

EUROPEAN FINANCIAL SYSTEM AND INTEGRATION OF SERBIAN AND MACEDONIAN BANKING SECTOR IN IT¹

Srdjan Redžepagić², Jovan Zafiroski³, Djuro Djurić⁴

Abstract

In the process of preparation for membership of the European Union (EU) Western Balkans countries are obliged to harmonize their legal system with the EU law and with the rules providing the functioning of the EU internal market. The provisions regulating the banking sector are highly important for the European economy for the reason that most of the financial resources for the companies and citizens are provided by the banks in their role as financial intermediaries. The integration process in the EU banking sector depends on three community freedoms: movement of capital, freedom of establishment and freedom to provide services. They are all interdependent and without any of these freedoms the integration of the banking sector will not be achieved. This text presents the EU legal framework relating to the banking sector and analyses the process of preparation in the banking sectors of the Republic of Serbia and the Republic of Macedonia for complying with the respectable EU rules.

Key words: European Union, Banking Sector, Serbia, Macedonia, Stabilization and Association Agreement

1. Introduction

The banking sector is crucial for the European economy for the reason that most of the financial resources for the companies and citizens are provided by the banks in their role as financial intermediaries. For that reason, the White Paper on *the Completion of the Internal Market* includes measures providing free operations of the European banks on the territory of all the Member states. It proposes a single banking license, home country control and mutual recognition⁵.

They are all interdependent and without any of these freedoms the integration of the banking sector will not be achieved.

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² Srdjan Redžepagić, PhD, Assistant professor, Researcher, Institute of Economic Sciences, Belgrade, Serbia and associate researcher at the research center CEMAFI of the University of Nice-Sophia Antipolis

³ Jovan Zafiroski, PhD Student at the University of Nice – Sophia Antipolis, teaching assistant at the Faculty of Law "Justinianus Primus", University st. Cyril and Methody, Skopje, Macedonia

⁴ Djuro Djurić, PhD Student at the University of Belgrade, Law Faculty, teaching assistant at the Belgrade banking academy, Belgrade, Serbia

⁵ For the process of European banking integration see more: Jean Dermine, European Banking Integration: Don't Put the Cart before the Horse, *Financial markets, institutions & instruments*, Blackwell Publishing, Vol. 15 No.2, 2006, pp.57-106

The free movement of capital is essential not only for the banking sector but also for the internal market in general. All the others community freedoms are useless without the free movement of capital⁶. That is why most of the provisions regulating the free movement of capital within the European Union (EU) and between the EU member states and third countries are included in the Treaty establishing the European Community, to be more precise, in articles 56- 60⁷.

The right of establishment and freedom to provide services in the banking sector are regulated by EU secondary legislation i.e. by Council directives. The EU legal framework relating to the banking sector consist two main directives. The first is the Directive 2006/48/EC of 14 June 2006 which regulates the taking up and pursuit of the business of credit institutions and constitutes an essential instrument for the achievement of the internal market from the point of view of both the freedom of establishment and the freedom to provide financial services, in the field of credit institutions⁸. The second, is the Directive 2006/49/EC of 14 June 2006 on the capital adequacy of investment firms and credit institutions (recast). Both directives have transposed into Community law the Basel II rules on measuring own funds and capital requirements. Thus, according to the first directive a credit institution authorized and supervised by a competent authority of one Member State may undertake financial activities covered by the directive within the territories of all the Member States either by establishment of a branch or by the way of the provision of services. The supervision of these institutions is the authority of the home Member State. The harmonization of national legal systems is to extant providing a mutual recognition of authorization and of prudential supervision systems which will assure the principle of single license recognized throughout the Community and the application of the principle of home Member State prudential supervision⁹

From 2004 Serbia adopted few hundred laws harmonizing its legislation with European Union legal system. In economic sector great reform is performed by adopting new Commercial Companies Code¹⁰ in 2004. This reform was followed by the set of legal acts on Registration of Business and Companies, State Agencies in economic and financial sector, on Insolvency procedure, on bankruptcy and liquidation of banks and insurance companies etc.

Particularly, in financial sector two important laws were adopted in 2005 and 2006: Banking law¹¹ and Law on the Market of Securities and other Financial Instruments¹². New legislation generally followed instructions and regulations prescribed in EU legislation.

Today, there are 34 foreign and domestic banks in Serbia with balance sheet assets of 1.859.576.327.000 RSD¹³. (1 EUR = 93,1643 RSD; on the day 23.08.2009)

From its side, the National bank of Serbia, as a central monetary institution, made efforts to modify its overall supervisory role for the purpose of complying with the Core Principles for efficient banking supervision of the Basel Banking Supervision Committee. It has, therefore, become an institution

⁶ For the free movement of capital see more: Redžepagić Srdjan, Zafiroski Jovan , *The European Integrations: Free Movement of the Capital under SAA*, in *The New Economy: Challenges, Opportunities and Choices*, Editors: Mirjana Radovic Markovic, Dejan Eric, Hasan Hanic, Srdjan Redzepagic, Ivan Stosic, ISBN: 8189617788, India and USA , 2009, pp. 105-121

⁷ OJ of the European Union C 321 E/37

⁸ On the basic principles on the community freedoms affecting the baking sector see more : Thierry Bonneau, *Droit bancaire*, 7^e edition, Montchrestien, 2007, pp. 153- 157

⁹ Recite 7 of the Directive

¹⁰ Commercial Company Law "Official Gazette of the Republic of Serbia" N°125/04

¹¹ Banking Law "Official Gazette of the Republic of Serbia" N°107/05

¹² Law on the market of securities and other financial instruments "Official Gazette of the Republic of Serbia" N°47/06

¹³ Official web page of the National bank of Serbia, www.nbs.rs, 23.08.2009.

monitoring the way in which banks manage the risks they are exposed to and their risk management systems, rather than a watchdog simply focusing on the compliance criteria¹⁴.

2. Legal framework of establishment of banks in Serbia

Serbian legislator prescribes that the bank is founded as a joint stock company. It has its headquarter in the Republic of Serbia. To start operating a license has to be granted by the National Bank of Serbia. Every bank may perform deposit and credit activities and may perform other activities in compliance with the law¹⁵. Banks may also perform the insurance agency activities with the prior consent granted by the National Bank of Serbia. Considering custody bank activities, a bank may conduct them if it obtains a license from the Securities commission. Also it has to be the Central Registry member and must have separate organizational unit with staff and technical capacities to conduct custody bank activities. On the contrary, a custody bank may not conduct the broker-dealer company activities.

The bank may be established by domestic or foreign, legal or physical persons (founders). It may also have one or more founders¹⁶. The Banking Law established a minimum capital for a newly founded bank - EUR 10 million in dinar equivalent. In cases where the capital is paid in foreign currency, the share capital is defined in the national currency and is subject to any negative effects of its future devaluation. They may have organizational parts such as branch and representative office. Each bank must have a part from founding act its articles of association.

Bank establishing takes four steps: Preliminary Approval, Operating License, Founding Assembly and Registration. Once approval granted, the most important step is the bank's founding assembly meeting. It votes, by two thirds majority of the bank founders, the Articles of Association of the bank have to be rendered, the president and members of executive board and board of directors elected, program of activities of the bank for the period of 3 years adopted, as well as the business policy of the bank, and the decision regarding the first share issue made. All decisions adopted by the bank's founding assembly have to be granted the consent of the National Bank of Serbia.

3. Supervisory function by the National Bank of Serbia

National Bank of Serbia is authorized to supervise and control in particularly participation in a bank and to grant consent regarding acquisition of ownership. Serbian legislator distinguishes two types of ownership: direct and indirect. Indirect ownership exists when a person not having direct ownership in a legal entity has the ability in fact to realize ownership rights in such entity using ownership that another person directly has in such legal entity. The Banking law prescribes that participation also a notion of qualified, significant and controlling participation. Without the prior consent granted by the National Bank of Serbia, no person may acquire direct or indirect ownership in the bank which provides 5% to 20%, over 20% to 33%, over 33% to 50% and over 50% of voting rights. The National Bank of Serbia has to make a decision on the request for consent within 60 days following the day when the complete request was received. To prevent abuses, the legislator prescribed also when persons acquiring ownership is presumed to be acting as a single acquirer. This is a case when a legal entity and persons participating in management of such legal entity or its subordinated company, or legal entity and persons directly appointed and removed by a management or governance body of such legal entity or its subordinated company, or legal entity and representatives and liquidation

¹⁴ White Book, Foreign Investors Council, Proposals for Improvement of the Investment Climate in Serbia, Foreign Investors Council, Belgrade, 2006, p.59.

¹⁵ Mirko Vasiljevic, *Kompanijsko pravo*, Pravni fakultet Univerziteta u Beogradu i Sluzbeni glasnik Republike Srbije, 2nd edition, Beograd, 2007, p.455.

¹⁶ Supra 2, Zakon o bankama: The Banking law does not prescribe it expressly, but it may be concluded by interpreting the Article 13 regulating the founding act, which allows not only a contract but also a decision of foundation, id est an unilateral act.

administrators of such legal entity or of its subordinated company, or in the case of family members. The applicant of the request for granting consent has to inform the National Bank of Serbia of the acquisition of ownership for which the consent has been granted within 15 days from the day of such acquisition. If the person who acquired ownership without prior consent of the National Bank of Serbia fail to perform the disposal of ownership in the manner and within the time period determined by the National Bank of Serbia, the legal transaction on the basis of which such ownership has been acquired shall be null and void.

To prevent money laundering Serbian legislator established the Administration for the Prevention of Money Laundering¹⁷ as an administrative body within the ministry competent for finance. The Administration is managed by the Director, appointed and relieved of duty by the Government of the Republic of Serbia, at the proposal of the minister competent for finance.

4. Supervision of safety and soundness and legal compliance of bank's business activities

The National Bank of Serbia exercises supervision of safety and soundness and legal compliance of activities of banks. It performs supervision especially by supervision of reports and other documentation that the bank submits, and other data on operations of the bank which possesses, and on-site – by inspection of business books and other documentation of the bank.

Commercial banks in Serbia have to maintain their share capital above the minimum requirements in their operations (EUR 10 million in dinar equivalent), at the middle rate of exchange, for the purpose of stable and safe business activities and/or fulfillment of obligations to its creditors.

The Banking Law prescribes that each bank has to identify, measure and assess risks it is exposed to in its business activities and manages such risks and to adjust risk management to the size and organizational structure of the bank, to the volume of operations, and types of activities performed by the bank. For this purpose, each bank forms a special organizational unit the competence of which includes risk management¹⁸. The National Bank of Serbia has to prescribe total of all large exposures of a bank, which may not be less than 400% nor may be more than 800% of the bank's capital. Considering that the current rating of Serbia is still inadequate, possible guarantees provided by mother banks can make a significant factor for locally promoted credit activities. In addition, mother banks of the subsidiaries in Serbia are, in most cases, rated much higher than required by the National bank of Serbia¹⁹.

It its relationship with clients, each bank is free to decide on the choice of clients. It have to provide to the client the right to access all the data which, according to provisions of law, must be accessible to them, and a bank is obliged to provide this access at the client's request. A bank has to make general operating conditions, as well as their amendments and additions, clearly visible in its business premises, not later than 15 days prior to their implementation. Their implementation is ensured by a written contract concluded between a bank and a client. A bank is bound to provide the client, upon their request, with information regarding balance of their credit, and/or deposit account, as well as other information related to business relationship between a client and a bank. The clients may file a

¹⁷ Law on the prevention of money laundering and financing terrorism, "Official Gazette of the Republic of Serbia" N°20/09, Art. 52; formerly Law on the prevention of money laundering, "Official Gazette of the Republic of Serbia" N°107/05 and 117/05.

¹⁸ Mirko Vasiljevic, *Kompanijsko pravo*, Pravni fakultet Univerziteta u Beogradu i Sluzbeni glasnik Republike Srbije, 2nd edition, Beograd, 2007, p.457;

¹⁹ White Book, Foreign Investors Council, Proposals for Improvement of the Investment Climate in Serbia, Foreign Investors Council, Belgrade, 2006, p. 52.

complaint regarding the bank's actions to the manager of the bank's organizational unit or competent body of the bank.

In order to conduct annual audit of its financial reports, each bank, banking group and bank holding company has to hire, annually, an external auditor (audit firm) and notify the National Bank of Serbia on appointment of external auditor²⁰ within 15 days. Numerous restrictions are prescribed for the appointment of the external auditor (such as income from auditing the same bank, three consecutive annual financial statements audits of the same bank, providing consulting services in the same year). In banking groups an annual audit of financial reports has to be performed on a consolidated basis. If a bank is founded by merger, it has to submit to the National Bank of Serbia an opinion of the external auditor on truthfulness and objectivity of its opening balance sheet on the day of merger. With a view to improvement of its own operations and harmonization of its activities, banks may establish business associations provided by a legal entity.

5. Organization of banks and manner of bank management

According to the Banking Law each bank has its Assembly, Board of Directors and Executive Board of a Bank. Board of directors and executive board of a bank are management bodies of a bank. It is obliged also establish the committee for monitoring business activities of the bank (audit committee), credit committee and committee for managing assets and liabilities, but may establish other committees as well.

The bank's assembly consists of the bank's shareholders. The Law protects minor shareholders, so Articles of association of the bank may not preclude direct exercising of voting rights of shareholders holding 1% or more of voting shares. The bank's assembly may not transfer the competence for rendering the decisions prescribed as its competence to any other body of the bank²¹. The bank's assembly is held at least once a year, according to the manner stipulated in the bank's articles of association. Extraordinary meeting of the bank's assembly may be called upon the request of the authorized person. The National Bank of Serbia may require that particular items be included in the agenda of the regular meeting of the assembly. Also, a representative of the National Bank of Serbia may attend the bank's assembly meeting, and address the shareholders.

The board of directors and executive board of a bank take measures for preventing illegal or inappropriate activities and impacts which are detrimental or are not in the best interest of the bank and its shareholders, which are performed by persons holding significant or controlling participation in such bank. A bank's board of directors is responsible for business operations of the bank to be in compliance with the law, regulations and enactments of the National Bank of Serbia as well as enactments and other procedures established by the bank's bodies²².

A bank's board of directors is responsible for implementation and supervision of the unique system of risk management in the bank²³, and it also ensures that the bank's executive board identifies risks which the bank is exposed to, as well as to control these risks, in compliance with the approved policies and procedures. Board of directors of a bank consists of not less than five members, including the president. At least one-third of members of the board of directors of a bank have to be persons independent of the bank. A person not holding direct or indirect ownership in the bank and in a member of the bank's banking group shall be considered as a person independent of a bank. Members

²⁰ To find more: Marijana Dukic-Mijatovic, "Harmonizacija bankarskog zakonodavstva Republike Srbije u svetlu uticaja na razvoj hipotekarnog i finansijskog trzista", *Pravo i privreda*, 5-8, 2009, Beograd, p. 125.

²¹ Stevan Sogorov, *Bankarsko pravo*, 2nd edition, Poslovni biro SB, 2005, Novi Sad, 60-61.

²² Marijana Dukic-Mijatovic, "Harmonizacija bankarskog zakonodavstva Republike Srbije u svetlu uticaja na razvoj hipotekarnog i finansijskog trzista", *Pravo i privreda*, 5-8, 2009, Beograd, p. 123.

²³ Vojin Bjelica, *Bankarstvo*, U teoriji i praksi, Stylos, Novi Sad, 2005, p.178.

of the bank's board of directors must have the appropriate business reputation and qualifications, which are prescribed by the National Bank of Serbia. At least three members of the bank's board of directors must have the appropriate experience in the field of finance. At least one member of the bank's board of directors must be fluent in Serbian language and have permanent residence in the Republic of Serbia. This imperative requirement has been criticized by foreign investors as unnecessary and as an issue falling within the exclusive authority of shareholders, having in this problem in constituting the Board of Directors²⁴. Each bank shall submit to the National Bank of Serbia a request for granting prior consent regarding appointment of a member of the board of directors of the bank.

The bank's executive board shall organize business activities of the bank and supervise the activities of the bank's employees on a daily basis. Executive board of a bank shall consist of not less than two members, including the president. The president of the bank's executive board shall represent and act on behalf of the bank. On the occasion of undertaking legal transactions in the name and for the bank, the president of the executive board shall provide signature of one member of the executive board.

The members of the executive board are full time permanent employees of the bank. The members of the bank's board of directors must have good business reputation and appropriate qualifications, which are prescribed by the National Bank of Serbia. At least one member of the bank's executive board must be fluent in Serbian language, and have permanent residence in the Republic of Serbia, and all members of the executive board must have residence in the Republic of Serbia. Provisions of this Law relating to the appointment of the members of the bank's board of directors shall be accordingly applied to the appointment of the members of the bank's executive board.

Each bank have to establish the organizational unit the competence of which shall include internal audit to give independent and objective opinion to the bank's board of directors on issues which are subject to audit, to perform advisory activity aimed at the advancement of the existing system of internal controls and business activities of the bank, and to provide assistance to the bank's board of directors in accomplishment if its aims, specifically through application of systematic, disciplined and documented approach to the evaluation and advancement of the existing manner of risk management, manner of control and manner of management of processes.

6. Corrective and Enforcement Measures by the National Bank of Serbia

Corrective and Enforcement Measures are to be performed over an undercapitalized bank, significantly undercapitalized bank and critically undercapitalized bank. If in its supervision, it is determined that a bank acted in breach of provisions of law, regulations of the National Bank of Serbia and other regulations, as well as standards of prudent banking activities, and/or in any other way which jeopardizes its safety and soundness, the National Bank of Serbia takes measures over a bank. Possible measures are sending of a written warning, sending of an ordering letter, declaration of orders and measures for eliminating the established irregularities, introducing of receivership and revocation of the operating license.

In the worst case, bankruptcy proceedings may be undertaken over a bank, whose operating license has been revoked by the National Bank of Serbia, in conformity with the Law governing banks and other financial organizations, as well as over an insurance company. Also, bankruptcy proceedings may be undertaken over a bank if it is determined that it has been illiquid for 15 days continually, or whose liabilities exceed its assets. Bankruptcy proceedings may also be undertaken upon the request of a liquidation administrator, determining that liquidation debtors' assets are not sufficient to settle all creditors' claims. In the bankruptcy proceedings undertaken, the agency for deposit insurance performs the function of the bankruptcy administrator. A bank under the bankruptcy proceedings can

²⁴ White Book, Foreign Investors Council, Proposals for Improvement of the Investment Climate in Serbia, Foreign Investors Council, Belgrade, 2006, p.51.

not be re-organized or sold in accordance to the Law governing the bankruptcy of economic entities²⁵. All deposits are insured to the amount of 50.000 EUR²⁶.

A part from bankruptcy proceedings, a bank's operating license might cease to be valid by revocation of the operating license, by voluntary cessation of the bank's activities, by status change of the bank, if the bank's founding assembly meeting is not held in the time period prescribed by law, and if the bank fails to submit the request for entering in the register of economic entities within the deadline.

7. Banking sector in Macedonia toward EU integration

As in the EU economies the banking sector in Macedonia is the most important part of the financial system with more than 90% of the financial resources in the financial system. The banking sector is composed of 18 banks and 11 saving houses²⁷.

Taking into account the importance of the banking sector for the Macedonian economy, since its independence in 1991, Macedonian banking sector is under continuous reform. There were several reasons for starting a reform on banking sector in Macedonia. Firstly, the banking sector is dominant in the financial sector and it is crucial for the economy. Secondly, by creating a modern banking system based on rules comparable to those on the EU Macedonia creates sound basis for attracting foreign direct investments in the banking sector which will provide more resources for financing the economic activities in the country and what is more important will foster the competition in this sector. Thirdly, as a candidate country for becoming a member of the EU Macedonia has an obligation to adjust its financial system with that of the Union.

The key step forward in the legal alignment on the Macedonian legal system relating to the banking sector was made with the adoption on the new Banking law²⁸. It was adopted in 2007 and the main principles of the European legal framework relating to the banking sector were implemented, notably the provisions of the Directive 2006/48/EC relating to the taking up and pursuit of the business of credit institutions.

As defined by its first article, the new Banking law regulates the founding, operations, supervision and termination of operations of banks and of branches of foreign banks and opening and operations of banks from the EU member states. The harmonization with the EU legislation might be analyzed from three aspects: terminology and definitions, establishment and supervision.

The terminology and definitions used for defining terms used in the law are harmonized with the Directive. The law defines bank as a legal entity, established in accordance with the provisions of this Law and is licensed by the Governor of the National Bank of the Republic of Macedonia. Its principal activity is to accept deposits and other repayable sources of funds from the public and to extend credits on its own behalf and for its own account. The list of financial activities of the banks regulated by this law complies with the list of financial activities which according to Annex I of the Directive are subject of mutual recognition.

The provisions of the banking law relating to the establishment of a bank are compatible with the requirement for access to taking up and pursuit the business of credit institutions posed by the Directive 2006:48/EC. The requirement concerns the existence of separate own funds, initial capital,

²⁵ Law on bankruptcy and liquidation of banks and insurance companies "Official Gazette of the Republic of Serbia" N°61/05, Art. 2

²⁶ Law on deposit insurance "Official Gazette of the Republic of Serbia" N°61/05 and 116/08, Art. 2.

²⁷ Source : Ministry of finance of the Republic of Macedonia,
http://www.finance.gov.mk/files/u11/institucii_bankarski_sistem_0.pdf

²⁸ Banking law, Official Gazzete of RM No.67/07

identities of the shareholders and the qualifications of the person that will take the management activities. In this respect, according to the new banking law, a bank might be established only as a joint stock company in which the total nominal amount of preference shares without voting right does not exceed 10% of the total amount of the bank's total shares. Its initial capital is 5 million euro. A shareholder might be domestic and foreign legal entity and natural person. A shareholder with qualified holding may not be a person, or legal entity controlled by a person sentenced to imprisonment for crime in the area of finances and banking, against whom a bankruptcy proceeding is initiated and in other cases provided by the law. For starting up banking activities a license issued by the Governor of the National Bank of the Republic of Macedonia (NBRM) for founding and operating a bank is required. Besides the banks established by this procedure financial activities might be carried out by credit institutions established in the EU and in third countries. In this point, the new Macedonian banking law makes its legal framework compatible with the principles of the European banking legal framework. Namely, by virtue of article 28 of the law through its branch in the Republic of Macedonia a bank from the EU member state may perform the financial activities for which it is authorized in the home country. The branch acts on behalf and for the account of the bank from the EU and it is entitled to acquire rights and assume obligations but it is the EU bank that is liable for the liabilities of the branch in Macedonia. The branch does not need license from the Governor of the NBRM, it will start the financial activities after the NBRM receives notification from the competent authority of the home country. The notification includes: plan of activities of the branch, address of the branch, amount of own funds of the bank's capital adequacy ratio, description of the deposit guarantee scheme in the home country and a list of financial activities the bank is authorized to perform. By these provisions the new banking law makes the Macedonian legislation fully compatible with the conditions for the establishment and for providing of services in the banking sector required by the EU law. It worth be noted that these provisions will enter into force on the day on Macedonia's accession in the EU. Nevertheless, until that date, the branches of the banks from the EU will be treated as foreign bank branches.

A foreign bank may through a branch in the Republic of Macedonia perform financial activities for which it is authorized in the country of its head office. The bank is liable with all its property for the liabilities of its branch in Macedonia. The branch has not a status of a legal person and works respecting the Macedonian laws. For start of the operations the branch needs to obtain a license issued by the Governor. For being able to open a branch in the Republic of Macedonia the bank should prove that is assigned at least BBB rating according to the rating of Standard & Poor's, Fitch IBCA or Thompson Bank Watch or Baa2 according to the Moody's rating.

The supervision is another important issue in the banking integration for the reason that the countries may differ in their treatment on certain question relating to financial activities. Thus, in order banking integration to be achieved certain level of harmonization in the field of supervision is required. In this respect, the banking law provides that the NBRM is the authority responsible for licensing and supervision of banks and saving houses in the Republic of Macedonia. By its supervisory function it provides safe banking system and protects the investors and depositors. The legal framework for the supervision consists the Law on the National Bank of the Republic of Macedonia²⁹ and the Banking Law. As regards the supervision both laws are based on the international standards and principles set by the Basel Committee on Banking Supervision. In the European banking regulation supervision on the banks having financial activities in another member state is dedicated to the home institution, as explained above, it is one of the basic principles of the banking *acquis*. The new banking law accepts this principle by providing that the supervision on branches of banks from EU Member states is conducted by the competent authority of the home country. On request of the competent authority of the home country NBRM assist or conduct supervision in the branch.

²⁹ Law on the National Bank of the Republic of Macedonia, Official Gazzete of RM No.3/02, 51/03, 85/03, 40/04, 61/05 and 129/06

From the analysis on the provisions of the new banking law one may conclude that as far as legal framework is concerned Macedonian banking system is to a great extent compatible with the banking sector of the EU. Many efforts are done in the process of reforms and solid institutional support by the EU institutions and the Macedonian Government is provided. There is a permanent department in the Ministry of finance that monitors and proposes actions in the banking sector.

The good progress in the banking system reform was confirmed by the European Commission. Namely, in its latest report on the progress made by Macedonia in preparing for EU membership the European Commission considers that the new banking law is approximated to the EU banking directives in the areas of risk management, exposure limits, reporting and audit requirements and capital adequacy. The European Commission indicates that further efforts should be done for fully alignment on the Macedonian legal system with the EU banking aquis and the emphasize is made on Capital requirements directive.³⁰

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³⁰ Commission report, Macedonia, 2008 COM(2008) 674, pg. 39