

Policy and Legal Advice Centre (PLAC III)

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

Technical assistance requested:	One (1) Senior Non-Key Expert in the area of Negotiating Ch. 9, Financial Services; Harmonisation of Serbian legislation with Directive 2014/65/EU on markets in financial instruments (MIFID II) and Regulation (EU) No 600/2014
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; Securities Commission (SEC), Central securities depository and clearing house (CSDCH), Belgrade Stock Exchange (BSE)
Budget Line /Expert Category:	Senior Non-Key Expert
Duration of the assignment:	20 working days (WD), spent in the period April – July 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 high 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. However, the regulation in the field of financial services has been evolving rapidly during the last years. 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.

The EU progress reports on Serbia for 2018 and for 2019 both state that 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.

Furthermore, the EU Common Position for Chapter 9: Financial services states that: “The EU emphasises that Serbia needs to take steps towards full alignment with the acquis for markets in financial instruments (MiFID) by transposing related implementing Directives and Regulations. In addition, Serbia will need to align with the evolving MiFID framework under Directive 2014/65/EU (MiFID II), Regulation (EU) No. 600/2014 (MiFIR) and their implementing acts.”.

Also, as a result of PLAC II Project amendments on the Capital Market Law were drafted implementing MIFID II. However, in order to ensure successful implementation of the Capital Market Law, the Project provided recommendation to incorporate Delegated acts, Implementing and Regulatory Technical Standards and ESMA guidelines where applicable in national legislation.

Therefore, the expert assistance is required in the following areas: introduction to the SEC staff MIFID II and MIFIR, as well as other acts which need to be transposed into SEC bylaws in order to successfully implement MIFID II, identification of gaps between the stated acquis and the Serbian legislation and the key priorities for transposition, drafting of the Action Plan for transposing Delegated acts, Implementing and Regulatory Technical Standards and The European Securities and Markets Authority (ESMA) guidelines necessary for implementation of MIFID II.

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 objective

The specific objective of this assignment is identification of the priority areas for transposition and major gaps between MIFID II and MIFIR and the relevant Serbian legislation, drafting of an Action Plan for transposing Delegated acts, Implementing and Regulatory Technical Standards and ESMA guidelines necessary for implementation of MIFID II.

3.2 Requested services

The Senior NKE in the area of the prospectuses is expected to provide the following services:

1. Legal gap analysis performed with the recommendations and prioritisation of acts which need to be transposed into SEC bylaws in order to successfully implement MIFID II and MIFIR.
2. Drafting of an Action Plan - a transposition plan that specifies which Delegated acts, Implementing and Regulatory Technical Standards and ESMA guidelines, necessary for implementation of MIFID II and MIFIR, shall be transposed by SEC legislation.
3. Preparation of a workshop presenting the outputs of the assignment to the target beneficiaries.

3.3 Outputs

Senior NKE is expected to deliver the following outputs:

1. An Action Plan for transposition of Delegated acts, Implementing and Regulatory Technical Standards and ESMA guidelines necessary for implementation of MIFID II and MIFIR which contains the list of SEC bylaws that need to be drafted in accordance with the Capital Market Law with a reference to specific EU acts drafted.
2. 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 SNKE 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 SNKE shall work under the guidance and follow the instructions of the Team Leader. The SNKE 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 April 2020 until July 2020. 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 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 in 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 gained in an EU member state or candidate country in the field of Union acquis related to Ch. 9.

4.3 Specific professional experience (50 points)

- At least 5 years of postgraduate 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.

- Postgraduate professional experience in a Capital Market and Investment Services regulatory authority of an EU member state or candidate country will be advantage
- 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 **27 March 2020**, 17:00 hrs, titled:

“Application for the position - Senior NKE in the area of Ch. 9, Harmonisation of Serbian legislation with Directive 2014/65/EU on markets in financial instruments (MIFID II) and Regulation (EU) No 600/2014”.

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.

