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## **PRIVATIZATION**

### **AMENDMENTS TO THE PRIVATIZATION LAW** *(Official Gazette of the Republic of Serbia No. 123/2007)*

### **AMENDMENTS TO THE TENDER DECREE** *(Official Gazette of the Republic of Serbia No. 126/2007)*

In final days of 2007, the General Assembly of the Republic of Serbia enacted the Amendments to the Privatization Law („**Amendments**“). The Amendments remove many interpretation dilemmas that were caused by loopholes in the earlier version of the Privatization Law (“**PL**”). In particular, the Amendments supplement the provisions on restructuring, mandatory debt relief and termination of privatization contracts.

The deadline for completion of privatization of socially-owned capital is once again extended. Public invitations for the sale of remaining socially-owned capital must be published by 31 December 2008 or the companies with such capital will be put in compulsory liquidation. Compulsory liquidation also awaits the companies that do not find buyers after three attempts or fail to submit annual financial reports to the Agency for Business Registers two years in a row.

The Amendments expand the application of compulsory debt relief by state creditors to debtor’s daughter companies and clarify that the obligation of state creditors to forgive debts applies with respect to all companies undergoing privatization, and not only with respect to the companies in the process of restructuring. The Amendments further prohibit any enforcement measures against the companies undergoing restructuring. With respect to the companies that are not in the restructuring status, the enforcement ban applies to the claims of state creditors that were created prior to 31 December 2007.

The Amendments specify that the Privatization Agency is authorized to commence negotiations with the second-ranked bidder if the first-ranked bidder fails to pay the purchase price.

One of the most significant changes concerns the status of shares issued pursuant to capital increase as a result of implementation of buyer’s investment obligation. The PL now provides that all such shares are treated as company’s own shares and are transferred to the buyer only after the Agency for Privatization certifies that the entire investment program foreseen by the privatization contract is fulfilled. If the privatization contract is terminated prior to full implementation of the investment program, the company’s own shares are transferred to the Auction Fund, who is obliged to transfer the proceeds of their sale to the terminated buyer.

Following the Amendments to the PL, the Serbian Government adopted the Amendments to the Tender Decree to introduce two new types of tender sale: tender with public price auction (applicable in case of asset sale) and summary tender (applicable in case of sale of shares from the portfolio of the Auction Fund). In both procedures, the buyers are offered a take-it-or-leave-it contract, without the possibility of negotiating the terms of the sale.

**SHARE GIVEAWAY LAW**  
*(Official Gazette of the Republic of Serbia No.123/2007)*

This law regulates distribution of shares to be issued by 6 state-owned companies (NIS, EPS, Airport Belgrade, JAT, Galenika and Telekom) to the citizens of Serbia and employees of those companies free of charge, as well as distribution of the proceeds of sale of the shares currently held in the Privatization Register. The deadline for sale of shares from the Privatization Register is 31 December 2008, except for the shares registered after 30 June 2008, which must be sold within 6 months from the registration. The law prohibits closing of privatized open joint stock companies until the shares held in the Privatization Register are sold.

**BANKING REGULATIONS**

In December 2007, the National Bank of Serbia enacted 4 decisions on control of banks' operations. The decisions will not take effect before 1 July 2008.

**DECISION ON CAPITAL ADEQUACY OF BANKS**  
*(Official Gazette of the Republic of Serbia No. 129/07)*

Among the main novelties introduced by this Decision are the provisions that recognize close-out netting of the positions pertaining to securities and financial derivatives in the bank's trading book. The Decision prescribes in detail the conditions under which such close-out netting is permitted.

**DECISION ON CLASSIFICATION OF BANK'S BALANCE SHEET  
AND OFF-BALANCE SHEET ITEMS**  
*(Official Gazette of the the Republic of Serbia No.129/07)*

Among other things, the Decision prescribes events triggering borrower's default status:

- 1) if the bank deems it unlikely that the borrower will settle its obligations in full (certain guidelines on exercising bank's discretion are prescribed);
- 2) if the borrower is in delay for more than 90 days on any substantial obligation towards the bank.

**DECISION ON RISK MANAGEMENT OF BANKS**  
*(Official Gazette of the Republic of Serbia No. 129/07)*

**DECISION ON LIQUIDITY RISK MANAGEMENT OF BANKS**  
*(Official Gazette of the Republic of Serbia No. 129/07)*

The new Decision on Risk Management excludes provisions on liquidity risk, which is now the subject-matter of a separate regulation. The Decisions contains detailed technical rules on identification, measurement and assessment of risks.

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