Pursuant to Article 151, paragraphs 4 and 9, and Article 158, paragraphs 2 and 7 of the Law on Payment Services (RS Official Gazette, Nos 139/2014 and 44/2018) and Article 59, paragraph 2 of the Law on the National Bank of Serbia (RS Official Gazette, Nos 72/2003, 55/2004, 85/2005 – other law, 44/2010, 76/2012, 106/2012, 14/2015, 40/2015 – CC decision and 44/2018), the Governor of the National Bank of Serbia hereby issues

#### D E C I S I O N ON IMPLEMENTATION OF THE PROVISIONS OF THE LAW ON PAYMENT SERVICES RELATING TO PAYMENT SYSTEM LICENSING AND CONSENTING TO AMENDMENTS TO PAYMENT SYSTEM RULES

## I. INTRODUCTORY PROVISION

1. This Decision regulates:

1) the manner of implementation of the provisions of the Law on Payment Services (hereinafter: the Law) based on which the National Bank of Serbia issues a licence for payment system operation and consents to amending the elements of the operating rules of that system;

2) detailed conditions which must be met by a member of a managing body of the payment system operator (hereinafter: operator) and director of a payment system, as well as documents and evidence which are submitted to the National Bank of Serbia, and/or which the National Bank of Serbia obtains along with the notification on the appointment of those persons;

3) detailed eligibility requirements which must be met by a person with a qualifying holding in an operator, as well as documents and evidence which are submitted to the National Bank of Serbia, and/or which the National Bank of Serbia obtains along with the notification on acquiring a qualifying holding in an operator.

## II. ISSUANCE OF A LICENCE FOR PAYMENT SYSTEM OPERATION

## Application for licence for payment system operation

2. A legal person intending to operate a payment system shall apply to the National Bank of Serbia for a licence for payment system operation (hereinafter: the licence), stating in the application its business name, and/or name, head office and address of the head office, registration number and tax identification number, as well as the name and surname of the legal representative or other authorised person signing this application.

### Documentation enclosed to a license application

3. The legal person from Article 144, paragraph 3 of the Law shall submit the following evidence and documentation along with the licence application:

1) proof of registration in the register of business entities and/or of registration with the competent body;

2) articles of incorporation and/or articles of association;

3) the business plan for the first three years of operation of the payment system that demonstrates the legal person's ability to ensure the fulfilment of appropriate organisational, personnel, technical and other requirements for safe and sound operation of the payment system;

4) evidence of the prescribed amount of initial capital;

5) proposal of payment system rules;

6) the adhesion contract concluded between the legal person and participants in the payment system by which these participants accept rules of operation of that system, which produces a legal effect when the applicant receives the licence for payment system operation;

7) description of the governance system;

8) data on members of the legal person's managing body, accompanied with data and evidence of their good business reputation;

9) data on payment system directors, accompanied with data and evidence of their good business reputation, appropriate professional qualifications and experience;

10) data on persons having a qualifying holding in the legal person, the size of their holding and evidence regarding the ability of those persons to ensure safe and sound management of payment system operation;

11) data on the external auditor performing audit of the legal person's financial statements for the year in which the application is submitted, if such audit is mandatory for the legal person, in accordance with law.

The legal person from Article 144, paragraph 2, items 2) and 3) of the Law which intends to manage payment system operation, shall submit to the National Bank of Serbia the licence application, along with the documents from paragraph 1, items 3), 5), 6), 7) and 9) hereof.

The legal person from Article 144, paragraph 2, items 4) and 5) of the Law which intends to manage payment system operation, shall submit to the National Bank of Serbia the licence application, along with the documents from paragraph 1, items 3), 4), 5), 6), 7) and 9) hereof.

If based on the documents and evidence from this Section it is not possible to establish all facts relevant for deciding on the licence application, the National Bank of Serbia may request that the legal person which submitted that application (hereinafter: the applicant) submit also other documents and/or data it deems necessary.

# Proof of registration in the register of business entities and/or of registration with the competent body

4. Proof of registration in the register of business entities and/or of registration with the competent body shall mean data on the applicant which the National Bank of Serbia obtains by accessing the registry kept by the competent body.

### Articles of incorporation and/or articles of association

5. Articles of incorporation and/or articles of association must contain elements and/or data prescribed by the law governing the legal status (incorporation, legal form etc.) of the applicant.

# Business plan for the first three years of operation of the payment system

6. The business plan for the first three years of operation of the payment system shall contain data on the operator's planned activities in relation to payment system operation, based on which it can be concluded that the applicant will be able to ensure the fulfilment of appropriate organisational, personnel, technical and other requirements for safe and sound operation of the payment system.

The business plan from paragraph 1 hereof shall contain in particular:

1) data on the applicant's operation to date;

2) data on organisational parts in which activities related to payment system operation shall be carried out, as well as on the number of employees to be engaged in those activities;

3) specification of hardware and software components within the meaning of the decision governing the manner of maintaining and enhancing safe and sound payment system operation and reporting to the National Bank of Serbia (hereinafter: the Decision) to be used for the performance of activities in the payment system, stating how those components were provided and/or how they will be provided;

4) data on business premises to be used for operation in the capacity of an operator, including business premises where hardware and software

components to be used for the performance of activities in the payment system will be installed;

5) data on operational activities related to payment system operation within the meaning of the Decision which the applicant intends to outsource to another person, including the reasons for outsourcing and data on the person to whom these activities will be outsourced;

6) data on the type of a payment service and/or payment transactions to be executed in the payment system;

7) data on planned fees related to participation in the payment system, projection of revenues and expenditures of the applicant related to managing payment system operation by year and projection of sources of financing for managing payment system operation.

In order to enable the assessment of its ability for ensuring the fulfilment of appropriate organisational, personnel, technical and other requirements for safe and sound operation of the payment system, the applicant must prove:

1) that it will organise and/or delegate business activities in such a manner as to ensure successful and smooth performance of activities related to managing payment system operation;

2) that for the purpose of the performance of activities from item 1) hereof it will engage a sufficient number of employees with the professional qualifications and experience matching their duties, responsibilities and the complexity of activities they carry out, ensuring also that the employees engaged in key business activities have an appropriate substitute, in order to prevent hindrance to safe and sound operation of the payment system due to the absence of those employees or termination of their employment;

3) that it will use adequate business premises for the performance of activities from item 1) hereof, including the business premises where hardware and software components used for the performance of activities in the payment system will be installed; the premises must be owned by the operator or used based on a rental or leasing contract concluded for a minimum three-year term and must meet the requirements laid out in the regulations on occupational safety, fire protection and environmental protection;

4) that it will use hardware and software components which in their scope, functionality and performance correspond to the number of employees and complexity and scope of activities in the payment system.

For the purpose of assessment of fulfilment of conditions from paragraph 3 hereof, along with the business plan from paragraph 1 hereof, the applicant shall enclose the following documents:

1) proposed scope of activity of the applicant's organisational parts in which activities related to managing payment system operation will be carried out and the proposed job classification with the data on the type and level of qualifications and/or education and work experience requirements for each job position;

2) proof of the right to use business premises (e.g. excerpt from the real estate cadastre and/or real estate folio, rental or lease contract, and the proof that the business premises meet the conditions laid out in the regulations on occupational safety, fire protection and environmental protection – e.g. decision of the competent authority issued in the inspection procedure etc.);

3) documents proving the grounds for using, and/or the manner of acquiring hardware and software components (e.g. excerpt from business books, pre-contract, contract etc.);

4) pre-contract or contract on outsourcing of operational activities, if such outsourcing is intended.

If the applicant intends for the payment system to be used for execution of payment transactions where this execution and/or the relationship between payment service providers and payment service users in relation to those transactions is regulated by a single set of rules, practices, standards and/or operational guidelines set by the operator, a special body, organisation or other entity issuing decisions in relation to those rules which payment service providers who will be participants in that system will be obliged to abide by (hereinafter: rules for execution of payment transactions) – that applicant shall also submit documents based on which it is possible to determine in particular the following:

1) that the rules for execution of payment transactions are aligned with the regulations governing payment services, including the regulations governing multilateral interchange fees and special operating rules for cardbased payment transactions, and that those rules are clear, precise and comprehensive;

2) that the rules for execution of payment transactions regulate the rights, obligations and responsibilities of payment system participants in relation to application of those rules;

3) that the rules for execution of payment transactions ensure safety and continuity of execution of payment transactions and/or provision of payment services that are regulated by them;

4) that payment service providers and their payment service users have at their disposal the information that is relevant for safe and efficient execution of payment transactions.

# Evidence that the applicant holds the prescribed amount of initial capital

7. Evidence that the applicant holds the amount of initial capital prescribed by Article 152 of the Law shall be the statement of a current account or other appropriate account of the applicant, the financial statement for the previous business year, as well as the certified auditor's opinion if the applicant is subject to financial statement audit according to law, and/or other documents proving that the applicant has the prescribed amount of initial capital (e.g. excerpt from the register of business entities etc.), taking into account the provisions of the decision governing initial capital, capital and capital requirements of the operator.

Before the licensing decision can be delivered, the applicant shall submit appropriate evidence to the National Bank of Serbia that it has the prescribed amount of initial capital on the day of receipt of the decision.

### Proposal of payment system rules

8. A proposal of payment system rules shall contain elements prescribed by Article 148 of the Law, in accordance with the provisions of the Decision.

#### Description of the governance system

9. A description of the governance system shall mean:

1) the scheme of the organisational structure of the legal person, with the description of that structure, clearly showing the delegation and separation of activities, duties and responsibilities relating to operation of the payment system and risk management in that system, as well as communication, cooperation and exchange of information at all organisational levels (horizontally and vertically);

2) proposal of a payment system risk management policy and proposal of the information system security policy.

The National Bank of Serbia shall assess the governance system based on the data and documents from paragraph 1 hereof and Section 6, paragraph 4, item 1) of this Decision, as well as based on the provisions of the Decision.

#### Data on members of the applicant's managing bodies and on the payment system director

10. Data on members of the applicant's managing bodies and the prospective payment system director, as well as data and evidence proving that these persons have good business reputation, appropriate professional qualifications and experience shall mean the following documents:

1) document issued by a competent authority confirming that the person has not been convicted of a criminal offence to an unconditional prison sentence, by a final judgement, or of a punishable offence which makes him unsuitable for exercising the function;

2) document issued by a competent authority confirming that no effective safeguard measure has been imposed on a person prohibiting the performance of the business activity, making him unsuitable for exercising the function;

3) a person's statement on the form that is printed as Annex 1 along with this Decision and forms an integral part hereof;

4) the person's professional resume, which should include the information on his/her business engagement to date;

5) a proof of appropriate professional qualifications and experience in managing the payment system for the payment system director, e.g. diploma, certificate, employer's certificate, employment contract;

6) a scan reading of a biometric ID card, and/or photocopy of an ID card (for citizens of the Republic of Serbia), a photocopy of passport (for foreign citizens);

7) the list of legal persons in which the person has a holding, including the data on whether the person is an owner of the legal person, stating the absolute and percentage amount of his ownership in that legal person as at the business day preceding the day of submission of the licence application, as well as on whether the person is a member of a managing body in the legal person, and/or the person's statement that he has no holding in any legal person based on management and/or ownership.

It shall be deemed that the payment system director has appropriate professional qualifications if he has at least the first level of higher education of basic academic studies lasting minimum four years, within the meaning of regulations governing higher education, and that he has appropriate experience – if he has no less than three years of experience in holding a management position in a financial sector person or in an undertaking and/or legal person whose business activity is similar to activities related to payment system operation.

If a person who is a member of a managing body of the applicant is at the same time a member of a managing body of a financial sector person licensed by the National Bank of Serbia, instead of data and evidence from paragraph 1 hereof, the following data shall be submitted: on the name and surname of the person – member of the managing body, business name and head office of the financial sector person in which that person is a member of the managing body and on his function in that person.

Apart from evidence from paragraphs 1 and 2 hereof, the applicant shall also submit the list of associates of the member of the managing body and prospective payment system director, along with the documents from paragraph 1, item 1) hereof for those associates.

Notwithstanding paragraph 4 hereof, if the applicant is a legal person from Article 144, paragraph 2, items 2) to 5) of the Law, the provision of paragraph 4 hereof shall apply only to the prospective payment system director.

Within the meaning of this Decision, an associate shall mean:

1) any natural person who is a member of a managing body in a legal person whose beneficial owner, within the meaning of the law governing the prevention of money laundering and terrorism financing, is a person from paragraph 1 hereof or in which that person is a member of a managing body;

2) any natural person who is a beneficial owner of the legal person in which the person from paragraph 1 hereof is a member of a managing body;

3) any natural person who, with the person from paragraph 1 hereof, has the beneficial ownership of the same legal entity.

The list of associates of the person from paragraphs 4 and 5 hereof shall contain the following data on identity of the associates:

1) name and surname, address of the permanent residence, the unique personal identification number (for citizens of the Republic of Serbia), and/or passport number and country of issuance (for foreign citizens);

2) data on the grounds based on which, within the meaning of this Decision, these persons are considered associates of the person from paragraph 1 hereof.

If, for justified reasons, the applicant is unable to obtain the documents from paragraph 1, item 1) hereof pertaining to associates of the person from that paragraph, the applicant may also submit the statement by that person given under financial and criminal liability confirming that his associates have not been convicted.

The National Bank of Serbia shall assess whether the person from paragraph 1 hereof has good business reputation based on documents and evidence from this Section, and other data at its disposal.

A person shall be deemed to have good business reputation if he has demonstrated in his work so far that he has personal, moral and professional integrity which will ensure payment system management in accordance with the rules on safe and sound payment system operation.

A person referred to in paragraph 1 hereof shall be deemed not to have good business reputation in particular in the following cases:

1) if he has been convicted by a final judgement of criminal offences against economy, property, legal transactions, public order and official duty or judiciary, or criminal offences of money laundering or terrorism financing or criminal offences for which an unconditional prison sentence was pronounced or of similar or comparable criminal offences in accordance with the regulations of a foreign country;

2) if an associate of that person has been convicted by a final judgement of criminal offences referred to in item 1 hereof;

3) if he has committed, in the last ten years, a grave violation, and/or repeated violations of regulations governing the prevention of money laundering and terrorism financing.

### Data on persons with a qualifying holding in a legal person

11. Data on persons with a qualifying holding in the applicant and the amount of their holding shall mean a graphic scheme showing a detailed ownership structure of the applicant down to natural persons, and/or market-recognised legal persons, including: name and surname and/or business name of each person with a holding in the applicant, the total number, type and nominal amount of shares and/or contribution and the percentage of ownership in the capital, and/or voting rights, with a clear identification of persons having direct and indirect qualifying holding (hereinafter: qualifying holder).

A market-recognised legal person shall mean, within the meaning of this Decision, a foreign legal person whose securities are quoted on stock exchanges in OECD countries.

Data and evidence on the ability of the qualifying holder – natural person to ensure safe and sound management of payment system operation shall mean:

1) a scan reading of a biometric ID card, and/or photocopy of an ID card (for citizens of the Republic of Serbia), a photocopy of passport (for foreign citizens);

2) the person's resume, which should include the information on his business engagements and professional qualifications, and information on whether that person is or used to be a member of a managing body of the legal person, including the contact data for that legal person;

3) evidence of good business reputation of that person from Section 10, paragraph 1, items 1) and 2) of this Decision;

4) data on asset position, i.e. own assets of that person – real estate, participation in the capital of other legal persons with absolute and percentage amount of ownership, cash deposits in banks etc. – along with the appropriate evidence on that ownership and origin of those assets (e.g. excerpt from the appropriate registry, bank statement etc.);

5) list of associates of that person within the meaning of Section 10, paragraphs 6 and 7 of this Decision, together with the documents from Section 10, paragraph 1, item 1) of this Decision submitted for those associates;

6) statement on that person's debt to domestic and foreign legal and natural persons, specifying those persons and the amounts of debt; evidence proving that the person is not a taxpayer, and/or evidence on the settlement of tax liabilities issued by the competent authority;

7) proof of origin of assets (source of assets) used to acquire qualifying holding.

Data and evidence on the ability of the qualifying holder – legal person to ensure safe and sound management of payment system operation shall mean:

1) Proof of that person's registration in the register of business entities and/or of registration with the competent authority;

2) data on ultimate owners of the qualifying holder – down to natural persons and/or market-recognised legal persons with a holding in that person including: name and surname and/or business name of each person having a holding in the qualifying holder, address of the permanent residence and/or registered office and other identification data for those persons, as well as absolute and percentage amounts of ownership with appropriate evidence (excerpt from the share register, transcript of shareholders from the book of shareholders, etc.)

3) for members of managing bodies of the qualifying holder and persons closely related to it – data and documents from paragraph 3, items 2) and 5) hereof;

4) financial statements of the qualifying holder for the last two business years and the opinion of the certified auditor if the qualifying holder is the obligor of financial statement audit, in accordance with regulations; 5) data on whether the qualifying holder has ownership and/or holding in another legal person and the absolute and percentage amount of its ownership on the business day prior to submission of the licensing application, and on whether that other legal person generated profit in the last two years and if yes, what amount;

6) statement on the total debt of the qualifying holder to domestic and foreign legal and natural persons, with the list of those persons and debt amounts;

7) evidence from Section 10, paragraph 1, items 1) and 2) on nonconviction of the legal person of offences referred to in Section 12, paragraph 4 of this Decision;

8) evidence issued by the competent authority on the settlement of tax liabilities;

9) proof of origin of assets (source of assets) used to acquire qualifying holding.

If the qualifying holder belongs to a group of companies, in addition to the documents referred to in paragraph 4 hereof, it shall submit data on the group structure, type of activities carried out by the group and its members, persons having controlling holding in that group and the report on audit of consolidated financial statements of the group for the last two years, prepared by the certified auditor.

Notwithstanding paragraph 4 hereof, if the qualifying holder is a market-recognisable legal person, the following documents shall be submitted:

1) list of persons having a qualifying holding in the qualifying holder, with the basic data on those persons;

2) evidence that the qualifying holder is quoted on a stock exchange;

3) documents from paragraph 4, items 3) to 9) of this Section.

Notwithstanding paragraphs 1 to 6 hereof, if the fitness of the qualifying holder has already been assessed by an authority in charge of licensing and supervision of financial sector persons, the applicant shall submit the data about that authority and the result of the assessment of the qualifying holder.

12. The National Bank of Serbia shall assess business reputation of the qualifying holder – natural person and/or members of managing bodies of the qualifying holder – legal person and persons closely related to that legal person in the manner specified in Section 10 hereof, taking into account also Section 11, paragraph 7 hereof.

The National Bank of Serbia shall assess whether the qualifying holder – legal person has good business reputation based on the documents and evidence from Section 11, paragraphs 4 to 7 of this Decision.

A legal person shall be deemed to have good business reputation if in its entire operation up to that point it has demonstrated risk management ability, achieved good results and gained reputation in the field of its line of activity.

A legal person shall be deemed not to have good business reputation in the following cases:

1) if it has been convicted by a final judgement of criminal offences against economy, property, legal transactions, public order, official duty or judiciary, or criminal offences of money laundering or terrorism financing or of similar or comparable criminal offences in accordance with the regulations of a foreign country;

2) if it has committed, in the last ten years, a grave violation, and/or repeated violations of regulations governing the prevention of money laundering and terrorism financing.

In assessing the financial status of the qualifying holder – natural person, the National Bank of Serbia shall assess that person's ability to finance its contribution to operator's capital from its own funds (excluding borrowings) and to ensure additional capital as needed.

In assessing the financial status of the qualifying holder – legal person, the National Bank of Serbia shall assess that person's ability to finance its contribution to operator's capital and to ensure additional capital as needed, especially based on the data from financial statements of that person.

### Data on external auditor

13. If the applicant is subject to mandatory audit of financial statements according to law – together with the data about the external auditor performing the audit of the applicant's financial statements in the year of submission of the application, the applicant shall also submit the document on auditor's engagement.

#### III. CONSENTING TO AMENDMENTS TO PAYMENT SYSTEM RULES

14. The operator shall submit to the National Bank of Serbia the application for consent to amending the elements of the payment system rules from Article 148 of the Law, along with which it shall enclose:

1) proposed amendments to the payment system rules and the consolidated text of those rules incorporating the proposed amendments;

2) rationale for the proposed amendments, together with the assessment of their impact on risk management in the payment system.

The National Bank of Serbia shall grant consent from paragraph 1 hereof by virtue of a decision, provided that the applicant submitted a duly completed documentation from that paragraph and that the proposed amendments to elements of the payment system rules comply with the Law and regulations adopted based on the Law.

The operator shall submit to the National Bank of Serbia the copy of the adopted amendments to the payment system rules and the consolidated text of the payment system rules incorporating the changes for which it obtained consent – within three days from their adoption.

# IV. CHANGE OF DATA IN THE DOCUMENTATION AFTER THE SUBMISSION OF THE APPLICATION

15. If, upon submission of the licence application and application for consent to amendments to payment system rules and before the National Bank of Serbia has issued such licence, and/or consent, the data submitted along with the application have changed – the applicant shall immediately notify the National Bank of Serbia thereof and submit new data.

#### V. NOTIFICATION AND EVIDENCE RELATED TO APPOINTMENT OF A MEMBER OF A MANAGING BODY OR DIRECTOR OF THE PAYMENT SYSTEM

16. The operator shall inform the National Bank of Serbia on appointment and dismissal, and/or resignation of a person who is a member of the managing body and/or director of the payment system no later than the next business day after the appointment and/or dismissal or resignation.

Along with the decision on the appointment from paragraph 1 hereof, the operator shall submit the decision of the operator's competent body on the appointment of that person and documents and evidence from Section 10 hereof. If the operator reappoints the same person from Section 10, paragraph 1 of this Decision (reappointment), together with the appointment decision from paragraph 1 hereof, the operator shall submit the following documents:

1) decision of the operator's competent body on reappointment of that person;

2) decisions of the competent body from Section 10, paragraph 1, items 1) and 2) hereof;

3) other documents requested by the National Bank of Serbia.

Where based on the documents and evidence from this Section it is not possible to establish all facts relevant for assessing good business reputation of the appointed person, the National Bank of Serbia may request that the operator submits other documents and/or data it deems necessary.

#### VI. NOTIFICATION AND EVIDENCE RELATED TO ACQUIRING QUALIFYING HOLDING IN THE OPERATOR

17. The operator and/or qualifying holder shall inform the National Bank of Serbia on the acquisition of qualifying holding in the operator no later than the next business day after the day of acquisition.

Acquisition of qualifying holding within the meaning of this Decision shall also mean the increase of qualifying holding in the operator.

The notification from paragraph 1 hereof shall state the type, total number and nominal amount of shares and/or contribution and percentage of holding of the qualifying holder in operator's Tier 1 capital.

The documents and evidence submitted along with the notification from paragraph 1 hereof and assessment of the ability of the qualifying holder to ensure safe and sound management of payment system operation shall accordingly be subject to Sections 11 and 12 of this Decision.

Where based on the documents and evidence from Section 11 hereof it is not possible to establish all facts relevant for assessing the ability of the qualifying holder to ensure safe and sound management of payment system operation, the National Bank of Serbia may request that the operator, and/or qualifying holder submit other documents and/or data which it deems necessary.

#### VII. SUBMISSION OF THE PRESCRIBED DOCUMENTS

18. The documents prescribed by this Decision shall be submitted in original or copy certified in accordance with regulations, except for the documents in relation to which the data may be verified by accessing the public registries of competent authorities. The documents referred to in this paragraph may not be older than six months.

The documents from paragraph 1 hereof shall be in the Serbian language and if they are in a foreign language, the original or certified copy of such document shall be submitted along with its translation in the Serbian language certified by a sworn-in-court translator, except in the case of financial statements and audit reports of legal persons in the English language.

If the original documents referred to in paragraph 2 hereof are neither in Serbian nor English and it is not possible to obtain the translation from the language they were prepared in, the translations into English and Serbian shall be submitted, certified by a sworn-in-court translator.

19. The applicants from this Decision shall submit to the National Bank of Serbia, along with the prescribed documents, the information on the date of payment of the fee prescribed by the decision on uniform fees charged for services provided by the National Bank of Serbia', and the proof of payment of the republic administrative fee pursuant to the regulations governing the payment of such fee.

20. The legal person which obtained the licence for payment system operation shall submit to the National Bank of Serbia the payment system rules no later than the next business day after the date of their adoption.

#### VIII. FINAL PROVISIONS

21. This Decision repeals the Decision on the Conditions and Manner of Granting Licence for Payment System Operation and Granting Approval for Amendments and Supplements to Payment System Rules (RS Official Gazette, No 49/2015).

22. This Decision enters into force on the eighth day following its publication in RS Official Gazette and applies as of 17 March 2019.

D. No 20 14 December 2018 B e I g r a d e G o v e r n o r of the National Bank of Serbia Dr Jorgovanka Tabaković