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Srpski parlament je doneo Zakon o faktoringu, koji je objavljen u Službenom glasniku Republike Srbije br. 62/2013 od 16. jula 2013. godine, i koji je stupio na snagu 24. jula 2013. godine. Usvajanjem ovog zakona se pokušava stvoriti celoviti pravni okvir za ovu finansijsku delatnost, kako bi se povećala likvidnost privrede, na prvom mestu, likvidnost malih i srednjih preduzeća, ali i rešiti (gotovo) svi problemi koji su se do sad javljali u praksi usled nepostojanja jednog ovakvog zakona.

1 Pojam faktoringa

Zakon o faktoringu definiše faktoring kao finansijsku uslugu kupoprodaje postojećeg nedospelog ili budućeg kratkoročnog novčanog potraživanja, nastalog po osnovu ugovora o prodaji robe ili pružanja usluga u zemlji ili inostranstvu.

2 Predmet faktoringa

Predmet faktoringa može biti svako postojeće nedospelo ili buduće, celo ili delimično, kratkoročno novčano potraživanje koje je nastalo po osnovu ugovora o prodaji robe ili pružanja usluga zaključenog između pravnih lica i preduzetnika.

Predmet faktoringa ne može da bude potraživanje nastalo po osnovu prodaje robe ili pružanja usluga za lične, porodične ili potrebe domaćinstva.

The Serbian parliament has passed a new Act concerning factoring, which is published in the Official Gazette of the Republic of Serbia No. 62/2013 on July 16, 2013 and entered into force on July 24, 2013. The Factoring Act is introduced with the aim to create a complete legal framework for this kind of financial business activity and to increase the liquidity of the market, especially the liquidity of small and medium enterprises. Also, it is the intention to resolve (almost) all problems, which occurred so far in practice due to lack of such a piece of legislation.

1 The definition of the factoring

The Factoring Act defines factoring as a financial service of sale of an existing immature or future short-term monetary receivable from a sale of goods or provision of services in country and abroad.

2 Subject matter of factoring

The subject matter of factoring can be every existing immature or future, entire or partial, short-term monetary receivable from a sale of goods or provision of services between legal entities and entrepreneurs.

Subject to factoring cannot be a receivable from sale of goods or provision of services for personal, family or household purposes.

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3 Učesnici u faktoringu

U faktoringu učestvuju:

- Ustupilac, koji može biti domaća ili strana banka, privredno društvo ili preduzetnik;
- Faktor, koji može biti domaća banka i domaće akcionarsko ili društvo sa ograničenom odgovornošću, i strana banka ili strano društvo isključivo u međunarodnom faktoringu;
- Dužnik, koji može biti domaća ili strana banka, privredno društvo ili preduzetnik.

4 Uslovi za obavljanje faktoringa

Faktoringom može da se bavi društvo, koje ima:

- osnovni novčani kapital od minimum 40.000.000 dinara (ca 351.000 evra), koji faktoring društvo uvek mora da održava,
- odobrenje za obavljanje posla izdato od Ministarstva finansija.

Prema Zakonu o faktoringu, dozvola se pribavlja pre osnivanja faktoring društva i izdaje se u roku od 15 dana od dana podnošenja urednog zahteva, nakon čega se pristupa registraciji faktoring društva.

O izdatim i oduzetim odobrenjima za obavljanje poslova faktoringa, vodi se evidencija kod Agencije za privredne registre- Registar faktoringa.

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3 Participants in the factoring

Following persons participate in a factoring arrangement:

- The seller, who can be a domestic or foreign bank, company or entrepreneur;
- The factor, who can be a domestic bank and a domestic joint stock company or limited liability company, as well as a foreign bank or company only in an international factoring arrangement;
- The debtor, who can be a domestic or foreign bank, company or entrepreneur.

4 Requirements for a factoring business

A company can engage in the factoring business if it has:

- A registered monetary capital of at least RSD 40.000.000 (approx. EUR 351,000), which must be maintained by the factoring company;
- A license of the Ministry of Finance.

According to the Factoring Act, the license shall be obtained before the incorporation of the factoring company and it is issued within 15 days from the submission of the complete request. After the issuance of the license, the factoring company can be registered.

The records of issued and revoked licenses will be kept with the Business Registers Agency, in the Register of Factoring.

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5 Ugovor o faktoringu

Factoring se može obavljati samo na osnovu ugovora, koji je sačinjen u pisanoj ili elektronskoj formi, i koji ima zakonom tačno predviđene elemente.

6 Obaveza usklađivanja

Privredna društva koja obavljaju poslove faktoringa, dužna su u roku od 6 meseci od dana stupanja na snagu Zakona o faktoringu, svoje poslovanje uskladiti sa odredbama Zakona o faktoringu, podnošenjem zahteva za izdavanje odobrenja za obavljanje poslova Ministarstvu finansija.

DISCLAIMER: The Serbian version of the Newsletter prevails. The English version aims to present the Serbian version as comprehensive as possible.

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5 Factoring agreement

Factoring can only be performed based on an agreement concluded in writing or electronically, which contains all elements provided for in the Factoring Act.

6 Compliance obligation

Existing legal entities performing factoring business are obliged to adjust their business to the provisions of the Factoring Act within 6 months from the day the act entered into force by submitting the request for the license to the Ministry of Finance.

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