licenses and Approvals of the National Bank of Serbia prescribes the detailed terms and conditions to prove that these conditions are met.

The National Bank of Serbia decides on the application to engage in insurance activities in the course of 60 days from the date of receiving the application and charges a fee for such decisions, according to the Decision on uniform fees charged for services provided by the National Bank of Serbia.

b) schemes of operations / soundness of business plan

Pursuant to Article 39 of the Insurance Law, in addition to the application for obtaining the license, founders of an insurance company are obliged to submit a business plan. The business plan consists of: business policy basics; insurance group or classes for which it is licensed; reinsurance program; amount of the expected solvency margin as determined by the provisions of the Law; projected amount of incorporation costs and methods of coverage of these costs; company's liquidity plan; and study on the expected operating results with the certified actuary's opinion for a three-year period (specifically the expected profits from premiums, expected claim settlement expenditures and the amount of technical reserves and the reserves as defined by the Law, the expected value of assets and their sources and a preliminary estimate of the costs of insurance activity, with the assessment of the financial justification for the incorporation of the company relative to the size and structure of the market)– Article 40 of the Law.

c) suitability of shareholders / owners;

Pursuant to Articles 32 and 39 of the Insurance Law, all legal entities with over 10% of stake in core capital or management rights of an insurance company shall submit to the supervisory authority, for the purpose of being issued the prescribed approvals, the documentation stipulated by Article 39 of the Insurance Law (answered under point a) relating to shareholders – legal entities that are qualified holders). Based on submitted documentation, the National Bank of Serbia makes assessment in line with inspection and risk management rules (solvency, strategic orientation, related entities, impact on the insurance market, etc), as prescribed by the Decision on Implementation of Provisions of the Insurance Law Relating to the Issuance of Licenses and Approvals of the National Bank of Serbia.

The documentation prescribed by Article 39 of the Insurance Law (as specified in answer under a) hereof) shall be submitted for the purpose of deciding on approval for acquisition of a qualified holding in an insurance company by natural persons.

d) limiting itself to the business of insurance

Pursuant to Article 27 of the Insurance Law, an insurance company may engage solely in insurance or reinsurance activities. An insurance company cannot engage

simultaneously in life and non-life insurance, except in case of a supplementary life insurance clause.

In terms of life or non-life insurance, an insurance company may engage in activities in one or more classes of insurance, as envisaged by Articles 9 or 10 of the Insurance Law.

Composite insurance companies are required to separate life and non-life insurance activities until 31 December 2011.

e) legal form

An insurance company is incorporated as a joint-stock or mutual insurance company.

A joint-stock company is incorporated by at least two domestic and/or foreign legal and/or natural persons.

A mutual insurance company may be founded by legal and natural persons.

f) needs test?

Along with the application for obtaining the license, the founder of an insurance company submits evidence that the joint-stock insurance company has the prescribed organisational, personnel and technical equipment allowing it to fulfill the tasks defined in the Memorandum of Incorporation and business policy acts. Based on this evidence, the National Bank of Serbia assesses whether the insurance company, given the resources it plans to provide, can pursue its operations smoothly.

On the other hand, the business plan must contain, inter alia, the following: the study on the expected operating results with the certified actuary's opinion for a three-year period, and specifically the expected profits from premiums, expected claim settlement expenditures and the amount of technical reserves and the reserves as defined by the Law, the expected value of assets and their sources and a preliminary estimate of the costs of insurance activity, with the assessment of the financial justification for the incorporation of the company relative to the size and structure of the market.

40. What are the rules with regard to the change of control of an insurance company (e.g. approval requirement, notification, standards to be met)?

To acquire shares of an insurance company on the basis of which an entity directly or indirectly acquires a qualified holding in the insurance company, the approval of the National Bank of Serbia is required.

An entity that acquired the approval is required to obtain the approval of the National Bank of Serbia for each subsequent acquisition of shares of the insurance company when the new acquisition exceeds the amount of 20%, 33%, 50% and 66% of the stake in capital of another entity and/or voting rights of another entity.

The conditions for the subsequent acquisition of holdings in excess of 10%, 20%, 33%, 50% and 66% in core capital or management rights of an insurance company equal the conditions to be fulfilled by legal and/or natural persons – founders when incorporating an insurance company (as explained in answer to Q39 c) hereof).

Further, when a shareholder's participation in capital of an insurance company is reduced by 10%, the insurance company is required to notify thereof the National Bank of Serbia.

41. What are the rules applicable to insurance intermediaries operating in your country? What conditions do they have to fulfil before they may take up their business (e.g. registration, tests, professional requirements)?

Insurance brokerage and agency activities are regulated by Articles 72–99 of the Insurance Law. Pursuant to Articles 86 and 180 of the Insurance Law, provisions relating to the issuance of licenses or supervision of insurance companies apply accordingly to insurance brokers and agents.

Insurance brokerage activities are performed, as the sole activity, by an insurance brokerage agency, while insurance agency activities are performed, as the sole activity, by an insurance agency company and natural person – entrepreneur (insurance agent). These persons must be licensed by the National Bank of Serbia.

An insurance brokerage company is incorporated as a joint-stock company or a limited liability company. If the insurance brokerage company is incorporated as a joint-stock company, the pecuniary part of core capital may not be less than the RSD equivalent of EUR 25,000 calculated by the National Bank of Serbia middle exchange rate on the day of payment. If an insurance brokerage company is incorporated as a limited liability company, the pecuniary part of core capital cannot be less than the RSD equivalent of EUR 12,500 calculated by the National Bank of Serbia middle exchange rate on the day of payment. If an insurance brokerage company is also engaged in agency activities for a particular class of insurance, the amount of core capital is increased by 30%.

The following documents shall be attached to the application for a license to conduct insurance brokerage activities: incorporation act; evidence that the pecuniary part of core capital has been deposited in the bank temporary account; list of shareholders and/or stake owners with prescribed evidence; business plan of the company; evidence that persons proposed for members of the management and supervisory board meet the conditions prescribed; evidence of adequate personnel and technical equipment capacity of the company; insurance preliminary contract or contract against liability for damages arising from activities or unconditional financial bank guarantee accepted by the National Bank of Serbia for the insured sum and/or the sum not less than the RSD equivalent of EUR 100,000; and evidence of relatedness based on capital or in another way with insurance companies, insurance agency companies or insurance brokerage companies.

The person proposed for the general manager of an insurance brokerage company must have university educational background, appropriate experience in insurance or

another economic activity, authorisation for performance of insurance brokerage activities or a completed bar examination.

Insurance brokerage activities in an insurance brokerage company may be performed only by employees of this company who are authorised by the National Bank of Serbia. The National Bank of Serbia gives authorisation for the performance of insurance brokerage activities to a person who passed professional examination for the performance of brokerage activities and who complies with other prescribed conditions.

The Decision on the Content and Manner of Taking the Professional Exam for Insurance Brokerage and/or Agency Services and Manner of Proving Eligibility for Obtaining the Relevant Certificates prescribes the content and method of taking the professional exam for insurance brokerage and/or agency services.

Insurance agency activities are performed by an insurance agency company and a natural person – entrepreneur (insurance agent). The threshold and conditions for incorporation and performance of insurance agency activities in an insurance agency company equal the above conditions for incorporation of an insurance brokerage company. The only difference is the non-submission of evidence of insurance against liability along with the application for a license to conduct insurance agency activities – submitted instead is the preliminary agency contract or the agency contract with the insurance company, with the provision of the insurance company's right to consistent monitoring of the execution of the contract.

Insurance agency activities in an insurance agency or an insurance agent - entrepreneurs may be performed only by individuals employed at these entities, who are authorised by the National Bank of Serbia. The National Bank of Serbia gives authorisation for the performance of insurance agency activities to a person who passed professional examination for engaging in insurance agency activities and who complies with other prescribed conditions.

Insurance agency and brokerage companies must ensure that their core capital remains at all times during their operations at the level not lower than the amount prescribed by the Law (as specified in paragraphs 3 and 8 herein), with at least 50% of the total amount of core capital being the pecuniary part, short-term securities and short-term investments.

To be incorporated, an insurance agent – entrepreneur must have the RSD equivalent of EUR 1,500 on the day of payment. Later, during operations, the agent must keep on the account at least the RSD equivalent of EUR 1,500 calculated by the National Bank of Serbia middle exchange rate.

An insurance agent – natural person entrepreneur performs insurance agency activities for the purpose of acquiring gain arising from profession based on the National Bank's license, issued in line with Article 94 of the Insurance Law. The agent's founder must have authorisation for the performance of insurance agency activities.

Pursuant to Article 24 of the Insurance Law, insurance brokerage and agency activities may also be performed by other legal entities based on a special law and the

approval of the National Bank of Serbia (in terms of the fulfillment of conditions on human resource and technical capacity) (e.g. travel organisations and agencies, commercial banks, etc).

Pursuant to Article 44 of the Law on Compulsory Traffic Insurance, motor third liability insurance policies may also be sold by legal entities authorised for motor vehicle inspection under contracts on business cooperation.

Conditions of operation

42. What are the requirements imposed by national law as regards prior approval of premia or policy conditions for non-compulsory or compulsory insurance?

Under Article 39 of the Insurance Law, in the process of issuance of a license, an insurance company being incorporated is required to submit, in addition to other documentation, the proposal of general and special conditions for insurance, premium tariffs, technical bases of insurance, whereby the compliance of these documents with relevant regulations in the field is being assessed.

In case of changes in general and special conditions for insurance, premium tariffs and technical bases, an insurance company is required to submit these changes to the National Bank of Serbia (Article 156) within 15 days from the day of their adoption, whereas their application does not depend on the National Bank of Serbia's approval (regulations do not envisage the National Bank of Serbia's approval).

The exception is compulsory traffic insurance – according to Article 6 of the Compulsory Traffic Insurance Law, an insurance company submits compulsory insurance conditions and premium tariff and it cannot apply conditions if the National Bank determines they are contrary to regulations and actuarial principles. The insurance company cannot apply the conditions until the orders of the National Bank of Serbia have been met. This rule shall apply after Serbia's accession to the EU.

43. What are the rules concerning the establishment of technical provisions? Are life/non-life insurance companies are obliged to employ actuaries?

Technical reserves by insurance classes are established by applying the principles of actuarial mathematics, rules of the insurance profession and appropriate statistical data. The National Bank of Serbia's bylaws prescribe detailed criteria and calculation method for technical reserves.

Both life and non-life insurance companies are required to nominate a certified actuary who issues opinions on: the method of calculating premium tariffs, whether the technical reserves are established in line with the law, business policy acts, financial statements and the annual report of the company, report on conducting coinsurance and reinsurance policy, insurance portfolio transfer, solvency margin, etc.

44. What is the definition of solvency margin?

Pursuant to Article 123 of the Insurance Law, solvency margin is the calculation limit that the guarantee reserve of an insurance company cannot undershoot. The guarantee reserve consists of: 1. core capital, 2. reserves from bonus and reserves established by company acts, 3. retained earnings from current and previous years, 4. revaluation reserves (items 2, 3 and 4 are allowed in prescribed amounts), and is reduced for loss from the current and previous years and for own share purchase.

Solvency margin is calculated in line with the Decision on the Manner of Determining the Level of the Solvency Margin, separately for life and non-life insurance. It is calculated by applying the amount of mathematical reserves for life insurance and premium or claims method for non-life insurance and for life insurance in respect of which mathematical reserves are not calculated.

45. What are the solvency margins broken down by life/non-life insurance companies operating in your market?

Solvency margin for life insurance in respect of which mathematical reserves are calculated must equal at least 4% of mathematical reserves, with a reduction (up to 15%) made in respect of the reinsured portion.

In case of life insurance in respect of which mathematical reserves are not calculated, including voluntary health insurance and other classes of non-life insurance, solvency margin, according to the *premium method*, must not be lower than 18% of the amount of up to EUR 10 million of the total annual premium and/or it must not be lower than 16% of the remaining portion of the total annual premium, reduced by the reinsured portion (up to 50% for the last three years). According to the *claims method*, solvency margin for the above classes of insurance must equal at least 26% of the amount of up to EUR 7 million of average valid claims for the last three years (7 years for the insurance of loans, crops and produce) and/or at least 23% of the remaining portion of average valid claims for the last three years (7 years for the insurance of loans, crops and produce), reduced by the reinsured portion (up to 50%). In terms of voluntary health insurance, one third of the higher amount received under one of these two methods is applied.

If calculated solvency margin is lower than the prescribed minimum amount of capital (Article 28 of the Insurance Law), the prescribed minimum amount of capital is taken into account for solvency margin.

46. What are the minimum levels of capital / minimum guarantee fund?

Pursuant to Article 28 of the Insurance Law, core capital of a joint-stock insurance company during its operation can never be lower than the following amounts:

No	Class of insurance	EUR
1	Life insurance	

1.1.	Life insurance, except for voluntary pension insurance	2.000.000
1.2.	Voluntary pension insurance	3.000.000
1.3.	All classes of life insurance	4.000.000
2	Non-life insurance	
2.1.	Accident insurance and voluntary health insurance	1.000.000
2.2.	Motor comprehensive insurance, rail vehicle – comprehensive and traffic liability insurance	2.500.000
2.3.	Other property insurance, other liability insurance and other classes of non-life insurance	2.000.000
2.4.	All classes of non-life insurance	4.500.000
3	Reinsurance	4.500.000

As regards the guarantee reserve, which an insurance company must have in order to ensure the constant fulfilment of its obligations, the Insurance Law prescribes the method of its calculation and/or its elements, as well as the condition that it must be higher than the solvency margin. At the same time, the total amount of the guarantee reserve cannot be lower than the amount prescribed by Article 28 of the Insurance Law.

47. What are the rules for investing funds of an insurance company (e.g. diversification, limits on the amounts)?

Pursuant to the Insurance Law, an insurance company may deposit and invest its free assets, provided that it maintains permanent liquidity and provides for the timely settlement of claims and other company obligations. The company is also required to take necessary measures to ensure the safety of depositing and investment, with an aim not to jeopardise their real value and the company's liquidity in execution of obligations arising from the insurance contract and other obligations.

Forms of investments are laid down in the Insurance Law and percentage limitations and qualitative criteria in the Decision on Restrictions on Specific Forms of Depositing and Investing Technical Reserve Assets and on Maximum Levels of Specific Deposits and Investments of Guarantee Reserves of Insurance Companies.

Insurance companies may invest technical reserve assets in:

1. securities issued by the Republic of Serbia, EU/OECD member countries or international financial institutions (without restrictions),
2. bonds and other debt securities traded in the organised market in the country and debt securities of legal entities headquartered in EU/OECD member countries (up to 30% of life technical reserves and up to 20% of technical non-life reserves), as well as shares traded in the organised market and not listed on the Belgrade Stock Exchange Prime Market, and shares of legal entities headquartered in EU/OECD member countries (up to 15% of life technical reserves and up to 10% of non-life technical reserves), whereas individual investment cannot be higher than 5%,

3. shares listed on the Belgrade Stock Exchange Prime Market (up to 35% of life technical reserves and up to 15% in shares of a single issuer; up to 35% of non-life technical reserves and up to 10% in shares of a single issuer),
4. securities not traded in the organised market (up to 5% both of life and of non-life technical reserves, whereas individual investment cannot be higher than 1%),
5. deposits with banks (up to 35% of life technical reserves, up to 40% of non-life technical reserves and up to 10% in deposits with one bank),
6. real estate (up to 30% of life technical reserves, up to 15% of non-life technical reserves and up to 10% in single real estate),
7. unearned premium, claims outstanding and mathematical reserves, borne by the co-insurer, reinsurer or retrocessionaire,
8. advance payment of the sum insured up to the level of the repurchase value specified in the life insurance contract – advances against policies (up to 10% of life technical reserves),
9. receivables in respect of undue premiums from unexpired non-life insurance up to 20% non-life technical reserves.

Insurance companies may invest guarantee reserve assets not only in the above forms for technical reserves but also other forms established by the company's business policy.

48. What are the rules with respect to insurance and the means of electronic commerce?

The general mode of e-commerce, which does not exclude insurance services, is regulated by the Law on Electronic Commerce (RS Official Gazette, No 41/2009), that sets the conditions and the manner of providing information society services, obligations of informing the service user, the rules regarding the conclusion of contracts in electronic form, the liability of service providers, etc. Further, the Law on Electronic Document (RS Official Gazette, No 51/2009) regulates the conditions and manner of handling electronic documents in legal transactions and in administrative and other procedures, as well as rights, duties and responsibilities of legal and natural persons and authorities in relation to this document.

The Law on Consumer Protection (RS Official Gazette No 73/2010) regulates in a specific section the protection of consumers in exercising their rights under distance contracts, which also applies to consumers of insurance services. The Law specifically regulates the duty of the merchant to offer advance notice during electronic commerce and to provide to authorities and consumers access to data in electronic commerce (Articles 29 and 30 of the Law).

The Law introduces a ban of unfair business practice in relation to distance contracts and contracts concluded using electronic means. According to the Law, the violation

of duty of informing consumers about their rights in relation to insurance intermediation, life insurance and other types of insurance and other types of direct insurance, is regarded as unfair business practice. Also, the Law regulates and sanctions misleading and aggressive business of a merchant, as well as types of such operations.

The Law also regulates formal requirements for the conclusion of distance contracts and the duty to inform of the right to unilaterally terminate the contract.

49. What are the rules relating to distance marketing of insurance contracts?

on Consumer Protection regulates in a separate section the limitation of use of certain means of distance communication, namely through: direct advertising (advertising is prohibited directly by phone, fax or e-mail, without the prior consent of the consumer), sending unordered items (it is forbidden to send goods and to provide services to a consumer with a request for payment of goods or services that the consumer did not order) and advertising by means of distance communication.

Namely, the merchant is required, when advertising by means of distance communication to display in a clear and understandable way the nature of advertisement and the identity of the legal or natural person in whose name he is advertising. Also, the merchant is required to highlight in a clear and understandable manner the promotional games, competitions and special offers and to announce conditions of participation in the promotional game or contest or the conditions under which a special offer is valid, in a way that allows it to be easily accessible, clear and understandable to consumers.

50. What information has to be provided to a customer with respect to concluding a contract?

According to the Insurance Law, an insurance brokerage company engaged in insurance brokerage activities on the policyholder's order must explain to and advise the policyholder of the circumstances relevant to the conclusion of an insurance contract. In doing so, an insurance brokerage company is particularly required to: draft an appropriate risk analysis and propose appropriate coverage; draft a solvency analysis of the insurance company based on information on company's operation; mediate for the purpose of negotiating about the conclusion of an insurance contract with the insurance company that, in terms of the circumstances in individual cases, offers the most favourable protection to the policyholder; inform the insurance company that the policyholder wishes to conclude the insurance contract, offer to the policyholder the insurance conditions and provide them with information on the method for calculating the premium; check the wording of the insurance policy; offer assistance to the policyholder during the validity term of the insurance contract, both prior and after the occurrence of the insured case, and specifically ensure that the policyholder undertakes all relevant actions to maintain and/or exercise the rights specified in the insurance contract; monitor the execution of the insurance contract that the policyholder concluded through his/her brokerage; and draft proposal to amend the concluded insurance contract for the purpose of ensuring a higher level of safety to the policyholder.

In 2006, the National Bank of Serbia adopted the Guidance Paper No 1 on Accessibility of Data and Information to the Financial Public and on Transparency in the Insurance Market. When information is provided to a potential client, it must be such as to allow the potential client to make an informed decision and must include the following: details on the broker or agent (in particular whether it is affiliated or independent etc.); information on the insurer; all relevant details about the product (including, without limitation: price, terms and conditions, purpose, risk factors, guarantees, special exclusions, etc.); amounts of monthly or annual installments and the estimated returns, i.e. amounts payable by the insurer (where applicable); information on the relevant profit and all risks borne by the policyholder, presented in a true and fair way, enabling the policyholder to understand all his/her rights and obligations under the contract; other rights and obligations of both parties, presented in a clear, unambiguous and comprehensible way.

Insurance companies and/or insurance agents must deliver to each policyholder, along with the insurance policy, general and special terms relating to the class of insurance that the policy refers to.

It is essential that insurance companies enable the policyholder to examine the entire content of the contract before its conclusion.

When concluding a life insurance contract with a profit-sharing plan, the insurance company must provide the other party with all relevant information and to submit periodic (annual as a minimum) reports on the profit to which the other party is entitled under the contract.

Information provided to the supervisory authority

51. Which rules apply to insurance companies with regard to the format of the balance sheet, net or gross presentation, acquisition costs (profit and loss accounts), valuation of investments (historical vs. current value), unrealised investment gains?

The chart of accounts, contents and layout of financial statements of insurance companies are prescribed by the National Bank of Serbia. Books of accounts are maintained in accordance with the Law on Accounting and Auditing which envisages direct application of International Accounting Standards (IAS) and International Financial Reporting Standards (IFRS).

Financial statements include: the Balance Sheet, Profit and Loss Account, Cash Flow Statement, Capital Changes Statement, Notes on Financial Statements and Statistical annex, Insurance companies also prepare the Annual Report.

Balance sheet contains the following positions.

Assets

- A. Non-current assets and investments**
 - I Subscribed capital unpaid**

- II Intangible investments
- III Goodwill
- IV Property, plants, equipment and biological assets
- V Long-term financial assets
 - 1. shares in capital
 - 2. other long-term financial placements
- Current assets – receivables
 - I Inventories
 - II Non-current assets held for sale and discontinued operations
 - III Short-term receivables, investments and cash
 - IV Deferred tax assets
- C. Operating assets (A+B)
- D. Loss above equity
- E. Total assets (C+D)
- F. Off-balance sheet assets

Liabilities

- A. Capital and reserves
 - I Fixed and other capital
 - II Subscribed capital unpaid
 - III Reserves
 - IV Revaluation reserves
 - V Unrealized gains on the basis of securities available for sale
 - VI Unrealized losses on the basis of securities available for sale
 - VII Accumulated earnings
 - VIII Loss exceeding the capital
 - IX Purchased own shares
- B. Provisions and liabilities
 - I Long-term provisions
 - 1. life insurance mathematical reserves
 - 2. profit share provisions
 - 3. risk equalization provisions
 - 4. bonus and rebate provisions
 - 5. other long-term provisions
 - Long-term liabilities
 - Short-term liabilities
 - IV Deferred expenses
 - 1. unearned premiums
 - life insurance
 - non-life insurance
 - coinsurance, reinsurance and retrocessions
 - 2. - outstanding claims
 - life insurance
 - non-life insurance
 - coinsurance, reinsurance and retrocession
 - V Deferred tax liabilities
- C. Total liabilities (A+B+C)
- D. Off-balance sheet liabilities

Insurance administration costs are presented separately in the balance sheet, covering the following: acquisition costs (commissions are presented separately within acquisition costs), administrative expenses and other insurance administration expenses net of commissions from reinsurance and retrocession (net presentation). According to Article 128 of the Insurance Law, the insurance acquisition costs can be separated in proportion with the unearned premium and premium total.

Prescribed layouts of the Balance Sheet and Profit and Loss Account are almost identical to layouts of the Balance Sheet and Profit and Loss Account defined in Directive 91/674/EEC.

Profit and loss accounts are compiled collectively and separately for each class of insurance specified in answer to Q46 hereof. Also, according to Article 45 paragraph 3 of the Law on Compulsory Traffic Insurance, the insurance company in its financial statement shall provide a comparative overview of profit and/or surplus and loss and/or deficit for performance of motor third party liability insurance activities.

Valuation of balance sheet and profit and loss account positions is made by applying relevant IAS/IFRS.

52. What specific rules apply to the publication of annual accounts of insurance companies?

According to the Insurance Law, the insurance company shall submit to the National Bank of Serbia financial statements together with a certified auditor's opinion until 30 April of the current year for the previous year. The National Bank of Serbia publishes summary financial statements of insurance companies on its website.

General rules relating to the publication of financial statements are regulated by the law on auditing and accounting, apply to insurance companies as well. In line with this, financial statements of insurance companies are submitted to the Serbian Business Registers Agency, too. The agency processes and publishes data from the received financial statements, based on which the business results and financial state of insurance companies are assessed. The Agency is required to publish registered financial statements on the website of the register of financial statements. Also, the Agency is required to enable the users' insight into financial statements on the website of the register of financial statements, without compensation, for the last three reporting years.

53. Which annual accounting, prudential and statistical information is the insurance undertaking required to give to the supervisory authority in respect of its business?

An insurance company is required to submit to the National Bank of Serbia, regularly and within prescribed deadlines, the following:

- 1) the financial statement and annual report, with the opinion of the certified actuary and supervisory board with explanation;

- 2) copy of the report on performed audit, with comment on the report by the company's general assembly and supervisory board;
- 3) report on implementation of coinsurance and reinsurance policy, with the opinion of the certified actuary;
- 4) business policy plan;
- 5) articles of association and other general acts and their amendments;
- 6) business policy acts and their amendments with the opinion of the certified actuary;
- 7) information on changes in the insurance company capital structure;
- 8) information on change of certified actuary;
- 9) evidence of changes of the data entered into register;
- 10) information on summoning the general assembly meetings and minutes from the sessions;
- 11) other information, reports and data defined by the law.

The insurance company must report to the National Bank of Serbia quarterly on the following items:

- 1) capital structure with changes of shareholders;
- 2) coinsurance and reinsurance of the excess of risk over maximum self-retention with the opinion of the certified actuary;
- 3) amount and structure of the collected premiums, by classes of insurance;
- 4) number and amount of reported and settled claims and court claims with the opinion of the certified actuary;
- 5) technical reserves, depositing and investing of technical reserves assets with the opinion of the certified actuary;
- 6) condition and changes on other property;
- 7) company liquidity with the opinion of the certified actuary;
- 8) guarantee reserve, depositing and investing of the guarantee reserve with the opinion of the certified actuary;
- 9) solvency margin with the opinion of the certified actuary;
- 10) internal audit report with the evaluation of the supervisory board;
- 11) other prescribed information;
- 12) statistical data.

54. What are the rules relating to requests of the supervisory authority for additional information?

The National Bank of Serbia is entitled to request from an insurance company additional reports, information and data important for supervision. The contents of reports and data, as well the method of their submission are established by the National Bank of Serbia (as explained in answer to Q33 a) hereof).

55. What are the rules governing on-site inspections / on the spot inspections?

The method and procedure of conducting on-site supervision are prescribed by the Insurance Law and internal procedures.

According to the Insurance Law, the authorised person – insurance inspector has the right, as ordered by the Governor of the National Bank of Serbia or a person

authorised by him, to perform on-site supervision of an insurance company or another entity subject to supervision. Rights of the authorised person – insurance inspector in the procedure of on-site supervision are specified in answer to Q33 b) hereof.

While performing on-site supervision, the insurance inspector must draft a report of completed examination process and submit this report to the entity subject to supervision. The entity subject to supervision has the right to submit comments on the findings of inspection and/or report. The insurance inspector is obliged to examine objections to the report and to make an official note. Thereafter, if conditions have been met, measures are pronounced as specified in answer to Q33 d) and e) hereof.

The Insurance Law also prescribes the conditions that the person to be nominated for an insurance inspector has to meet.

Compulsory insurance

56. Which insurances are compulsory (i.e. medical, hunting, architect, building, aircraft, lawyer's liability insurance)?

Regulations envision compulsory conclusion of insurance contracts in different fields (an overview was given with status as on December 9th 2010.) – Annex No 2.

Annex 2: Overview of the regulations

57. What are the specific legal provisions relating to compulsory insurance to be fulfilled by an insurance company?

The Law on Compulsory Traffic Insurance prescribes the following obligations for insurance companies engaging in compulsory traffic insurance:

- They shall enter into compulsory insurance contracts under the insurance terms and at premium rates applicable at the time such insurance contracts were concluded;
- They cannot refuse an offer to conclude a compulsory insurance contract if the applicant accepts the conditions and the premium tariff of the insurance company for that type of insurance valid at the time of the offer for conclusion of the insurance contract ;
- They shall compile, process, and store data on the insured, insured means of transportation, accidents and settlement of damages on the basis of compulsory insurance;
- They shall decide on the claim for compensation of damages in line with the prescribed provisions and deadlines for deciding on the claim;
- They shall calculate the premium for each compulsory insurance premium system tariff group on the basis of relevant data for each tariff group; it shall also include the

bonus-malus system in its premium system and/or tariff and apply it when concluding the motor third party liability insurance contract;

- They shall in their financial statements provide a comparative overview of revenues and expenditures, and establish and express profit and/or surplus and loss and/or deficit for performance of motor third party liability insurance activities;
- A company performing motor third party liability insurance in the territory of the Republic of Serbia shall appoint authorized representatives in all other EU member states (as of the day of Serbia's accession to the EU);
- They shall regularly submit to the Association of Serbian Insurers – Information Centre the data important for payment of damage claims;
- They shall, for the purpose of the loss event register set up within the Association of Serbian Insurers, submit data on loss events on the basis of concluded motor third party liability contracts for individual vehicle and insured and/or claims;
- They shall issue a confirmation on presented claims to the insured on the basis of his/her motor third party liability insurance;
- They shall be members of the Association of Serbian Insurers which performs the activities of a national insurance bureau;
- They shall pay contributions by allocation from the compulsory insurance premium, for the purpose of covering liabilities and costs of the Guarantee Fund operations;
- They shall implement common insurance terms, premium system with unique insurance premium basis for these operations and minimum tariff, which contain the bonus-malus system. Upon Republic of Serbia's accession to the EU, an insurance company shall submit to the National Bank of Serbia compulsory insurance terms, the tariff and premium system with insurance premium technical bases, not later than 90 days prior to implementation, solely for the purpose of verification of their compliance with regulations, actuarial principles and insurance profession rules.

Motor insurance

58. Is motor insurance compulsory in your country?

Pursuant to the Law on Compulsory Traffic Insurance, the insurance of owners of motor vehicles against liability for damage caused to third parties is obligatory.

Owners of motor vehicles are required to conclude contracts providing insurance against liability for damage caused to third parties by using motor vehicles resulting from death, injury, affected health, destroyed or damaged goods, excluding the damage caused to any goods taken to be transported.

Provisions of the Law on Compulsory Traffic Insurance relating to motor third party liability insurance are harmonized with the Directive 2009/103/EC – codified

Directive on motor third party liability insurance, albeit the application of some provisions is postponed until Serbia's accession to the EU, given their conditionality on EU membership and economic capacity of citizens and insurance companies in RS. Provisions that are aligned with EU regulations shall fully apply as of Serbia's accession to the EU. Transitional provisions of the Law envisage solutions to be applied in the transition period.

The most important novelties in this Law regarding motor third party liability insurance are: liberalization of terms, tariffs and the premium system, increase of the sum insured, stipulation of obligations of a motor vehicle driver and deadlines for payment of damages, definition of the third party and the loss of the rights arising from insurance, establishment of the Information Centre and the Loss Event Register within the Association of Serbian Insurers, and of the Guarantee Fund with the status of a legal entity.

According to special sections of the Law, applicability of the following is conditional on Serbia's EU membership: authorized representative for deciding on the claim, the Claims Compensation Bureau and performance of motor third party liability insurance by persons from the EU and/or foreign state.

59. What are the damages covered (esp. both damages to things and injuries to persons)? Are there exclusions in the persons covered?

Motor third party liability insurance covers injuries to persons (death, bodily injuries, health impairment) and damages to property (destruction or damage, apart from damages on property received for transport) inflicted on third parties by using a motor vehicle.

The third party in the Law on Compulsory Traffic Insurance is negatively defined – it is defined which persons are not considered as third parties. All other persons, apart from the said ones, have the right to indemnify damages arising from motor third party liability insurance from an insurance company.

The following persons are not entitled to claim damages under this Law: owner of the motor vehicle whose usage caused him damage, for damaged property; a driver of the motor vehicle whose usage caused him damage; a person entering into the vehicle at their own free will whereby the use of this vehicle caused damage to the person, such person being aware that the vehicle was illegally seized; person affected by damage caused by motor vehicle used during officially approved automobile and carting competitions and parts of such competitions on closed race tracks, aimed at developing maximum speed, as well as during the tests (trainings) for such competitions; due to the impact of nuclear energy during transport of nuclear material and due to military operations, military manoeuvres, riots or acts of terrorism, provided there is a cause-and-effect relationship between such actions and the damage incurred.

60. Is there a maximum amount of coverage specified in the law? If yes, what is the level of this coverage?

On proposal of the National Bank of Serbia, the RS Government establishes the level of the lowest insurance sum in respect of which motor third party liability insurance can be contracted, whereas the Law on Compulsory Traffic Insurance establishes the level below which the insurance sum cannot be established, specially in case of injuries to persons and damage to property.

Law on Compulsory Traffic Insurance stipulates that the lowest amount of the sum insured for which motor third party liability insurance can be contracted can not be lower than 1 million euros - for damage to persons, caused by single event of damage, regardless of the number of damaged persons and 200,000 Euro – for damage to property, caused by single event of damage, regardless of the number of damaged persons. This provision of the Act applies from October 11th 2012.

In the event there are several damaged parties and the total indemnification is higher than the amount of the lowest insurance sum, the rights of damaged parties to the insurance company are commensurately decreased, up to the amount of this sum.

An insurance company's obligation in respect of compulsory insurance is limited by the insurance sum valid on the day of loss event, unless a higher sum is contracted by the insurance contract.

The insurance sum is the maximum amount payable by the insurance company against a single event of damage.

At this moment, in force is Article 86 of the Law on Property and Personal Insurance (FRY Official Gazette, Nos. 30/96, 57/98 - corrigendum, 53/99 and 55/99 – corrigendum, and RS Official Gazette, No. 55/2004 – other Law, 70/2004 – corrigendum of other laws and 51/2009 – other Law), which stipulates that the minimum insured amount that motor third party liability insurance can be contracted to for buses and trucks is 200,000 U.S. dollars, and for other motor vehicles - 100,000 U.S. dollars, equivalent in CSD at the exchange rate of the day the insurance contract was concluded. In cases where there is more than one claimant, and the total compensation of damages is more that double of the mentioned amount, the rights to which the claimants are entitled against the insurance company shall be reduced proportionally.

Third Country Branches or Agencies

61. What are the principles and conditions for authorisation of an undertaking whose head office is outside the country?

Pursuant to the Insurance Law, insurance activities may be performed by an insurance company headquartered in the territory of the Republic and/or a branch of a foreign insurance company licensed by the National Bank of Serbia (after 5 years from RS's accession to the World Trade Organization).

The procedure for approval of the operational license to insurance companies is explained in detail in answer to Q. 39 a) of this Questionnaire.

The principles and conditions for issuance of a license to a branch are not regulated in more detail by the Insurance Law.

Other

62. Are there any insurance classes (e.g. credit insurance) for which a specialisation requirement exists to the exclusion of other classes, meaning that an insurance company offering that class of insurance can only operate in this area to the exclusion of the others?

Pursuant to Article 14 of the Insurance Law, an insurance company cannot engage in life and non-life insurance simultaneously, except in case of a life insurance supplementary clause.

The Insurance Law stipulates that an insurance company engaged in life insurance may exceptionally carry out activities of insurance from connected damage and voluntary health insurance covering the costs of medical treatment, provided they already cover the individuals who have concluded life insurance contracts. Furthermore, an insurance company engaged in motor third party liability insurance may exceptionally carry out activities of driver and passenger insurance against consequences of an accident provided this insurance pertains to the driver and persons in an insured vehicle (Article 25 of the Insurance Law).

The Insurance Law does not prescribe an insurance company's obligation to perform activities of only one class of insurance (within the group of life or non-life insurance activities).

63. What are the rules on portfolio transfer (e.g. authorisation, publication, rights of policy holders)?

Upon obtaining the approval of the National Bank of Serbia, an insurance company may transfer the entire or a portion of the insurance portfolio to one or more insurance companies.

When the National Bank of Serbia determines illegalities and irregularities in the activities of an insurance company that might jeopardize or have already jeopardized its ability to meet the obligations arising from insurance activities, the National Bank of Serbia may order the company to transfer its insurance portfolio to another insurance company.

Insurance portfolio transfer is performed in accordance with provisions of Articles 209 to 213 of the Insurance Law, prescribing that the National Bank of Serbia makes the assessment of capacity of the insurance company taking over the portfolio to meet

obligations arising from an insurance contract, and/or the impact on liquidity and solvency of the company transferring the portfolio, based on the following documentation: a contract on the transfer of insurance portfolio which must contain the established type and amount of technical reserves which are, together with the portfolio, assigned to the insurance company which takes over the portfolio, as well as the deadline for the transfer of the portfolio; a list of insurance contracts by class of insurance that are subject to transfer, with general conditions for the particular insurance; explanation of reasons for the transfer of the insurance portfolio and statement of the expected effects of the transfer of the portfolio; amendments to the business plan of the insurance company taking over the insurance portfolio which is necessary for the transfer of the portfolio; report on financial operation of the company transferring the insurance portfolio and of the company taking over the portfolio, together with the opinion of a certified actuary and the opinion of the certified actuary on the transfer of the insurance portfolio.

The National Bank of Serbia shall decide on the application for portfolio transfer by a resolution published in the Official Gazette and submit it to the company transferring the portfolio, with the company being obliged to inform the contracting parties whose insurance contracts are included in the insurance portfolio transfer (directly in writing or via the media) within 15 days from the receipt of the resolution. The insured are entitled to agree or terminate the insurance contract within 30 days from the day of receipt of the notice.

In the event of termination of the insurance contract, non-life insured are entitled to a part of the premium corresponding to the remaining period of insurance, whereas life insured are entitled to an amount of mathematical reserves calculated on the day of insurance portfolio transfer, provided life insurance funds suffice to cover this amount, or to an amount that is decreased proportionately to a decrease in life insurance funds.

64. What are the rules concerning the winding up of an insurer (e.g. notification, approval, publication, rank of insurance claims, rank of creditors)?

The Law on Bankruptcy and Liquidation of Banks and Insurance Companies regulates bankruptcy and liquidation of insurance companies.

BANKRUPTCY PROCEEDINGS

Bankruptcy proceedings may be undertaken over an insurance company, whose license to conduct insurance operations has been revoked by the National Bank of Serbia according to the Insurance Act. Bankruptcy proceedings may also be undertaken upon the request of a liquidation administrator, determining that liquidation debtors' assets are not sufficient to settle all creditors' claims.

On the basis of the decision to revoke a license to conduct insurance business, the National Bank of Serbia shall immediately render a decision on meeting the

requirements for instituting bankruptcy proceedings. An administrative court procedure can be initiated against the decision of the National Bank of Serbia on meeting the requirements for instituting bankruptcy proceedings.

The decision on meeting the requirements for instituting bankruptcy proceedings shall be submitted to the insurance company, the Deposit Insurance Agency and the competent court, which shall at the latest the next working day from receipt of the decision issue a decision on initiating bankruptcy proceedings against the insurance company (bankruptcy debtor).

Bankruptcy proceedings must have a bankruptcy judge, bankruptcy administrator and board of creditors.

Legal consequences of instituting bankruptcy proceedings are set from the day of placing of the announcement on the insolvency proceedings initiation on the notice board of the competent court.

One of legal consequences of institution of bankruptcy proceedings is the transfer of the insurance portfolio of the insurance company in bankruptcy. Within 20 days from the date of instituting bankruptcy proceedings, the Agency shall announce, by means of a public tender, the transfer of complete or partial insurance portfolio, in accordance with available financial resources of a bankruptcy debtor and pay-off lines. In addition to the transfer of insurance portfolio to an insurance company taking over the insurance portfolio, appropriate financial resources shall be transferred as well. The National Bank of Serbia shall issue an approval for the selection of the best bidder - the portfolio acquirer. Insurance portfolio transfer shall be executed by a contract concluded between the bankruptcy debtor and insurance company – portfolio acquirer. The Agency shall notify insurance clients and other beneficiaries about the conclusion of the contract via the announcement in the media.

Another legal consequence of institution of bankruptcy proceedings is that the Agency and creditors shall have the right to refute legal affairs and legal actions, by which bankruptcy debtor conducted operations with creditor, while selling of the bankruptcy debtor, as a legal entity, is not allowed.

Agency shall perform an inventory of bankruptcy debtors' assets and make opening bankruptcy balance sheet, within 60 days from the date of enactment of bankruptcy proceedings and it shall also determine the validity and volume of reported creditors' claims, within six months from the date of expiration envisaged for registration thereof.

For the purpose of payment of expenses, before the main distribution, a bankruptcy debtor, as a claim against the bankruptcy estate, shall pay: unpaid net wages of employees, amounting to the minimum wages for the last year, prior to the opening of the bankruptcy proceedings; unpaid contributions for pension and disability insurance of employees for the last two years prior to the opening of bankruptcy proceedings; monthly wages of persons employed with the bankruptcy debtor; costs burdening the assets of a bankruptcy debtor and costs of converting this property into cash; bankruptcy proceedings costs; other expenses and obligations emerging after instituting bankruptcy proceedings.

Claims of creditors of an insurance company in bankruptcy shall be determined at the examination hearing and paid out according to the following priority lines (pay-out lines): claims of creditors on the basis of the contract on life insurance and reinsurance, amounting to the level of obligations declared in funds of mathematical reserves, in conformity with the Insurance Law; claims of creditors on the basis of the contract on insurance against consequences of accidents; claims of creditors on the basis of the contract on insurance of all other types of insurance; claims of creditors on the basis of the contract on re-insurance of all other types of insurance; claims on the basis of public revenues due in the last three months prior to instituting bankruptcy proceedings, except for contributions for pension and disability insurance; claims of other creditors; claims of shareholders of insurance companies i.e. members (insurance clients) of mutual insurance companies.

LIQUIDATION PROCEEDINGS

The process of liquidation shall be carried out over an insurance company whose license to conduct insurance operations has been revoked by the National Bank of Serbia in accordance with the Insurance Act, the decision on liquidation of the insurance company has been passed - as the conditions for initiating bankruptcy proceedings have not been fulfilled, and the court of competent jurisdiction, on the proposal of the National Bank of Serbia, has made the decision to initiate liquidation proceedings against the company.

National Bank of Serbia, based on the decision to revoke a license to conduct insurance operations, if the conditions for initiating bankruptcy proceedings have not been fulfilled, immediately issues a decision on the liquidation of the insurance company and submits a proposal to the competent court to initiate liquidation proceedings against the insurance company.

Liquidation proceedings must have the liquidation committee and the liquidation trustee.

If the Deposit Insurance Agency in the process of liquidation of the insurance company determines that the conditions for initiating bankruptcy proceedings are met, it shall immediately submit a proposal to the National Bank of Serbia to render a decision on fulfilling the conditions for initiating bankruptcy proceedings against the insurance company in liquidation.

Voluntary liquidation proceedings shall be conducted, with approval of the National Bank of Serbia, over an insurance company, whose assembly has rendered a decision on dissolution of such entity. Director of an insurance company, whose assembly has rendered a decision on dissolution of such entity, shall apply for approval to conduct the voluntary liquidation to the National Bank of Serbia, latest the next working day from the date of rendering that decision. Along with the request, the director is required to submit evidence that the insurance company possesses the assets in the amount sufficient to pay off the claims of all creditors, and other documentation.

National Bank of Serbia shall decide on such request within 60 days of receipt of the request.

If the National Bank of Serbia gives approval to conduct the voluntary liquidation of the insurance company, the process is conducted in accordance with the Law on Business Companies. Legal consequences of the liquidation process start from the day of delivery of the decision of the National Bank of Serbia to the insurance company.

If the National Bank of Serbia rejects the above request, it will initiate the proceedings of compulsory liquidation or bankruptcy of an insurance company in accordance with the law.

National Bank of Serbia shall supervise directly and indirectly the process of voluntary liquidation of an insurance company. If in the course of supervision, the National Bank of Serbia finds the rights of creditors to be violated, it shall render a decision on forced liquidation of the insurance company.

In case of liquidation of a mutual insurance company, the assets of such company shall be utilized for reimbursement of deposits to the founders and distribution among the members (insurance clients), in proportion equal to the amount of their contributions paid in the last three years.

For the purpose of settling the liabilities in respect of incurred and unregistered claims and claims arising from a compulsory insurance dispute, the funds for the payment of such claims are provided and provisioned for in the final liquidation balance of an insurance company. Also, for the purpose of settling the liabilities in respect of incurred and unregistered claims and claims arising from disputes related to other grounds of insurance, the funds for the payment of such claims are provided and provisioned for in the final liquidation balance of an insurance company, in line with rules on the criteria and method of calculating outstanding claims.

If, upon completion of the liquidation proceedings, certain funds are left over, such funds shall be distributed to the shareholders of the liquidation debtor in accordance with the shareholding rights and in amount proportional to the participation in shareholding capital of the liquidation debtor. Claims of creditors that are not registered till the day of the division the liquidation estate, except claims for payment of liabilities mentioned in the preceding paragraph of this answer, will be settled, upon completion of the liquidation procedure, by the person to whose benefit the rest of the liquidation estate after the main division has been paid to, and only up to the value of taken over assets.

65. What is the set-up of the supervision of insurance groups and financial conglomerates (e.g. different capital adequacy rules, solvency requirements, intra-group transactions)? Is there an additional supervision of these entities?

Supervision of insurance groups and financial conglomerates is not regulated by the Insurance Law.

The existing legal provisions enable the National Bank of Serbia to perform necessary checks, during inspection of insurance companies, of persons related to the company, i.e. persons belonging to the same group and/or financial conglomerate.

For the purpose of supervision, data can be requested from other supervision authorities relating to the ownership structure and business relatedness. Cooperation with other supervision authorities is regulated by memoranda on cooperation.

66. What steps have already been and are expected to be undertaken to (i) supervisory methodology, (ii) organisation or (iii) staff in anticipation of the coming into force of Solvency II?

Due to underdevelopment of the insurance sector (in comparison with the EU member states), the main focus at this moment is on the second pillar of Solvency II, i.e. providing quality insurance management, human resources management and the necessity of intensive development of internal control system. Therefore, the Decision on Internal Controls System and Risk Management in Insurance Companies was enacted by the NBS and it determined the obligation for insurance undertakings to prescribe the system of risk management with its enactments (insurance risk, market risk, operational risk, asset liability management risk, legal risk, etc.) and to organize and implement such a system. Also, there is an obligation imposed to management of an insurance undertaking to make an annual report on functioning of the internal control system with an overview of implemented and planned activities. Plan of the Insurance Supervision Department (ISD) is to encourage the development of this reporting in insurance undertakings.

Within the ISD a team has been formed, for now informally, which consists of personnel of different profiles (economists, an actuary and a lawyer) who, in addition to their regular jobs, monitor the preparation of EU member states for the introduction of Solvency II. The structure of this team depends upon variety of activities and risks (insurance risk, economic and other risks) that need to be quantified in order to meet the capital requirements. Available personnel, given the limited capacity, regularly monitor information published by CEIPOS and participate in seminars covering Solvency II issues.

In July 2008 the employees of ISD attended a presentation covering the contents of the proposal of the Solvency II Directive at the time. In the beginning of 2010, the final text of the Directive, which was published on 25th November 2009 in the Official Journal of the European Union, was translated into Serbian language. Expert editing of the translation of this Directive is in progress at the moment in ISD. Also, during 2010 preliminary screening of this Directive was carried out, in order to perform the conformity assessment of the national legislation with the mentioned Directive.

National Programme for Integration of Serbia with the EU (NPI) will provide in more detail the timetable of harmonization with the Solvency II Directive. According to the performed screening of this Directive, issues related to Solvency I shall be harmonised first.

Further development of the implementation of the Solvency II model requires additional staff capacity, professional development and potentially technical support in order to prepare a framework for the implementation of Solvency II until the accession of the Republic of Serbia in the EU.

III FINANCIAL MARKET INFRASTRUCTURE

67. To which extent is the financial market infrastructure aligned to the directive on financial collateral arrangement?

The present Law on the Market of Securities and Other Financial Instruments (Official Gazette of RS No. 47/06) is not aligned to the Directive on Financial Collateral Arrangement. The issue of financial collateral is regulated in this law by the provision stating that the third party rights arising from securities shall be acquired and transferred by subscription of such rights and their beneficiaries into the securities account of lawful holders that are kept with the Central Securities Depository and Clearing House (Central Registry). Operating Rules of the Central Registry prescribe in more detail the financial collateral issue, i.e. the lien on securities that originates by subscribing such right in the proprietary account of a securities holder kept with a Central Registry member, in the manner that the securities on which the lien is subscribed are maintained in a separate sub-account of the securities proprietary account – a lien account.

68. Please, provide details about existing mechanisms to reduce the systemic risk linked to the insolvency of a participant in payment and securities settlement system and to which extent are they in line with the directive on settlement.

The Law on the Market of Securities and Other Financial Instruments is not aligned to the Directive 97/9/EC of the European Parliament and of the Council of 3 March 1997 on investor-compensation schemes. The new Draft Law on Capital Market which is being prepared will be partially harmonized with the said Directive.

However, the Law on the Market of Securities and Other Financial Instruments does envisage the mechanisms for reducing the systemic risk linked to the insolvency of a participant in the securities trade.

In that respect, the Law provides that the capital of a broker-dealer company must always correspond to the amount of capital necessary to cover possible losses that might occur due to risks which the broker – dealer company is exposed to in its activities resulting from the kind of activity and the value of transactions it performs. The Securities Commission also prescribes the methodology for risk measurement and calculation of the required capital.

The risk exposure of a broker-dealer company to one person or several mutually related persons shall be a sum of all the receivables and contingent receivables from such a person or persons, the value of investment into securities of such person, and the value of equity share of the broker-dealer company in such person. Risk exposure of a broker –

dealer company to one person or several mutually related persons must not exceed 25% of capital of the broker-dealer company. Notwithstanding the above, risk exposure of a broker-dealer company to a person related to such broker-dealer company as direct or indirect parent company, or to which the broker-dealer company is direct or indirect parent company, or to the person having the same parent company as the broker-dealer company, shall not exceed 20% of capital of the broker-dealer company.

Considerable risk exposure of a broker-dealer company is the exposure of the broker-dealer company to one person or several mutually related persons that exceeds the amount of 10% of capital of the broker-dealer company. The amount of all considerable exposures of a broker - dealer company must not exceed 800% of its capital.

A broker-dealer company may create common risks reserves with the purpose to cover possible losses that might arise due to the risk associated with its entire business operations. Should the broker-dealer company create reserves for common risks referred to in paragraph 1 of the present Article, in its income statement it must separately present revenues and expenses related to the increase or decrease of such reserves.

A broker-dealer company shall create special reserves given the special risks associated with certain activities or kinds of activities it performs. The reserves created by a broker-dealer company given the special risk associated with the collection of receivables resulting from the guarantee for clients' receivables in case of bankruptcy of another broker-dealer company are also considered special reserves. The minimum amount of the special reserves and manner of their calculation is prescribed by the Securities Commission.

With the aim to provide protection against liquidity risk, a broker-dealer company shall formulate and implement a proper liquidity management policy that includes:

- 1) Planning of expected cash inflows and outflows;
- 2) Regular monitoring of liquidity;
- 3) Undertaking appropriate measures for the prevention and/or elimination of causes of illiquidity.

A broker-dealer company shall calculate the liquidity ratio on a daily basis.

The Securities Commission prescribes the manner of calculating the liquidity ratio and the minimum liquidity level that a broker-dealer company must provide.

A broker-dealer company shall immediately notify the Securities Commission of the failure to meet a due liability.

According to the balance as of the last day of the month, a broker-dealer company shall calculate and prescribe:

- 1) Capital amount;
- 2) Capital amount required to perform certain activities;
- 3) Capital adequacy;
- 4) Risk exposure.

A broker-dealer company shall furnish the Securities Commission with monthly reports providing information on the capital, risk exposure and liquidity. The Securities Commission prescribes the contents of the notification and the report, as well as the time limits and manner of reporting.

With respect to ensuring the conditions for unhindered client transactions, it is stipulated that the broker-dealer company shall refuse: to receive a buy order when it concludes that the resources in the client's cash account are not sufficient to settle the client's liabilities that would arise upon the execution of the securities buy order, as well as to receive a sell order when it concludes that in the client's securities account there are not enough securities which are the subject of the order.

The broker-dealer company may use funds from the clients' cash account only to settle the liabilities incurred on the basis of the clients' orders. Funds in the clients' cash account are not the property of the broker-dealer company and are not included in the assets of the broker-dealer company, nor can they be included into the liquidation or bankrupt's estate, or be used for the payment of liabilities of the broker-dealer company to third parties. A broker-dealer company shall see to it that there are sufficient funds on the clients' cash account on the settlement day.

By concluding a contract on opening and maintaining a securities account a broker-dealer company undertakes to open a securities account with the Central Registry on behalf of the client (hereinafter: proprietary account), and it shall, on behalf and for the account of the client, keep record of the balance of securities and execute orders for the transfer of rights attached to the securities as well as orders for the subscription of third party rights to the securities, while the client undertakes to pay the commission for these activities. A broker-dealer company can use the securities on the proprietary account only as instructed in the client's order. Securities held on the proprietary account of a broker-dealer company client are not the property of the broker-dealer company and are not included in the assets of the broker-dealer company, nor can they be included into the liquidation or bankrupt's estate, or be used for payment of liabilities of the broker-dealer company to third parties. A broker-dealer company shall see to it that there are enough securities on the client's proprietary account on the settlement day.

Central Registry Depository and Clearing House performs the clearing and settlement of the liabilities and claims with securities and money arising from the contracted deals in securities and determines the balance of obligations and claims of the Central Registry members and their clients after the settlement of mutual obligations and claims within the timeframe laid down in the Central Registry Operating Rules.

The Central Registry Operating Rules contain the provisions pertaining to the manner of risk elimination as well as setting up and utilizing the guarantee fund. This implies the following:

On the settlement day, the Central Registry members, participants in the concluded transactions in securities, shall provide securities and money in order for the Central Registry to be able to settle the securities and money following the DVP principle, in accordance with the Rulebook on the Central Registry Term Schedule.

All Central Registry members, save for the Republic of Serbia and the National Bank of Serbia, pay funds into the Central Registry Guarantee Fund in order to ensure the funds required to meet the obligations should the Central Registry member fail to timely ensure the securities or money for the concluded transactions in securities. The amount of funds to be paid into the Central Registry Guarantee Fund is EUR 40,000 and they are paid into the Central Registry account with the National Bank of Serbia, according to Central Registry payment instructions as set forth in Central Registry User's Instruction.

Apart from the resources paid in the Guarantee Fund, a Central Registry member gives bills of exchange as collateral for the timely settlement of the securities and money for the concluded transactions in securities.

In case a Central Registry member does not have enough securities or money in its account on the settlement day, the Central Registry shall draw on the Guarantee Fund in accordance with the Rulebook on the Central Registry Term Schedule.

If resources from the Guarantee Fund account are utilized, the Central Registry calculates the fee for the utilization of such funds until the date when a Central Registry member pays/returns the utilized assets to the Guarantee Fund account with the Central Registry, in accordance with Central Registry Tariff Rates Rules.

Central Registry member shall reimburse the utilized assets as soon as possible, and not later than by the beginning of the next working day.

If the resources of the Guarantee Fund are not sufficient to cover the obligations of a Central Registry member, the Central Registry will activate the bills of exchange against the account of such member, equal to the amount of missing resources.

If by activating the Guarantee Fund resources and bills of exchange it is not possible to ensure funds required to settle a transaction, the Central Registry will cancel such disputable transaction with the consent of all participants in the transaction, and notify the Securities Commission and the market operator thereof.

IV. SECURITIES MARKETS AND INVESTMENT SERVICES

General questions

69. Is there an authority in charge of supervising regulated markets? If yes, please indicate name and address. Does the supervisory authority publish an annual report? Could it provide the Commission with a copy or a summary of the report? Is this authority also in charge of supervising collective investment undertakings? Please provide information on the number, importance and outcome of investigation carried out by the supervisory authority over the last five years. What are your plans for improving enforcement capacity of the supervisory authority over the next 5 years?

-Is there an authority in charge of supervising regulated markets? If yes, please indicate name and address.

There is a supervisory authority that supervises the implementation of the Law on the Market of Securities and Other Financial Instruments; it also performs the supervision of the regulated securities market, as well as the supervision of all licensed entities in the regulated securities market.

Name: Republic of Serbia Securities Commission

Address: 1 Omladinskih Brigada Street, New Belgrade

The authority in charge of supervising the voluntary pension funds management companies and the voluntary pension funds is the National Bank of Serbia (Department for the Supervision of the Voluntary Pension Fund Management Companies). Address: National Bank of Serbia, 17 Nemanjina Street, 11000 Belgrade. Internet address: www.nbs.rs.

-Does the supervisory authority publish an annual report? Could it provide the Commission with a copy or a summary of the report?

The Securities Commission submits the annual financial statement for the previous year, accompanied by the business report and the certified auditor's report, to the National Assembly for approval until 30 April of the current year, and also publishes the report on its website.

Not later than 30 November of the current year, the Securities Commission submits its financial plan for the following year to the National Assembly for approval.

The Securities Commission is not obligated to prepare the reports in English, but can deliver them to the Commission if the translation is provided.

The National Bank of Serbia (Department for the Supervision of the Voluntary Pension Fund Management Companies) publishes the supervision activities reports on its website, on the quarterly basis. In addition, every month the National Bank of Serbia publishes the Statistical Annex containing statistical data on the activities and results of the voluntary pension funds operations. These reports and annexes can be found on the National Bank of Serbia website: http://www.nbs.rs/export/internet/english/62/62_2/index.html.

-Is this authority also in charge of supervising collective investment undertakings?

The Securities Commission, as an independent and autonomous institution, supervises the operations of the broker-dealer companies, the stock exchange, over-the-counter market operator, management companies, investment funds, the Central Registry, authorised banks, custody banks, issuers of securities, investors, professional investors and other entities with respect to the activities they perform in the regulated market, and in conformity with the Law on the Market of Securities and Other Financial Instruments, the Law on Investment Funds The Law on Investment Funds ("RS Official Gazette", Nos. 46/2006 and 51/2009), the Law on Takeover of Shareholding Companies ("RS Official Gazette", Nos. 46/2006 and 107/2009) and regulations adopted on the basis of these laws.

-Please provide information on the number, importance and outcome of investigation carried out by the supervisory authority over the last five years.

From 2005 to November 2010, the Securities Commission performed the total of 13,638 inspections of market participants, including the control of monthly reports. If the monthly reports are excluded, the number of on-site and off-site inspections is 1,618. For the same period, 240 reports were filed for commercial offences and infringements.

Since the voluntary pension funds began to operate (four years ago), the National Bank of Serbia performed nine on-site inspections in seven management companies, while the off-site inspection is a continuing process. On the basis of the performed on-site and off-site inspections, the National Bank of Serbia imposed measures aimed at improvement of the risk management systems, internal audit function, IT system, internal procedures, internal controls system and financial institutions that can act as intermediaries. Measures based on the off-site inspections mostly pertained to the investments of the voluntary pension fund assets that were carried out contrary to the provisions of the Law on Voluntary Pension Funds and Pension Schemes (RS Official Gazette, No. 85/2005, adopted on 6 October 2005) and the Decision on Maximum Amounts of Voluntary Pension Fund Assets Investment and Terms and Conditions for Investing Such Assets Abroad (RS Official Gazette, Nos. 63/2007, 67/2007, 111/2009 and 34/2010, adopted on 6 July 2007, amended in 2007, 2009 and 2010, the last amendment adopted on 29 May 2010). The National Bank of Serbia instructed these management companies to sell such securities and reimburse the damage inflicted to the members of the fund. In addition, one management company invested its assets in securities, which is contrary to the provisions of the Law on Voluntary Pension Funds and Pension Schemes. All management companies undertook to remove the identified irregularities.

-What are your plans for improving enforcement capacity of the supervisory authority over the next 5 years?

In the following five-year period the plan is to adopt the new Law on the Capital Market that is supposed to extend the powers of the Securities Commission, which is why the increase in staff in the Supervision Department will be needed.

Proposal for a Law Amending the Law on Voluntary Pension Funds and Pension Schemes, which is currently under the Parliamentary procedure, shall grant the National Bank of Serbia the possibility to impose a fine on a management company, as well as on a member of management of the management company. The Proposal for a Law stipulates that the National Bank of Serbia shall set the deadline for the execution of the issued order, while the Law on Pension Funds and Pension Schemes that is now in force prescribes that the deadline for removing the identified irregularities shall not be longer than 60 days of receipt of the order. In addition, the Proposal for a Law specifies certain provisions regarding commercial offences, while some activities are qualified as infringements of the management company. Also, instead of commercial offences, the Proposal lays down infringements for custody banks.

70. Is there a central securities register? Please provide details.

There is the Central Registry Depository and Clearing House.

Under the Law on the Market of Securities and Other Financial Instruments, the Central Registry Depository and Clearing House is established as a closed joint stock company and performs its operations in conformity with the said Law.

The predominant activities of the Central Registry are clearing and settlement of liabilities and claims with securities and money arising from the contracted deals in securities.

In addition to the said activities, the Central Registry also:

- 1) Maintains the register of securities;
- 2) Maintains records of the securities in accounts of their respective issuers;
- 3) Maintains records of both securities accounts and other accounts of the Central Registry members and their clients in conformity with the said Law;
- 4) Performs the subscription of third parties' rights to securities;
- 5) Keeps materialized securities;
- 6) Maintains cash accounts of the Central Registry members;
- 7) Enters materialized securities into books in dematerialized form;
- 8) Performs the clearing and settlement of liabilities and claims with securities and money arising from the contracted deals in securities and establishes the balance of liabilities and claims of the Central Registry members and their clients after the settlement of mutual liabilities and claims within the timeframe laid down in the Central Registry's Operating Rules.
- 9) Performs the clearing and settlement of foreign securities traded in the Republic of Serbia;
- 10) Transfers the securities to the accounts of the Central Registry members and lawful holders of such securities;
- 11) Establishes and assigns the unique identification number of securities and other financial instruments;
- 12) Maintains the code list of securities and other financial instruments;
- 13) Performs activities in connection with corporate operations;
- 14) Calculates the tax payable on the transfer of absolute rights to securities in accordance with the law governing the property tax;
- 15) Cooperates with international organizations dealing with registration, clearing and settlement of securities and money arising from the deals in securities;
- 16) Performs other operations in connection with securities.

The monetary portion of the Central Registry's initial capital shall not be below EUR 50,000 in RSD equivalent calculated by the National Bank of Serbia middle exchange rate on the payment date.

The funds for the operation of the Central Registry are provided from the fees charged for the performance of activities, in line with the Registry's tariff rulebook of, and from other sources, in accordance with the law. The share of the state capital in the Central Registry shall not be below 51%.

Liabilities arising from the contracted deals in all securities, regardless of the dealing venue, are settled through the Central Registry in conformity with the Central Registry's Operating Rules. Members of the Central Registry settle their financial obligations arising from the contracted deals in such securities via their respective cash accounts kept with the Central Registry.

Bodies of the Central Registry are the Assembly and the Board of Management. The powers of the Central Registry Assembly are exercised by the Government through the authorized representatives owing to the fact that the Government is the owner of 100% of the Central Registry's shares. The general acts of the Central Registry are the Statute, the Operating Rules, the Tariff Rulebook, instructions and other general acts that generally govern the issues relevant for the Central Registry operation. The Securities Commission gives assent to the Statute, the Operating Rules and the Tariff Rulebook of the Central Registry.

Legal Framework

71. Please indicate the principal legislation adopted in this area and its implementation.

Law on the Market of Securities and Other Financial Instruments:

On the basis of this Law the following rulebooks are passed:

- a) Rulebook on the Contents and Form of Prospectuses and Other Documents Submitted for Issue of Securities (Official Gazette of RS, Nos. 100/06, 116/06, 71/08)
- b) Rulebook on the Contents and Form of Applications for Professional Investor Status for Certain Legal Entities (Official Gazette of RS, No. 28/07)
- c) Rulebook on the Form and Contents of the Proxy Statement (Official Gazette of RS, No. 100/06)
- d) Rulebook on Conditions for Conducting Market Operator Activities (Official Gazette of RS, Nos. 100/06, 116/06)
- e) Rulebook on Conditions for Conducting Broker-Dealer Activities (Official Gazette of RS, Nos. 100/06, 110/06, 116/06)
- f) Rulebook on Conditions for Conducting Custody Bank Activities (Official Gazette of RS, Nos. 100/06, 116/06)
- g) Rulebook on Obtaining the Title and License for Brokers, Investment Advisors and Portfolio Managers (Official Gazette of RS, Nos. 17/08, 42/08 corrigendum)
- h) Rulebook on Contents of Reports and Reporting Procedures for the Central Securities, Depository and Clearing House (Official Gazette of RS, Nos. 100/06, 110/06)
- i) Rulebook on Conditions and Manner of Carrying Out Supervision of Financial Market Participants (Official Gazette of RS, Nos. 100/06, 110/06)
- j) Rulebook on the Contents and Manner of Public Companies' Reporting and Notification on Possession of Voting Shares (Official Gazette of RS, Nos. 100/06, 116/06, 37/09)
- k) Rulebook on Sale of Securities Involving Privileged Information (Official

Gazette of RS, Nos. 100/06, 110/06)

- l) Rulebook on Disclosing Notification on Trading in Debt Securities in Over-The-Counter Market (Official Gazette of RS, Nos. 100/06, 116/06)
- m) Tariff Rulebook (Official Gazette of RS, Nos. 100/06, 110/06, 116/06, 17/08, 42/08 Corrigendum)

Law on Investment Funds

On the basis of this Law the following rulebooks are passed:

- n) Rulebook on Conditions for Conducting the Activities of Investment Fund Management Companies (Official Gazette of RS, Nos. 15/09, 76/09)
- o) Rulebook on Investment Funds (Official Gazette of RS, Nos. 15/09, 76/09)
- p) Rulebook on the Chart of Accounts and the Contents of Accounts in the Chart of Accounts for Investment Fund Management Companies (Official Gazette of RS, No. 08/09)
- q) Rulebook on Contents and Form of Financial Reports of Investment Fund Management Companies (Official Gazette of RS, No. 08/09)
- r) Rulebook on the Chart of Accounts and the Contents of Accounts in the Chart of Accounts for Investment Funds (Official Gazette of RS, No. 08/09)
- s) Rulebook on Contents and Form of Financial Reports for Investment Funds (Official Gazette of RS, No. 08/09)
- t) Rulebook on Contents of the External Auditor's Report (Official Gazette of RS, No. 08/09)

Law on Voluntary Pension Funds and Pension Schemes

By-laws passed on the basis of this Law are listed in the answer to the question no. 72 hereof.

Investment Firms

72. Please outline the legal framework adopted for the operation of investment companies, mutual funds, pension funds.

The Law on the Market of Securities and Other Financial Instruments adopted in 2006 lays down the establishment and operation of the broker-dealer companies and authorised banks whose business activities, organizational requirements, licenses for natural persons, contents of the operating rules, manner of appointing directors, principles of sound and prudent business operation, conflict of interest, and the manner of doing business with clients are regulated in this Law in compliance with the majority of norms set out in the Directive 2004/39/EC-MIFID.

Law on Investment Funds regulates the establishment and business operation of the management companies, as well as the establishment, organization and management of investment funds. Investment funds may be constituted as open-ended, closed-ended and private investment funds, and they are managed by a separate legal entity – a management company, on the basis of the work license issued by the Securities Commission, which implements the above Law, adopts by-laws and supervises the operation of the management companies and funds.

By-laws adopted by the Securities Commission on the basis of this Law are listed in the answer to the question no. 71.

The legal framework regulating the third pillar of the pension insurance (voluntary pension funds) consists of the Law on Voluntary Pension Funds and Pension Schemes - the English version of this law can be found on the National Bank of Serbia website: http://www.nbs.rs/export/internet/english/20/laws/law_pension_funds_200585.pdf. This Law was enacted in 2005 and its application began on 1 April 2006. It regulates the establishment and operation of the voluntary pension fund management companies and voluntary pension funds, reporting and supervision of their work, and other issues relevant for their functioning. On the basis of this Law, a set of by-laws was passed from 2006 to 2010. The list of these regulations can be found on the National Bank of Serbia website at: http://www.nbs.rs/export/internet/english/20/index_npf.html

73. Is the provision of investment services subject to authorisation in your country? Is there any exception (undertakings which do not provide services for third parties, investment services not carried out on a professional basis)? How are investment services defined? Which activities require previous authorisation to be carried on? Which institutions can provide investment services? Are credit institutions and/or insurance undertakings authorised to carry on any of these activities? Do they need specific authorisation? What conditions are new investment firms required to meet by national law before taking up their businesses (legal form, initial capital, good repute and sufficient experience for persons who direct the business, fit and proper test for shareholders)?

-Is the provision of investment services subject to authorisation in your country?

The license for providing broker-dealer services as specified in the Law on the Market of Securities and Other Financial Instruments is issued by the Securities Commission as the supervisory authority set out in the Law.

-Is there any exception (undertakings which do not provide services for third parties, investment services not carried out on a professional basis)?

There are exceptions with respect to the investment adviser activities when the license is not required in two cases specified in the Law on the Market of Securities and Other Financial Instruments:

- in relation to providing advisory services as part of the basic activity of a practicing lawyer, tax consultant, accountant or auditor - if the individual providing advisory services does not charge any additional fee but the fee for performing the basic activity; and
- within a basic activity of legal persons established according to the provisions of a separate law - if the provision of the advisory services in connection with deals in securities is specified in that Law as a basic activity.

-How are investment services defined?

Law on the Market of Securities and Other Financial Instruments adopted in 2006 does not specify investment services within the meaning of the Directive 2004/39/EC-

MIFID, but it stipulates that the broker-dealer companies, which have legal personality and are constituted as joint stock companies, perform the following activities in the regulated market in compliance with this Law:

- 1) Mediation in purchase and sale of securities and other financial instruments, and purchase and sale of such instruments on its own behalf, but for account of the issuer of the order, and/or on behalf and for the account of the issuer of the order (brokerage activities);
- 2) Purchase and sale of securities and other financial instruments on its own behalf and for its own account for the purpose of creating the difference in price (dealer activities);
- 3) Obligatory purchase and sale of securities and other financial instruments on its own behalf and for its own account at the price which the broker-dealer company announces in advance (market-maker activities);
- 4) Managing securities and other financial instruments on behalf and for the account of the issuer of the order (portfolio manager activities);
- 5) Organizing distribution of securities and other financial instruments without a firm commitment basis and/or organizing the admission of securities to the regulated market (agent activities);
- 6) Organizing issuance of securities and other financial instruments on a firm commitment basis (underwriter activities);
- 7) Provision of advisory services concerning the deals in securities and other financial instruments (investment adviser activities);

A broker-dealer company may not perform the investment adviser activities as the only business operation. The provisions regarding the operations broker-dealer companies also apply to the operations involving other financial instruments.

-Which activities require previous authorisation to be carried on?

The broker-dealer activities as well as the authorised bank activities cannot be performed without the relevant license issued by the Securities Commission.

-Which institutions can provide investment services?

Investment services within the meaning of the Law on the Market of Securities and Other Financial Instruments can be provided by the broker-dealer companies and authorised banks in accordance with the license received by the Securities Commission.

-Are credit institutions and/or insurance undertakings authorised to carry on any of these activities?

Credit institutions may perform broker-dealer activities only if they are granted the license by the Securities Commission to carry out these activities as authorised banks. An authorized bank may perform broker-dealer activities provided that it has a separate organizational unit for that purpose, that it keeps separate records and data on business operations of such organizational unit in its business books, and that it meets the staffing, organizational and technical requirements set out for the performance of these activities. An authorised bank shall enact rules of dealing with securities for the relevant organizational unit, subject to the Securities Commission approval.

A credit institution may perform the custody bank activities if it is granted the license by the Securities Commission to perform such activities. The Securities Commission keeps the registry of licenses issued for the performance of custody bank activities.

Insurance companies perform the activities laid down in the law regulating insurance.

-Do they need specific authorisation?

The performance of broker-dealer activities requires the abovementioned license of the Securities Commission, but no other authorisation is needed.

-What conditions are new investment firms required to meet by national law before taking up their businesses (legal form, initial capital, good repute and sufficient experience for persons who direct the business, fit and proper test for shareholders)?

When applying for the relevant license, broker-dealer companies, which are constituted as joint stock companies, must, in addition to the official application (submitted on the forms prescribed by the Commission), also submit the following (the same condition applies to authorized banks): articles of association, statute, rules of operation, tariff rulebook, rulebook on organization and classification of posts, data on founders, number, type and nominal amount of shares, as well as data on all persons to whom the founder is related, excerpts from the registers of founders that are legal persons, evidence that the competent regulatory authority of the country of origin has issued the approval to the foreign legal entity to participate in the foundation of a broker-dealer company in the Republic, founders' statement on the origin of assets which will be paid in as the initial capital, the names and information on qualifications and business experience of appointed directors (*inter alia*, three years of working experience performing securities- related activities, and the assessment according to the 'fit and proper' criteria), evidence of staffing, organizational and technical capacities, as well as other documents required by the Securities Commission.

The

Securities Commission passes the decision on issuing the license for conducting broker-dealer activities after having determined:

- That the above requirements are met;
- That the conditions specified in this Law are met;
- That the prescribed documentation is submitted;
- That the qualified shareholders are fit and proper.

The Securities Commission rejects the application for granting the license for conducting broker-dealer activities after having determined:

- 1) That the broker-dealer company does not meet the requirements for conducting broker-dealer activities set out in this Law;
- 2) That the founders do not meet the requirements specified in this Law;
- 3) That the directors and members of management board of the broker-dealer company no longer meet the conditions set out in the law;
- 4) That the origin of the initial capital is not clear and indisputable based on the evidence provided, and/or that it is not possible to verify the submitted data;

- 5) That the structure of the related parties is such that it prevents efficient supervision of the stock exchange operations;
- 6) That qualified shareholders do not meet the fit and proper criteria.

The initial capital requirement for the broker-dealer company is set at different amounts, depending on the type of operations to be conducted, and the minimum initial capital is as follows:

- 1) EUR 50,000 in dinar equivalent according to the official middle exchange rate of the National Bank of Serbia on the payment date, for the operations related to the brokerage and investment adviser activities;
- 2) EUR 100,000 in dinar equivalent according to the official middle exchange rate of the National Bank of Serbia on the payment date, for the operations related to the dealer and agent activities;
- 3) EUR 200,000 in dinar equivalent according to the official middle exchange rate of the National Bank of Serbia on the payment date for the operations related to the market maker and portfolio manager activities;
- 4) EUR 300,000 in dinar equivalent according to the official middle exchange rate of the National Bank of Serbia on the payment date, for the operation related to the underwriter activities.

The Securities Commission renders a decision on granting prior consent to the election and appointment of the general manager, president and members of the management board of the broker-dealer company, and in the case of authorized banks, it grants the prior consent to the appointment of the general manager.

A person may be elected director of a broker-dealer company and authorised bank if such person has not:

- 1) Been convicted by a final and enforceable judgment for criminal offences against labor relations, economy, property, administration of justice, money laundering, public order and legal transactions and the line of duty, for which the minimum prescribed punishment is one year of imprisonment, including other criminal offences specified by the Law;
- 2) Committed a serious violation of provisions of this Law regarding the rules of sound and prudent operation of a broker-dealer company, regarding the ban on usage and disclosure of privileged information and the ban on manipulative practice, jeopardizing the solvency and liquidity of the broker-dealer company and inflicting damage on the broker-dealer company clients.

A director of a broker-dealer company and members of management board cannot be the person who is a director:

- 1) Of another broker-dealer company or authorised bank;
- 2) Of an investment fund management company or voluntary pension fund management company;
- 3) Of the bank with which the broker-dealer company has concluded a contract on maintaining the securities account;
- 4) Of the entities related to the entities referred to under 1) and 2) above.

General manager or, in the business entities that under the law regulating companies do not have a general manager, president of the management board of the broker-dealer company, shall have the appropriate business repute and minimum three years

of work experience acquired in the securities-related field, in the country or abroad, having conducted activities:

- 1) In a broker-dealer company;
- 2) On the stock exchange of securities and/or financial derivatives;
- 3) In a bank;
- 4) In an investment fund management company or voluntary pension fund management company;
- 5) In an insurance company;
- 6) In the National Bank of Serbia, state authority, organization or legal person that performs securities-related activities for the account of the state as entrusted activities;
- 7) In the Securities Commission;
- 8) In the Central Registry;
- 9) Working as a scientific worker in the field of securities, industrial law, accounting and audit;
- 10) In a business company or other legal entity performing financial activities.

For the investment fund management companies, which are constituted as closed joint stock companies, the initial capital shall not be lower than EUR 200,000 in dinar equivalent on the payment date. In addition to the license application (made on the form prescribed by the Securities Commission) the applicant must also provide articles of association, rules of operation, tariff rulebook, rulebook on organization and classification of posts, documentation on founders, evidence that the initial capital is paid on the temporary bank account, evidence of the origin of the capital, evidence of staffing, organizational and technical capacities, application for acquiring qualified holding accompanied by the prescribed documentation for natural and legal person founders (fit&proper), application for granting assent to the appointed directors together with the prescribed documentation, as well as other documents required by the Commission.

When establishing an open-ended investment fund (which has no legal personality), the applicant provides the following: Draft prospectus and simplified prospectus, draft public invitation for subscription and payment of investment units, draft contract with the custody bank, documentation on the portfolio manager, decision on entering the management company in the register of business entities, and other documentation as required by the Securities Commission. The minimum resources required for starting the business operation of an open-ended investment fund shall not be below EUR 200,000 in dinar equivalent according to the official middle exchange rate of the National Bank of Serbia on the payment date.

When establishing a closed-ended investment fund (which is constituted as an open joint stock company), the applicant provides the following documentation in addition to the application (submitted on the form prescribed by the Commission): decision on entering the management company in the register of business entities, decision on establishment, documentation on the portfolio manager, decision on the issuance of founding shares, draft prospectus and simplified prospectus, draft public invitation for subscription and payment of investment units, invitation to the founding general meeting, draft articles of association, draft contract with the custody bank, and other documentation as required by the Securities Commission. The initial capital of the closed-ended fund shall not be below EUR 200,000 (two hundred thousand) in dinar

equivalent according to the official middle exchange rate of the National Bank of Serbia on the payment date.

74. Is the acquisition of holdings in investment firms subject to specific requirements?

Acquisition of holding in a broker-dealer company is subject to certain statutory limitations, i.e. the law lays down thresholds of qualified holdings (5%, 10%, 15%, 20%, 33%, 50%), which means that the natural or legal person intending to acquire shares of this company, prior to the intended acquisition, must address the Securities Commission which shall evaluate the financial position of the natural or legal person on the basis of the submitted documentation (financial statements for the previous three years accompanied by the auditor's report, the credit bureau report, Tax Administration certificate etc.) and assess if the person is fit and proper to acquire the holding in the broker-dealer company.

The investment fund management companies are similarly regulated, the threshold for acquiring qualified holding is set at the first 10%, which is why such and any subsequent acquisitions is subject to the prior consent of the Securities Commission that according to the submitted information evaluates whether the persons acquiring the qualified holding are fit and proper. By adopting a relevant by-law, the Securities Commission specifies the criteria for evaluating whether the persons acquiring qualified holding, or directors and the general manager of the management company, are fit and proper.

With respect to the voluntary pension funds, every acquisition of the management company's shares on the basis of which a person directly or indirectly acquires a qualified holding in the management company (share of capital or voting rights above 10%) is subject to the assent of the National Bank of Serbia.

The National Bank of Serbia gives assent after having evaluated: 1) that the origin of share capital is clear and indisputable; 2) based on obtained information, it can be concluded that the founders of the management company and all related parties have good business reputation, and that their financial position is such that it can be assumed not to have any adverse effect on the operations of the management company; 3) the structure of related parties is such that it shall not impede efficient supervision of operations; 4) the proposed business name of the management company is not misleading for future fund members and other persons in legal transactions. Prior consent of the National Bank of Serbia is also required in the case of the merger of two management companies.

In addition, a custody bank may not be a shareholder in the management company for whose pension fund it renders the custody services, due to the fact that a custody bank may not be a related person to the management company.

75. Are there prudential ratios (solvency, liquidity)? Are they applied on a consolidated basis?

Solvency of the investment fund management companies and investment funds is monitored through the analysis of their ability to maintain the capital requirement prescribed in the Law, which also implies the analysis of relevant solvency ratios, even though they are not legally prescribed. In view of the special nature of these financial institutions, the requirements related to liquidity (and consequently solvency, too) are indirectly prescribed in the Law, which means that these institutions are obligated to invest a portion of their capital in liquid assets (which is laid down in the Law and applicable by-laws).

Investment principles for the voluntary pension fund assets are laid down in the Law on Voluntary Pension Funds and Pension Schemes. The assets of the voluntary pension fund shall be invested with a view to increasing total return in favour of voluntary pension fund members, subject to the principles of fund assets security, portfolio diversification and appropriate liquidity maintenance. In light of the fact that the Serbian system of voluntary pension funds is based on the defined contributions, the solvency ratio is not laid down. Also, the regulations do not set forth the liquidity ratio in the quantitative, but in the qualitative form.

76. Please explain whether there is an investor compensation scheme and how it works to compensate investors in case an investment firm is not able to return back assets, and whether credit rating agencies are regulated in your jurisdiction.

For now, there is no investor compensation scheme in case a broker-dealer company is not able to return assets back to the investors.

There is no regulation governing rating agencies, either.

77. What is the current situation with regard to right of establishment and cross-border supplies of services in your country for EU investment firms? Which conditions apply?

Broker-dealer companies, authorized banks and investment fund management companies may be established by domestic or foreign natural and legal persons under the Law on the Market of Securities and Other Financial Instruments, the Law on Investment Funds and the Law on Business Companies (Official Gazette of RS, No. 125/2004, adopted on 22 November 2004). Said persons must be granted the work license, i.e. the license to perform certain activities by the Securities Commission and must be entered in the Companies Register, in compliance with the abovementioned laws. Accordingly, there is no possibility for an EU investment firm to directly provide services in the Republic of Serbia.

Voluntary pension fund management companies may be established by domestic and foreign natural and legal persons under the Law on Voluntary Pension Funds and Pension Schemes and the Law on Business Companies. Each voluntary pension fund management company must be granted the operating license and the fund management licence by the National Bank of Serbia and must be entered in the Companies Register, in compliance with the abovementioned laws. Therefore, there

is no possibility for an EU investment firm to directly manage a pension fund in the Republic of Serbia.

Collective Investment Undertakings

Please elaborate your responses to the following questions:

78. Are collective investment undertakings subject to authorisation requirements in your country? Which legal forms and structures of collective investment undertakings are provided? Are there rules governing the investment policy of a collective investment undertaking (eligible assets, investment limits)? Are there risk-management processes employed to monitor and measure the overall risk of a collective portfolio?

-Are collective investment undertakings subject to authorisation requirements in your country?

The investment funds, as collective investment undertakings, are required to obtain the license issued by the Securities Commission.

Pursuant to the provisions of the Law on Voluntary Pension Funds and Pension Schemes, voluntary pension fund management companies must be granted the operating license by the National Bank of Serbia.

-Which legal forms and structures of collective investment undertakings are provided?

The Law on Investment Funds was passed in 2006 and it governs the following:

- 1) Organization and management of open-ended investment funds;
- 2) Establishment and management of closed-ended investment funds;
- 3) Establishment and management of private investment funds;

An open-ended investment fund collects funds through the issuance and redemption of investment units on the basis of orders placed by the fund members. Open-ended investment fund has no legal personality.

Closed-ended fund is a legal person constituted as an open joint stock company. Closed-ended fund collects funds by selling shares through public offering.

Private investment fund is a legal person constituted as a limited liability company, under the law regulating companies.

Investment funds are managed by fund management companies.

The Law on Voluntary Pension Funds and Pension Schemes was adopted in 2005 and regulates the establishment and management of the voluntary pension funds.

The voluntary pension fund management company is exclusively established as a closed joint stock company. At the moment of establishment, the monetary portion of

the management company initial capital shall not be below EUR 1 million in dinar equivalent. A management company may organize and manage several voluntary pension funds (in which case the management company must be granted by the National Bank of Serbia one operating license and as many license to manage a fund as there are funds under its management).

The voluntary pension fund is a fund of special kind, and represents separate assets, without legal personality. The fund is managed by the fund management company but the fund's assets are owned by the fund members. Fund's assets are separated from the assets of the management company and they cannot be the subject of debt enforcement, pledge, mortgage, they cannot be included in liquidation or bankruptcy estate of the management company, custody bank or other persons, nor used in order to settle the obligations of a voluntary pension fund member and other persons to third parties.

-Are there rules governing the investment policy of a collective investment undertaking (eligible assets, investment limits)?

The Law on Investment Funds and the Law on Voluntary Pension Funds and Pension Schemes lay down the manner, amount and limitations for the investment of these funds' assets, while the Securities Commission and the National Bank of Serbia, as supervisory authorities, prescribe in more detail the conditions, manner and the amount of such investment by means of their by-laws.

By-laws adopted by the Securities Commission which we have referred to in the answer to the question no. 71 are primarily the Rulebook on Investment Funds and the Rulebook on the Conditions for Conducting Investment Fund Management Company Activities. These rulebooks lay down the categorization of investment funds in the following manner: open-ended investment funds are categorized into: growth funds, income funds, money-market funds and balance funds; while closed-ended funds are categorised into: closed-ended funds for investing in public companies, closed-ended funds for investing in non-public companies and closed-ended funds for investing in real estate.

This classification is made according to the investment goal the funds opt for and their investment policy, and according to what they usually invest their assets into.

The fund portfolio manager decides where the fund assets will be invested, complying with the fund's business policy and investment goal, as well as with the appropriate fund categorization. At the same time, the portfolio manager takes into consideration the investment limitations prescribed in the applicable laws and by-laws and implements risk management procedures for monitoring and assessing the overall risk of the collective portfolio.

Under the Law on Voluntary Pension Funds and Pension Schemes and the Decision on Maximum Amounts of Voluntary Pension Fund Assets Investment and Terms and Conditions for Investing Such Assets Abroad, the voluntary pension fund assets may be invested in certain financial instruments and real estate, subject to the following limitations:

- 1) Debt securities issued by the National Bank of Serbia and debt securities issued by the Republic of Serbia and other legal entities with the guarantee of the Republic of Serbia - up to 100% of the fund assets;
- 2) Debt securities issued by the territorial autonomy and local government units - up to 20% of the fund assets;
- 3) Debt securities issued by legal persons headquartered in the Republic of Serbia – 20%;
- 4) debt securities issued by foreign countries and international financial institutions, debt securities of the legal persons headquartered in the EU/OECD Member States, shares of the legal persons headquartered in the EU/OECD Member States, and certificates of deposit issued by the banks based in the EU/OECD Member States on the grounds of deposited securities - up to 10% of the fund assets;
- 5) Mortgage bonds issued in the Republic of Serbia– 30% of the fund assets;
- 6) Shares of legal persons headquartered in the Republic of Serbia traded in the regulated market in the Republic of Serbia – up to 40% of the fund assets (for the shares listed on the Belgrade Stock Exchange Prime Market - Listing A) plus 10% (not listed on the Prime Market- Listing A);
- 7) Cash deposits with banks - up to 5% of the fund assets;
- 8) Certificates of deposit issued by the banks headquartered in the Republic of Serbia– up to 20% of the fund assets;
- 9) Real estate located in the territory of the Republic of Serbia– up to 15% of the fund assets (maximum 5% of the assets may be invested in single real estate);
- 10) Securities of one issuer or in total in securities of two or more issuers which are related persons, except when the issuer is the Republic of Serbia or the National Bank of Serbia- up to 10% of the fund assets;
- 11) Securities issued by the entity organizing the pension scheme which joined the fund in question - up to 5% of the fund assets;
- 12) By investing the fund assets, one may not acquire more than 15% of ownership stake or voting shares of a single issuer.

The fund assets may not be invested in financial derivatives, nor securities issued by:

- 1) Management company;
- 2) Custody bank maintaining the fund's account;
- 3) Broker-dealer company nor the bank that performs securities brokerage activities for the fund;
- 4) Shareholder of the management company;
- 5) Person related with the all the above.

-Are there risk-management processes employed to monitor and measure the overall risk of a collective portfolio?

The Law on Investment Funds and the Rulebook on the Conditions for Conducting Investment Fund Management Company Activities passed by the Securities Commission govern the operations of the investment fund management companies, as well as their obligation to set up a system for managing all risks associated with their operation, particularly the market risk (which includes the interest rate risk, risk of change in the price of securities, risk of change in the price of real estate and foreign exchange risk) and the liquidity risk.

Under the Law on Voluntary Pension Funds and Pension Schemes and pursuant to the Decision on Risk Control Rules in Operations of the Voluntary Pension Fund Management Company and Voluntary Pension Fund, a voluntary pension fund management company must set up a system for managing all risks that arise from its operations, particularly market risk (which include the interest rate risk, risk of change in the price of securities, risk of change in the price of real estate, and foreign exchange risk) and the liquidity risk.

79. Are the assets of collective investment undertakings entrusted to a depositary? Which further obligations have to be fulfilled by the depositary? Is the depositary subject to prior approval? Which requirements apply for the depositary?

-Are the assets of collective investment undertakings entrusted to a depositary?

As provided in the Law on Investment Funds, custody bank is a bank that maintains investment fund account and provides other custody services for the account of the investment fund, and in terms of the investment fund assets, it only follows the orders of the fund management company, which are in compliance with the Law and the investment funds prospectus.

The assets of a voluntary pension fund must be kept at the account of the custody bank which collects the pension contributions, transfers the financial resources and disburses the accumulated resources to each fund member. A voluntary pension fund management company must conclude a separate custody services contract with a custody bank for each fund it manages.

-Which further obligations have to be fulfilled by the depositary?

Custody bank performs its activities if it is a member of the Central Registry and if it has a separate organizational unit with the technical and staffing capacity adequate to perform custody bank activities.

As laid down in the Law on Investment Funds, custody bank shall, inter alia, open and maintain collective custody accounts (accounts of securities constituting assets of an open-ended investment fund with the Central Registry, on its behalf and for the account of the open-ended investment fund members), open and administer accounts of securities constituting the assets of a closed-ended fund with the Central Registry, on behalf and for the account of the fund, open a cash account of the investment fund, collect investment units, transfer the resources in the process of investing assets and redeem investment units, execute orders given by the management company to purchase and sell the investment fund assets, control and verify the calculated net value of the open-ended and closed-ended investment fund assets, the investment unit value and net assets value per shares, control the calculation of the open-ended investment fund return, and perform other activities specified in the Law on Investment Funds and applicable by-laws.

As provided in the Law on Voluntary Pension Funds and Pension Schemes, custody bank shall open and maintain a collective custody account with the Central Registry

of Securities, open a cash account of the fund, collect pension contributions, transfer the resources constituting the fund assets into money deposits, perform disbursement of accumulated resources to every fund member, execute orders given by the management company to purchase and sell the assets if the orders do not contradict the law and prospectus, daily control and verify the net value of the fund assets and the investment unit value and report to the National Bank of Serbia thereon, control the return of the fund, notify the National Bank of Serbia about the irregularities identified in the operation of the management company and, on behalf of the fund, file with the National Bank of Serbia and other competent authorities charges against the management company for the damage inflicted on the fund.

-Is the depositary subject to prior approval?

Under the Law on the Market of Securities and Other Financial Instruments, custody bank is defined as a bank with the license granted by the Securities Commission to perform activities of maintaining the securities accounts on behalf of clients and acting upon clients' orders, and which performs other activities in compliance with this Law.

Custody services for a voluntary pension fund may be exclusively rendered by one custody bank, but one custody bank may perform activities for several voluntary pension funds. Custody bank cannot be a related entity to the management company. The National Bank of Serbia may prescribe maximum fees charged for the provision of custody services to a pension fund management company.

The National Bank of Serbia may propose the management company to change the custody bank if due to its operations the interests of the fund members are significantly threatened.

-Which requirements apply for the depositary?

For the purpose of receiving the license, the custody bank submits to the Securities Commission an application containing the following:

- 1) Bank statute;
- 2) Evidence that the bank is a member of the Central Registry;
- 3) Rules of operation of the custody bank;
- 4) Evidence that the bank has a separate unit for conducting custody bank activities;
- 5) Evidence that the bank meets staffing and organizational requirements for conducting custody bank activities;
- 6) Evidence that the bank meets technical requirements for conducting custody bank activities, i.e. that it has the appropriate information system for the performance of the said activities.

The Securities Commission gives prior consent for the appointment of the persons who will manage the custody bank operations. The staffing, organizational and technical requirements for conducting custody bank activities are laid down by the Securities Commission.

The assets of a voluntary pension fund must be kept on the account with the custody bank which collects the pension contributions, transfers the financial resources and

disburses the accumulated resources to each fund member. A voluntary pension fund management company shall conclude a separate custody services contract with a custody bank for each fund it manages.

80. Are companies providing collective investment management services (management companies, investment companies) subject to authorisation? What are the authorisation requirements? Which additional activities of a management company may also be authorised? Which operating conditions apply?

-Are companies providing collective investment management services (management companies, investment companies) subject to authorisation?

The Law on Investment Funds stipulates that the person intending to establish a management company must file with the Securities Commission the application for the appropriate work license. Both domestic and foreign natural and legal persons may establish a management company. One domestic or foreign natural or legal person and related entities cannot have a qualified holding in more than one management companies.

Yes, under the Law on Voluntary Pension Funds and Pension Schemes, voluntary pension fund management companies are subject to authorization and they must acquire the operating license from the National Bank of Serbia before commencing the operation.

-What are the authorisation requirements?

The Law on Investment Funds stipulates that the application for the management companies work license that is filed with the Securities Commission must be accompanied by:

- 1) Articles of association of the management company;
- 2) Evidence that the initial capital is paid into a temporary bank account;
- 3) Evidence of the origin of the initial capital;
- 4) Operating rules of the management company;
- 5) Organigram of the management company;
- 6) List of shareholders by surname, name and address; excerpt from the register of business entities for legal persons - shareholders of the management company, or the certified translation of the excerpt from the relevant register for foreign legal persons;
- 7) Evidence of the appropriate organizational and technical capacities;
- 8) List of persons who will perform portfolio manager and authorized internal auditor activities, with the evidence of professional qualifications, as well as the list of the proposed directors.

As stated in the answer to the question no. 78, pursuant to the Law on Voluntary Pension Funds and Pension Schemes, a voluntary pension fund management company shall be exclusively established as a closed joint stock company.

The monetary portion of the management company initial capital shall not be below EUR 1 million. When the application for the license is submitted, the founders of the management company must also provide the articles of association, the list of shareholders, the list of management board members, evidence of the appropriate organizational and technical capacities and other documentation as required by the National Bank of Serbia. The National Bank of Serbia shall issue the operating license if the following conditions are met:

- 1) If the monetary portion of the initial capital is paid and its origin is clear and indisputable (it does not come from a loan or credit and it is not burdened in any way);
- 2) If it can be concluded that the founders of the management company and all related persons have good business repute and their financial position is such that it can be assumed that they will not adversely affect the operation of the management company;
- 3) If the structure of the related entities is not such that it hinders the efficient supervision of the operation;
- 4) If the business name of the management company does not mislead the future members of the fund.

The National Bank of Serbia shall issue a fund management licence if it assesses that:

- 1) The amount of the management company initial capital enables sustainable fund management;
- 2) The portfolio manager holds the license issued by the Securities Commission;
- 3) The interests of the fund members will be adequately protected.

-Which additional activities of a management company may also be authorised?

An investment fund management company may only engage in activities of organizing and managing the said funds.

Owing to the fact that the Law on Voluntary Pension Funds and Pension Schemes stipulates that the management company may only engage in activities of organizing and managing the voluntary pension funds, it is not possible to authorise any additional activities. A voluntary pension fund management company may organize and manage several voluntary pension funds. The management company shall manage the fund, make investment decisions, perform scheduled disbursements, perform administrative and marketing operations and other necessary operations. In addition to issuing the operating license, fund management licence and giving the consent to the elected members of management of the company, the National Bank of Serbia gives consent to the pension fund prospectus and advertising material.

-Which operating conditions apply?

The Law on Investment Funds provides that the fund management company shall:

- 1) Organize and manage an open-ended investment fund;
- 2) Establish and manage a closed-ended fund;
- 3) Manage a private fund.

The management company shall manage an investment fund by making investment decisions and performing administrative and marketing operations.

The management company may outsource the administrative and marketing operations but it shall remain responsible for these operations. A management company may organize, establish and manage several investment funds and in the course of its operation it shall comply with the law governing the securities market, the rules of sound and prudent operation and the rules that apply to the usage of privileged information.

A management company shall file an application to be entered in the Companies Register, in compliance with the law governing registration of business entities, within 30 days of receipt of the decision on the issuance of the work license, and the decision granting approval to the election of a general manager and directors of the management company.

A management company shall submit to the Securities Commission the excerpt from the entry into the Companies Register within eight days of receipt of the decision on the entry into the Register.

A management company intending to organize an open-ended investment fund or establish a closed-ended investment fund shall submit an application to the Securities Commission for the license to organize an open-ended investment funds or establish a closed-ended investment fund. The Commission shall render a decision regarding the application within 30 days of the day the application was submitted.

An investment fund license shall not be issued if a work license is not granted to the management company. When issuing a license to organize an open-ended investment fund and a license to establish a closed-ended fund, the Commission shall grant consent to the contents of the prospectus and the simplified prospectus.

An investment fund may be established temporarily or permanently.

An investment fund shall be deemed organized or established on the day of its entry into the Register of Investment Funds.

The Commission shall issue a certificate on the entry into the Register of Investment Funds when the following conditions are met:

- 1) The Commission issues a license to organize an open-ended or license to establish a closed-ended fund;
- 2) The management company concludes a contract with the custody bank;
- 3) The management company submits evidence of assets collected at least in the minimum amount referred to in Article 42, paragraph 3 or Article 61, paragraph 2 of this Law and held in the account with a custody bank;
- 4) The body or organization authorized to keep a Companies Register issues an excerpt.

The Law on Voluntary Pension Funds and Pension Schemes stipulates that the management company shall organize and manage voluntary pension funds. A voluntary pension fund management company may organize and manage several voluntary pension funds. A management company shall manage the fund, make investment decisions, perform scheduled disbursements, carry out administrative and marketing operations and perform other necessary operations, in line with the law.

A management company may outsource administrative and marketing activities but it shall remain responsible for these operations.

A voluntary pension fund management company may commence its operation after having received consent of the National Bank of Serbia (the operating license, the fund management license and the consent to the elected members of management), and after having taken the following actions:

- 1) Within 30 days of being granted the operating license, the management company must submit an application to be entered in the Register of Business Entities;
- 2) Within 8 days of being entered in the Register of Business Entities, the management company must conclude a contract with the custody bank on the provision of custody services;
- 3) Within 15 days of the prospectus approval, the management company must publish a simplified prospectus in at least one daily news paper.

Only after having completed all the aforementioned activities may the voluntary pension fund management company conclude individual membership contracts or enter into a contract with the pension scheme organizer.

81. Which information has to be supplied to the unit holders (full and simplified prospectus, annual report)?

Within the general provisions, the Law on Investment Funds stipulates the following for all types of funds:

A management company shall publish the return of the investment fund two times per year, as at 30 June and 31 December of the current year. The return shall be published in at least one daily newspaper distributed in the entire territory of the Republic, with the press run of minimum 100,000 copies, as well as on the web site of the management company or the investment fund.

The investment fund has a prospectus and a simplified prospectus. The simplified prospectus shall only be used for the purposes of advertising the investment fund and must correspond to the contents of the full prospectus. The prospectus shall consist of all the information based on which the potential investors will be able to have a clear understanding of the investment fund and make the most favourable investment decision. When joining an investment fund, the joining entity shall sign a statement confirming that it fully understands the prospectus, including the types of the fees charged and the manner of payment.

Only the management company may advertise the investment fund it manages for the purposes of making an invitation to join the fund, by publishing advertisements, public invitations and promotional materials, or in some other manner. The text of the advertisement or invitation shall not contain incorrect information, and/or information that might be misleading about the investment terms and business operation of the investment fund.

The management company shall submit to each member of the open-ended investment fund a notification containing the number of investment units in the ownership of the member and their individual value, as well as the total amount of fees with their collection dates in the period for which the report is submitted. Net asset value per investment unit of the open-ended investment fund shall be determined on every business day and published in at least one daily newspaper distributed in the entire territory of the Republic with a press run of at least 100,000 copies, as well as on the web site of the management company or the open-ended investment fund.

The management company shall submit the said notification at the request of an open-ended investment fund member within eight days of the day the request was submitted. The management company shall communicate to all investment fund members and/or shareholders the amendments in business operation rules and other general enactments, not later than 30 days before the starting date of their application.

A closed-ended investment fund management company shall at least once a month deliver reports to the fund Supervisory Board on purchased and sold securities, on assets, and on the fund's business operation results. The management company shall also deliver special additional reports if required by the closed-ended fund Supervisory Board. A management company shall deliver semi-annual and annual financial statements to all shareholders of the closed-ended fund, together with external audit report.

Net asset value per share of the closed-ended fund shall be determined at least once a month and published in at least one daily newspaper distributed in the entire territory of the Republic with a press run of at least 100,000 copies, as well as on the web site of the management company or the closed-ended fund.

A voluntary pension fund management company shall publish or make available the following documentation or information for each pension fund it manages:

1) Prospectus and simplified prospectus, prepared in compliance with the Law on Voluntary Pension Funds and Pension Schemes and the Decision on Detailed Content and Standardized Format of the Prospectus of a Voluntary Pension Fund (RS Official Gazette, No. 9/2009, adopted on 4 February 2009) – the management company shall prepare the prospectus:

- a) Once a year – with the data as at 31 December of the previous year and
- b) In the event of significant changes in the business operation.

Prospectus and simplified prospectus shall contain data on the management company (capital, management, auditor, broker, fees and other costs, etc.), on the pension fund (the investment policy, tax treatment, rights and obligations of the fund members and the management company, fund assets value, portfolio structure, risk exposure, etc.), and on the custody bank (name and registered office, custody services, etc.).

The management company shall inform every person about the fund's prospectus before the person joins the fund. The simplified prospectus shall be published in at least one daily news paper and on the web site of the fund.

2) Operating rules (including the investment policy) and fees - the management company shall communicate the changes of the operating rules to all fund members that the changes apply to, not later than 30 days before the starting date of their

application. Operating rules shall also be published on the management company web site. The same obligations shall apply in the event of the change in the amount of fees charged by the management company for its services.

3) Financial statements - the management company shall prepare semi-annual and annual financial statements, submit them to the supervisor and publish them on its web site. The statements must be prepared both for the management company and for each pension fund the management company manages.

4) Balance on the individual account of a fund member - once a year, the management company shall provide each fund member with the notification about the balance on the member's individual account, together with the information about the dates and amounts of the contribution payments, number and value of the investment units on the individual account, as well as fees charged.

5) Returns of the fund - at the end of each quarter, the management company shall publish the returns of the voluntary pension fund, more precisely: for the previous 12 months, cumulatively for a 5-year period, and since the beginning of operation.

6) Investment unit value – a fund management company shall publish the value of the investment unit on a daily basis in at least one daily news paper, and on its web site.

82. What is the situation of collective investment undertakings from EU Member States in your country? How is the right of establishment and cross-border supplies of services of EU management companies being dealt with?
The Commission recalls that Chapter 4 on free movement of capital has also to be respected

Each investment fund management company must be granted by the Securities Commission the work license, and the license to organize and manage an investment fund and must be entered in the Companies Register, in compliance with the Law on Investment Funds. Therefore, there is no possibility for an EU investment firm to directly manage an investment fund in the Republic of Serbia.

Markets

83. Are there regulated markets? Please list them. How are such markets defined? Are there national rules which limit the number of persons which have access to those markets? Can credit institutions become members of a regulated market?

-Are there regulated markets? -Please list them.

There is no regulated market within the meaning of the Directive 2004/39/EC: However, the Law on the Market of Securities and Other Financial Instruments from 2006 contains provisions governing the *organized* market (which is in the English version of the Law translated as 'regulated market').

-How are such markets defined?

Regulated market is a market of securities and other financial instruments, which is available to the public, and on which securities and other financial instruments are traded according to the rules prescribed in advance, and which is regulated by the market operator supervised by the Securities Commission.

The regulated market includes stock exchange market and over-the counter market.

Stock exchange market is the market on which the trade of securities and other financial instruments admitted on the stock exchange listing and traded in compliance with the rules prescribed by the stock exchange is performed.

Over-the-counter market is the market on which trade of securities and other financial instruments traded in compliance with the rules prescribed by the over-the-counter market operator is performed.

-Are there national rules which limit the number of persons which have access to those markets?

There are no such rules.

-Can credit institutions become members of a regulated market?

Members of the stock exchange (regulated market) may be broker-dealer companies and authorized banks. Authorized bank is a credit institution which has the license issued by the Securities Commission to conduct activities of a broker-dealer company.

84. Are there Multilateral Trading Facilities (MTFs – alternative trading venues)? Please list them. How are they defined? Which institutions can operate MTFs? Are there national rules limiting access to those markets?

Under the present Law on the Market of Securities and Other Financial Instruments there is no Multilateral Trading Facility within the meaning of the MiFID Directive.

The said Law defines the regulated market which includes the stock exchange market and over-the counter market.

Over-the-counter market is the market on which trade of securities and other financial instruments traded in compliance with the rules prescribed by the over-the-counter market operator is performed.

Over-the-counter market operator shall be a legal person constituted as a joint stock company which, in conformity with the present Law, organizes the trade in securities and financial derivatives on the over-the-counter market. The founder or a shareholder of the over-the-counter market operator may be the Republic, domestic and foreign, natural and legal person. The over-the-counter market operator is subject to provisions of the law governing business companies, unless otherwise specified by the present Law. The monetary portion of the initial capital of the over-the-counter market operator shall not be less than EUR 750,000 in dinar equivalent according to the official middle exchange rate of the National Bank of Serbia on the day of payment.

Securities and other financial instruments shall be admitted to the over-the-counter market based on the issuer's order to transfer them from one regulated market to another. Over-the-counter market operator prescribes in detail the manner of admission of securities and other financial instruments that fulfil the specified conditions.

Over-the-counter market participants are the broker-dealer companies and authorized banks licensed by the Securities Commission.

85. What are the information requirements vis-à-vis competent authorities and investors on transactions performed on regulated markets?

For the purpose of ensuring adequate informing of investors regarding the transactions executed on the regulated market, the Law on the Market of Securities and other Financial Instruments stipulates that the stock exchange shall determine the quotation list of securities and other financial instruments traded on the stock exchange. Quotation list is a stock exchange report which shall contain data on securities and other financial instruments traded on that day, volume, prices and price changes. The quotation list is submitted to the Securities Commission daily. The stock exchange shall publish daily the quotation list of securities and other financial instruments traded on the stock exchange, in at least two daily newspapers distributed in the entire territory of the Republic, and at the stock exchange premises.

The stock exchange shall publish the list of issuers and the type of securities and other financial instruments covered by its decision on the admission to the stock exchange listing on its web site and in at least one daily news paper distributed in the entire territory of the Republic, within two days of the day of rendering the decision.

The provisions of this Law regarding the reporting of the market operator, inter alia, specify that the stock exchange and over-the-counter market operator shall submit the following to the Securities Commission: data on trade in securities and other financial instruments, every day, at the end of working day, as well as the data on admission to stock exchange listing, rejection of admission and exclusion of securities and other financial instruments - within three days of the day of admission, rejection or exclusion. The stock exchange and the Central Registry Depository and Clearing House shall publish every day on their web sites (in compliance with the applicable by-laws of the Securities Commission and their own bylaws) all information related to issuers and securities traded on regulated markets that can be significant to investors.

In addition, the law stipulates that a broker-dealer company shall, not later than the following working day of the conclusion of purchase or sale of securities, inform the client on every deal concluded based on the client's order.

86. Which instruments can be traded on regulated markets? What are the conditions required for the admission of these instruments to listing on the regulated markets?

-Which instruments can be traded on regulated markets?

The following instruments can be traded on the regulated market within the meaning of the Law on the Market of Securities and Other Financial Instruments:

- 1) Securities (shares, debt securities, warrants, certificates of deposit);
- 2) Standardised financial derivatives;
- 3) Other financial instruments traded in compliance with the operating rules of the market operator which are approved by the Securities Commission.

-What are the conditions required for the admission of these instruments to listing on the regulated markets?

Securities can be traded on the regulated market only if the issuer, in compliance with the provisions of this Law, has been granted the approval by the Securities Commission for issuing securities, and/or for the admission of securities to the regulated market. Only the securities and other financial instruments admitted to the stock exchange listing can be traded on the stock exchange market. The stock exchange shall prescribe the conditions for listing and quotation of securities and other financial instruments at the stock exchange by enacting the rulebook on listing and quotation approved by the Securities Commission. The stock exchange shall admit securities and other financial instruments on the stock exchange market upon the issuer's application, if conditions for admission to the stock exchange listing specified by the rulebook on listing and quotation are met.

Securities which are the subject of the listing application shall:

- 1) Have all formal characteristics and fulfil other conditions prescribed by the law and by-laws of the Securities Commission (hereinafter: by-laws), which govern the procedure of issuing and trading in securities;
- 2) Be freely transferable;
- 3) Have the listing application cover all securities of the same type and class which could be traded on the regulated market.

The Listing Committee shall determine the listing on which the security will be listed, depending on the listing criteria prescribed by this Rulebook. The security to be admitted to Listing A (Prime Market) must fulfil the following criteria:

- 1) Minimum amount of the capital of the issuer - EUR 20 million;
- 2) Minimum business operation period of the issuer - 3 years (36 months);
- 3) Audited financial statements according to the international accounting standards with the positive opinion for the year or for the last accounting period preceding the application for listing;
- 4) That the issuer has a web site in both Serbian and English version.

In addition to these general rules, Belgrade Stock Exchange prescribes other requirements that must be met in order for the securities to be admitted to the Prime Market.

The security to be admitted to Listing B (Standard Market) must meet the following criteria:

- 1) Minimum amount of the capital of the issuer - EUR 4 million;
- 2) Minimum business operation period of the issuer - 2 years (24 months);
- 3) Audited financial statements according to the international accounting standards.

The stock exchange publishes the list of issuers and the type of securities and other financial instruments covered by its decision on the admission to the stock exchange listing on its web site and in at least one daily paper distributed throughout the territory of the Republic, within two days of the day of rendering the decision.

Foreign securities, i.e. the securities issued by foreign entities, may be admitted to listing and quoted on the stock exchange subject to the conditions laid down in this Law and the Stock Exchange acts.

The trade in securities and other financial instruments on the stock exchange may begin after the decision on admission of the securities to listing has been published.

87. Which instruments can be traded on MTFs?

Under the present Law on the Market of Securities and Other Financial Instruments there is no Multilateral Trading Facility within the meaning of the MiFID Directive.

88. Can EU – issuers be listed on regulated markets?

Securities and other financial instruments issued in compliance with the Law on the Market of Securities and Other Financial Instruments may be issued in Serbia by the legal persons headquartered in territory of the OECD and EU Member States and in the territory of the neighbouring countries if the Securities Commission has concluded with their institutions competent for supervision of the securities market a contract which regulates cooperation of competent authorities for market supervision (hereinafter - securities of foreign legal persons).

Foreign securities, i.e. the securities issued by foreign entities, may be admitted to listing and quoted on the stock exchange subject to the conditions laid down in this Law and the Stock Exchange acts.

Public offer of securities of a foreign legal person may be performed if such legal person has the approval of the competent authority in charge of supervision of the securities market in the territory of OECD and EU Member State or in the territory of the neighbouring countries, in which the securities have been issued and with which the Commission has concluded the contract regulating cooperation of the competent authorities in charge of supervision of securities market.

Offer and trade of securities through a public offer of a foreign legal person may not be performed without the previously obtained approval of the prospectus for issuing securities of a foreign legal person, issued by the Securities Commission.

The provisions of this Law regarding the prospectus for issuing securities shall accordingly apply to the prospectus on the basis of which the offer and trade of securities of a foreign legal person are performed.

Supervisory authorities

89. As regards the regulatory and supervisory framework, what are the main features of the law on the Securities Market? Is supervision considered to be satisfactory? As in banking (above), what steps are planned to address potential problems of co-operation between supervisors on a consolidated basis?

-As regards the regulatory and supervisory framework, what are the main features of the law on the Securities Market?

The Law on the Market of Securities and Other Financial Instruments, inter alia, governs the organization and powers of the Securities Commission.

Within the scope of its powers, the Commission shall:

- 1) Issue bylaws in order to implement the provisions of the present Law;
- 2) Approve the issuance of securities with and without a public offer;
- 3) Approve the status of professional investors to legal persons in accordance with the present Law and its regulations;
- 4) Grant licenses and consents in accordance with the present Law and with the law governing the establishment and operations of investment funds;
- 5) Grant licenses for conducting activities of broker-dealer companies in conformity with the present Law;
- 6) Supervise the business operation of broker-dealer companies, stock exchanges, over-the-counter market operators, management companies, investment funds, the Central Registry, authorized banks, custody banks, issuers of securities, investors, professional investors and other entities – with respect to the operations they conduct on the securities market in compliance with the present law, the law governing acquisition of joint stock companies, the law governing investment funds and regulations passed pursuant to these laws, as well as in compliance with other laws regulating the subject matter;
- 7) Require information from all authorized participants and market operators and their auditors;
- 8) Organize, undertake and control the implementation of measures aimed at ensuring efficient functioning of the regulated market and the protection of investors;
- 9) Prescribe detailed contents of mandatory information to be submitted to it and made public;
- 10) Set the compulsory criteria to be met by the information system of the authorized participants involved in securities business, the Central Registry, stock exchanges and over-the-counter market operator, for the purpose of trade in securities;
- 11) Keep the registries in conformity with the present Law and the law governing the acquisition of joint stock companies and the law governing investment funds;
- 12) Prescribe the manner of safeguarding the documentation for authorized participants dealing with securities, the Central Registry, stock exchanges and over-the-counter market operators;
- 13) File charges to the competent state authority against authorized participants in the securities business, Central Registry, stock exchanges and over-the-counter market operator, if the elements of criminal offence, commercial offence, infringement, or tax criminal offence or invasion have been discovered in the course of their supervision;

- 14) Monitor situation and trends in the regulated market and undertakes measures to eliminate market disturbance;
- 15) Cooperate and conclude agreements with international organizations, foreign regulators and other local and foreign bodies and organizations in order to provide legal assistance, exchange of information and in other cases as needed in compliance with the law;
- 16) Provide information about the regulated market;
- 17) Perform other tasks specified by this Law and other laws.

The Securities Commission may institute and conduct court proceedings in order to protect the interests of investors and other entities should it determine that a certain right or interest arising from that right has been violated, and in connection with activities involving securities and other financial instruments.

The Securities Commission performs tasks from paragraph 1, sub-paragraphs 1- 14 as the tasks entrusted to it.

The Securities Commission may issue opinions and other forms of public statements, when necessary for the implementation and execution of certain provisions of the present Law.

The Securities Commission shall have five members, including the president of the Commission.

The president and the members of the Commission shall be elected and released from duty by the National Assembly of the Republic of Serbia, at the proposal of the working body of the National Assembly responsible for finance.

The Securities Commission shall be represented by the president, who manages its work.

Candidate for the president and a member of the Securities Commission may be a citizen of the Republic, possessing general work ability, university degree, with at least five years of experience in conducting activities involving securities in the country or abroad.

The president and a member of the Securities Commission shall not be a person who:

- 1) Has been sentenced for the criminal offence against labor relations, economy, property, administration of justice, money laundering, public order and order and legal transactions and the line of duty;
- 2) Is related or married to a member of the Securities Commission;
- 3) Is performing a function in a state authority or organization on the grounds of election or appointment;
- 4) Is a political party member.

The president and the members of the Securities Commission shall be permanent employees of the Commission.

The president and members of the Securities Commission shall have no ownership stake in legal persons to which the Commission grants the license to conduct activities of a broker-dealer company or work license.

The president and members of the Securities Commission shall not perform other duties that could influence their independence, impartiality and public image, as well as the public image of the Securities Commission.

The president and the members of the Securities Commission shall act with expertise, conscientiously and impartially in performing their duties.

When making decisions, the president and members of the Securities Commission shall not jeopardize their autonomy nor the autonomy of the Commission.

Any person, agency or organization shall not undertake any action to influence the autonomy in operation and decision-making of the Securities Commission or any of its members.

Any person, agency or organization shall not take actions that are foreseen by law as the competence of the Securities Commission, unless otherwise stipulated by law.

-Is supervision considered to be satisfactory?

Overall, the supervision is considered satisfactory, but we believe that the number of the Securities Commission employees performing supervision activities should be increased.

-As in banking (above), what steps are planned to address potential problems of co-operation between supervisors on a consolidated basis?

On 12 January 2007, the Securities Commission and the National Bank of Serbia concluded a Protocol on Cooperation. The subject of the Protocol is the information and data exchange to be performed between the protocol parties regarding the activities within their respective competences. We plan to improve this cooperation in the future.

90. Describe the powers and duties of supervisory authorities on the securities sector (to carry out on-the-spot inspections, to require supplementary information, to cooperate with third countries authorities). Which authority is in charge of supervising regulated markets and MTFs? Is it an independent authority? Which entities are subject to its supervision? Does the supervisory authority publish an annual report? Are supervisory authorities bound to secrecy as to information received from third countries competent authorities in particular? How many people are employed by these supervisory authorities? What are the professional qualifications required? What is its budget?

-Describe the powers and duties of supervisory authorities on the securities sector (to carry out on-the-spot inspections, to require supplementary information, to cooperate with third countries authorities).

The Securities Commission conducts supervision by reviewing reports and documentation and other data that the supervised entities are obliged to keep or submit to the Commission in accordance with the provisions of this Law and regulations passed pursuant to this Law, by analyzing this data, as well as by taking statements from the accountable persons and other employees of the institution subject to supervision, as well as from other persons having information relevant for supervision.

The supervision is conducted by the authorized persons of the Securities Commission – inspectors, who perform on-site supervision at the premises of the supervised institution, or legal entity with which the supervised entity is connected directly or indirectly, through business operation, management or capital; inspectors review the general acts, business books, bank statements, correspondence, and other documents.

The supervised entities are obliged to provide access to the authorized persons of the Commission to their business premises, to supply the requested documentation and identification documents, give statements, and provide other conditions for conducting supervision.

Supervision measures instruct on elimination of the observed illegalities and irregularities, and steps are taken for their elimination.

Should it identify illegalities and irregularities, the Securities Commission shall issue a decision instructing the supervised entity to undertake the measures contributing to the compliance and harmonization of operation with the law and other regulations and/or pronounce appropriate measure prescribed by this Law.

By its decision the Securities Commission shall determine the deadline for the execution of the decision and require from the entity to submit to the Commission the evidence of corrected illegality and irregularity.

Should the Commission determine that the illegalities and irregularities are not eliminated, it can pronounce a new measure, as well as a fine.

When the Securities Commission observes frequent violation of the provisions of this Law, of the law governing the takeover of joint stock companies, law governing investment funds and regulations passed based on these laws, as well as other laws regulating this subject matter, it can pronounce a public reprimand.

The Commission shall prescribe in detail the conditions and manner of conducting supervision, the procedure for issuing orders and undertaking measures, as well as the deadlines for the execution of orders, the validity period of a measure, and criteria for pronouncing a fine.

-Which authority is in charge of supervising regulated markets and MTFs? -Is it an independent authority?

The Securities Commission is an independent and autonomous authority of the Republic of Serbia. The Securities Commission shall be accountable to the National

Assembly of the Republic of Serbia for performing activities that fall within its competence. The Securities Commission is a legal person.

-Which entities are subject to its supervision?

The Securities Commission supervises the business operation of broker-dealer companies, stock exchanges, over-the-counter market operators, management companies, investment funds, the Central Registry, authorized banks, custody banks, issuers of securities, investors, professional investors and other entities – with respect to the operations they conduct on the regulated market in compliance with this Law, the law governing the acquisition of joint stock companies, the law governing investment funds and regulations passed pursuant to these laws, as well as in compliance with other laws regulating the subject matter.

-Does the supervisory authority publish an annual report?

In the answer to the question no. 69 we have already provided the answer regarding the submission of the Securities Commission annual report.

-Are supervisory authorities bound to secrecy as to information received from third countries competent authorities in particular?

Under its competence the Securities Commission is to cooperate and conclude agreements with international organizations, foreign regulators and other local or foreign bodies and organizations in order to provide legal assistance, exchange information and in other cases as needed.

The secrecy of the obtained information is subject to the general rules on keeping business and official secrets. The president and the members, as well as employees of the Securities Commission shall safeguard the information on issuers of securities, entities that are supervised by the Commission, and other information on facts and circumstances they learned in the course of performing their functions or work, except for the information accessible to general public, and they shall not disclose such information to third parties, use them or enable third parties to use them, except on the grounds of a court order or order of another competent state authority, as well as for the purpose of exchange of information and data, and for conducting supervision.

-How many people are employed by these supervisory authorities?

Supervision is performed by the Securities Commission employees working in the Supervision Department who are responsible for supervision and control. Supervision is envisaged as on-site and off-site inspection (review of documents). Supervision within the meaning of the Rulebook on the Conditions and Manner of Supervising the Operations of Market Participants means the supervision of the business operation of the following entities: broker-dealer companies, stock exchanges and over-the-counter market operator (Belgrade Stock Exchange), the Central Registry, authorized banks, custody banks, issuers of securities, investors and professional investors, public companies, management companies, investment funds, acquirers and participants in the take over procedure, and other entities in the part of operations they conduct on the regulated securities market.

Currently, there are six employees in the Supervision Department. Securities Commission has 42 employees.

-What are the professional qualifications required?

No special professional qualifications are required for the work in the Supervision Department, but all employees have passed the state license exam, some of them have passed the bar exam and some have earned the title of a broker.

-What is its budget?

The Law stipulates that the funds for the operations of the Securities Commission shall be provided from the fees charged for conducting activities within its competence in accordance with the tariff rulebook, and from other sources in compliance with the law. From the realized revenues, the Securities Commission shall allocate resources for reserves, in accordance with the financial plan. The Commission shall finance the excess of expenditures over revenues from its own reserves, and - should that be insufficient - from the Republic budget.

The Commission shall transfer the surplus of revenues over expenditures into the budget of the Republic.

91. Which annual accounting prudential and statistical information are investment firms and listed companies required to give to the supervisory authority in respect of their businesses? Which information are collective investment undertakings and/or their management companies required to submit? What powers does the supervisory authority have to require supplementary information?

-Which annual accounting prudential and statistical information are investment firms and listed companies required to give to the supervisory authority in respect of their businesses?

The voluntary pension fund management company shall prepare and submit to the supervisory authority annual and semi-annual financial statements, both for the management company and for each pension fund it manages. These financial statements must be prepared in compliance with the International Accounting Standards and must be audited by the certified auditor.

-Which information are collective investment undertakings and/or their management companies required to submit?

A voluntary pension fund management company shall submit to the National Bank of Serbia on a monthly basis the information on the purchased and sold assets where the fund's assets have been invested, including the information on the type of the assets, the transaction dates, the sale or purchase price, the information on the broker who intermediated in the transaction, as well as other data and information prescribed by the National Bank of Serbia; information on the management company shareholders,

information on the names of members of the management board, information on the fund members (number of new, old, active and passive members), information on paid contributions, transfers into another fund, withdrawal of resources and other information required by the National Bank of Serbia.

In addition, a custody bank shall provide the National Bank of Serbia with the daily reports on the fund assets and the portfolio structure.

Additionally, a voluntary pension fund management company shall submit to the National Bank of Serbia and publish, both for itself and for all the funds it manages, the annual financial statements not later than three months from the end of the year, as well as semi-annual financial statements within two months of the first half of the year.

Also, a management company must inform the National Bank of Serbia about the following:

- Each deviation from the limitation set for the investment of the fund assets that has occurred due to the circumstances which the management company could not have foreseen or avoided,
- Each decrease of the management company capital below EUR 1,000,000 in dinar equivalent;
- Each decrease of shareholders participation in the company capital in the amount of 10 or more percents.

-What powers does the supervisory authority have to require supplementary information?

When considering the operating license application submitted by a voluntary pension fund management company, the National Bank of Serbia is authorised to require information and evidence relevant for the evaluation of the credit worthiness of the management company founders and for the assessment of the justification of the company founding.

With regard to the supervision of the voluntary pension funds and management companies, pursuant to the Article 68 of the Law on Voluntary Pension Funds and Pension Schemes, within the supervision procedure, the National Bank of Serbia may review general acts, business books, account statements and other documents of the management company and the custody bank, and may also require other information on certain issues relevant for the management company operation. As provided by Article 73, paragraph 1, item 22 of the said Law, the prevention of the National Bank of Serbia to supervise the legality of operation of the management company and the fund shall be deemed commercial offence.

92. What are the powers of intervention of the supervisory authority in cases of investment firms in difficulties?

The National Bank of Serbia (Department for the Supervision of the Voluntary Pension Fund Management Companies) has the authority to supervise the operation of the voluntary pension funds and their management companies.

If in the supervision process the National Bank of Serbia observes any illegalities or irregularities in operation or breaking of rules pertaining to control of risks, it shall, depending on the gravity of the observed irregularities and the degree of endangering the interests of members of the fund, undertake one of the following measures: 1) pronounce a written warning; 2) issue an order for removal of the observed irregularities within a period which cannot be longer than sixty days; 3) initiate proceedings before a competent authority; 4) revoke approval to the appointment of a member of management of the management company; 5) revoke the operating license issued to the management company.

The National Bank of Serbia shall revoke the operating license issued to a management company if: 1) if the management company does not manage the fund for more than six months; 2) if the license was issued based on false and untrue data; 3) if the management company ceases to meet conditions prescribed for granting the license; 4) if the management company fails to conclude a contract with a custody bank within the prescribed time limit; 5) if the management company commits a grave violation of regulations; 6) if the management company fails to act according to an issued order within a determined time period; 7) if the management company notifies the National Bank of Serbia of the termination of operation and files a request for removal from the registry of issued licenses.

93. Is there a right of appeal to the Courts against any decisions taken by the supervisory authority?

Yes, there is. When deciding on matters under their competence, the Securities Commission and the National Bank of Serbia adopt a decision which is final and against which a dissatisfied party may initiate an administrative proceeding before the Administrative Court.

94. How is the supervisory authority's operational independence ensured?

The Securities Commission is an independent and autonomous authority of the Republic of Serbia. The Commission is accountable to the National Assembly of the Republic of Serbia for performing activities that fall within its competence. The Commission is a legal person. In addition, the operational independence is ensured through certain powers and the measures the Securities Commission may undertake. This question is answered in more detail within the answers to the questions nos. 89 and 90.

Pursuant to the Law on Voluntary Pension Funds and Pension Schemes, the National Bank of Serbia has the authority to supervise the operation of the voluntary pension funds and their management companies. When performing its functions, laid down in the Law on the National Bank of Serbia, the National Bank of Serbia is autonomous and independent and is accountable to the National Assembly of the Republic of Serbia.

Under the said Law, when performing its duties, the National Bank of Serbia may not receive nor ask for the instructions from other government authorities or other persons.

In addition to the above, the independence of the National Bank of Serbia is proclaimed in the Republic of Serbia Constitution.

95. What are the supervisory authority's investigative powers?

The National Bank of Serbia (Department for the Supervision of the Voluntary Pension Fund Management Companies) supervises the operation of pension funds and their management companies by performing on-site and off-site inspections.

Off-site inspection is carried out by collecting, monitoring and reviewing the reports and notifications submitted by the management companies and custody banks (which has already been mentioned in the answer to the question no. 91).

With regard to the on-site supervision, in the answer to the question no. 91 it is stated that the National Bank of Serbia may review general acts, business books, account statements and other documents of the management company and the custody bank, and may also require other information on certain issues relevant for the management company operation.

On the basis of the performed supervision, the National Bank of Serbia may pronounce the supervisory measures and file charges to the competent authorities in the event there is grounded suspicion that the observed illegalities and irregularities contain features of criminal offence, commercial offence or infringement.

96. Is the supervisory authority capable of imposing administrative sanctions and measures?

When performing the supervision of a voluntary pension fund or its management company, the National bank of Serbia shall, if it observes an irregularity in operation or breaking of rules pertaining to the risk control, and depending on the gravity of the observed irregularities and the degree of endangering the interests of members of the fund, undertake one of the following measures: 1) pronounce a written warning; 2) issue an order for removal of the observed irregularities within sixty days; 3) initiate proceedings before a competent authority; 4) revoke approval to the appointment of a member of management of the management company; 5) revoke the license issued to the management company.

On the basis of the performed supervision, the National Bank of Serbia may pronounce the supervisory measures and file charges to the competent authorities in the event there is grounded suspicion that the observed illegalities and irregularities contain features of criminal offence, commercial offence or infringement.

At the same time, we would like to refer to the answer provided for the question no. 92.

If in the course of conducting supervision of a broker-dealer company, the Securities Commission observes illegalities and/or irregularities in business activity, it shall render decision instructing the broker-dealer company to eliminate the found irregularities within an adequate time limit and may undertake one or more of the following measures:

- Pronounce a public reprimand;
- Issue an order for temporary prohibition on conducting all or certain activities specified in the work license, for the period of maximum 3 months;
- Issue an order for temporary prohibition on the management of resources held in the cash and securities accounts and management of other assets for the period of maximum 3 months;
- Issue an order for temporary prohibition on disbursement of the portion of the profit and/or remunerations to directors and employees which are due to shareholders;
- Revoke the work license for conducting the business activity.

The decision on the undertaken measures shall be published by the Securities Commission in one daily paper distributed throughout the territory of the Republic and on its web site, except if such publication would significantly jeopardize the financial market or cause disproportionate damage for the broker-dealer company to which the measure is issued.

In addition to the relevant measures, the Commission may also pronounce a fine.

Under the Law, the Securities Commission may file with the competent authorities the charges for criminal offences, commercial offence and infringement.

This question is answered in more detail in the answers to the questions nos. 89, 90, 92 and 95.

Market structure information:

97. What is the number of (broken down by type of product/market):

- (a) Regulated markets and/or MTFs;**
 - b) broker-dealers on regulated markets;**
 - c) credit institutions providing investment services;**
 - d) portfolio managers;**
 - e) collective investment undertakings (number of undertakings as well as total amount of assets under management)**
 - i) total, of which:**
 - (ii) domestic;**
 - (iii) non-domestic EU;**
 - (iii) non-domestic non-EU.**

In the Republic of Serbia there is currently only one market operator – the Belgrade Stock Exchange, there are 51 broker-dealer companies, 19 authorized banks, 12 custody banks, 9 management companies, 3 private funds, 16 open-ended investment funds and 2 closed-ended investment funds. At the moment, there are 82 persons holding a portfolio manager licence.

Out of the total number of broker-dealer companies, 8 have EU majority owners, 3 have non-EU majority owners, while the rest of them are domestically owned.

Out of the total number of investment fund management companies, 3 have EU majority owners, 1 has non-EU majority owners, while the rest of them are domestically owned.

With regard to the voluntary pension funds, as at the end of October 2010, 8 voluntary pension fund management companies operate on the Serbian market together with nine voluntary pension funds (one management company manages two pension funds). Total amount of net assets of all pension funds as at the end of October 2010 equals EUR 88.3 million (RSD 9.49 billion).

One management company is state-owned and manages one voluntary pension fund (total net assets of the fund - EUR 35.88 million, i.e. RSD 3.86 billion).

Seven management companies are directly or indirectly foreign-owned (EU) and they manage the assets of eight voluntary pension funds (total net assets of the funds - EUR 52.43 million, i.e. RSD 5.62 billion).