

Pursuant to Article 175, paragraph 5 of the Law on Payment Services (RS Official Gazette, No 139/2014), and Article 15, paragraph 1 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 and 40/2015 – CC decision), the Executive Board of the National Bank of Serbia hereby issues the

DECISION

ON DETAILED CONDITIONS AND MANNER OF SUPERVISION OF PAYMENT INSTITUTIONS, ELECTRONIC MONEY INSTITUTIONS AND PUBLIC POSTAL OPERATOR

1. This Decision sets out detailed conditions and manner of conducting supervision of payment institutions, electronic money institutions and public postal operator (hereinafter: supervised entities) by the National Bank of Serbia, as well as measures that may be imposed on the supervised entities in the process of supervision in accordance with the Law on Payment Services (hereinafter: supervision).

2. The aim of supervision shall be to verify compliance of the supervised entities' operation with the Law on Payment Services (hereinafter: Law), another law according to which the National Bank of Serbia is in charge of supervising the operation of these entities and the regulation adopted under that Law or another regulation whose application by these entities is supervised by the National Bank of Serbia.

3. The National Bank of Serbia shall conduct supervision referred to in Section 1 of this Decision indirectly (off-site) and directly (on-site).

Indirect (off-site) supervision referred to in paragraph 1 hereof shall be conducted by collecting and analysing reports and other documentation and data that a payment institution and electronic money institution submit to the National Bank of Serbia pursuant to the Law and regulations adopted under the Law and/or upon request of the National Bank of Serbia, and other documentation and/or data on business operations of the supervised entity which are at the disposal of the National Bank of Serbia.

Direct (on-site) supervision referred to in paragraph 1 hereof shall be conducted on the premises of the supervised entity, and/or the person which has property, management and business links with the supervised entity, by inspecting business books and other documentation of the supervised entity and/or the person concerned.

The National Bank of Serbia shall make a report on the conducted off-site supervision if, in the course of supervision, it establishes any deficiencies or irregularities in the business operation of the supervised entity.

Provisions of this Decision relating to on-site supervision shall apply accordingly to the follow-up procedure after the report on off-site supervision has been made.

4. On-site supervision shall be conducted by NBS staff designated by the decision of the NBS Governor or the person authorised by the Governor (hereinafter: authorised persons).

The decision referred to in paragraph 1 hereof shall specify the supervised entity, and/or other persons subject to on-site supervision as well as the subject of such supervision. In the course of on-site supervision, this decision may be supplemented, and/or amended.

Issuance of the decision referred to in paragraph 1 hereof shall imply that the on-site supervision of the supervised entity has been initiated.

The supervised entity shall enable authorised persons to conduct supervision smoothly and shall cooperate with them.

The supervised entity shall enable authorised persons to inspect its business books, documentation and data required by such persons, in written and/or electronic form, and shall provide them unimpeded and full access to equipment, databases and computer programs that it uses, and/or to all other information system resources.

The supervised entity shall enable the authorised persons to conduct on-site supervision of its operations and/or specific activities at its head office, branches and other organisational units.

Members of the supervised entity's managing bodies and managers shall have an obligation, in accordance with this Decision, to provide written answers to questions made by the authorised persons, upon their request, within the deadline laid down in such request, as well as to provide evidence substantiating such answers.

The National Bank of Serbia may engage other persons to be present during on-site supervision in order to provide authorised persons with appropriate expert support.

5. In the course of supervision, the National Bank of Serbia may, in the manner referred to in Sections 3 and 4 of this Decision, conduct supervision of an agent of the supervised entity, of a third person with which the supervised entity concluded a contract on the distribution and redemption of electronic money, of the person to which the entity has outsourced some operational activities in accordance with the Law and regulations adopted under the Law, as well as of other persons having property, management and business links with the supervised entity.

6. The supervised entity and persons referred to in Section 5 hereof shall, upon request of the National Bank of Serbia, submit all requested data and documentation within the deadline determined in that request.

If the data and documentation referred to in paragraph 1 hereof have been prepared in the language other than Serbian, the National Bank of Serbia may request from the persons referred to in that paragraph to provide, at their cost, the translation of these data and documentation into Serbian.

7. The authorised persons shall prepare a report on conducted on-site supervision (hereinafter: report on supervision).

The National Bank of Serbia shall deliver the report on supervision to the supervised entity, which may file its objections within 15 business days from the receipt of such report.

The National Bank of Serbia shall not consider the objections from paragraph 2 hereof, relating to factual changes which have arisen in the period after the completion of supervision (cut-off date), but may take them into account when imposing measures under the Law.

A supplement to the report on supervision shall be prepared in cases where the verification of statements presented in objections from paragraph 2 hereof shows that the factual state is materially different from the one stated in the report.

The supplement to the report on supervision shall be delivered to the supervised entity within 15 business days following the submission of objections to the report.

Objections within the meaning of paragraph 2 hereof shall imply consolidated objections and statements of members of management bodies and director of the supervised entity.

If the verification of statements contained in the objections to the report on supervision shows that the objections of the supervised entity are unfounded and/or do not materially influence the factual state, the National Bank of Serbia shall make an official record thereof and deliver it to the supervised entity.

8. The National Bank of Serbia shall render a conclusion on termination of the supervisory procedure with the supervised entity if no irregularities or deficiencies have been established in the report on supervision, or if the supervised entity, in its objections submitted within the timeframe specified by the Law, has successfully disputed all findings in the report on supervision.

The conclusion referred to in paragraph 1 hereof shall be submitted to the supervised entity.

9. If on the basis of factual state established in the report on supervision it follows that there are certain deficiencies or irregularities in the operation of the supervised entity, and/or that the supervised entity acted contrary to legislation and other regulations referred to in Section 2 hereof, the National Bank of Serbia shall impose on the supervised entity one of the measures referred to in Article 183, paragraph 1 of the Law, in accordance with the criteria referred to in Article 191 of the Law.

10. Recommendation referred to in Article 184 of the Law (hereinafter: recommendation) shall be issued to the supervised entity if minor irregularities or deficiencies which do not pose a significant risk to its operation have been established.

The recommendation shall state the time limit for eliminating irregularities and/or deficiencies from paragraph 1 hereof, as well

as the time limit in which the supervised entity is to submit to the National Bank of Serbia a report on eliminated irregularities and/or deficiencies, accompanied with relevant evidence.

The National Bank of Serbia shall verify whether the supervised entity has eliminated the established irregularities after the deadline referred to in paragraph 2 hereof or before that deadline if it receives a notification from the supervised entity that the irregularities have been eliminated.

11. A letter of warning referred to in Article 185 of the Law (hereinafter: letter of warning) shall be issued to the supervised entity in whose operation certain irregularities have been detected that do not have a significant and direct impact on the entity's business operations, but might have such impact unless eliminated, or to the entity which failed to act in compliance with the recommendation.

The letter of warning shall state the time limit for eliminating irregularities from paragraph 1 hereof, and the time limit in which the supervised entity is to submit to the National Bank of Serbia a report on eliminated irregularities accompanied with relevant evidence.

The National Bank of Serbia shall verify whether the supervised entity has eliminated the established irregularities after the deadline referred to in paragraph 2 hereof or before that deadline if it receives a notification from the supervised entity that the irregularities have been eliminated.

12. The National Bank of Serbia shall issue a decision ordering the supervised entity to implement one or more activities referred to in Article 186, paragraph 2 of the Law (hereinafter: orders and measures), which shall contain time limits for the implementation of activities and for submitting reports on eliminated irregularities, with appropriate evidence.

The National Bank of Serbia shall verify whether the orders and measures from the decision referred to in paragraph 1 hereof have been implemented after the deadline for their implementation or before that deadline if it receives a notification from the supervised entity that the orders have been implemented.

12a. If during the on-site supervision procedure or based on information obtained during the off-site supervision procedure, the

National Bank of Serbia assesses that the supervised entity committed serious irregularities that may significantly jeopardise the operation of the supervised entity, and/or that its financial condition has deteriorated significantly or that its financial condition or liquidity may deteriorate significantly, and/or that the interests of payment service users and/or electronic money holders are or may be jeopardised significantly, and that a damage may occur that should be prevented without delay, the National Bank of Serbia may, by means of the decision under Article 186 of the Law, determine also one or more special measures referred to in Article 186a of the Law.

The National Bank of Serbia's decision on special measures referred to in paragraph 1 of this Section shall also specify the duration of those measures.

12b. If, by the decision on special measures from Section 12a, paragraph 1 of this Decision, a temporary representative is appointed for the supervision of the operation of the supervised entity (hereinafter: temporary representative), the National Bank of Serbia shall determine by the same decision the powers of this representative, and/or the obligations, objectives, and tasks of the temporary representative, the actions for which he is authorised, the acts and legal actions for which the supervised entity must obtain the representative's opinion or consent, reporting to the National Bank of Serbia on the work of the representative and the operation of the supervised entity, as well as the compensation for the work of the representative.

The temporary representative shall be a person independent of the supervised entity and meeting the conditions set out in Article 80, paragraph 2 of the Law.

A person independent of the supervised entity referred to in paragraph 2 of this Section shall be a person meeting the following conditions:

- 1) that the person or a member of his family does not have any direct or indirect ownership in the supervised entity or in a legal person closely connected with the supervised entity;

2) that the person or a member of his family is not a member of managing bodies or a director of the supervised entity or a person closely connected with the supervised entity;

3) that the person or a member of his family is not in a contractual relationship with the supervised entity or with a person closely connected with the supervised entity that could negatively affect the impartiality or independence of that person from the supervised entity, nor have they been in such a contractual relationship in the period of one year prior to the date of the appointment.

Family members referred to in paragraph 3 of this Section shall have the meaning as defined by the law governing banks.

The objectives and tasks of the temporary representative may, among other things, relate to determining the true financial condition of the supervised entity, managing the entire operation of the supervised entity or a part of its operations in order to preserve or restore an appropriate financial position of the supervised entity and/or its safe and sound operations, supervising the implementation of activities that have been ordered to the supervised entity by the decision of the National Bank of Serbia, and/or of the orders and measures issued under Article 186 of the Law and Section 12 of this Decision, as well as supervising the performance of the managing body of the supervised entity.

If the decision appointing a temporary representative specifies that the temporary representative replaces the director of the supervised entity, as of the date of entry into force of that decision, the director will cease to directly manage the operations of the supervised entity, and the temporary representative shall be considered the director of the supervised entity.

The decision appointing a temporary representative may establish the obligation of the managing body of the supervised entity to obtain prior consent and/or opinion from the temporary representative on certain acts and legal actions that this body adopts or undertakes, with these acts and actions being determined by the decision appointing the temporary representative.

The acts and legal actions from paragraph 7 of this Section may relate to decisions by the managing body of the supervised entity regarding loans and borrowings of the supervised entity, investments by the supervised entity in assets and other legal persons, sale of assets of the supervised entity, introduction of new products, determination of compensation for members of the managing body and the director of the supervised entity, including bonus and reward amounts paid to these individuals or other employees of the supervised entity, determination of the amount of funds necessary for the operational activities of the supervised entity, conclusion of contracts with agents, persons to which specific activities are outsourced, third persons which would carry out the distribution and redemption of electronic money, etc.

The decision appointing a temporary representative may also establish the powers within the scope of the managing body that are necessary to carry out the objectives and tasks from paragraph 5 of this Section, which may include attending meetings of the managing body of the supervised entity, convening meetings of other bodies within the management and organisational structure of the supervised entity (committees, expert services, etc.), proposing the agenda for these meetings, proposing the adoption of appropriate decisions, requesting relevant reports from the managing and other bodies, etc.

The supervised entity shall enable the temporary representative to access all of its organisational parts and premises, as well as to communicate with the managers of the supervised entity's organisational units and employees, and shall make available to the temporary representative the business books and other documentation needed to achieve the objectives and tasks from paragraph 5 of this Section.

Within 30 days from the date of appointment, and/or 30 days before the expiry of the period of appointment, the temporary representative shall submit a report to the National Bank of Serbia on the operations of the supervised entity and its financial condition, along with an assessment of its financial position and the possibilities for improving its performance.

Along with the report from paragraph 11 of this Section, the temporary representative shall also submit to the National Bank of

Serbia a plan of activities for achieving the objectives and tasks from paragraph 5 of this Section for the next quarter.

At least once every three months, as well as upon the request of the National Bank of Serbia, the temporary representative shall submit to the National Bank of Serbia a report on the actions taken to achieve the objectives and tasks from paragraph 5 of this Section, the degree of accomplishment of those objectives and tasks, along with planned activities and deadlines for their implementation for the coming period.

The temporary representative shall promptly notify the National Bank of Serbia of any circumstances that may lead to non-compliance with the measures imposed on the supervised entity and a deterioration in the financial condition of the supervised entity.

Based on the report from paragraph 11 and the notification from paragraph 14 of this Section, as well as other information available, the National Bank of Serbia may impose any of the measures from Articles 186 and 186a of the Law.

The compensation for the work of the temporary representative shall be determined by the National Bank of Serbia, particularly taking into account the scope of obligations, powers, and tasks of the temporary representative specified in the appointment decision, the average salary of the members of the managing body and the director of the supervised entity for the three months preceding the adoption of this decision, the amount of funds allocated for the operations of the supervised entity during the period of the temporary representative's authority, the financial condition of the supervised entity, and other relevant data for determining this compensation.

The compensation for the work of the temporary representative shall be paid out by the supervised entity.

The imposition of a special measure on the supervised entity, appointing a temporary representative, as well as the information about the dismissal of that representative, shall be recorded in the register of payment institutions or the register of electronic money institutions, maintained by the National Bank of Serbia, no later than the next business day from the date of adoption of the

decision on the appointment or dismissal – and if the temporary representative assumes direct management of the supervised entity's operations, this information shall be recorded in the register as well.

The authorisation of the temporary representative for the supervision of the operations of the supervised entity shall cease upon the expiry of the period specified in the appointment decision, or upon the revocation of that authorisation. However, before the expiry of the specified period, it may also cease if the National Bank of Serbia determines that the objectives and tasks from paragraph 5 of this Section have been achieved or that the financial condition of the supervised entity has improved to such an extent that there is no longer a need for the temporary representative, in which case the National Bank of Serbia shall issue a conclusion on the termination of the temporary representative's authorisation.

13. If the National Bank of Serbia establishes new irregularities in the operation of the supervised entity on which one of the measures referred to in Article 183, paragraph 1, points 1) to 3) of the Law was already imposed, it may undertake against such entity a new measure under Article 183, paragraph 1 of the Law, in accordance with the criteria referred to in Article 191 of the Law.

14. The National Bank of Serbia shall issue a decision to revoke a license from a supervised entity in cases laid down in Article 188, paragraph 1 and Article 189, paragraph 1 of the Law and may issue a decision to revoke a license in cases laid down in Article 188, paragraph 2 and Article 189, paragraph 2 of the Law.

By the decision referred to in paragraph 1 of this Section, the National Bank of Serbia may issue orders and measures to the supervised entity regarding the termination of payment services provision or electronic money issuance, and/or it may order the supervised entity or another person to undertake certain activities related to such termination, in accordance with Article 188, paragraph 4 and Article 189, paragraph 3 of the Law.

15. It shall be deemed that the supervised entity has not enabled the National Bank of Serbia to conduct supervision particularly in the following cases:

- 1) it failed to act in accordance with Article 179 of the Law;

2) it failed to deliver all requested data and documentation, and/or failed to deliver them within the deadline specified in the request;

3) it submitted untrue or incomplete data intentionally or by gross negligence;

4) it failed to provide authorised persons with necessary conditions for the conduct of on-site supervision, including conditions ensuring that employees in the supervised entity or third persons do not disturb them in their work.

16. The National Bank of Serbia may, by the decision referred to in Section 12, paragraph 1 hereof, impose a fine on the supervised entity, as well as on a member of the managing body and/or the director of the supervised entity or a responsible person in the public postal operator, in accordance with Article 187 of the Law.

For the purposes of imposing a fine on a member of the managing body and/or director of the supervised entity or a responsible person in the public postal operator, in accordance with Article 187 of the Law, the supervised entity shall deliver relevant data to the National Bank of Serbia.

The supervised entity shall pay the amount of the fine referred to in paragraph 1 hereof to the National Bank of Serbia's current account, no later than within eight days from the delivery of the decision imposing the fine.

If the supervised entity, member of the managing body or the director of the supervised entity fail to pay the amount of fine referred to in paragraph 1 hereof within the deadline referred to in paragraph 3 hereof, the National Bank of Serbia shall resort to enforced collection.

16a. The National Bank of Serbia may publish on its website or otherwise make publicly available information about the measures taken against a particular supervised entity in accordance with the Law and this Decision, unless making such information publicly available would seriously jeopardise the financial services market or cause disproportionate harm to the interested parties.

17. The decisions, reports and other acts, as well as notifications, requests and other supervision-related communications of the National Bank of Serbia submitted to the supervised entity shall be considered to have been also submitted to members of the managing bodies and managers of the supervised entity and no proof to the contrary shall be admissible.

Following submission to the supervised entity and the responsible person therein, the fine imposing decision referred to in Section 16, paragraph 1 of this Decision shall be an enforceable title.

18. This Decision shall enter into force on the eighth day from its publication in the RS Official Gazette and shall apply as of 1 October 2015.

NBS Executive Board No 52
19 June 2015
B e l g r a d e

Chairperson
of the Executive Board of the
National Bank of Serbia
G o v e r n o r
of the National Bank of Serbia
Dr Jorgovanka Tabaković, sgd.