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Pravna podrška pregovorima

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

<b>Technical assistance requested:</b>	One (1) Senior Non-Key Expert in the area of payment services
<b>Project Title:</b>	Policy and Legal Advice Centre (PLAC II), Serbia
<b>Ref:</b>	EuropeAid/137065/DH/SER/RS
<b>Service Contract No.:</b>	(CRIS) 2016/375-724
<b>Main beneficiary:</b>	Ministry of European Integration of the Republic of Serbia and the Negotiating Team
<b>Target Beneficiaries:</b>	National Bank of Serbia (NBS)
<b>Content of the assignment:</b>	Assistance to the NBS in building its capacity for the implementation of supervision function in accordance with Regulation (EU) 2015/751 on interchange fees for card-based payment transaction (IFR)
<b>Budget Line / Expert Category:</b>	Senior Non-Key Expert
<b>Duration of the assignment:</b>	10 working days, spent in 2 missions in the period from March 2018 until (tentatively) June 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 4 – Free movement of capital and related to the area of Payment systems:

In the EC Screening report – Chapter 4 (part III.b. Payment systems) it is stated that the *current legal framework of Serbia on payment services has reached a good level of alignment with the acquis*, but it *should be borne in mind that Directive 2007/64/EC is revised with a new Directive with an enhanced*

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*supervisory role for competent authorities. The capacity of the competent authorities will need to be strengthened accordingly.*

Namely, a new package of EU legislation relevant for Chapter 4, sub-chapter "Payment systems" has been adopted in the meantime - a new Directive (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015 on payment services in the internal market and Regulation (EU) 2015/751 of the European Parliament and of the Council of 29 April 2015 on interchange fees for card-based payment transactions (IFR).

One of the key documents in the process of harmonisation of the national legislation with the EU legislation is the National Programme for the Adoption of the Acquis (NPAA), currently under its third revision.

In the area of Payment systems of Chapter 4 – Free movement of capital, harmonisation with Interchange Fee Regulation is envisaged. In order to align national legislation with IFR, the National Bank of Serbia has prepared Draft Law on Multilateral Interchange Fees and Special Operating Rules for Card-based Payment Transactions, which will contribute to further development of non-cash payments in Serbia once adopted and to fair practices in the payment cards market. In the middle of 2017, Draft Law was published on the website of the National Bank of Serbia for public consultations. It is planned that this Law shall apply as of the first quarter of 2019.

## **2. Description of the assignment**

### **2.1 Specific objectives**

According to provisions of Draft Law on Multilateral Interchange Fees and Special Operating Rules for Card-based Payment Transactions (hereinafter: Draft Law), aimed at aligning national legislation with EU IFR, the National Bank of Serbia will be the competent authority for supervision of payment card issuers and acquirers, payment card schemes, processors and other providers of technical services, which support the execution of payment transactions subject to this Draft Law. Taking into account the complexity of the subject, it would be relevant for the National Bank of Serbia to learn about the experience of the EU Member State(s) in the implementation of the Interchange Fee Regulation.

The specific objective of this short-term assignment is the assistance in capacity building of the National Bank of Serbia in accordance with best EU practice in this field through training of NBS staff, preparation of relevant internal operational guidance and instruction documents for the supervision of application and implementation of the future Law on Multilateral Interchange Fees provisions and by the advice regarding the reporting of interchange fees for the purposes of monitoring the application of the prescribed caps that should be defined in related by-law.

### **2.2 Requested services**

The Senior NKE is expected to provide the following services:

- a) To deliver practical training and present practical exercises regarding application of the Regulation (EU) 2015/751 of the European Parliament and of the Council of 29 April 2015 on interchange fees for card-based payment transactions (IFR) and relating (draft) Law on Multilateral Interchange Fees and Special Operating Rules for Card-based Payment Transactions; especially in regards to the assessment of interchange fee level and calculation of net compensation in accordance with EU MS's experience(s) and best practice(s);



- b) To draft internal operational guidance and instructions and advise on proposals regarding the future content of the by-law listed in part 2.3 (Outputs).

## 2.3 Outputs

The Senior NKE is expected to deliver the following outputs:

- Training material with practical examples for the assessment of interchange fee level and calculation of net compensation, including EU MS's experience(s) and best practise regarding the implementation of supervision function for the enforcement of IFR;
- Draft of internal operational Guidance for the assessment of interchange fee level and calculation of net compensation, providing details at operation level regarding interchange fee and net compensation calculation, as well as on caps' circumvention channels;
- Draft of internal operational Instructions for examining/supervising applying of (Draft) Law provisions by payment service providers and payment schemes and other subjects, providing clarifications and interpretations on:
  - co-badging and choice of payment brand or payment application,
  - rules around the 'honouring' of all cards,
  - gathering reports from relevant parties,
  - investigating complaints about non-compliance with the (draft) Law,
  - powers of the NBS,
  - penalties;
- Proposal on the relevant issues and the content which should be part of the future by-law regarding reporting on interchange fees for the purposes of monitoring the application of the prescribed caps by the NBS based on Draft Law.

## 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 the NKE in the context of this assignment.

Submission of reports:

- Draft Mission Report 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 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 Report.
- The Report and all prepared documents shall be submitted in hard copy and electronic version to the Team Leader of the Project.



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## 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 and main 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

The assistance is aimed at preparing the NBS for performance of its supervisory function in relation to the new (Draft) Law by training in practical aspects of the implementation of IFR Regulation (EU) 2015/751. The staff of NBS will get familiarised and acquainted with their tasks they will perform in accordance with the *acquis* after the accession of the Republic of Serbia to the European Union.

The assistance in scope of this intervention will be complementary to PLAC II assistance in harmonisation of national legislation governing payment services with Directive 2015/2366 that is currently ongoing and foreseen for completion by the end of March 2018.

## 3. Expert input

### 3.1 Total working days

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

### 3.2 Period of the assignment

March 2018 – (tentatively) June 2018

### 3.3 Starting day

It is expected that the work will be performed during 2 missions in the period from March until June 2018 and starting, at the earliest from 5 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)

- University degree (where a university degree has been awarded on completion of three years' study in a university or equivalent institution) in Economics, Law, Management 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 10 years of postgraduate professional experience in the area of payment services, gained in an EU Member State or candidate country

#### 4.3 *Specific professional experience (50 points)*

- Proven professional experience gained in the regulatory body for payment systems of an EU Member State or relevant institution implementing EU acquis related to payment services
- Proven professional experience in drafting and/or implementation of IFR would be an advantage
- Previous professional experience in payment card industry would be an asset.

### 5. **Applications**

Applications (EU format CV and application letter, both in English) need to be submitted by e-mail to SEPLAC@altairasesores.es no later than **29 December 2017**, titled: **“Application for the position – Senior NKE in the area of payment services”**.

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.: m.garcia@altairasesores.es / Tel. +34 91 3952798.