

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 – Financial market infrastructure; Harmonisation of Serbian legislation with Regulation (EU) No 648/2012 on OTC derivatives, central counterparties and trade repositories and Regulation (EU) 2015/2365 on transparency of securities financing transactions and of reuse and amending Regulation (EU) No 648/2012
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, Securities Commission and Central Securities depository and clearing house
Budget Line /Expert Category:	One Senior Non-Key Expert
Duration of the assignment:	30 working days (WD), from October 2020 until April 2021

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 the 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 – Financial market infrastructure

The Negotiating Position of the Republic of Serbia for Chapter 9 states that Serbia's legislation in the area of OTC derivatives, central counterparties and trade repositories is not aligned with the Regulation (EU) No 648/2012 on OTC derivatives, central counterparties and trade repositories. Besides, Serbia's legislation is not aligned with Regulation (EU) 2015/2365 on transparency of securities financing transactions and of reuse and amending Regulation (EU) No 648/2012.

Serbia will need to fully harmonize its legislation in the field of financial market infrastructure with the relevant *acquis*. According to the NPAA Third Revision, creating the conditions for full implementation of Regulation (EU) No 648/2012 on OTC derivatives, central counterparties and trade repositories will be carried out no later than six months prior to Serbia's accession by enacting the law governing exclusively OTC derivatives. Concerning Regulation (EU) 2015/2365 on transparency of securities financing transactions and of reuse and amending Regulation (EU) No 648/2012, the changes taking place at EU level will be followed in order to create the conditions for its application by the date of accession of the Republic of Serbia to the European Union.

The assistance provided by the PLAC proposed expertise, will concentrate on identification of the discrepancies between the Union and Serbian law and propose necessary changes as well as to assist the beneficiary in drafting of the Union aligned legislation.

The assistance from PLAC III will contribute to and enhance harmonisation with Regulation (EU) No 648/2012 on OTC derivatives, central counterparties and trade repositories and Regulation (EU) 2015/2365 on transparency of securities financing transactions and of reuse and amending Regulation (EU) No 648/2012 which are not transposed into Serbian legislation and their 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, Securities Commission and Central Securities depositary and clearing house with the harmonisation of Serbian legislation with Regulation (EU) No 648/2012 on OTC derivatives, central counterparties and trade repositories and Regulation (EU) 2015/2365 on transparency of securities financing transactions and of reuse and amending Regulation (EU) No 648/2012, in particular in drafting the Law on over counter derivatives and the necessary changes of relevant legislation in order to establish the necessary conditions for their 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 prepare and hold joint consultative meetings to present the target beneficiaries the objectives of the Regulation (EU) No 648/2012 on OTC derivatives, central counterparties and trade repositories and Regulation (EU) 2015/2365 on transparency of securities financing transactions and of reuse and amending Regulation (EU) No 648/2012.
2. To analyse the existing Serbian legislation in the area and assess the level of its compliance with Regulation (EU) No 648/2012 on OTC derivatives, central counterparties and trade repositories and Regulation (EU) 2015/2365 on transparency of securities financing transactions and of reuse and amending Regulation (EU) No 648/2012 by performing gap analyses.
3. To present to target beneficiaries the findings on the gaps identified and proposals for harmonisation of Serbian legislation with Regulation (EU) No 648/2012 on OTC derivatives, central counterparties and trade repositories and Regulation (EU) 2015/2365 on transparency of securities financing transactions and of reuse and amending Regulation (EU) No 648/2012 in line with the best EU practices, at joint consultative meetings.
4. To assist the beneficiaries in drafting of a Law on over counter derivatives in accordance with the Union *acquis* requirements.
5. To assist the beneficiaries in drafting the necessary amendments to the relevant legislation in order to establish the conditions required for a full implementation of Regulation (EU) No 648/2012 on OTC derivatives, central counterparties and trade repositories and Regulation (EU) 2015/2365 on transparency of securities financing transactions and of reuse and amending Regulation (EU) No 648/2012.
6. After drafting the required legislation, prepare Tables of Concordance (ToC) of the Regulation (EU) No 648/2012 on OTC derivatives, central counterparties and trade repositories and Regulation (EU) 2015/2365 on transparency of securities financing transactions and of reuse
7. To prepare and hold joint consultative meetings to present to the target beneficiaries the outputs of the assignment.

3.3 Outputs

Senior NKE is expected to deliver the following outputs:

1. A gap analysis of the Serbian legislation with Regulation (EU) No 648/2012 on OTC derivatives, central counterparties and trade repositories and Regulation (EU) 2015/2365 on transparency of securities financing transactions and of reuse and amending Regulation (EU) No 648/2012 drafted.
2. The Law on over counter derivatives and/or the amendments to the relevant Serbian legislation drafted.
3. ToC of the of the Regulation (EU) No 648/2012 on OTC derivatives, central counterparties and trade repositories and Regulation (EU) 2015/2365 on transparency of securities financing transactions and of reuse drafted.
3. Joint consultative meetings (at least three) presenting to the target beneficiaries the main objectives of the Regulation (EU) No 648/2012 on OTC derivatives, central counterparties and

trade repositories and Regulation (EU) 2015/2365 on transparency of securities financing transactions and of reuse and amending Regulation (EU) No 648/2012 as well as the identified gaps, EU best practices and proposals for harmonisation (the draft law and the necessary legislation amendments) 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

30 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 October 2020 until April 2021.

3.6.3 Location/Place of assignment

The SNKE has to deliver 100% of the input in Belgrade, Serbia, if not otherwise agreed due to extraordinary circumstances (i.e. COVID 19). All home-based days are subject to a prior approval by the EU Delegation Project Manager responsible for PLAC III project.

3.6.4 Working language

English

4. Experts' Profile – Senior NKE (30 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 Capital Market and Investment Services acquis gained in an EU member state.

4.3 Specific professional experience (50 points)

- At least 3 years of postgraduate professional experience in transposition and implementation of Regulation (EU) No 648/2012 on OTC derivatives, central counterparties and trade repositories and Regulation (EU) 2015/2365 on transparency of securities financing transactions and of reuse and amending Regulation (EU) No 648/2012.
- Postgraduate professional experience in a Capital Market and Investment Services regulatory authority of an EU member state will be an advantage.
- Knowledge of 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 August 2020, 17:00 hrs, titled:

“Application for the position – Senior NKE in the area of Ch. 9, Harmonization of Serbian legislation with Regulation (EU) No 648/2012 on OTC derivatives, central counterparties and trade repositories and Regulation (EU) 2015/2365 on transparency of securities financing transactions and of reuse and amending Regulation (EU) No 648/2012.”

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.