

Pursuant to Article 10, paragraph 1 and Article 94, paragraph 6 of the Law on Digital Assets (RS Official Gazette, No 153/2020) and Article 18, paragraph 1, item 3) 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

DECISION
ON DETAILED CONDITIONS AND MANNER OF ISSUING AND
REVOKING APPROVAL TO PROVIDE VIRTUAL CURRENCY SERVICES
IN A FOREIGN COUNTRY

Introductory provision

1. This Decision lays down detailed conditions and manner of issuing and revoking the approval to establish a branch or directly provide virtual currency services in a foreign country to a provider of digital asset services in the part relating to virtual currencies (hereinafter: service provider).

Issuing of approval to provide services in a foreign country

2. A service provider may provide virtual currency services in a foreign country either through a branch or directly, in accordance with the regulations of that country and the provisions of the Law on Digital Assets (hereinafter: Law) and this Decision.

3. In order to establish each individual branch in a foreign country or directly provide virtual currency services in each individual foreign country, a service provider shall file to the National Bank of Serbia an application for approval on the form provided in Annex 1 of this Decision, listing the virtual currency services referred to in Article 3, paragraph 1 of the Law and other activities and services directly related to virtual currency services which it intends to provide and/or perform through a branch or directly in a foreign country.

Along with the application referred to in paragraph 1 of this Section, the service provider shall also submit the following data and documents:

1) decision of its competent body on establishing a branch in a foreign country and/or on direct provision of virtual currency services in a foreign country;

2) data on the name, address and email address of the branch, if it establishes a branch in a foreign country, as well as data (email and contact telephone) of the person who is to manage the branch's operations and/or direct provision of virtual currency services in a foreign country or another person authorised for communication with the National Bank of Serbia in relation to the provision of virtual currency services in a foreign country;

3) draft articles of association, contract or another act based on which the branch is to operate in a foreign country, if it establishes a branch in a foreign country;

4) description of the organisational structure of the branch from which one can clearly establish the division and segregation of tasks, as well as duties and responsibilities relating to virtual currency service provision through a branch, if it establishes a branch in a foreign country, and the number and qualifications of employees to be engaged in the provision of virtual currency services through a branch and/or directly in a foreign country;

5) business plan of the branch and/or the plan of direct provision of virtual currency services in a foreign country for the first three business years, with a description of virtual currency services it intends to provide in a foreign country, including the number and type of expected virtual currency users and the expected volume and amount of virtual currency transactions, for each type of virtual currency services it intends to provide in a foreign country, and the description of other activities and services directly related to virtual currency services which it intends to provide and/or perform through a branch or directly in a foreign country;

6) specification of hardware and software components to be used in the provision of virtual currency services through a branch and/or directly in a foreign country, stating the manner in which these components have been and/or will be provided;

7) data on the business premises to be used for the operations of a branch in a foreign country, if it establishes a branch in a foreign country, and on the business premises where hardware and software components to be used in the provision of virtual currency services through a branch and/or directly in a foreign country will be installed, together with evidence on the provision of such business premises and their technical capacity (e.g. rental contract);

8) data on persons who will manage the operations of the branch and/or direct provision of virtual currency services in a foreign country (name and surname and address of permanent and/or temporary residence), with data and evidence that such persons have a good business reputation, which means that such persons have demonstrated in their work so far that they have the personal, moral and professional integrity, and the ability to manage tasks and business risks, as well as that they have achieved good results and gained a reputation in their line of activity, including in particular:

- acts of competent authorities in the Republic of Serbia and/or a foreign country in which virtual currency services will be provided, certifying that the appointed person has not 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 similar or comparable criminal offences in accordance with the regulations of a foreign country and/or of another criminal and/or punishable offence which makes such person unfit to perform this function,

- list of associates of the appointed person, with evidence that they have not been convicted of the criminal offences referred to in indent 1 of this provision,

- act of a competent authority certifying that no final protective measure of prohibition of performing the business activity has been imposed on such person, making such person unfit to perform this function,

- appointed person's statement on the form provided in Annex 2 to this Decision,

- appointed person's professional resume,

- recommendation containing a reasoned opinion about the business reputation, expertise, capacities, and moral qualities of the appointed person,

- evidence of work experience based on which it can be determined that the appointed person fulfils the requirements for exercising this function (certificate from a former employer with which the appointed person was employed or engaged, containing data on the position or function which this person performed with a description of activities, duties and authorizations, particularly for making appropriate decisions, and the period in which such tasks were performed);

9) evidence that the regulations of the foreign country in which it intends to establish a branch and/or directly provide virtual currency services are harmonised with international AML/CFT standards, particularly in the part relating to virtual currencies and the obligations of service providers (e.g. reports of international or regional AML/CFT organisations and bodies), and in particular that the regulations of such foreign country regulate virtual currency transactions and licensing or registration of service providers, as well as that supervision of service providers has been established;

10) evidence that there are no impediments for the National Bank of Serbia to conduct supervision of the branch's operations in the foreign country where the branch is established and/or of direct provision of virtual currency services in a given foreign country (e.g. excerpts from the regulations of the foreign country pertaining to the operations and supervision of service providers);

11) data on fee payment prescribed in the decision regulating uniform fees charged for services provided by the National Bank of Serbia (date of

payment and business name of the payment service provider through which such payment was made).

If it is not possible to establish all facts relevant for deciding on the application referred to in paragraph 1 of this Section on the basis of the documents and evidence referred to in paragraph 2 of this Section, the National Bank of Serbia may request the applicant to submit other documents which it deems necessary.

The National Bank of Serbia shall decide on the application referred to in paragraph 1 of this Section within 60 days from the day of receiving a duly completed application.

If the application referred to in paragraph 1 of this Section is not duly completed, within ten days from receiving such application the National Bank of Serbia shall notify the applicant in what way to complete the application duly, in which case the deadline referred to in paragraph 4 of this Section shall start running from the day when the duly completed application was submitted, in accordance with the notification referred to in this paragraph.

The National Bank of Serbia shall adopt the decision on issuing the approval to establish a branch or directly provide virtual currency services in a foreign country to a service provider once it determines that all conditions prescribed by the Law and this Decision have been met.

4. The National Bank of Serbia shall deny the application referred to Section 3, paragraph 1 of this Decision if, on the basis of submitted data and documents referred to in that Section and other data available to it, it determines the following:

1) that the service provider intending to establish a branch in a foreign country or directly provide virtual currency services in a foreign country does not have the appropriate organisational and/or personnel structure and/or technical capacity and/or adequate financial position to provide the planned virtual currency services in a foreign country;

2) that, in view of the service provider's organisational structure and/or financial position, the provision of virtual currency services in a foreign country would negatively affect the safety and soundness of the part of its operations in the Republic of Serbia;

3) that the person who will manage the branch's operations and/or direct provision of virtual currency services in a foreign country does not meet the requirements referred to in Section 3, paragraph 2, item 8) of this Decision and/or that it does not have a good business reputation;

4) that the regulations of the foreign country in which the service provider intends to establish a branch and/or directly provide virtual currency services are not harmonised with international AML/CFT standards, particularly in the part relating to virtual currencies and obligations of service providers, or that the regulations of such foreign country do not regulate virtual currency transactions and licensing or registration of service providers or that no supervision was established of the service providers and/or that there are impediments for establishing cooperation between the competent authority of such foreign country and the National Bank of Serbia for the purpose of supervising the provision of virtual currency services;

5) that, in view of the regulations of such foreign country or practice in their implementation, supervision of operations of a branch in a foreign country and/or of direct provision of virtual currency services in a foreign country would be greatly impeded or impossible;

6) that the service provider intending to establish a branch in a foreign country or directly provide virtual currency services in a foreign country thereby evades the regulations and rules in force in the Republic of Serbia, particularly in the AML/CFT area;

7) that other conditions referred to in Section 3 of this Decision have not been met.

If the National Bank of Serbia denies the application referred to in Section 3, paragraph 1 of this Decision, the applicant may not re-apply for approval within one year from the delivery of the decision of the National Bank of Serbia denying the application.

5. Within six months from the day of obtaining the approval to establish a branch in a foreign country referred to in Section 3, paragraph 6 of this Decision, the service provider shall submit the following documents to the National Bank of Serbia:

1) excerpt from the register of a competent authority of the foreign country in which the branch is registered in accordance with the regulations of such country, if the branch is registered in accordance with the regulations of such country;

2) articles of association, contract or another act based on which the branch operates in the foreign country in which it is established;

3) notification about the date of start of the branch's operations in a foreign country, with evidence on the start of such operations and, if the branch did not start operating within the deadline referred to in this paragraph, a written explanation about the intended date of start of the branch's operations.

If the branch registration procedure referred to in paragraph 1 of this Section takes longer than the deadline set out in that paragraph, the service provider shall send a written reasoned notification thereof to the National Bank of Serbia without delay and, within 15 days from branch registration, submit the evidence laid down in that paragraph.

Within six months from the day of obtaining the approval to directly provide virtual currency services in a foreign country referred to in Section 3, paragraph 6 of this Decision, the service provider shall submit to the National Bank of Serbia the notification submitted to the competent authority of the foreign country about its intention to directly provide virtual currency services in that country and the date as of which it intends to directly provide these services, if such notification is required by the regulations of such foreign country. If the regulations of the foreign country do not require the submission of the notification referred to in this paragraph, the service provider shall, within the deadline referred to in this paragraph, notify the National Bank of Serbia about the date as of which it will directly provide virtual currency services in a foreign country, with evidence of start of provision of such services. If it has not started providing these services within that deadline, it shall submit to the National Bank of Serbia without delay a written reasoned notification of when it intends to start providing these services.

The service provider shall notify the National Bank of Serbia without delay of any changes important for the branch's operations in a foreign country and/or for direct provision of virtual currency services in a foreign country.

6. The service provider shall submit to the National Bank of Serbia a report on the branch's operations in a foreign country and/or on direct provision of virtual currency services in a foreign country in the prior year, by 31 March of the current year.

In particular, the report referred to in paragraph 1 of this Section shall contain data on the number and type of virtual currency users, volume and amount of virtual currency transactions, balance of assets, liabilities and capital, income and expenses, and supervision and measures taken by the competent authority of the foreign country in respect of the branch referred to in that paragraph and/or service provider in connection with direct provision of virtual currency services in that foreign country.

7. The National Bank of Serbia may request the service provider to submit documents proving the fulfilment of the conditions referred to in Section 3, paragraph 2 of this Decision at any time.

8. The documents prescribed by this Decision shall be submitted in the form of original or certified copy and may not be older than six months.

The documents referred to in paragraph 1 of this Section which are in electronic form shall be submitted in accordance with the law governing electronic document, electronic identification and trust services in electronic business.

The documents referred to in paragraph 1 of this Section may also be filed through a special web portal operated by the competent service of the Government of the Republic of Serbia in accordance with the Law.

The documents referred to in paragraph 1 of this Section must 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 court-sworn translator.

If the original documents referred to in paragraph 4 of this Section are not in the Serbian language and it is not possible to obtain the translation from the language they were prepared in, their translations into English and Serbian shall be submitted, certified by a court-sworn translator.

Revocation of approval to provide services in a foreign country

9. The National Bank of Serbia shall revoke the approval referred to in Section 3, paragraph 6 of this Decision from a service provider in the following cases:

- 1) if the service provider obtained this approval based on false or incorrect data;
- 2) if the service provider no longer has the organisational and/or personnel capacity and/or technical capacity to provide virtual currency services in a foreign country;
- 3) if the operations of the service provider in a foreign country negatively affect the safety and soundness of the part of its operations in the Republic of Serbia or its business reputation;
- 4) if the person managing the operations of a branch and/or direct provision of virtual currency services in a foreign country ceases to meet the conditions referred to in Section 3, paragraph 2, item 8) of this Decision and/or if it no longer has a good business reputation;
- 5) if the foreign country ceases to meet international AML/CFT standards, particularly in the area relating to virtual currencies and the obligations of service providers in this context;

6) if the regulation of the foreign country regulating virtual currency transactions and licensing or registration of service providers becomes ineffective or this regulation no longer ensures the supervision of service providers and/or if the competent authority of the foreign country has prohibited the provision of virtual currency services in that country;

7) if the cooperation of the competent authority of a foreign country with the National Bank of Serbia for the purpose of supervision of virtual currency service provision is impossible or impeded;

8) if the competent authority of a foreign country has banned the service provider from providing virtual currency services in its territory or has taken in respect of such service provider another measure negatively affecting the safety and soundness of its operations;

9) if the activities of the service provider in a foreign country are connected with money laundering or terrorism financing;

10) if the territorial distribution of virtual currency service provision implies that the service provider thereby evades stricter regulations and rules in force in the Republic of Serbia;

11) if the branch of a service provider does not start operating and/or if the service provider does not start to directly provide virtual currency services in a foreign country within one year from the day of being granted the approval referred to in Section 3, paragraph 6 of this Decision;

12) if for more than six months the service provider does not provide virtual currency services included in the approval referred to in Section 3, paragraph 6 of this Decision in a foreign country;

13) if the service provider's licence to provide virtual currency services in the Republic of Serbia is terminated;

14) if the service provider notifies the National Bank of Serbia in writing of having ceased to provide virtual currency services in a foreign country through a branch and/or directly, or if the branch of the service provider has stopped operating and/or if it has been closed.

Annexes

10. The annexes printed along with this Decision form its integral part.

Final provision

11. This decision shall enter into force on the eighth day following its publication in the RS Official Gazette, and shall apply as of 29 June 2021.

D. No 11
13 May 2021
B e l g r a d e

G o v e r n o r
National Bank of Serbia

Dr Jorgovanka Tabaković, sign.