

MEMORANDUM OF UNDERSTANDING

between

Central Bank of Montenegro

and

National Bank of Serbia

in the field of bank supervision

The Central Bank of Montenegro and the National Bank of Serbia – hereinafter: parties, expressing mutual interest and willingness to establish and promote bilateral ties in banking supervision and wishing to achieve common understanding on issues relating to the sharing of supervisory information in order to facilitate cooperation in the performance of efficient consolidated supervision of banks active in both member states of the state union Serbia and Montenegro and create preconditions for building up a safe and sound position of banks in their respective territories, have agreed as follows:

1. For the purposes hereof:
 - “member states” shall mean the Republic of Montenegro and the Republic of Serbia;
 - “supervision authorities” shall mean the Central Bank of Montenegro and the National Bank of Serbia;
 - “bank” shall mean a legal entity engaged in banking operations (general or specialized), which is recognized as bank or other financial organization in compliance with the regulation of the member state in which it was incorporated, which holds an operating license and is subject to supervision in compliance with the law of the member state in which it was incorporated;
 - “supervisory data” shall mean data and materials received, obtained or produced by the supervision authority in the performance of its supervisory functions, as well as through exchange of data or conduct of on-site supervision in accordance herewith, and shall not include data on customer deposits, in compliance with the law;

- “cross-border establishment” shall mean a branch, subsidiary, representative office or another legally permitted organizational form subject to consolidated banking supervision in compliance with the law and other regulations of the member state in which the bank was incorporated.

In accordance with definitions used by the Basel Committee on Banking Supervision and the European Union legislation:

- a “branch” is an organizational part that does not have separate legal entity status and is thus an integral part the bank incorporated in one of the member states;
- a “subsidiary” is a separate legal entity wholly or majority owned by a bank incorporated in the member country other than that of the subsidiary;
- a “representative office” is an organizational part through which the interests of a bank are promoted and their realization assisted, but which does not engage in banking operations;
- “home member state” is the member state whose regulations apply to incorporation of the bank which sets up a branch, subsidiary or representative office in the other member state (hereinafter: host member state).

2. To maintain reliability and efficiency of banking systems of their respective member states, parties shall cooperate in banking supervision pursuant hereto and subject to legislation of each party’s member state and its international obligations.

Cooperation of parties under this memorandum shall be subject to the principle of reciprocity.

3. Parties agree to regularly exchange data on the state of their respective banking systems and requirements for performing banking activity in their respective member states and any changes thereto.
4. Parties shall regularly provide, on a reciprocal basis, data on the legal framework, prescribed requirements for performing the banking activity and banking supervision standards in their respective members states, and any significant changes thereto.
5. Parties agree to meet, as necessary, in order to consider issues of mutual interest and the ways to improve supervision of bank operations.
6. Parties shall cooperate hereunder at the initiative or request for assistance in banking supervision sent by either party to the other.

7. The request for assistance shall be lodged in writing, including by electronic communication.
8. Data being the subject hereof shall be provided in accordance with the regulations of the party's member state, including limitations relating to disposal of data. A party may thus deny a request for assistance if it assesses that fulfillment of such request would be contrary to law. In that case, the requesting party shall be notified in writing of such rejection of the request and the reasons for such rejection.
9. Parties shall take all necessary measures in order to provide a prompt and as complete a reply as possible. Each party shall notify the other party of the circumstances hindering or disabling timely fulfillment of a request for assistance.
10. Each party shall independently bear all costs relating to implementation hereof, unless otherwise agreed by the parties.
11. Parties agree to cooperate in supervising cross-border establishments in the other member state as follows :
 - 11.1 With regard to issuing operating licenses and prescribed approvals, the parties agree as follows:
 - 11.1.1 if a bank headquartered in one member state (home member state) applies to the party from the other member state (host member state) for license or approval to open a branch, subsidiary bank or representative office (cross-border establishment), the party from the host member state shall consider such application and decide on such application within the time period and accordance with the procedures set out in the regulations of its member state;
 - 11.1.2 following receipt of the application referred to in Article 11.1.1 hereof, the party from the host member state shall notify the other party of the details of such application and obtain the latter party's consent to such application, in accordance with recommendations of the Basel Committee on Banking Supervision or the regulations of its home member state;
 - 11.1.3 following the application, the party from the home member state shall notify the other party whether the applicant bank operates in compliance with the law and other regulations and whether such bank may be expected, given its decision-making and internal controls systems, to ensure regularity of operations of its cross-border establishment in the other member state;

- 11.1.4 the party from the home member state shall notify the other party of the nature and scope of consolidated supervision it will conduct in respect of such applicant bank;
- 11.1.5 the parties shall exchange data on the capacity, integrity and experience of prospective members of management of the cross-border establishment in the other member state, in compliance with the laws of their respective member states;
- 11.1.6 the party from the host member state shall notify the other party in writing of its decision regarding the application referred to in Article 11.1.1 hereof.
- 11.2 In the conduct of ongoing off-site supervision of operations of the cross-border establishment set up in one member state by a bank incorporated in the other member state, which shall take place through collecting, processing and analyzing data from financial and statistical reports submitted by such cross-border establishment, the parties agree that:
 - 11.2.1 the party from the home member state shall conduct off-site supervision of operations of the cross-border establishment in the other member state, in compliance with the law and other regulations of its member state;
 - 11.2.2 the party from the host member state shall not prevent the cross-border establishment in the other member state referred to in Article 11.2.1 hereof from submitting to its head office and/or parent bank data and reports necessary for compiling consolidated financial and other statements, in line with regulations of the home member state, provided that such data contain no names of depositors;
 - 11.2.3 parties undertake to use their best efforts to provide to the other party information on material changes in operations or risks undertaken by the cross-border establishment in the other member state, as well as on significant supervision findings and corrective measures taken in respect of such cross-border establishment.
- 11.3 If it becomes necessary for parties to conduct on-site supervision:
 - 11.3.1 the party from the home member country shall notify the other party of its intention to conduct on-site supervision of the cross-border establishment in the other member state, indicating the purpose and scope of such supervision. The party from the host member state shall, at the request of the other party, provide any available data relating to the conduct of the above on-site supervision;

- 11.3.2 the party from the host member state shall not prevent the other party from conducting on-site supervision referred to in Article 11.3.1 hereof and shall enable access for such party to supervisory data, as defined in Article 1 hereof, which such party may need in order to conduct the above on-site supervision;
- 11.3.3 representatives of the party from the host member state are entitled to be present during on-site supervision conducted by the other party and to exchange views with members of the supervision team.
- 11.4 In connection with the supervision of banks incorporated in one member state which have cross-border establishments in the other member state, parties hereby agree to provide, on a reciprocal basis, supervisory data relating to such banks, including in particular data on all material changes in the operations of such banks, and, especially, data on restrictions of such banks' scope of activity, change or revocation of such banks' operating license, appointment of a provisional administrator, institution of rehabilitation, liquidation, bankruptcy or other proceedings that significantly alter or suspend regular bank operations, and material status changes of the bank.
12. To the extent permitted by law, the parties shall guard confidentiality of supervisory data and documents received from the other party in the exercise of its supervisory function, unless publication of such data or documents is allowed and the other party does not object to their being so published. The degree of confidentiality of the above data and documents shall be determined by the party providing such data and documents. In this regard, employees of each of the parties shall generally be bound to guard as confidential all data obtained in the course of performance of their duties.
13. Without the consent of the party providing such data, the received supervisory data may not be used for any purposes other than those for which they were requested and obtained and other lawful supervisory purposes.
14. No supervisory data received by one party from the other party in line herewith shall be submitted to a third party without prior consultation and consent of the party that provided such data, unless such disclosure is required by law. If the party that received such data is required to disclose them, it shall consult with the other party on the above disclosure requirement and, if so required by the latter party, use its best efforts to preserve confidentiality of data to the extent permitted by law.
15. Parties express their willingness to promote cooperation through visits for purposes of sharing data and experience, and through staff exchanges for training purposes, in order to reinforce best banking supervision practice in their respective countries.

16. This memorandum shall enter into force on the day it is signed by both parties and it shall be valid until 31 December 2003.
17. This memorandum shall be deemed automatically extended for each next calendar year, unless a party gives notice of termination hereof to the other party by 30 November of the current year.

This memorandum has been signed in four counterparts, two of which for each party.

On behalf of the Central Bank of Montenegro

On behalf of the National Bank of Serbia

Chairman of the Council of the
Central Bank of Montenegro

Governor

Ljubisa Krgovic

Mladjan Dinkic

22 April 2003

Belgrade