

Pursuant to Article 42, paragraph 9 and Article 43, paragraph 8 of the Law on the Protection of Financial Services Consumers (RS Official Gazette Nos 36/2011 and 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 and 14/2015), the Executive Board of the National Bank of Serbia hereby issues the following

D E C I S I O N
SPECIFYING THE MANNER OF HANDLING FINANCIAL SERVICES CONSUMER
COMPLAINTS BY FINANCIAL SERVICES PROVIDERS AND THE NATIONAL BANK
OF SERBIA

Basic provision

1. This decision specifies the manner in which a financial services consumer (hereinafter: consumer) files a complaint with a financial services provider (hereinafter: services provider) or the National Bank of Serbia (hereinafter: NBS) and the manner of complaint handling.

Within the meaning of this Decision, services providers shall be banks, financial leasing providers, payment institutions, electronic money institutions and the public postal operator providing payment services and issuing electronic money.

*Manner of filing a complaint with
services provider and complaint handling*

2. A consumer may file a complaint about the work of a services provider in writing – at the services provider's business premises, by post, via the services provider's website, or e-mail.

The services provider is obliged to accept the consumer's written complaint at any of its business premises where services are provided to consumers and, at the consumer's request, issue a confirmation of receipt stating the time and place of the receipt, as well as the name of employee who received the complaint.

If the consumer intends to make a verbal complaint, the services provider is obliged to inform the consumer that it is under no obligation to consider a verbal complaint and to advise the consumer about the manner in which a complaint may be filed.

The services provider must display a clearly visible notification at its business premises where services are provided to consumers specifying the manner of filing a complaint with the services provider, describing complaints handling procedure, and the option and manner of filing a complaint with the NBS.

The services provider is also obliged to display the notification referred to in paragraph 4 hereof on its website, and to designate the e-mail address to which the consumer may file his complaint.

If the consumer filed a complaint via the services provider's website or e-mail, the services provider is obliged to immediately acknowledge the receipt of the complaint.

If the consumer filed a complaint via the services provider's website or e-mail, the services provider may reply in electronic format, signed with a qualified electronic signature, in compliance with the law governing electronic signatures.

The complaint shall contain information about the consumer based on which the relationship with the services provider to which the complaint refers may be established beyond doubt, as well as the reasons for the complaint.

3. A consumer has a right to file a complaint in the manner specified in Section 2 hereof within three years from the day when his right or legal interest was infringed.

If the consumer filed a complaint upon the expiry of the period specified in paragraph 1 hereof, the services provider is obliged to immediately notify the consumer that the complaint was filed after the expiry of the specified deadline, for which reason it is not obliged to consider it.

The notification referred to in paragraph 2 hereof shall not prevent the services provider from considering and/or granting the complaint in favour of the consumer, if it considers the complaint to be founded.

4. A services provider is obliged to consider the complaint and to reply in writing in the manner specified in Section 2 hereof within 15 days from the date of the receipt of the complaint.

By way of exception to paragraph 1 hereof, if the services provider is unable to reply within the timeframe specified therein for reasons beyond its control, the deadline may be extended by up to 15 days, of which it shall notify the consumer in writing in the manner specified in Section 2 hereof within 15 days from the date of the receipt of the complaint.

The notification referred to in paragraph 2 hereof shall contain the reasons for which it is impossible to send the reply within the timeframe referred to in paragraph 1 hereof, stating the deadline by which it will be sent.

5. The services provider's reply should be complete, clear and understandable to a consumer, relate to the subject of the complaint and contain an assessment of its merit.

If the services provider assesses the complaint to be founded, it shall notify the consumer of whether the reasons for the complaint have been removed, and/or of the deadline for their removal and of the measures that shall be taken for their removal.

In its reply, the services provider is obliged to inform the consumer about his right to file a complaint with the NBS.

6. The services provider is obliged to handle a complaint in accordance with the Law on the Protection of Financial Services Consumers (hereinafter: Law), this Decision and its internal acts.

The services provider may not charge the consumer any fees or any other amount in respect of the costs of complaint handling.

7. If the consumer is not satisfied with the reply to the complaint or the reply was not sent to him within the timeframe referred to in Section 4 hereof, the consumer may, prior to initiating a court action, submit a written proposal for mediation by the NBS or file a complaint with the NBS in writing.

*Handling consumer complaints filed
with the NBS without first addressing the bank*

8. If a consumer files a complaint with the NBS rather than with the services provider, the NBS shall not consider the allegations in that complaint and shall instead forward it to the services provider on the next business day at the latest, for it to consider and reply to the consumer in the manner and within the deadline specified herein, of which it shall also notify the consumer.

In the case referred to in paragraph 1 hereof, when sending its reply to the consumer, the services provider is obliged to submit at the same time a copy of the reply to the NBS.

NBS mediation proposal handling prior to consumer complaint

9. If a consumer is dissatisfied with the reply or the reply is not sent within the timeframe set forth herein, the dispute between the consumer and the services provider may be resolved in an out-of-court settlement – mediation procedure.

Once the mediation procedure has been instituted, the consumer may not file a complaint with the NBS, unless the mediation procedure has been concluded by suspension or abandonment.

If the mediation procedure has been instituted upon the consumer's proposal before filing the complaint with the NBS, the deadline referred to in Section 11 hereof shall not run during the mediation procedure.

*Manner of filing a complaint with the NBS
and the NBS acting upon consumer's complaint*

10. If the consumer is dissatisfied with the services provider's reply or the reply is not sent within the timeframe stipulated by the Law, he may file a complaint with the NBS in writing, via post or e-mail to the NBS e-mail address designated on the NBS website, prior to initiating court action.

In its complaint to the NBS, the consumer shall enclose the complaint previously sent to the services provider, the reply received (if the services provider has replied) and the documents based on which the allegations stated in the complaint may be assessed.

11. A consumer may file a complaint with the NBS within six months from the date of the receipt of the services provider's reply or the expiry of the deadline for its submission.

If the consumer files a complaint with the NBS upon the expiry of the deadline referred to in paragraph 1 hereof, or upon initiating court action for the reasons stated in the complaint, the NBS shall not consider such a complaint, of which it shall inform the consumer.

12. Within eight days from receiving the complaint, the NBS shall request in writing that the services provider answers the allegations in the complaint and makes representations about them, of which it shall also notify the consumer.

13. The services provider is obliged to reply in writing to answer the allegations in the complaint and make representations, within the timeframe specified by the NBS in its request referred to in Section 12 hereof which may not exceed eight days from the date of the receipt of such request, and to provide evidence supporting its representations.

Upon receiving the reply referred to in paragraph 1 hereof, or upon the expiry of the deadline referred to in the same paragraph, the NBS may request the services provider to submit additional representations and/or relevant evidence within the deadline it so specifies.

If the services provider fails to provide its representations or to submit evidence within the specified timeframe, the NBS may, pursuant to paragraphs 1 and 2 hereof, and regardless of its further acting, impose a fine to the services provider under Article 43, paragraph 5 of the Law.

14. The NBS shall notify the consumer of its findings in regard to the complaint no later than three months from the date of its receipt. This deadline may be extended for an additional period of three months in case of more complex disputes of which the NBS is obliged to notify the consumer in writing within three months from the date of the receipt of the complaint.

In its notification referred to in paragraph 1 hereof, the NBS shall indicate the option of an out-of-court dispute settlement with the services provider i.e. the mediation procedure under Article 44 of the Law, provide information on such procedure and point out that such procedure is not subject to payment of any fees.

15. If a mediation procedure is instituted during the complaint handling, the NBS shall stop handling the complaint, and/or it shall abandon the complaint handling if the mediation procedure ends in settlement.

16. The NBS shall not charge any fees for carrying out the mediation procedure, but any costs that may arise during the mediation procedure shall be borne by the parties to the dispute (travel and accommodation costs, unpaid leave from work, etc.).

Disclosure of information

17. On its website and/or in another appropriate manner, the NBS shall publicly disclose information on services providers which are found not to have acted in compliance with the Law.

On its website, the NBS shall publish a quarterly report on the complaints filed.

18. A services provider is obliged to keep a record of all complaints and information needed for the preparation of the report referred to in Section 19 hereof.

19. A services provider is obliged to prepare a quarterly report containing data on the total number of complaints received during the reporting period, number of complaints per financial service (loans, deposits, credit and debit cards, current accounts, other, financial leasing services, payment services, electronic money issuance services, etc.), the total number of complaints settled in the reporting period and the number of complaints settled in favour of the consumer.

The services provider shall submit the report referred to in paragraph 1 hereof to the NBS electronically, following the guidelines governing the electronic delivery of data to the NBS, no later than 15 days from the last day of the quarter.

Transitional and concluding provisions

20. As of the entry into force of this Decision, the Decision Specifying the Way Financial Services Consumer Complaints are Handled by Banks and Lessors and the Procedure Followed by the National Bank of Serbia upon Receiving Consumer Notification (RS Official Gazette, No 65/2011) ceases to have effect.

21. Consumers may file complaints on payment services and electronic money issuing services with a payment institution, an electronic money institution and the public postal operator from 1 October 2015.

22. This Decision is published in the RS Official Gazette and enters into force on 27 March 2015.

NBS Executive Board No 13
12 March 2015

B e l g r a d e

Chairman
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.