

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: the 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 and the person to whom the entity has outsourced some operational activities in accordance with the Law, as well as 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 objections from paragraph 2 hereof, relating to factual changes which have arisen in the period after the completion of supervision shall not be considered by the National Bank of Serbia.

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.

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.

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, 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, 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.

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.

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

Chair  
of the Executive Board of the  
National Bank of Serbia  
G o v e r n o r  
of the National Bank of Serbia  
Jorgovanka Tabaković, PhD