

Pursuant to Article 46, paragraph 1 of the Law on Foreign Exchange Operations (RS Official Gazette, Nos 62/2006, 31/2011, 119/2012, 139/2014 and 30/2018) 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, 40/2015 – CC decision and 44/2018), the Executive Board of the National Bank of Serbia issues the following

**D E C I S I O N**  
**ON DETAILED CONDITIONS AND MANNER OF PERFORMING THE**  
**SUPERVISION OF FOREIGN EXCHANGE OPERATIONS OF RESIDENTS**  
**AND NON-RESIDENTS**

**Basic provisions**

1. This Decision stipulates detailed conditions and manner of performing the supervision of the foreign exchange operations of residents and non-residents – natural and legal persons (hereinafter: supervised entities) and the supervision procedure, as well as the actions to be taken with regard to the supervised entity and other issues relevant for the procedure.

2. The purpose of supervision from Section 1 hereof shall be to verify and determine the legality and regularity of the supervised entity's performance of foreign exchange operations in accordance with the Law on Foreign Exchange Operations (hereinafter: Law) and other regulations governing foreign exchange operations.

**Conditions and manner of conducting supervision**

3. The NBS shall conduct supervision referred to in Section 1 hereof (hereinafter: supervision) in the following manner:

1) off-site – by collecting, monitoring, verifying and analysing the reports and other documents submitted by the supervised entity in accordance with the Law and NBS regulations, and/or upon NBS request and/or other documents and/or data on foreign exchange operations of the supervised entity in possession of the NBS;

2) on-site – in the premises of the supervised entity, and/or entities which are in property, management or business relations with the supervised entity – by examining business books, agreements and other documents related with foreign exchange operations of the supervised entity, and/or operations of that entity.

When conducting supervision the NBS shall cooperate with the Tax Administration, customs authorities, and/or other competent authorities. This cooperation shall mean, in particular, exchange of data, findings and information required for the supervision.

Working day, within the meaning of this Decision, is any day other than Saturday, Sunday and public and religious holiday declared non-working in the Republic of Serbia.

### **Off-site supervision**

4. When conducting off-site supervision, the NBS may require from the supervised entity to deliver the reports, and/or documents, information and statements concerning in particular the following:

- 1) payments, collections and transfers between residents and non-residents in foreign means of payment and in dinars;
- 2) payments, collections and transfers between residents in foreign means of payment;
- 3) purchase and sale of means of payment between residents and non-residents, including purchase and sale of foreign means of payment between residents;
- 4) unilateral transfers of means of payment – personal and physical transfers from the Republic of Serbia and to the Republic of Serbia which do not have the characteristics of transactions between residents and non-residents;
- 5) current and deposit accounts of residents abroad and non-residents in the country;
- 6) foreign credit operations;
- 7) other foreign exchange operations.

5. If it establishes in the course of supervision that the supervised entity has some illegalities and/or irregularities in the performance of foreign exchange operations, the NBS shall make a report on completed off-site supervision.

The procedure after the report on off-site supervision is made shall be subject to the provisions of this Decision referring to on-site supervision.

### **On-site supervision**

6. On-site supervision shall be carried out by NBS staff appointed by the decision of the governor or a person authorised by the governor (hereinafter: authorised persons).

The decision referred to in paragraph 1 of this Section shall specify in particular: the supervised entity, subject of supervision and date of the commencement of supervision.

The decision from paragraph 1 of this Section may be amended during the course of on-site supervision.

On-site supervision of an entity commences with the issuance of the decision from paragraph 1 of this Section. This decision shall be delivered to the representative, and/or other authorised person of the supervised entity or other person employed by the supervised entity who happens to be in its business premises when the NBS staff arrive in those premises.

The NBS may notify in writing the supervised entity about the initiated on-site supervision of foreign exchange operations and require the provision of information and documents necessary for the supervision.

The NBS may hire other persons to take part in the on-site supervision for the purposes of providing adequate expert support to authorised persons conducting supervision.

7. A supervised entity shall enable unhindered supervision to an authorised person and shall cooperate with that person.

A supervised entity shall provide for inspection the business books, documents and data required by the authorised person conducting on-site supervision – in paper or electronically and shall enable unhindered and full access to equipment, data bases, computer programmes used, and/or other information system resources.

If documents and data from paragraph 2 of this Section have been prepared in a language other than Serbian, the NBS may require from the supervised entity to have those documents and data translated into Serbian by a court interpreter at their own cost.

8. When conducting on-site supervision an authorised person may undertake the following actions:

- 1) access all organisational units and premises of the supervised entity;
- 2) request copies of documents concerning the subject of supervision and/or technical support for access to electronic business books;

- 3) inspect business premises, objects, devices and equipment in connection with the subject of supervision;
- 4) directly communicate with the members of managing bodies and/or managers, responsible persons and staff in the supervised entity to obtain information and explanations relating to the subject of supervision;
- 5) establish the identity of the persons performing the operations that are under supervision and the identity of the responsible persons of the supervised entity;
- 6) request refraining from any action that is contrary to the provisions of the Law and other regulations.

Members of managing bodies, and/or managers, responsible persons of the supervised entity and other persons shall give to the authorised person, at his request, answers to the questions asked, in writing and within the deadline set in the request and they shall also, when the need arises, provide evidence corroborating those answers.

9. In the course of on-site supervision of an entity, the NBS and/or the authorised person may temporarily seize from the supervised entity, foreign exchange, foreign currency cash, cheques, securities, dinars, objects, official documents and papers, and documentation – if there is reasonable doubt that they have been used for committing a criminal offence or misdemeanour or were intended for such use or originated from a criminal offence or misdemeanour.

The authorised person shall issue a certificate on temporarily seized assets and objects referred to in paragraph 1 of this Section.

Temporary seizing of foreign exchange and dinars from paragraph 1 of this Section that are in monetary accounts of the supervised entity shall be performed pursuant to the NBS decision ordering the blocking of these assets and their transfer to the special purpose account of the NBS.

The authorised person shall immediately and no later than two days following the seizing of assets and objects from paragraph 1 of this Section deposit foreign currency cash, cheques and securities – to the special purpose account of the NBS or in the NBS depository; dinar cash – to the special purpose account of the NBS; objects, official documents and papers, and documentation – in the NBS depository or in another appropriate place.

Following the seizing of assets and objects from paragraph 1 of this Section, the NBS shall launch an appropriate procedure before the competent authority.

## **Prevention of supervision**

10. It is considered that the supervised entity failed to enable the NBS to conduct supervision within the meaning of this Decision if it did not act in accordance with Sections 7 and 8 hereof or if it did not allow temporary seizure of foreign exchange, foreign currency cash, dinars and other means of payment, objects, official documents and papers, and documentation from Section 9, paragraph 1 of the Decision including the following cases:

- 1) if the supervised entity cannot be found at the address registered with the competent authority;
- 2) if an authorised person is provided with incorrect information intentionally or as a result of gross negligence;
- 3) if the supervised entity fails to deliver and/or present for inspection within the set deadline all the required information and documents and/or evidence, particularly information the entity is obliged to have in accordance with the Law and other regulations;
- 4) if the conditions necessary for the exercise of supervision have not been provided to the authorised person, and/or if it is not ensured that this person is unhindered in the exercise of supervision by the entity's employees or third parties.

In the event referred to in paragraph 1 of this Section, the authorised person shall prepare a report on the prevention of supervision and the NBS shall issue a decision ordering the supervised entity to enable supervision immediately and no later than within three working days following the receipt of the decision.

## **Reports and other documents**

11. The authorised person shall prepare a report on completed on-site supervision (hereinafter: report on supervision).

The report on supervision shall specifically include the following details: date of the report, subject of supervision and the relevant data, findings on established factual situation and the signature of the person who made the report.

The NBS shall deliver the report on supervision to the supervised entity, which may file objections within eight working days from the day of receiving the report.

The supervised entity's objections to the report, including evidence, shall be signed by the authorised person of that entity.

12. If by examining the objections from Section 14, paragraph 4 hereof it establishes that the factual situation significantly differs from the situation described in the report on supervision, the NBS shall supplement the report (hereinafter: supplement to the report) and deliver it to the supervised entity within fifteen working days from receiving those objections.

The NBS may verify the statements presented in the objections from this Section also directly at the supervised entity.

13. The NBS shall not consider the supervised entity's objections relating to a change in factual situation that occurred after the completion of supervision (cut-off date), but may consider them when preparing the order from this Decision.

14. If the delivered objections to the report on supervision are unfounded, if they do not substantially change the factual situation established by the supervision, and/or if they do not lead to a change in the findings of established illegalities and/or irregularities, the NBS shall make an official note thereof and deliver it to the supervised entity within eight working days from the day of receiving the objections.

15. The NBS shall issue a decision on the termination of supervision in the following cases:

- 1) if the report on supervision, and/or supplement thereto establishes no illegalities and/or irregularities or only minor illegalities and/or irregularities;
- 2) if the supervised entity refutes in its objections and within the prescribed deadline all the findings in the report on supervision or refutes some of those findings so that the remaining portion of findings relates to minor illegalities and/or irregularities.

The Decision from paragraph 1 of this Section shall be delivered to the supervised entity.

### **Decision on orders**

16. If based on the factual situation described in the report on supervision, an illegality and/or irregularity in the performance of foreign exchange operations which can be eliminated is established, the NBS shall issue a decision ordering the supervised entity to eliminate the established illegality and/or irregularity within the set deadline.

The supervised entity shall act pursuant to the decision from paragraph 1 of this Section, in the way and within the deadlines set by that decision.

The supervised entity shall notify the NBS in writing that it has carried out the order from the decision referred to in paragraph 1 of this Section and deliver evidence thereof within the deadline set by the NBS in the decision which cannot be longer than three working days from the expiry of the deadline for eliminating the established illegalities and/or irregularities from that decision.

The NBS shall verify whether the order from the decision referred to in paragraph 1 of this Section has been complied with and if it establishes that illegalities and/or irregularities have been fully or largely eliminated so that only minor illegalities and/or irregularities remained, it shall issue a decision to terminate the supervision procedure.

If the supervised entity does not comply with the decision from paragraph 1 of this Section, the NBS may submit to the competent authority a request for initiating offence proceedings in line with the law, with the possibility of submitting this request also in other cases stipulated by the law.

17. For the purposes of establishing whether the supervised entity complied with the decision from Section 16 hereof, the NBS may repeat the on-site supervision of foreign exchange operations of the supervised entity in the scope required to determine whether the established illegalities and/or irregularities have been eliminated in an appropriate way and to an appropriate degree.

### **Confidentiality in supervision procedure**

18. Information which authorised persons and other persons hired in the procedure of supervision of foreign exchange operations within the meaning of this Decision learn in any way and which refers to the supervision of operations of the supervised entity including the documents containing such information, as well as the orders for removing the established irregularities, and/or illegalities from this Decision shall be determined and protected as confidential with the inscription of the degree of confidentiality as "CLASSIFIED" or "RESTRICTED" in accordance with the law governing the confidentiality of information.

Persons from paragraph 1 of this Section shall keep the information and documents from that paragraph as secret, that is, they shall not make them available to third parties except in the cases prescribed by the law.

The obligation to preserve information secrecy for persons from paragraph 1 of this Section does not end with the termination of employment contract with the NBS or with the termination of other capacity based on which those persons had access to information from that paragraph.

Notwithstanding paragraph 2 of this Section, the NBS may make the information and documents from paragraph 1 of this Section available to domestic and foreign supervisory authorities on condition that those authorities use them solely for the purposes for which they were provided.

Publication of information from paragraph 1 of this Section in aggregate form in a way that the identity of the supervised entity cannot be established based on such information, shall not be considered a breach of the obligation to preserve information secrecy.

### **Transitional and final provision**

19. The activities of supervision of the foreign exchange operations of residents and non-residents initiated by the Ministry of Finance – Tax Administration and not completed by 31 December 2018 – shall be completed by the NBS in accordance with the Law and this Decision.

20. This Decision shall be published in the RS Official Gazette and shall come into force on 1 January 2019.

NBS Executive Board No 92  
29 October 2018  
B e l g r a d e

Chairperson  
of the NBS Executive Board  
G o v e r n o r  
National Bank of Serbia

Dr Jorgovanka Tabaković