



## **DECISION**

### **ON THE LEASING COMPANY SUPERVISION**

#### Article 1.

This decision prescribes the procedures for performing the supervision, process for issuing the resolution and taking other prescribed measures of the Banking Agency of the Federation of BiH (in the further reading: FBA) over the leasing company operations with the head office in the Federation of BiH and their affiliates, and upon need the affiliates of the leasing companies which head office is on the territory of the Republic Srpska or Brcko District, that operate in the Federation of BiH.

#### Article 2.

- (1) The subject and the content of the supervision performed by the FBA covers the examination of the legal aspect of the performance, implementation of the regulations and maintenance of the prescribed standards.
- (2) The application of the principles of law and maintenance of the prescribed standards is the primary responsibility of the leasing company bodies and represents a minimal condition for its successful and stable performance.

#### Article 3.

The supervision of the leasing company performance the FBA is executing through on-site and off-site examinations.

#### Article 4.

- (1) The FBA is performing the off-site examination of the leasing company through examination of reports and documentation that are submitted to FBA by the leasing company.
- (2) The leasing company is obliged to report to FBA in compliance with the Decision on the form and content of the reports that the leasing company submits to FBA and the deadlines for reporting.

#### Article 5.

- (1) The FBA is performing the on-site supervision of the leasing company through examination of the business books and other documentation in the head office of the leasing company or the affiliate.
- (2) The examination of the leasing company performance form the paragraph (1) of this Article covers the complete operations (enhanced supervision) or only a part of the operations (targeted examination).
- (3) The FBA can perform an inquest of the business books and other documentation of the legal entities- subsidiaries of the leasing company and other legal entities that perform the leasing operations without an approval from FBA.

#### Article 6.

- (1) The on-site examination is performed by employee/employees of the FBA, appointed by an order from the Director of FBA or by an individual that he authorized (in further reading: examiner).
- (2) In the order from the paragraph (1) of this Article listed is the name, surname and the position of the examiner, the name of the leasing company to be examined, subject and scope of examination.

(3) If, during the examination, it is determined that the order from the paragraph (2) of this Article should be expended, the order will be expended.

#### Article 7.

(1) Upon completion of the on-site supervision, the examiner will, within 20 days from the day of completion of the on-site examination, develop a report that is submitted to the leasing company.

(2) In specific cases, the Director can, by a resolution, determine a longer deadline than the deadline from the paragraph (1) of this Article.

(3) The leasing company has a right for appeal on the submitted report within 8 days from the day of receiving it.

(4) The examiner reviews the statements in the appeal to the report. The response on the appeal on the report, the FBA submits to the leasing company within 10 days from the day of receiving it. If it is determined that the appeal is justifiable, along with the response to the appeal the FBA will, also, send to the leasing company an appendix to the report.

(5) The report becomes final if the leasing company does not submit an appeal to the report within the deadline from the paragraph (3) of this Article that is after submitting the response to the appeal and supplemented report from the paragraph (4) of this Article.

#### Article 8.

(1) FBA will make a conclusion on completing the on-site supervision procedure if it determines that:

- the report does not determine any irregularities and violations;
- the leasing company has corrected the determined irregularities and violations during the examination;
- the irregularities determined in the report are not of material importance for issuing a resolution.

(2) The conclusion from the paragraph (1) of this Article is submitted to the leasing company.

#### Article 9.

(1) In performing the supervision the FBA can use following measures:

1. During the on-site examination:

- issue a written notice
- order an urgent correction of irregularities and violations;

2. Upon completion of final report

- issue a written notice;
- issue a resolution ordering the leasing company to correct the determined irregularities and violations;
- issue a resolution to revoke the license for performing the leasing operations;
- issue a violation order;
- initiate a violation or other procedure.

3. In the off-site examination:

- issue a written warning;

- issue a resolution that orders the leasing company to correct the determined irregularities and violations;
  - issue a violation order.
- (2) Measures from the paragraph 1., of this Article are undertaken by the Director of the FBA, at the examiners' suggestion.
- (3) The type of measure is determined depending on the:
- evaluation of the determined irregularities and violations in the leasing company operations;
  - the presented willingness and capability of the leasing company bodies to correct the determined irregularities and violations.

#### Article 10.

- (1) In this Decision, the irregularities and violations are considered to be the leasing company performance that is contrary to the regulations of the Law on leasing, decisions of the FBA and other regulations.
- (2) In determining the irregularities and violations in the performance, the following is taken into account:
- its financial position;
  - the degree of its exposure to specific types of risks, especially the risk of collection of receivables, the risk of the remaining, operating risk, liquidity risk, etc.;
  - the influence of the determined irregularities and violations on its future financial position and business reputation;
  - volume and correlation of the determined irregularities and violations;
  - persistence and frequency of the determined irregularities and violations.

#### Article 11.

In evaluating the willingness of the management bodies to correct the determined irregularities and violations in the performance, the following is considered:

- the activities that they have undertaken and efficiency in correcting previously determined irregularities and violations;
- capability to manage the performance risk;
- cooperation with the FBA and the examiners during the supervision.

#### Article 12.

- (1) The Resolution that orders the correction of the determined irregularities and violations is issued to the management of the leasing company, and upon need to the supervisory board.
- (2) The Resolution from the paragraph (1) of this Article is final and a legal action cannot be initiated against it.

#### Article 13.

- (1) When it is determined through the supervision that the leasing company has performed a violation from the Article 91 of the Law on leasing, the FBA will issue a violation order.
- (2) The violation order from the paragraph (1) of this Article is issued by the Director of the FBA or by a person that he authorized.

Article 14.

- (1) FBA can issue a violation order to a bank that is to other legal entities and individuals, if the supervision determines violations from the Article 92., that is Article 93., of the Law on leasing.
- (2) The violation order from the paragraph (1) of this Article is issued by the Director of the FBA or by a person that he authorized.

Article 15.

- (1) A Leasing company, bank that is a legal entity or an individual is obliged to submit to FBA evidence of the cash fine payment latest within 30 days from the day of receiving the violation order.
- (2) If the evidence from the paragraph (1) of this Article is not submitted to the FBA, the FBA will present in the authorized court a request for initiation of a legal proceeding
- (3) The request for initiating a violation procedure from the paragraph (2) of this Article is submitted by the director of FBA or the individual that he authorized.

Article 16.

- (1) If the supervision determines that there are no conditions for the issuing of the violations order, FBA will submit a request to the authorized court a request for initiation of civil proceedings.
- (2) The request for initiation of civil proceedings from the paragraph (1) of this Article is submitted by the Director of FBA or by a person that he authorized.

Article 17.

- (1) In the case that the leasing company ceases to perform the leasing operations and in other cases stipulated by law, the FBA will issue a Resolution for revoking of the license for performing the leasing operations.
- (2) The Resolution for the revoking of the license from the paragraph (1) of this Article is issued by the Director of FBA.

Article 18.

FBA will establish a Committee that will develop a form for the violation order within 30 days from the day this Decision comes into effect.

Article 19.

This Decision comes into effect on the eighth day after the day it was published in the "Official Gazette of the Federation of BiH".

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Sarajevo

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Chairman of the  
Management Board  
Mr. sc. **Haris Ihtijarević**, signed

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