

Policy and Legal Advice Centre (PLAC III)

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

Technical assistance requested:	1 (one) Senior Non-Key Expert in the area of Negotiating Ch. 9, Financial Services – Capital markets and Investment services; Harmonisation of Serbian legislation with Regulation (EU) 2015/760 on European long-term investment funds
Project Title:	Policy and Legal Advice Centre (PLAC III), Serbia
Ref:	EuropeAid/139295/DH/SER/RS
Service Contract No.:	(CRIS) 2018/404-529
Main beneficiary:	The Ministry of European Integration of the Republic of Serbia and the Negotiating Team
Target Beneficiaries:	Negotiating Group Ch. 9; Ministry of Finance and Securities Commission
Budget Line /Expert Category:	One Senior Non-Key Expert
Duration of the assignment:	20 working days (WD), from January 2020 until April 2020

1. Relevant background information

Background information in relation to PLAC III project:

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

The PLAC III 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 the Republic of Serbia by supporting the effective alignment of national legislation with the Union *acquis* and its implementation and by further building the capacities of involved carriers of the EU integration process in the Republic of 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 III 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.

2. Background information in relation to Chapter 9 – Financial Services – Capital Markets and Investment Services

Negotiating Chapter 9 – Financial services is of crucial importance to the Republic of Serbia as it is to ensure financial stability and adequate consumer and investor protection. Serbia has opened the negotiations on Chapter 9, which means that it has reached a satisfactory level of alignment for securities markets and investment services to open negotiations and that it partly applies the *acquis* in this area. The EC Screening report 2019 for Chapter 9 states Serbia is moderately prepared in the area of financial services. Some progress was made in this field, especially in the field of banks and financial conglomerates, but more work is required to implement the financial services *acquis*.

Phasing in of the new *acquis* is an on-going process. The EU has encouraged Serbia to continue the process of alignment with the *acquis* and its effective implementation and enforcement.

Serbia's legislation in the area of securities markets and investment services is specified by the Law on the Capital Market, the Law on Investment Funds and the by-laws issued by the Securities Commission, which supervises the implementation of the laws.

At the present, investment services and funds are regulated by the Law on Investment Funds. Regarding the obligation of Serbia to align with the relevant EU *acquis*, in October 2019 the National Parliament of the Republic of Serbia enacted the Law on Open-Ended Investments funds with Public Offering and the Law on Alternative Investment Funds. The Law on Open-Ended Investments funds is mostly aligned with Directive 2009/65/EC on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) and Directive 2014/91/EU of the European Parliament and of the Council amending Directive 2009/65/EC on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS). The Law on Alternative Investment funds is fully aligned with Directive 2011/61/EU on Alternative Investment Fund Managers. As of April 2020, the Law on Investment funds will be repealed and the Law on Open-Ended Investments funds with Public Offering and the Law on Alternative Investment Funds Previous shall apply.

According to the NPAA Third Revision, Serbia is not aligned with Regulation (EU) 2015/760 on European long-term investment funds. The assistance from PLAC III will contribute to and enhance harmonisation with Regulation (EU) 2015/760 on European long-term investment funds which is not transposed into Serbian legislation and its proper implementation.

There is no overlapping between this project or any on-going and/or planned assistance projects for the activities covered by this ToR.

3. Description of the assignment:

3.1 Specific objectives

The specific objective of this assignment is to provide the expert assistance to the Ministry of Finance and Securities Commission with the harmonisation of Serbian legislation with Regulation (EU) 2015/760 on European long-term investment funds, in particular in drafting

the necessary changes of relevant laws in order to establish the necessary conditions for its implementation.

3.2 Requested services

The Senior NKE in the area of capital markets and investment services is expected to provide the following services:

1. To analyse the existing Serbian legislation and assess the level of its compliance with Regulation (EU) 2015/760 on European long-term investment funds by performing legal gap analyses.
2. Based on the findings on the gaps identified propose the appropriate legal instruments for full harmonisation of Serbian legislation with Regulation (EU) 2015/760 on European long-term investment funds - in line with the best EU practices
3. To assist the beneficiary in drafting the necessary amendments to the relevant laws in order to establish the necessary conditions for implementation of Regulation (EU) 2015/760 on European long-term investment funds.
4. To prepare and hold a workshop for the target beneficiaries presenting main objectives of the Regulation (EU) 2015/760 on European long-term investment funds, as well as of identified legal gaps, EU best practices and proposals for harmonisation and present the target beneficiaries the proposals of amendments to the relevant laws.

3.3 Outputs

Senior NKE is expected to deliver the following outputs:

1. A legal gap analysis of the Serbian legislation with Regulation (EU) 2015/760 on European long-term investment funds including a proposal for the appropriate legal instruments for full harmonisation of Serbian legislation drafted
3. Amendments to the relevant Serbian legislation drafted
4. Workshop held

3.4 Reporting

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

- 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 SNKE in the context of this assignment.
- A brief interim report - only upon a request of the PLAC III team: TL and/or KE2

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 reports prepared in the agreed quality shall be submitted to the Team Leader of the Project for a review, comments and the final approval.
- The reports shall be signed by the SNKEs and the Team Leader, responsible for endorsing the reports.

- The reports and all prepared documents shall be submitted in a hard copy and electronic version to the Team Leader of the project.

3.5 Specifics

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

Each of the short-term missions, the timing and duration shall be agreed with the Beneficiary and the PLAC team prior to each planned mission.

3.6 Expert input

3.6.1 Total working days

20 working days (WDs) have been planned for this assignment.

3.6.2 Period of the assignment and Starting day

It is expected that the work will be performed during several missions in the period from January 2020 until April 2020 and starting, at the earliest 20 January 2020 onwards. However, the starting date will be confirmed at the later stage.

3.6.3 Location/Place of assignment

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

3.6.4 Working language

English.

4. Experts' Profile – Senior NKE (20 working days):

4.1 Qualifications and skills (25 points)

- A level of education, which corresponds to completed university studies of at least 3 years attested by a diploma such as Law, Economy or Finance.
- Computer literacy
- Be proficient in report drafting
- Excellent communication and analytical skills
- Proficiency in English language
- Be independent and free from conflicts of interest in the responsibilities they take on

4.2 General professional experience (25 points)

- At least 8 (eight) years of general postgraduate professional experience related to the Union acquis gained in an EU member state or candidate country.

4.3 Specific professional experience (50 points)

- At least 5 years of professional experience in an EU member state or candidate country related to harmonisation of the national Capital Market and Investment Services legislation with the Union Capital Market and Investment Services acquis.

- Professional experience in a Capital Market and Investment Services regulatory authority of an EU member state or candidate country will be an advantage
- Previous professional experience and/or knowledge of the Serbian legal system will be an advantage.

5. Applications

Applications (EU format CV and application letter in English) need to be submitted by e-mail to mbayard@dmiassociates.com and ehoward@dmiassociates.com no later than 31 December 2019, 17:00 hrs, titled:

“Application for the position – Senior NKE in the area of Ch. 9, Harmonisation of Serbian legislation with Regulation (EU) 2015/760 on European long-term investment funds.”

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

Pre-selected experts will be requested to sign **Statement of Availability (SoA)** in which they acknowledge and confirm the availability to accomplish this assignment within the indicated period, at the indicated starting date and within the number of working days requested.

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

Advertised posts are 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 DMI Associates Marion Bayard: mail to mbayard@dmiassociates.com or Elizabeth Howard ehoward@dmiassociates.com .