



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 Regulation (EU) No 909/2014 on improving securities settlement in the European Union and on central securities depositories, and amending Directives 98/26/EC and 2014/65/EU and Regulation (EU) No 236/2012 (CSDR); Directive 98/26/EC on settlement finality in payment and securities settlement systems (SFD)

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)

Budget Line /Expert Category: One Senior Non-Key Expert

Duration of the assignment: 40 working days (WD), from September 2020 to 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 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 and 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 2019 states 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 no progress has been made in the field of financial infrastructure.

Serbia's legislation is not aligned with the Regulation 909/2014/EU on improving securities settlement in the European Union and on central securities depositories (CSDR) including the provisions of the Directive 98/26/EC on settlement finality in payment and securities settlement systems (SFD). Further alignment with the Directive 98/26/EC and the Regulation 909/2014/EU will be conducted by adoption of the new Capital Market Law by the Ministry of Finance and the relevant bylaws of the Central Securities Depository and Clearing House.

The conditions for the full implementation of the Regulation 909/2014/EU will be created prior to Serbia's EU accession.

One of the recommendations from the previous PLAC Project (PLAC II) was that SEC/CSDCH need further assistance in drafting by-laws related to implementation of CSDR and SFD.

Therefore, the expert assistance is required in the following areas: support in drafting acquis-compliant by-laws of the SEC and CSDCH, including the timely elaboration of necessary by-

laws, instructions, training plans and other instruments for the smooth implementation of Regulation 909/2014/EU and Directive 98/26/EC.

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 harmonisation and major gaps between CSDR and SFD 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 CSDR and SFD.

3.2 Requested services

The Senior NKE in the area of financial market infrastructure is expected to provide the following services:

1. Conduct gap legal assessment to elaborate the changes needed, and make a list of necessary by-laws to be drafted in order to comply with and implement the Union acquis
2. Provide technical and legal advice on the substantial changes made by new Union acquis by providing on the job training to the SEC and CSDCH employees in charge of implementing new by-laws
3. Support the drafting of the acquis-compliant by-laws in order to establish the necessary conditions for implementation of the CSDR and SFD.

3.3 Outputs

Senior NKE in the area of financial market infrastructure is expected to deliver the following outputs:

1. Gap analysis of Serbian national legal frame and the list of the necessary by-laws drafted
2. By-laws drafted
3. On the job training held

3.4 Reporting

The SNKE in the area of financial market infrastructure 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

Total of 40 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 September 2020 – April 2021. 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, unless 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 in the area of financial market infrastructure (40 working days):

3.1 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, finance or similar, relevant to the assignment

- 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 o

4.2 General professional experience (25 points)

- Minimum 8 years of postgraduate professional experience in the field related to Ch. 9 Union acquis gained in an EU member state

4.3 Specific professional experience (50 points)

- Proven professional experience in the field of harmonisation of legislation related to Chapter 9 gained in an EU member state
- Previous professional experience, and/or knowledge of the legislation of the Republic of Serbia in the respective area will be an advantage.

4. 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 17 August 2020, 17:00 hrs, titled:

“Application for the position – Senior NKE in the area of financial market infrastructure”.

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.

