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GUIDE FOR ACCESS TO INFORMATION OF THE BANKING AGENCY OF THE FEDERATION OF BOSNIA AND HERZEGOVINA

Sarajevo, June 2019

Pursuant to Article 20 of the Freedom of Access to Information Act for the Federation of Bosnia and Herzegovina (Official Gazette of the Federation of BiH, No. 32/01 and 48/11), Guidelines to implement the Freedom of Access to Information Act for the Federation of Bosnia and Herzegovina (Official Gazette of the Federation of BiH, no 57/10), Article 23 of the Law on the Banking Agency of the Federation of Bosnia and Herzegovina (Official Gazette of the Federation of BiH”, No. 75/17) and Article 16, paragraph (1) item h) and j) of the Statute of the Banking Agency of the Federation of Bosnia and Herzegovina (Official Gazette of the Federation of BiH, no 3/18), the Director of the Banking Agency of the FBiH adopted

GUIDE FOR ACCESS TO INFORMATION OF THE BANKING AGENCY OF THE FEDERATION OF BOSNIA AND HERZEGOVINA

I. INTRODUCTION:

The purpose of the Guide for Access to Information of the Banking Agency of the Federation of Bosnia and Herzegovina (hereinafter: the Guide and the Agency) is to support applicants for access to information to exercise their rights in accordance with the provisions of the Freedom of Access to Information Act for the Federation of Bosnia and Herzegovina (Official Gazette of the Federation of BiH, No. 32/01 and 48/11, hereinafter referred to as "the Act").

The Guide is free of charge and can be obtained at the premises of the Agency in Sarajevo, address Zmaja od Bosne 47b, 71 000 Sarajevo) with the Information Officer of the Agency or at the website at www.fba.ba.

An integral part of the Guide is:

- Access to Information Request Form;
- Index Register.

The Guide helps you to find out more on how the interested parties can gain access to information in the possession and under the control of the Agency that is answers your questions related to:

1. right to access the information;
2. type of information you may request;
3. means of submission of requests;
4. procedure and timeframe for processing the request;
5. treatment of requests by the Agency;
6. procedure of notification of the Decision;
7. duplication costs of the requested information;
8. content of the access to information request form;
9. Index Register of the Agency.

For any additional questions, Information Officer of the Agency shall be available. We hope that this Guide will help you to facilitate and simplify exercise of your rights.

II. RIGHT OF ACCESS TO INFORMATION

In accordance with the Act, you should be able to exercise the right of access to any information which is in the possession of the Agency, except in the cases when the Agency exempts an information from providing the disclosures, in accordance with the Act or other regulation, or it has been exempted from disclosure under the other regulations.

In relation to foregoing, the following exemptions may be determined:

- a) competencies and objectives of the Agency prescribed by the Law on the Banking Agency of the Federation of BiH, laws regulating the operations of banking system entities and other relevant laws and regulations governing the competencies of the Agency;
- b) interest of defense and security, same as protection of public safety;
- c) crime prevention and detection;
- d) information identified as business secret by Agency's act;
- e) protection of the decision-making process in the Agency, including the provision of opinions, advices or recommendations (whether by a person employed by the Agency or by another person who works for or on behalf of the Agency, but does not include factual, statistical, scientific or technical information, and only where it is identified that by disclosure of the information it may be reasonably expected to cause significant damage to the legitimate objectives of the Federation;
- f) confidential commercial interests of a third party (in the given example, the Agency shall immediately notify the third party on the details of the request and inform that the information will be disclosed if it does not notify the Agency within 15 days that the information is confidential and provide the reason why its disclosure could cause damage);
- g) privacy protection (the Agency shall withhold information where it reasonably determines that it involves personal interests related to the privacy of a third party);
- h) disclosure of information contrary to the legislations on protection of private data;
- i) disclosure of information that would or could cause adverse consequences for achievement of objectives and performance of the Agency's supervisory function, the reputation and interest of the banking system organizations, as well as persons from whom the Agency received data, i.e. data considered to be the business secret of the Agency;
- j) unclear request or when the request does not contain sufficient information regarding the requested information and when the request is generalized and it cannot be determined what kind of information is requested.

In cases where there is the basis for the exemption or withholding of certain information, the Agency may publish or disclose the information in whole or in part, but only where required by the public interest (any form of non-compliance with the legal requirements, any failure, injustice, abuse of power or negligence in the performance of official duty, unauthorized use of public funds, health or safety hazards of an individual, the public or the environment).

Where a part of the requested information is identified as an exemption, the Agency shall exempt that part and disclose the rest of the information, unless due to this exemption it is not possible to understand the information.

III. INFORMATION YOU MAY REQUEST

A list of information available with the Agency is provided under the "Index Register", which is free of charge and available at the Agency headquarter - Sarajevo with the Information Officer of the Agency or at the website of the Agency, and it forms an integral part of this Guide.

IV. HOW TO FILE A REQUEST

Request for access to information shall be submitted in written in one of the official languages in the Federation of Bosnia and Herzegovina:

- by post to „Agencija za bankarstvo Federacije Bosne i Hercegovine, Zmaja od Bosne 47b, 71 000 Sarajevo“
- submitting the request directly to the protocol in the Agency headquarter,
- by e-mail: agencija@fba.ba

Request for access to information shall contain:

- a) information on name, last name and the address of the applicant, where possible the contact telephone of the applicant shall be indicated or the telephone number used by the applicant during the working hours, as well as the e-mail address of the applicant;
- b) the name of the authority to which the request is submitted, as well as an indication that the request has been addressed to the Information officer;
- c) Sufficient detail as to the nature and/or contents of the information sought, so as to enable the Agency a reasonable effort to locate the requested information. Specifically, the request should clearly define what someone wants to find out. The name of the requested document, the date of its creation, the author, the addressee, or any other information that would enable the Agency to find documents containing the requested information as easily as possible should be indicated.

Where personal information is required, the request for access to the information may only be submitted by the person who is the subject of the information, his legal representative or proxy holder. The person submitting the request and who is the subject of the information shall present to the Agency's official (or to the person to whom the request is submitted at the Agency protocol) an ID card or other identity document with a photograph. Where the request is submitted by a legal representative or a proxy holder, the request for access to information must be accompanied by proof of legal representation, i.e. power of attorney, a personally signed request form, and present an ID card or other identity document with a photograph, as well as a copy of the applicant's ID card. The Information Officer shall respect the provisions of the Law on Protection of Personal Data (Official Gazette of Bosnia and Herzegovina No. 49/06) as well as other regulations.

The law grants the right to ensure that personal information, under control of a public authority, shall be accurate, present, complete, relevant to for which was stored, and by any other means to be inaccurate. Having been granted access to personal information, it is possible to require modification, amendment or commenting which is added to the personal information. Requests for modification or amendments of personal data shall not limited in time. Where it is determined that the legal requirements in terms of the accuracy, present, relevance for legal utilization for

which were stored or by any other means to be inaccurate, the public authority may refuse the requested modification or amendment to the personal data by its decision. Such a decision also includes notice of legal right to appeal.

Where the written request does not meet one of the above formal requirements, the Agency shall notify the applicant in writing by decision no later than 8 days from the date of receipt of the request, if the residence address or habitual address has stated in the request for access to information. The aforementioned decision shall contain instruction on the right to appeal, the name and address of the authority to which appeal relates, the deadline and costs of filing the appeal, as well as the instruction on the right to address the Ombudsman of BiH, indicating the necessary information for contacting the Ombudsman of BiH.

V. PROCEDURE AND TIMEFRAME TO FOR PROCESSING THE REQUEST

The Agency shall be responsible to assess whether the written request for access to information is complete, i.e. whether it contains the name, last name and address of the applicant, and whether there is a description of the requested information and adequate clarification of the requested information. Where it is found that the request is incomplete, the Agency shall notify the applicant within eight (8) days from the day of receipt of the request, if the residence address or habitual address has indicated.

Where the request for access to information relates to information that is not under the competence of the Agency, it shall forward your request to the competent public authority no later than eight (8) days after the receipt of the request, which must be notified in writing.

Where the requests relates to access for information that may be exempted from disclosure in accordance with the Act, it shall be assessed whether its disclosure (in whole or in part) is in the public interest. The Agency shall send written notification within fifteen (15) days from the date of receipt of the request.

Timeframe may be extended:

- a) where it is necessary to obtain a prior consent from the third party to disclose the information containing confidential business information;
- b) where the Agency is obliged to inform a third party that, due to the existence of public interest, it shall nevertheless disclose information specified as an exception for disclosure by the law.

Where the Agency denies your request and denies access to the requested information in whole or in part, it shall provide notification by decision within fifteen (15) days from the date of receipt of the request, indicating the legal basis for the information exemption, including any material issues relevant to the decision, and also taking into account the public interest factor.

The Agency shall also notify of the right to appeal, the name and address of the authority to which appeal relates, the timeframe for submitting the appeal to the Director of the Agency and fees for filing the appeal.

The decision upon appeal is final in the administrative procedure and the party affected may rise the administrative dispute with the competent court against.

VI. TREATMENT OF REQUESTS FOR ACCESS TO INFORMATION

On receiving the access to information request form, the Information Officer shall take all necessary steps to obtain the information requested and consider all facts and circumstances relevant for the execution of the request. Upon completion of the procedure for granting access to information in whole or in part, the Agency shall, within fifteen (15) days, notify the applicant by decision:

- a) on the possibility to access the information in the premises of the Agency, or shall provide the Information to the applicant in the written format, where the information does not exceed ten standard A4 pages,
- b) the possibility of duplication of information where it exceeds 10 pages, subject to the prior payment.

The Agency shall disclose the information requested, notwithstanding the exceptions provided for by the Act and this Guide, where justified by the public interest. It shall take into account any benefits and damage that may arise from the disclosure of information. Where it is found that disclosure of public information identified as an exception by the Agency is in the public interest, the Agency shall notify the third party that it shall disclose the information upon the expiration of fifteen (15) days from the date of receipt of that decision. The aforementioned decision contains instruction on the right to appeal, the name and address of the authority to which appeal relates, the deadline and costs for filing the appeal, as well as instructions on the right to address the Institution of the Human Rights Ombudsman of BiH, indicating the information required to contact the Ombudsman.

VII. NOTIFICATION ON DECISION

The Agency's decisions granting or denying access to the requested information shall be submitted to the applicant no later than fifteen (15) days from the date of submission of the request, unless it is necessary to obtain a third party's statement regarding the disclosure of confidential commercial information or related information concerning the third party privacy.

VIII. DUPLICATION COSTS

The cost of duplicating the requested information is BAM 0.50 for each standard size page (A4) exceeding 10 (ten) first pages. If the applicant required information to be recorded on a CD, then the service is charged BAM 5.00.

Where the information exceeds the specified number of pages, the Agency's Information Officer shall inform you of the duplication possibilities and the fee amount, i.e. fees of information duplication. In this case, the Agency shall provide you the requested information upon the payment.

Payment slip shall be handled as follows:

1. Recipient: Agencija za bankarstvo Federacije Bosne i Hercegovine
2. Recipient's account: 1020500000027061
3. For the taxpayer number, if the payer is a natural person, the social security number shall be indicated, and if it is a legal entity then the tax number shall be indicated.

The procedural issues not regulated by the Act or this Guide shall be governed by the Law on Administrative Procedure (Official Gazette of the Federation of Bosnia and Herzegovina, No: 2/98 and 48/99).

VIII. DISCLOSURE OF THE GUIDE

This Guide shall enter into force on the day of its adoption and shall be published on the website of the Agency.

On the date of entry into force of this Guide, the Guide for access to information in the Banking Agency of the FBiH no: 01-2-1097/02 dated on 04.12.2002 shall cease to be in force.

DIRECTOR

Jasmin Mahmuzić s.r.

Number: 04-1-2-2268/19

Sarajevo: 12.06.2019