

Based on Article 10, paragraph 1, Article 44, paragraph 5, Article 46, paragraph 3 and Article 49, paragraph 4 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 THE PREVENTION OF ABUSE IN THE VIRTUAL CURRENCY MARKET

Introductory provision

1. This Decision regulates the prevention of abuse in the market of virtual currencies as a type of digital assets (hereinafter: virtual currencies), and in particular:

- 1) obligations of the issuer of virtual currencies in relation to the manner of publicly disclosing inside information which directly relates to it;
- 2) facts that the issuer of virtual currencies should take into account when making the decision on public disclosure of inside information which directly relates to it;
- 3) more detailed circumstances which may indicate the legitimate interest of the issuer of virtual currencies to delay the public disclosure of inside information which directly relates to it, as well as the measures and decisions that the issuer must undertake to ensure the confidentiality of inside information;
- 4) more detailed procedures which can be considered manipulation in the virtual currency market and obligations of virtual currency service providers aimed at preventing and detecting such manipulation.

For the purposes of this Decision, abuse in the virtual currency market (hereinafter: market abuse) concerns activities connected with virtual currencies that are admitted to the virtual currency trading platform, and/or in respect of which the publication of the white paper or subsequent white paper has been approved, in accordance with the Law on Digital Assets (hereinafter: Law).

Definitions

2. For the purposes of this Decision, the following definitions shall apply:

1) *issuer* means a domestic or foreign legal person, entrepreneur and natural person that has issued a virtual currency in the Republic of Serbia;

2) *service provider* means the provider of digital asset services in the part of operation concerning virtual currencies, licensed by the National Bank of Serbia to provide virtual currency services;

3) *inside information* means information about specific facts that are non-public and relate directly or indirectly to one or more issuers or one or more types of virtual currencies, which, if made public, would be likely to have a significant effect on the price of such virtual currencies; inside information is defined in more detail in Article 39 of the Law.

Manner of public disclosure of inside information

3. The issuer shall without delay publicly disclose inside information directly relating to it – immediately upon learning of such information.

The issuer shall publicly disclose inside information in the manner enabling fast access to information and the possibility of complete, accurate and timely assessment of such information. At the same time, the issuer shall not publicly disclose inside information in a misleading way.

The issuer shall publish on its website – by placing the access link to inside information on the homepage – all inside information it is obliged to disclose and shall make such information available at least five years following the disclosure.

The issuer shall publish each important change to the disclosed inside information, immediately after the change took place, in the same way in which the source information was disclosed.

The issuer shall be considered to have publicly disclosed inside information on the day of disclosing such information on its website, in accordance with paragraphs 3 and 4 of this Section.

Decision-making on public disclosure of inside information

4. When assessing whether a concrete case concerns inside information, and/or when making a decision on public disclosure of inside information, the issuer shall consider whether there are specific facts indicating circumstances which exist or may be reasonably expected to come into existence, or an event which took place or may be reasonably expected to take place, if those facts are specific enough to enable making conclusions about the potential effect of such circumstances or events on the price of virtual currencies.

5. When making a decision on public disclosure of inside information, the issuer shall take into account the facts directly relating to it, in particular:

- 1) activities relating to the issuer's capital, including making a decision on the increase or decrease of core capital;
- 2) activities relating to the purchase or sale of shares, stakes or other important assets, and/or their acquisition or alienation without a fee;
- 3) activities relating to the issuance of virtual currencies and/or digital tokens;
- 4) activities relating to the issuance of debt securities and/or warrants, and other forms of borrowing (e.g. loan taking);
- 5) submission of proposals for instituting bankruptcy/liquidation proceedings or opening bankruptcy/liquidation proceedings or deletion from the relevant register or making a decision on the cessation of activity;
- 6) materially significant legal disputes;
- 7) termination of an important financial contract, including the termination of a loan contract or cancellation of a credit line;
- 8) insolvency of significant debtors;
- 9) important changes in the value of assets;
- 10) entry of mortgage or registration of pledge on assets;
- 11) physical destruction of uninsured goods;
- 12) significant decrease or increase in the value of financial instruments in the portfolio;
- 13) significant decrease or increase in the value of virtual currencies and/or digital tokens in the portfolio;
- 14) relevant changes in the issuer's investment policy;
- 15) decrease in the value of patents or rights or intangible assets due to market innovation;
- 16) receiving and making offers for the purchase of relevant assets (e.g. tangible and intangible assets significant for the performance of the issuer's activities);
- 17) introduction of new products, services or business processes;
- 18) change of business activity, and/or prevalent activity;
- 19) change of business processes concerning the issuer's activity;
- 20) change of the business name or head office, and/or place of performance of business activities or change of the issuer's organisational structure;
- 21) change of the issuer's legal form;
- 22) status change of the issuer;
- 23) change of the auditor, and/or any other information relating to audit with the issuer (if any);
- 24) significant changes in planned profit or losses;
- 25) cases of environmental pollution due to the issuer's activity;

26) other relevant facts influencing decision-making on public disclosure of inside information.

6. The issuer's obligation to publicly disclose inside information in accordance with this Decision shall also exist in relation to specific facts, and/or data and circumstances which relate to the issuer and are disclosed by third persons, including the following:

1) statistical and other reference data disclosed by public and other official or registered institutions (e.g. movement in interest rates, prices and other relevant data relating to activities performed by the issuer, movement of prices or volume of supply and demand of currencies, securities and other instruments on the stock exchange which are part of the issuer's portfolio etc.);

2) oncoming publication of reports by agencies concerning the solvency/rating of the issuer or its financial instruments;

3) recommendations and other information relating to investment in virtual currencies, and/or their value or trading;

4) change of relevant regulations, including tax regulations, regulations governing digital assets, regulations governing the operation of the economic sector that the issuer belongs to, etc.;

5) decisions of the service provider relating to management of the virtual currency trading platform;

6) changes in the manner of trading in virtual currencies.

Delayed public disclosure of inside information

7. The issuer may, at own responsibility, delay the public disclosure of inside information if the following conditions have been cumulatively met:

1) the public disclosure of inside information without delay would lead to the violation of the issuer's legitimate interests;

2) delayed public disclosure of inside information does not mislead the public;

3) the issuer has undertaken measures to ensure the confidentiality of such information and has put in place the relevant mechanisms.

8. The circumstances which may particularly indicate the issuer's legitimate interest to delay, at own responsibility, the public disclosure of inside information are the following:

1) public disclosure of inside information may unfavourably influence the issuer's negotiation position, and the delay of public disclosure, according

to available information, could not be in any way detrimental to the other party in those negotiations, and/or third persons;

2) the issuer's management made decisions or concluded contracts which, to be effective, entail the approval of another body of the issuer, while the public disclosure of inside information before such approval, together with the simultaneous disclosure of information that the approval is still waited for, would jeopardise the public's accurate assessment of such information;

3) activities have been undertaken to admit (to listing) the issued virtual currencies to the virtual currency trading platform.

9. If, upon the fulfilment of the conditions referred to in Section 7 of this Decision, the issuer decides to delay the public disclosure of inside information, it shall notify thereof the National Bank of Serbia without delay.

After the cessation of conditions for the delay of public disclosure of inside information which still has the status of inside information, the issuer shall publicly disclose such information in accordance with the Law and this Decision.

Ensuring the confidentiality of inside information

10. To ensure the confidentiality of inside information, the issuer shall control access to such information, and shall in particular:

1) undertake efficient measures to prevent access to inside information to persons that do not need such information to perform their activities or functions with the issuer;

2) introduce necessary measures to ensure that each person that has access to inside information fulfils all the prescribed obligations in terms of keeping the confidentiality of such information and is familiar with the sanctions in the event of abuse or unlawful disclosure of inside information;

3) introduce measures enabling public disclosure of inside information without delay in the event that the issuer could not ensure the confidentiality of such inside information.

11. The issuer shall compile a list of its employees and other persons engaged by it, who have the right to regularly or occasionally access inside information.

The issuer shall regularly update the list referred to in paragraph 1 of this Section and submit it to the National Bank of Serbia on its request, and shall keep the list for at least five years after it was compiled and/or updated.

The list referred to in paragraph 1 of this Section shall contain the following data in particular: first and last name, unique citizen identification number, address of permanent and/or temporary residence of the person referred to in that paragraph, the grounds on which the person has the right of access to inside information, and the date and time of obtaining this right, and the date when the list was compiled, and/or updated.

The issuer shall update the list referred to in paragraph 1 of this Section immediately after a change of grounds under which the person is on the list or a change of other data that the list contains, including the entry of new persons and the deletion of persons entered in the list.

The issuer shall undertake necessary measures to ensure that each person from the list referred to in paragraph 1 of this Section is familiar with the regulations and internal act of the issuer which relate to the person's duties in terms of handling inside information, and with the sanctions in the event of abuse or unlawful disclosure of inside information.

12. In its internal act, the issuer shall determine measures and procedures for the fulfilment of obligations referred to in Sections 10 and 11 of this Decision.

Manipulation in the virtual currency market

13. The actions and procedures considered manipulation in the virtual currency market within the meaning of Article 49, paragraph 1 of the Law (hereinafter: market manipulation) shall include in particular:

1) conduct by a person or more persons acting in collaboration to secure a dominant position over the supply or demand of virtual currencies, which has the effect of fixing, directly or indirectly, purchase or sale prices, or creates other unfair trading conditions;

2) buying or selling of virtual currencies at the start or end of the trading day, which has or is likely to have a misleading effect on investors acting on the basis of the prices displayed, including opening or closing prices;

3) taking advantage of occasional or regular access to traditional or electronic media by voicing an opinion about a virtual currency or indirectly about the issuer, while having previously taken a position in such virtual currency and profiting subsequently from the impact of the opinion voiced on the price of such virtual currency, without having simultaneously disclosed that conflict of interest to the public in a proper and effective way.

14. When assessing whether specific actions and procedures constitute market manipulation in a concrete case, the following circumstances shall be taken into account in particular:

1) whether and to what extent trading orders or executed transactions constitute a significant part of the daily volume of virtual currency transactions, particularly when these activities lead to a significant change of the virtual currency price;

2) the extent to which trading orders issued by persons with a significant buying or selling position in a virtual currency, or transactions executed by those persons, lead to significant changes of the virtual currency price;

3) whether virtual currency transactions are executed between persons with the same beneficial owner or persons controlled by the same person or being a part of the same group of companies or being otherwise related with property, management or other similar links;

4) the extent to which the issued trading orders or executed transactions include the change of positions on the supply and demand side, and/or purchase and sale in a short time span, and constitute a significant proportion of the daily volume of virtual currency trading, and whether these orders and transactions could be related with significant changes of the virtual currency price;

5) the extent to which the issued trading orders or executed transactions concentrated within a short time span during daily trading brought about a change of the currency price which is subsequently reversed;

6) the extent to which the issued trading orders that were withdrawn before being executed change the presentation of the best virtual currency supply or demand prices or the presentation of depth of the virtual currency market (trading volume, liquidity etc.), which are visible to market participants;

7) the extent to which trading orders are issued or transactions executed in a specific time or around a specific time when benchmark prices are calculated and other calculations made, which leads to the change of prices affecting benchmark prices and/or those calculations;

8) whether the issued orders connected with virtual currencies or executed transactions are preceded or followed by the dissemination of false or misleading information from persons issuing those orders or executing those transactions, or persons related with them;

9) whether the orders connected with virtual currencies are given or transactions executed by persons who, before or after issuing the order or executing the transaction, disseminate analyses and other information relating to market sounding or investment recommendations that are false, biased or obviously under the impact of material interests, either directly or through persons related with them.

Obligations of the service provider

15. The service provider shall:

- 1) establish and maintain measures, systems and procedures ensuring efficient following of received orders and transactions connected with virtual currencies for the purpose of prevention and detection of market manipulation;
- 2) submit to the National Bank of Serbia without delay notifications of suspicious orders and transactions connected with virtual currencies.

The service provider shall ensure that the measures, systems and procedures referred to in paragraph 1, item 1) of this Section enable an individual and comparative analysis of all received and executed orders, and concluded and executed transactions, for the purpose of detecting the circumstances indicating potential or attempted market manipulation.

16. The service provider shall, based on data available, notify the National Bank of Serbia without delay about the cases it has reasonable grounds to suspect to be market abuse within the meaning of the Law and this Decision.

The notification referred to in paragraph 1 of this Section, which may be submitted by the director or other person with the service provider (hereinafter: the notification submitter), shall contain in particular the following:

- 1) data on the notification submitter;
- 2) data on the order/transaction;
- 3) grounds to suspect market abuse;
- 4) data on the identity of the reported person;
- 5) other information considered relevant by the notification submitter;
- 6) date of compiling the notification;
- 7) signature of the notification submitter.

17. The National Bank of Serbia shall, without delay, verify the statements from received notifications referred to in Section 16 of this Decision and, depending on the findings of the verification, may initiate the procedure of supervision over the operation of the supervised entity in connection with the actions and procedures reasonably suspected to constitute market abuse.

The provisions of the decision regulating more detailed conditions and manner of carrying out supervision over the virtual currency service provider and issuer and holder of virtual currencies, as well as more detailed conditions and manner of taking measures in respect of those persons shall

apply to the supervisory procedure and taking of measures in respect of the supervised entity referred to in paragraph 1 of this Section.

Final provision

18. This Decision shall be published in the Official Gazette of the Republic of Serbia and shall enter into force on 29 June 2021.

D. No 14
25 June 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.