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ESTABLISHMENT OF THE AUCTION CENTER

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Establishment of the Auction Center

On November 8, 2005, the Bankers Association of Bosnia and Herzegovina (BiH), Sarajevo Municipal Court and USAID's Fostering an Investment and Lender-friendly Environment (FILE) executed a Memorandum of Understanding (MOU) on the establishment of an "Auction Center" in Sarajevo. In doing so, the signatories initiated the process of setting a single point of activity for sale of seized property BiH that will help the courts establish a regular, predictable system of judicial auctions and allow banks to increase collection of their claims. Since then, the working group established by these partners has completed most of the tasks required to make the Center operational. In particular, formal incorporation and registration have been completed, the director of the auction center was appointed after a public advertisement, warehouse and office space has been rented and adjusted to the Center's needs and the first public auction is planned for mid-late July 2006.

Background

At the end of 2004 BiH had over 600 million KM blocked in the banking sector due to the inefficient sale of collateral and poor implementation of enforcement laws. This figure has only increased since then. Given that the assets of BiH's banking sector amount to only 10.1 billion KM the blocked amount represent an enormous burden for the banking system that this country cannot afford.

The key obstacle in the process of sale of collateral through either the enforcement proceedings or independent bank sales is the lack of efficient secondary markets. This leaves banks in the unfavorable position of leaving a good deal of their assets "frozen" instead of transforming them into cash and re-investing them into the country's economy.

The courts in addition do not possess storage capacities for seized property. Hence, after composing a seized inventory list the property is left with the judgment debtor for safe keeping, posing both transportation and storage issues. Likewise the enforcement divisions of BiH's courts do not have room to warehouse seized property. As a result they identify property to be sold but leave it at the premises of the debtor. It is very difficult to sell assets on the premises of the debtor, and therefore the lack of storage space lowers the overall price while also raising costs and complications by having auctions at numerous locations. Because of this many courts have amassed thousands of unresolved enforcement cases (e.g. Sarajevo Municipal Court has hundreds of thousands of such unresolved cases).

Claims collection problems are compounded in banks that have already amassed a great quantity of moveable and real property through the purchase of collateral in enforcement procedures. This collateral is in the end more of a burden for them than a source of security.

The establishment of a separate legal entity in the sale of property is clearly required in order to expedite court proceedings, and ensure legal protection and an efficient process for investors. A more efficient collection process through the sale of collateral will increase the banks' confidence in investments, initiate creation and development of a collateral market in

BiH and improve the system of secured lending, which is critical for foreign investment and business development.

Due to the multitude of problems in enforced collection proceedings commonly faced by the first instance courts and banks that seek legal protection, USAID's FILE project, along with the BiH Association of Banks and the Municipal Court in Sarajevo realized the need to establish a private "Auction Center" for storage and sale of property seized. The Center is also intended to provide information about the goods (through internet and media publications) and hold regularly scheduled judicial and bank auctions. By creating a single point of activity for the sale of seized property in Sarajevo, the Auction Center will help the Municipal Court Sarajevo to establish a regular, predictable system of judicial auctions. This important pilot project will help set the stage for future work in Banja Luka, Mostar and Tuzla. At the same time, it will help develop the market for repossessed goods by taking the sale of collateral out of homes and offices, where social pressures naturally depress demand for the goods. Finally, it is expected that the Auction Center will enable the banking community and the debtors to obtain higher value from the sale of seized goods. Ultimately, FILE's hope is that the positive practices of the Auction Center will lead to the introduction of general financial discipline throughout BiH.

Activities undertaken to establish the auction center

At the beginning of February 2006, the BiH Bankers' Association issued a decision on the establishment of the Auction Center and formed a working group to implement it. The 5-member working group was comprised of the founders of the Auction Center along with signatories of the MOU, and met regularly during the period from December-May 2006 on the establishment of the Center. Main activities focused on structuring the legal framework for the Auction Center so it could become separate legal entity. The working group also undertook many other logistical steps to make the Center operational, including preparing of documentation necessary for registration of the Center at the Court, advertising the position for the Director, collecting bids for the premises, identifying the final location for the Center (warehouse and office space) and signing the lease contract. Simultaneously, they drafted and adopted rules and regulations needed for the Center's operation, such as rule books, policy manuals, bylaws and other important policy decisions.

Registration and Establishment of the Auction Center

The working group prepared all documents and finalized the registration of the Auction Center in March 2006 in the Sarajevo Municipal Court (Registration Number UF 2580/05). The election and appointment of the Auction Center Director then proceeded, and moved in two phases; the working group was tasked with both advertising the position and proposing final candidates.

The proposed candidate's name was put up for adoption by the Steering Board of the Bankers' Association. The candidate first proposed for the position of the Director decided to withdraw very late in the process. As a result, the election and appointment process took longer than expected, and ultimately delayed the date of final registration. However in mid-May Mr. Matko Stjepanovic was appointed Director of the Auction Center. Re-registration of the Center had to be done to include Mr. Stjepanovic's appointment, and this was finalized in early June 2006.



Auction Center, Sarajevo (Rajlovacka bb)



Auction Center Warehouse



Outdoor storage for seized movables

Identification of business facilities for the Auction Center

The working group collected several bids for physical location of the Auction Center. From these they were to identify the best and negotiate on lease conditions. There were approximately 10 offers out of which 8 were selected for the first round of selection. The commission that was formed on behalf of the working group visited all 8 facilities and decided on 2 for the final round of the selection process, "Vistafon" and "DC" Rajlovac. Both of the owners were contacted for negotiations and finally "DC" was selected due to the flexibility of the owners, the size of facilities, price, and the services provided. A lease contract was signed with the "DC" owners and the facilities are being adjusted to address the needs of the Auction Center, including setting up office space, an auction room, an adjust warehouse space, etc.

Appointment of Supervisory Board

After the initial phase of the establishment of the Auction Center, the Bank Association formed a Supervisory Board for the purpose of controlling the operations of the Auction Center. With the establishment of the Supervisory Board, the working group ceased to exist. The Supervisory Board was appointed at the beginning of June 2006. It is a 3-member body that will supervise the work of the Auction Center and to which the Director will report on all developments and issues related to Center functioning. The Supervisory Board (Mr. Samir Lacevic, President, Munir Cengic, and Salih Hodzic, members) held its first meeting on June

14, 2006. At this meeting the Supervisory Board members adopted the rulebook and governing bylaws on the work of the Supervisory Board, the decision on the appointment of the Director, the decision on the organization and systematization of the Auction Center, the employee policy manual, and the work plan and financial plan of the Auction Center.

Ongoing activities

There are still many activities ongoing to make the Auction Center fully operational. Tentatively, the plan of the Director and the Supervisory Board is to hold the first auction at the Center in mid-late July 2006. Election of a corporate identity sign (logo) is in process and as soon as the Supervisory Board members decide on the best proposal the insignia of the Center will be created. Preparations for the first auction have also started, including the identification of the auctioneer, and advertisement of the first auction in the media. In order for the Center to promote its activities, as well as advertise the seized collateral, which is one of leading ideas based on which the Center was established, creation of a Center website is in process and will be finalized soon. Since stored goods will require registration in a proper database, the Center and FILE have begun the creation of one. In addition, the Center plans to constantly promote its activities and keep a presence in the media. A comprehensive media strategy will therefore be submitted for review to the Supervisory Board prior the first auction.

The first auction will serve as both the promotion of the Auction Center and as an introduction to “auction culture” in this country. Implementing this first auction will provide valuable lessons learned for the Center and its founders to analyze the situation and plan their future activities.

Since no other Auction Center exists in BiH nor in surrounding countries, the new BiH Auction Center represents a cutting-edge innovation for the financial sector in this region. As a pioneer in this field, the Center will inevitably face some challenges. However, the Center’s founders, including the FILE project, are fully aware of the long-term benefits the Center will bring to country’s economy and are therefore fully committed to its success.