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Pravna podrška pregovorima

Terms of Reference (ToR) for a Short-Term assignment

Technical assistance requested:	One (1) Senior Non-Key Expert in the area of supervision of financial conglomerates
Project Title:	Policy and Legal Advice Centre (PLAC II), Serbia
Ref:	EuropeAid/137065/DH/SER/RS
Service Contract No.:	(CRIS) 2016/375-724
Main beneficiary:	The European Integration Office of the Republic of Serbia and the Negotiating Team
Target Beneficiaries:	National Bank of Serbia and Securities Commission
Content of the assignment:	Assistance in drafting Serbian Law on financial conglomerates
Budget Line / Expert Category:	Senior Non-Key Expert
Duration of the assignment:	15 working days, spent during up to three missions in the period from March 2018 until (tentatively) September 2018

1. Relevant background information

Background information in relation to PLAC II project:

The scope of PLAC II project is to provide support to relevant national institutions in charge of alignment of national legal acts with the EU acquis and to contribute to further building of capacities of relevant national structures for successful carrying out of accession negotiations.

The PLAC II project should achieve two results:

RESULT 1 - Enhanced compatibility of national legislation with EU legislation and its effective implementation,

RESULT 2 - Enhanced capacities of the relevant national structures for successful carrying out of accession negotiations.

In general, the project aims at fostering the process of accession negotiations of Serbia by supporting the effective alignment of national legislation with the acquis and its implementation and by further building the capacities of involved carriers of the EU integration process in Serbia. After completion of screening process in 2015, Serbian public administration has entered into much more demanding and obliging exercise of accession negotiations, whereby each step and every decision should result in approaching actual membership in the EU. For this scenario to happen in accordance with planned dynamics, preparedness, adequate institutional capacity of public administration with highly competent staff is of crucial importance. In the core period of the negotiations, PLAC II Project shall support domestic line institutions and the negotiating structures both in performance of quality operational work in relation to harmonisation process and in the effective coordination during various stages and phases in the process for different negotiation chapters.

Background information in relation to Chapter 9 – Financial Services:

As per EC Screening Report for **Chapter 9 – Financial Services** Serbia has already reached a satisfactory level of alignment and partly applies the acquis in the fields covered by this chapter. Serbia is considered to be sufficiently prepared at this stage for the opening of accession negotiations on this chapter. Therefore, the Commission recommended the opening of accession negotiations with Serbia on the Chapter 9 – Financial Services.



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Chapter 9 – Financial services includes four principal sections: banks and financial conglomerates, insurance and occupational pensions, financial market infrastructure and securities markets and investment services.

Serbia has reached a satisfactory level of alignment with the acquis in the area of banks and financial conglomerates. However, domestic legislation is not aligned with Directive 2002/87/EC of the European Parliament and of the Council on the supplementary supervision of credit institutions, insurance undertakings and investment firms in a financial conglomerate, amending Council Directives 73/239/EEC, 79/267/EEC, 92/49/EEC, 92/96/EEC, 93/6/EEC and 93/22/EEC, and Directives 98/78/EC and 2000/12/EC of the European Parliament and of the Council, (including the last amendment of Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013).

Introduction of supplementary supervision of financial conglomerates includes certain amendments of sectoral rules for individual supervision of credit institutions, insurance undertakings and investment firms, particularly in order to avoid regulatory arbitration between sectoral rules and rules for financial conglomerates. Institutions responsible for the supervision of regulated entities that could form part of a financial conglomerate are the National bank of Serbia for the banks and insurance companies and the Securities Commission for the investment firms. However, there is no an appropriate institutional framework in the Republic of Serbia for implementation of the EU acquis for the supplementary supervision of financial conglomerates.

Therefore, Serbia needs to transpose Directive 2002/87/EC and establish comprehensive legal and institutional framework for the supplementary supervision of financial conglomerates. In line with Serbia's EU accession process and the National Programme for the Adoption of the Acquis (NPAA), currently under its third revision, (reference number 3.9.1.), the adoption of the new Law on Financial Conglomerates has been planned for second quarter of 2021.

Having in mind that full harmonisation of the domestic legal framework with Directive 2002/87/EC will be achieved by adoption of the Law on Financial Conglomerates, the National Bank of Serbia is conducting a comprehensive analysis of that Directive, in order to perceive the most adequate way for its transposition, which would then be followed by nominating a working group in charge for developing the law, with a view to the fact that certain provisions of the Law will be postponed until the date of accession of the Republic of Serbia to the European Union at the latest. In order to establish appropriate legal and institutional framework and ensure correct application of the acquis, there is a need for assistance of experienced experts that would complement national efforts for proper transposition and implementation of the EU acquis in the field of supplementary supervision of financial conglomerates.

2. Description of the assignment

2.1 Specific objectives

The specific objective of this assignment is to assist the National Bank of Serbia and the Securities Commission in aligning with Directive 2002/87/EC on the comprehensive framework for the supplementary supervision of financial conglomerates, by providing expert assistance in drafting of provisions of the Law on Financial Conglomerates, for harmonisation of national legislation with EU acquis in the financial services area and its correct application.

2.2 Requested services

The Senior NKE is expected to provide the following services:



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- a) To analyse the existing legislation of the Republic of Serbia in the area of supervision of banks, banking group, insurance undertakings and investment firms and based on it, propose adequate institutional framework for supplementary supervision of financial conglomerates;
- b) To present specific details concerning the Directive 2002/87/EC and give assessment of necessary amendments of the existing Serbian sectoral legislation for harmonisation with provisions of that Directive;
- c) Based on EU member states' experience in transposing the Directive 2002/87/EC, provide advice regarding specific issues arising from the implementation of new regulation – as often as necessary during preparation of draft Law on Financial Conglomerates;
- d) To assess provisions of draft Law on Financial Conglomerates finalised by the beneficiary, provide comments and proposals for amendments, where necessary;
- e) Present the assessment and proposals for amendments of draft provisions to a wider group of beneficiary representatives.

2.3 Outputs

The Senior NKE is expected to deliver the following outputs:

- A report on findings of the analysis of the existing national legislation in the area of supervision of banks, banking group, insurance undertakings and investment firms, with proposals for adequate institutional framework for supplementary supervision of financial conglomerates in the Republic of Serbia;
- Written assessment of the amendments of the Serbian sectoral legislation that should be made in order to harmonise it with the Directive 2002/87/EC;
- Written assessment of provisions of draft Law on Financial Conglomerates prepared by the beneficiary and proposals for improvements.

2.4 Reporting

The NKE shall provide the following reports by using the templates of the Project:

- Brief Mission Reports with description of activities and outputs provided, at the end of each mission under this assignment,
- Final Mission Report, no later than 1 week after completion of tasks under this assignment. This report will include description of all activities and outputs provided by two NKEs in the context of this assignment.

Submission of reports:

- Draft mission reports shall be submitted to the Team Leader of the Project for review and comments at the end of the mission.
- Final version of the mission report reports prepared in the relevant quality shall be submitted to the Team Leader of the Project for review, comments and final approval. The reports shall be signed by the NKE and the Team Leader, responsible for endorsing the reports.
- The reports and all prepared documents shall be submitted in hard copy and electronic version to the Team Leader of the project.



2.5 Specifics

The NKE shall work under the guidance and follow the instructions of the Team Leader. The NKE shall collaborate with the project team, other experts involved and representatives of beneficiary institutions and national structures, as relevant.

The NKE's activities and outputs mentioned above may be adjusted by the Team Leader at any stage in the implementation of the Project, depending on the evolving needs of the Project, main beneficiary and/or target beneficiaries. Each of the short-term mission, its timing and duration shall be agreed with the Team Leader prior to each mission.

2.6 Final use of intervention and perspectives for the future

Assistance in drafting provisions of the Law on Financial Conglomerates is requested in scope of the first phase of regulating financial conglomerates in Serbia.

So far, no assistance has been received by the NBS in relation to financial conglomerates. The assistance will contribute to further harmonisation of national legislation with relevant EU acquis in the area of financial services, in scope of Chapter 9 and might be complemented with additional assistance at a later stage.

3. Expert input

3.1 Total working days

15 working days (WDs) in total have been planned for this assignment.

3.2 Period of the assignment

March 2018 – (tentatively) September 2018

3.3 Starting day

It is expected that the work will be performed during up to three missions and starting, at the earliest, from 05 March 2018 onwards. However, exact starting date will be agreed at a later stage.

3.4 Location/Place of assignment

The NKE has to deliver 100% of the input in Belgrade, Serbia.

3.5 Working language

English

4. Expert Profile

4.1. Qualifications and skills (25 points)

- A university degree (where a university degree has been awarded on completion of three years study in a university or equivalent institution) in Law, Economy, Finance or similar, relevant to the assignment
- Proficiency in English language
- Computer literacy (MS Office applications)



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4.2. *General professional experience (25 points)*

- Minimum 8 years of postgraduate professional experience in the field of supervision of credit institutions and/or insurance undertakings gained in an EU member state, candidate or potential candidate country

4.3. *Specific professional experience (50 points)*

- Proven professional experience in the field of harmonisation of legislation in relation to EU *acquis* and related to Chapter 9 – Financial Services
- Previous professional experience in transposition and implementation of the EU *acquis* in the field of supplementary supervision of financial conglomerates would be an asset
- Previous professional experience, and/or knowledge of the legislation, of the Republic of Serbia in the respective area would be an advantage.

5. Applications

Applications (EU format CV and application letter, both in English) need to be submitted by e-mail to SEPLAC@altairasesores.es not later than 17:00 hrs, 15 January 2018, titled: **“Application for the position – Senior NKE in the area of supervision of financial conglomerates”**.

References must be available on request. Only short-listed candidates will be contacted.

The Project is an equal opportunity employer.
All applications will be considered strictly confidential.

Advertised post is not available to civil servants or other officials of the public administration in the beneficiary country, Serbia.

For more information, please contact Project Manager at Altair Asesores S.L.:
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