

# **LAW ON PAYMENT SERVICES**

(Consolidated version<sup>1</sup>)

## **Part I INTRODUCTORY PROVISIONS**

### **Subject matter**

#### **Article 1**

This Law regulates the conditions and manner of providing payment services, electronic money, payment systems and supervision of implementation of the provisions of this Law.

### **Definitions**

#### **Article 2**

For the purposes of this Law, the following definitions shall apply:

- 1) payment transaction means an act, initiated by the payer or by the payee, of placing, transferring or withdrawing funds, irrespective of any underlying obligations between the payer and the payee;
- 2) payment order means any instruction by a payer or payee to its payment service provider requesting the execution of a payment transaction;
- 3) payment account means an account held in the name of one or more payment service users which is used for the execution of payment transactions;
- 4) payment instrument means any personalised device and/or a set of procedures agreed between the payment service user and the payment service provider and used by the payment service user in order to issue a payment order;
- 5) low-value payment instrument means a payment instrument which, according to the payment services framework contract, solely concerns individual payment transactions not exceeding RSD 3,000, or which either have a spending limit up to a total of RSD 15,000, or the total value of funds stored on such payment instrument does not exceed RSD 15,000 at any time;
- 6) payment service user means a natural or legal person that makes or made use of a payment service in the capacity of a payer and/or payee or has contacted the payment service provider in order to make use of such services;
- 7) payer means a natural or legal person that issues a payment order from its payment account or gives consent to execute a payment transaction based on the payment order issued by a payee, or, if there is no payment account, a natural or legal person that issues a payment order;
- 8) payee means a natural or legal person designated as the recipient of funds that are the subject of a payment transaction;
- 9) consumer means a natural person entering into payment service contracts or contracts relating to electronic money for purposes other than its business or other commercial activity;
- 10) entrepreneur means a natural person other than a consumer, and/or a natural person with legal capacity that pursues a business activity with a view to earning income, in accordance

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<sup>1</sup> Consolidated version is based on the text of the Law on Payment Services (RS Official Gazette, No 139/2014) and its amendments and supplements published in the RS Official Gazette 44/2018.

with the law governing companies and other law;

11) funds means cash, scriptural money and electronic money;

12) cash means banknotes and coins;

13) electronic money means electronically (including magnetically) stored monetary value as represented by a claim on the issuer which is issued on receipt of funds for the purpose of execution of payment transactions and which is accepted by a natural and/or legal person other than the electronic money issuer;

14) electronic money holder means a natural or legal person to whom electronic money has been or is being issued, and/or a natural or legal person that has contacted the issuer for the purpose of issuance of electronic money, as well as any other natural or legal person having a claim from item 13) of this paragraph;

15) business day means a day, and/or part of the day in which the relevant payment service provider of the payer or of the payee involved in the execution of a payment transaction is open for business as required for the execution of a payment transaction to its payment service user;

16) value date means a reference date, and/or reference time used by a payment service provider for the calculation of interest on funds debited from or credited to a payment account;

17) reference exchange rate means the exchange rate which is used as the basis to calculate any currency exchange and which is made available by the payment service provider or comes from a publicly available source;

18) reference interest rate means the interest rate which is used as the basis for calculating interest and which is publicly available, and is determined independently of the unilateral will of the payment service provider and user which have entered into a payment service contract;

19) unique identifier means a combination of letters, numbers and/or symbols specified to the payment service user by the payment service provider to be used in a payment transaction to identify unambiguously the respective payment service user and/or its payment account;

20) means of distance communication refers to any means which, without the simultaneous physical presence of the payment service provider and the payment service user, may be used for the conclusion of a payment service contract;

21) durable medium means any instrument which enables the payment service user to store data addressed personally to it in a way accessible for future reference for a period of time adequate to the purposes of the data and which allows for the unchanged reproduction of the data stored;

22) domestic payment transaction means a payment transaction in which the payer's payment service provider and payee's payment service provider provide the service within the territory of the Republic of Serbia;

23) international payment transaction means a payment transaction in which one payment service provider provides the service in the territory of the Republic of Serbia, and the other payment service provider in the territory of a third country, as well as a payment transaction in which the same payment service provider provides the service in the territory of the Republic of Serbia for one payment service user, and in the territory of the third country for that same or other payment service user;

24) home state means the state in which the head office of the legal person is situated;

25) head office means a place registered as the head office of a legal person or, if the

legal person has, under its national law, no registered office, a place from which its operations are managed;

26) host state means the state other than the home state in which a legal person provides services through a branch, other person or directly;

27) qualifying holding exists when one person has:

(1) direct or indirect right or possibility to exercise no less than 10% of voting rights in a legal person, and/or direct or indirect ownership of at least 10% of capital of such legal person, or

(2) the ability to effectively exercise a significant influence over the management of other legal person;

28) controlling holding exists when one person has:

(1) direct or indirect right or ability to exercise no less than 50% of voting rights in a legal person, and/or direct or indirect ownership of at least 50% of capital of such legal person, or

(2) the ability to elect and/or dismiss at least a half of members of management bodies or supervisory bodies of such legal person, or

(3) the ability to effectively exercise dominant influence over the management of other legal person;

29) parent undertaking of a legal person means an undertaking with a controlling holding in such legal person;

30) subsidiary of a legal person means an undertaking in which that legal person has a controlling holding;

31) group of undertakings means a group which consists of a parent undertaking and its subsidiaries, and legal persons in which the parent undertaking and/or its subsidiaries have a holding, as well as undertakings linked to each other by virtue of being managed on a unified basis;

32) undertakings linked to each other by virtue of being managed on a unified basis are undertakings not linked to each other on the basis of a parent undertaking and subsidiary, nor on the basis of a holding in capital within the meaning of item 31) of this paragraph, and they include:

(1) undertakings managed on a unified basis pursuant to a contract concluded between those undertakings or provisions of articles of incorporation or articles of association of those undertakings, or

(2) undertakings with the same persons making up the majority of management or supervisory bodies;

33) close links mean relationship between two or more legal and/or natural persons, where:

(1) one party has, a direct or through holding in a subsidiary indirect, right or ability to exercise no less than 20% of voting rights in a legal person and/or ownership of at least 20% of capital of such legal person,

(2) one party has a controlling holding in another legal person,

(3) there is a permanent link of these parties with the same third person on the basis of controlling holding;

34) bank means a bank with its head office in the Republic of Serbia licensed by the National Bank of Serbia in accordance with the law governing banks;

35) electronic money institution is a legal person with its head office in the Republic of Serbia licensed by the National Bank of Serbia to issue electronic money in accordance with this Law;

36) payment institution is a legal person with its head office in the Republic of Serbia

licensed by the National Bank of Serbia to provide payment services as a payment institution in accordance with this Law;

37) payment system means a system for the transfer of funds between its participants with written and standardised procedures and rules for the processing, netting and/or settlement of transfer orders, applied to all participants in the system;

38) credit interest rate means any rate at which interest is paid to the payment service user in respect of funds held in a payment account;

39) standing order means an instruction given by the payer to the payment service provider which holds the payer's payment account to execute credit transfers at regular intervals or on predetermined dates;

40) overdraft facility and overrunning mean as defined by the law governing the protection of financial service consumers;

41) legally resident in the Republic of Serbia means a natural person's residence in the Republic of Serbia in accordance with the regulations governing permanent and temporary residence of nationals, and/or residence of foreign nationals in accordance with the law on foreigners, including a foreign national residing in the Republic of Serbia in accordance with the laws governing asylum and refugees or based on the international treaty;

42) payment account switching means service which the payment service provider provides to a user in accordance with Article 73j of this Law.

Provisions of this Law relating to legal persons as payment service users shall also apply to branches of foreign legal persons entered in the register of the competent authority in the Republic of Serbia.

### **Exemptions from application**

#### **Article 3**

Provisions of this Law shall apply to none of the following:

1) payment transactions made exclusively in cash directly between the payer and the payee;

2) payment transactions made through an agent licensed to negotiate or conclude contracts on the purchase and sale of goods or services on behalf and for the account of the payer or the payee;

3) transport of cash, including its collection, processing and delivery, carried out by economic entities in line with law;

4) payment transactions consisting of cash collection and delivery performed by persons that are not economic entities, within the framework of a non-profit or charitable activity;

5) services where cash is provided, immediately after the execution of a payment transaction, by the payee to the payer as part of a payment transaction relating to the payment of goods or services, at an explicit request by the payer given just before the execution of such payment transaction;

6) exchange operations involving the purchase and sale of foreign cash for cash;

7) payment transactions based on any of the following paper documents:

(1) cheque in accordance with the law governing cheques,

(2) cheque regulated by foreign regulations, whose form and effect is similar to the cheque referred to in sub-item (1) of this item,

(3) voucher or other certificate which enables its holder to pay for goods or services with the issuer of the voucher or certificate, and/or with another person with whom the issuer has made an agreement regarding the receipt of the voucher or the

certificate as a means of payment for goods or services (e.g. gift certificates, food vouchers and other similar certificates),

(4) traveller's cheque,

(5) postal money order in accordance with regulations governing the provision of postal services;

8) payment transactions carried out between participants in the payment system or the securities settlement system, which are related to the participation in those systems, as well as payment transactions between payment system participants and a payment service provider which is not a participant in the payment system;

9) payment transactions relating to the exercise of rights and fulfilment of obligations arising from financial instruments, including the payment of dividends and other payments, redemption or sale of securities – if such transactions are carried out by participants in the securities settlement system or other persons who, in line with regulations, provide investment services and/or custody services in relation to financial instruments of clients;

10) technical services which support the provision of payment services, including data processing, storage and protection, data and person authentication, provision of information technology (IT) and communications network related services, provision and maintenance of terminals and devices used for payment and other similar services – if the provider of the above services at no time enters into possession or disposes of the funds to be transferred;

11) payment transactions based on instruments used to pay for the purchase of goods and services only on the premises of the issuer of such instruments or, under a contract concluded with the issuer, either within a limited network of goods and service sellers or for a limited range of goods and services;

12) payment transactions executed by means of any telecommunication, digital or IT device, where the goods or services purchased are delivered and used through such device, provided that the telecommunication, digital or IT operator does not act only as an intermediary between the payment service user and the seller of such product or provider of such service;

13) payment transactions carried out between payment service providers, as well as payment transactions between payment service providers and their agents or branches, if executed for their account;

14) payment transactions between a parent undertaking and its subsidiary or between subsidiaries of the same parent undertaking, if executed solely through a payment service provider belonging to the same group of undertakings;

15) services of cash withdrawal at automated teller machines, whose providers act in the name and for the account of one or more card issuers, on condition that these providers are not a party to the payment services framework contract with the customer withdrawing cash from a payment account, and on condition that they do not provide another payment service specified under this Law;

16) electronic money stored on instruments referred to in item 11) of this Article, and/or which is used in payment transactions stipulated under item 12) of this Article.

By way of derogation from paragraph 1, item 7) hereof, provisions of Articles 73a to 73v shall also apply to payment transactions and documents referred to in that item.

## **Types of payment services**

### **Article 4**

Payment services include:

1) services enabling cash to be placed on a payment account, as well as all services required for opening, maintaining and closing the account;

- 2) services enabling cash withdrawals from a payment account, as well as all services required for opening, maintaining and closing the account;
- 3) fund transfers from and/or to a payment account, in one of the following ways:
  - (1) credit transfers,
  - (2) direct debits, including one-off direct debits,
  - (3) using a payment card or similar means;
- 4) execution of payment transactions where funds are covered by a credit line for a payment service user, in one of the following ways:
  - (1) credit transfers,
  - (2) direct debits, including one-off direct debits,
  - (3) using a payment card or similar means;
- 5) issuing and/or acquiring of payment instruments where the payment service provider enables to the payee the execution of payment transactions initiated by the payer by using a specific payment instrument;
- 6) money remittance services where a payment service provider receives funds from a payer, without any payment accounts being opened in the name of the payer or the payee, for the sole purpose of making these funds available to a payee or of transferring these funds to the payee's payment service provider, which makes such funds available to the payee;
- 7) execution of payment transactions where the consent of the payer to execute a payment transaction is given by means of any telecommunication, digital or IT device and the payment is made to the telecommunication, digital or IT network operator, acting only as an intermediary between the payment service user and the seller of products or provider of services.

Credit transfer means a payment service where the payer instructs the payment service provider to initiate the execution of one or more payment transactions, including the issuing of a standing order.

Direct debit means a payment service where a payee, based on the payer's consent, initiates a payment transaction to debit the payer's payment account. The payer may give such consent to the payee, its payment service provider or payee's payment service provider.

## **Relation to regulations governing foreign exchange operations**

### **Article 5**

Provisions of this Law shall also apply to payment transactions between residents and non-residents in dinars and in currencies of third countries, payment transactions between residents in currencies of third countries and payment accounts of residents and non-residents in the Republic of Serbia, in accordance with limitations envisaged by regulations on foreign exchange operations.

## **Protection of rights and interests of payment service users and electronic money holders**

### **Article 6**

If the payment service provider or electronic money issuer fails to comply with the provisions of this Law, other regulations or general terms of business governing payment services or electronic money, good business practices relating to these services or obligations arising from payment service contracts and/or contracts concerning electronic money – the payment service user and/or electronic money holder are entitled to the protection of their rights and interests.

The procedure of protecting the rights and interests of payment service users and

electronic money holders shall be subject to provisions of the law governing the protection of financial service consumers which relate to exercising the protection of rights and interests of financial service consumers.

Provisions of the law governing the protection of financial service consumers shall apply *mutatis mutandis* to unfair contract terms and unfair business practice in the field of providing payment services and issuance of electronic money, including the procedure of their prohibition.

If the provision of payment services or issuance of electronic money is linked to a loan or an authorised overdraft facility that the payment service provider or electronic money issuer that is not a bank may grant to the payment service user – consumer in accordance with provisions of this Law, the provisions of the law governing the protection of financial service consumers shall apply to the loan contract and the authorised overdraft facility contract, as well as other rights and obligations of the payment service provider and the user in relation to the loan and/or authorised overdraft facility, including the protection of beneficiaries of such loan and/or authorised overdraft facility.

The protection of the credit card user who is a consumer shall be subject, in addition to provisions of this Law governing the rights and obligations of payment service users, also to provisions of the law governing the protection of financial service consumers, which relate to the rights and obligations of the bank as the credit card issuer, contract on the issue and use of credit cards and the protection of credit card users.

## **Administrative proceedings**

### **Article 7**

Pursuant to competences under this Law, the National Bank of Serbia shall decide on the rights, obligations and legal interests of persons in the proceedings established by this Law.

Provisions of the law governing general administrative proceedings shall apply to the proceedings referred to in paragraph 1 of this Article, unless otherwise stipulated hereby.

In the proceedings under paragraph 1 of this Article, the National Bank of Serbia may take further action to verify the accuracy of data and documentation submitted by the persons referred to in that paragraph.

The National Bank of Serbia shall adopt a decision on the administrative matter that is subject to the proceedings under paragraph 1 of this Article.

The decision referred to in paragraph 4 of this Article shall be final.

The decision specified in paragraph 4 of this Article may be subject to an administrative dispute, but the action against this decision may neither prevent nor delay its execution.

In an administrative dispute against the decision referred to in paragraph 4 of this Article, the court cannot resolve an administrative matter whose resolution is in the competence of the National Bank of Serbia, as stipulated by this Law.

## **PART II**

## **CONDITIONS AND MANNER OF PAYMENT SERVICES PROVISION**

### **Title I**

## **GENERAL CONDITIONS FOR PAYMENT SERVICES PROVISION**

### **Payment transactions subject to payment services provision**

### **Article 8**

Payment services provided according to provisions of this Law shall apply to domestic payment transactions executed in dinars.

Payment services provided according to this Law shall also apply to domestic payment transactions executed in currencies of third countries, and to international payment transactions

irrespective of the currency used, taking into consideration Articles 30 and 64 of this Law.

### **Derogation from conditions relating to the provision of payment services**

#### **Article 9**

Payment service providers may provide payment services to payment service users under conditions which are more favourable for payment service users than those established by the provisions of this Law.

If the payment service user is a legal person, the payment service contract may exclude or limit the application of provisions under Title II of this Part of the Law, except for provisions of Articles 14 and 15, Article 16, paragraphs 3 and 4 and Article 32 of this Law.

If the payment service user is a legal person, the application of provisions of Articles 37, 38, 51, 53, 54, 58, 60 and 63 of this Law may be excluded or limited by the payment service contract.

### **Payment service providers**

#### **Article 10**

Payment services in the Republic of Serbia may be provided by:

- 1) a bank;
- 2) an electronic money institution;
- 3) a payment institution;
- 4) the National Bank of Serbia;
- 5) the Treasury Administration or other public authority bodies in the Republic of Serbia, in accordance with their competences established by law;
- 6) a public postal operator with its head office in the Republic of Serbia, established in accordance with the law governing postal services (hereinafter: public postal operator).

No person other than providers of payment services referred to in paragraph 1 of this Article may provide payment services in the Republic of Serbia.

When the National Bank of Serbia, Treasury Administration or other public authority body in the Republic of Serbia provide payment services within the competences defined by law, provisions of this Law governing the rights and obligations of payment service providers and users, the payment service contract, execution of payment transactions and exercise of the protection of rights and interests of payment service users do not apply, unless so stipulated by a special regulation or contract concerning these services.

### **Payment services provided by public postal operator**

#### **Article 11**

A public postal operator may, in its name and for its account, provide all or some of the payment services referred to in Article 4 of this Law.

In addition to payment services under paragraph 1 of this Article, a public postal operator may also provide the following services:

- 1) cash withdrawals to consumers from accounts held with a bank;
- 2) cheque receipt and collection under customers' current accounts.

A public postal operator may provide payment services referred to in paragraph 1 of this Article in the name and for the account of banks, and it may also provide intermediation services between banks and payment service users in connection with respective payment services, in line with regulations governing banks.

A public postal operator shall, by no later than a month prior to the start and/or termination of the provision of services from paragraphs 1 and 2 of this Article, notify the National Bank of Serbia of its intention to start or terminate the provision of these services.



The notification from paragraph 4 of this Article shall contain data on each service that the public postal operator intends to start and/or terminate, as well as the planned date of such start and/or termination.

Provisions of Articles 89, 92–97 and 101–103 of this Law shall apply *mutatis mutandis* to the operations of a public postal operator.

## **Charges of payment service providers**

### **Article 12**

A payment service provider may charge the payment service user for the provision of payment services.

A payment service provider shall not charge payment service users for the information it is obliged to provide under Title II of this Part and/or for the fulfilment of its obligations to payment service users established in Title III of this Part, unless otherwise stipulated hereby.

A payment service provider and payment service user may agree on charges for additional or more frequent information than provided for in Title II of this Part, and/or its transmission by communication means other than those specified in the payment service framework contract, if so requested by the user.

The payment service provider's charges levied in line with paragraphs 2 and 3 of this Article must be appropriate and in line with the payment service provider's actual costs arising from the fulfilment of requirements defined in these paragraphs.

A payment service provider may charge a fee to payment service users for providing information and/or fulfilling its obligations to payment service users specified in Chapter IV of this part of the Law, in accordance with the provisions of that Chapter of the Law.

By way of derogation from paragraph 2 of this Article, a payment service provider may agree with the payment service user other than the consumer to levy charges specified under that paragraph on that user.

## **Advertising and providing information**

### **Article 13**

Payment services must be advertised in a clear and comprehensible way, and the advertising must not contain inaccurate information or information that may mislead payment service users regarding the terms of use of these services.

A payment service provider shall provide a payment service user with the information and notifications from this Law in a clear and comprehensible way in Serbian or other language suggested by a payment service user, and agreed between the parties.

When this Law stipulates the obligation of a payment service provider to provide certain information to a payment service user by submitting information, the payment service provider shall do so in a manner that does not require additional activities from the payment service user (e.g. by post or by email).

When this Law stipulates the obligation of a payment service provider to provide certain information to a payment service user by making such information available, the payment service provider shall do so in a predefined and agreed manner which may require additional activities from the payment service user (e.g. availability on boards or at counters on premises of the payment service provider).

In case of a dispute arising from the provision of information, the burden of proof shall lie with the payment service provider to prove that it has fulfilled its obligations pursuant to provisions of this Law governing the payment service contract and the provision of information to payment service users.

Prior to engaging persons who provide information to payment service users, a payment service provider shall ensure training for such persons and relevant evidence thereof (certificates of completed internal training, participation in a seminar or course etc).

A payment service provider shall ensure that the persons it has engaged in the activities of providing information to payment service users possess appropriate qualifications, knowledge and experience, professional and personal qualities, and act in accordance with good business practices and business ethics and respect the personality and integrity of payment service users.

## **Title II**

### **PAYMENT SERVICE CONTRACT AND PROVISION OF INFORMATION TO PAYMENT SERVICE USERS**

#### **1. Subject matter and types of payment service contracts**

##### **Subject matter of the payment service contract**

###### **Article 14**

According to a payment service contract, a payment service provider undertakes to provide specific payment services and/or a payment service to the payment service user, and the payment service user undertakes to pay, if agreed, a determined fee for that service to the payment service provider.

Provisions of the law governing contracts and torts shall apply to all issues concerning the payment service contract which are not regulated by this Law.

##### **Types of payment service contracts**

###### **Article 15**

A payment service contract shall be concluded either as a payment service framework contract (hereinafter: the framework contract) or as a single payment transaction contract.

The framework contract shall regulate the execution of future individual payment transactions.

If a payment service user opens a payment account with the payment service provider, the framework contract shall also regulate the conditions for opening, maintaining and closing such account.

The contract on a single payment transaction shall regulate the execution of one specific payment transaction not covered under the framework contract.

#### **2. Framework contract**

##### **Form and content of the framework contract**

###### **Article 16**

The framework contract shall contain the following mandatory elements and/or information:

1) information on the payment service provider and payment service user:

(1) business name and head office of the payment service provider, and the business name and head office and/or address of the agent or branch in the Republic of Serbia through which it provides payment services, and any other address, including an email, through which the payment service user may address the payment service provider,

(2) the name and address of the head office of the authority competent for supervision of the payment service provider, its agent or branch, in relation to the provision of payment services in the Republic of Serbia,

(3) data on the register of payment institutions or electronic money institutions and/or other relevant public register of issued licenses for operation of payment service

providers and the registration number or the appropriate identifier of the payment service provider in that register;

(4) name, surname and address of permanent and/or temporary residence of the payment service user – consumer, or the business name and head office of the payment service user – entrepreneur or legal person;

2) conditions for the use of payment services:

(1) type and description of the main characteristics of the payment service being provided,

(2) unique identifier or other data that the payment service user must specify for the purpose of correct execution of a payment order,

(3) the form and manner of giving and withdrawing the consent to execute a payment transaction in accordance with Articles 33, 37 and 38 of this Law,

(4) the time when it is considered that the payment service provider received a payment order pursuant to Article 35 of this Law and the cut-off time in line with paragraph 4 of that Article,

(5) the time limit for execution of a payment transaction,

(6) where agreed, the spending limits for payment transactions executed through a payment instrument in accordance with Article 49 of this Law,

3) information and data on charges, interest and exchange rates:

(1) the types and amounts of all charges payable by the payment service user to the payment service provider, and if the payment service provider collects these charges in aggregate amount – the breakdown of the types and amounts of each individual charge making up the aggregate charge,

(2) if the interest and/or exchange rates are applied to services of the payment service provider – the level of the interest and exchange rates, and/or if the reference interest rate and/or exchange rate are applied – the relevant date and index or other basis for determining the reference interest and exchange rates, and the method of calculating real interest,

(3) if agreed, the indication that changes in interest or exchange rates arising from changes in the reference interest or exchange rates may apply immediately and without prior notice to payment service users about such changes in line with Article 19 of this Law, in which case the payment service provider shall notify the payment service user in the manner stipulated in that Article;

4) information on the manner and means of communication between the payment service provider and payment service user:

(1) the means of communication for the exchange of information and notifications in line with this Law, including technical requirements relating to the payment service user's equipment,

(2) the manner and frequency with which information is provided or made available to the payment service user in accordance with this Law,

(3) the language in which the framework contract is concluded and communication during this contractual relationship undertaken, if the payment service user demands that a framework contract be concluded and communication undertaken in a language other than Serbian,

(4) the right of the payment service user, at any time during the contractual relationship, to be provided, on its request, with the copy of the framework contract and information referred to in this Article, on paper or another durable medium,

5) information on safeguard and other measures in relation to the execution of payment transactions:

(1) the measures that the payment service user must take to protect a payment instrument, and the manner of notifying the payment service provider of the loss, theft or misuse of a payment instrument, in accordance with Article 47 of this Law,

(2) the conditions under which the payment service provider has the right to block a payment instrument in accordance with Article 49 of this Law, if so stipulated in the framework contract,

(3) the payer's liability for unauthorised payment transactions, including the relevant loss amount covered by the payer, in accordance with Article 51 of this Law,

(4) the manner and timeframe within which the payment service user must notify the payment service provider of any non-executed, unauthorised or incorrectly executed payment transaction and/or request correct execution of a payment transaction, in accordance with Article 61 of this Law,

(5) payment service provider's liability for non-executed, unauthorised or incorrectly executed payment transactions, in accordance with Articles 50–59 and Article 62 of this Law,

(6) the conditions for refund of the amount of authorised and properly executed payment transactions to the payer, in accordance with Article 63 of this Law;

6) conditions of changes to the framework contract and its termination:

(1) if agreed, the indication that the payment service user accepts changes to the framework contract without its express consent, as well as the notification of the user's right to terminate this contract in accordance with Article 18 of this Law,

(2) duration of the framework contract,

(3) conditions for unilateral termination of the framework contract, and/or nullity of the contract provisions, in accordance with Articles 18, 20 and 21 of this Law;

7) information on the protection of payment service users:

(1) contractual provisions defining which regulations are applicable to the framework contract and/or the competent court,

(2) payment service user's right to complaint and the possibility of out-of-court settlement of disputes in connection to the provision of payment services, in accordance with the law governing the protection of financial service consumers.

If the framework contract regulates issuing and using a credit card, along with elements under paragraph 1 of this Article, it shall also contain the mandatory elements of the contract on issuing and using a credit card, established by the law governing the protection of financial service consumers.

The framework contract shall be concluded in writing.

The payment service provider shall ensure that the payment service user receives at least one copy of the framework contract.

The payment service user shall have the right to receive, at any time during the contractual relationship, on its request, a copy of the framework contract and/or the information specified in Article 17, paragraph 1 of this Law submitted in the pre-contractual stage, on paper or any another durable medium.

## **Pre-contractual information**

### **Article 17**

A payment service provider shall provide a payment service user, in a good time prior to conclusion of the framework contract, with the information determined as mandatory elements of the contract in accordance with Article 16 of this Law, in such a manner so as to enable the payment service user to get acquainted with the terms and conditions pertaining to the provision of payment services, as well as to compare offers of different payment service providers and

assess if these conditions and services suit its needs.

A payment service provider shall provide a payment service user with the information referred to in paragraph 1 of this Article in the manner that would not at any moment mislead the payment service user about the terms under which payment services are provided.

A payment service provider shall provide a payment service user with the information referred to in paragraph 1 of this Article on paper or any other durable medium.

A payment service provider may provide a payment service user with the information referred to in paragraph 1 of this Article by submitting the draft framework contract that contains such information.

### **Changes to the framework contract upon proposal of the payment service provider**

#### **Article 18**

When a payment service provider proposes changes to provisions of the framework contract, it shall provide a payment service user with the proposal of such changes by no later than two months before their proposed date of application.

Following the receipt of the proposal referred to in paragraph 1 of this Article, a payment service user may agree that the proposed changes shall generate legal effect prior to the proposed date of their application.

The framework contract may establish that a payment service user is to be deemed to have agreed with the proposal referred to in paragraph 1 of this Article if prior to the date of application of the proposed changes it does not notify the payment service provider that it does not agree with the proposal, of which the payment service provider shall inform the payment service user simultaneously with the submission of the proposal.

In the case referred to in paragraph 3 of this Article, the payment service provider shall inform the payment service user, simultaneously with the submission of the proposal referred to in that paragraph, of its right to terminate the framework contract before the date of application of the proposed changes, without paying any charges and other fees in case it does not accept the proposal.

The payment service provider shall provide the payment service user with the proposal referred to in paragraph 1 of this Article in writing.

### **Changes in interest and exchange rates**

#### **Article 19**

The framework contract may stipulate that changes in interest and exchange rates may be applied immediately and without prior notification of the payment service user, if these changes are arising from changes in the agreed reference interest or exchange rates.

If interest or exchange rates change for the benefit of the payment service user, these changes may be implemented immediately and without prior notification of the payment service user.

The payment service provider shall inform the payment service user of changes in the interest rate referred to in paragraphs 1 and 2 of this Article, immediately in writing, on paper or other durable medium, unless the framework contract stipulates different time limits and manner of such notification.

The payment service provider shall ensure equal treatment of payment service users in case of calculation and application of changes in interest and exchange rates referred to in paragraphs 1 and 2 of this Article.

### **Termination and nullity of the framework contract required by the payment service user**

#### **Article 20**

The payment service user may terminate the framework contract at any time, without a notice, unless the framework contract envisages a notice period which may not exceed one month.

The payment service user may terminate the framework contract also in other cases stipulated by the law governing contracts and torts or by other law.

If the payment service user terminates the framework contract, it shall pay charges only for payment services rendered up to the date of such termination. If such charges were paid in advance, the payment service provider shall reimburse the payment service user with the proportionate portion of the paid charge.

The payment service provider may not charge the payment service user for the termination of the framework contract.

The payment service user may require that provisions of the framework contract which contravene the information provided in the pre-contractual phase in accordance with Article 17 paragraph, 1 of this Law, and/or provisions relating to the information referred to in Article 16 of this Law which were not previously submitted to the payment service user – be declared null and void.

### **Right of the payment service provider to terminate the framework contract**

#### **Article 21**

If so established by the framework contract, the payment service provider has the right to terminate the framework contract concluded for an indefinite period by giving at least a two-month notice.

The payment service provider may terminate the framework contract also in other cases stipulated by the law governing contracts and torts or other law.

The payment service provider shall provide the payment service user with the notification of termination in writing.

If the payment service provider terminates the framework contract, provisions of Article 20, paragraphs 3 and 4 of this Law shall apply to the payment service user's obligation to pay charges.

### **Information for the payer before and after the execution of an individual payment transaction**

#### **Article 22**

The payer's payment service provider shall, prior to the execution of an individual payment transaction initiated by the payer under the framework contract, provide the payer, on its request, with precise information on the time limit for execution of such payment transaction, and the amount of any charges levied on the payer for the payment transaction and, if the payment service provider collects these charges in aggregate amount – the breakdown of the types and amounts of each individual charge making up the aggregate charge.

The payer's payment service provider executing an individual payment transaction under the framework contract shall, immediately after debiting the payer's payment account or following the receipt of the payment order if the payer does not use a payment account, submit to the payer the following information:

- 1) a reference or other data enabling the payer to identify each payment transaction and information relating to the payee;
- 2) the amount of the payment transaction in the currency in which the payer's payment account is debited or in the currency that the payer indicated in the payment order;
- 3) the amount of any charges levied on the payer for execution of an individual payment transaction and, if the payment service provider collects these charges in aggregate amount – the breakdown of the types and amounts of each individual charge

making up the aggregate charge;

- 4) if applicable, the interest payable by the payer;
- 5) if currency conversion is applied – the exchange rate used by the payer's payment service provider in executing the payment transaction, and the amount of the payment transaction after currency conversion;
- 6) the value date of debiting the payment account, and/or the date of receiving the payment order.

The payer's payment service provider shall provide the payer with the information referred to in paragraph 2 of this Article on paper or other durable medium.

The framework contract may stipulate that the payment service provider submits to the payer the information referred to in paragraph 2 of this Article periodically, at least once a month, in an agreed manner which allows the payer to store and reproduce such information unchanged.

The payment service provider shall provide the payer – consumer, on its request and free of charge, with information on executed individual payment transactions referred to in paragraph 2 of this Article, on paper, once a month.

### **Information for the payee after the execution of an individual payment transaction**

#### **Article 23**

The payee's payment service provider executing an individual payment transaction based on the framework contract shall, immediately after the execution of such transaction, submit to the payee the following information:

- 1) a reference or other data enabling the payee to identify an individual payment transaction and information on the payer and other data transmitted along with that transaction in accordance with law;
- 2) the amount of the payment transaction in the currency in which the payee's payment account is credited or in the currency in which funds were made available to the payee;
- 3) the amount of any charges levied on the payee for execution of an individual payment transaction and, if the payment service provider collects these charges in aggregate amount – the breakdown of the types and amounts of each individual charge making up the aggregate charge;
- 4) if applicable, the interest payable by the payee;
- 5) if currency conversion is applied – the exchange rate used by the payee's payment service provider in executing the payment transaction, and the amount of the payment transaction before currency conversion;
- 6) the value date of crediting the payee's payment account, and/or the date when funds were made available to the payee.

Provisions of Article 22, paragraphs 3–5 of this Law shall apply *mutatis mutandis* to obligations of the payee's payment service provider to provide the payee with the information referred to in paragraph 1 of this Article.

### **Pre-contractual information and framework contract on a low-value payment instrument**

#### **Article 24**

By way of derogation from Article 17, paragraph 1 of this Law, prior to the conclusion of the framework contract on a low-value payment instrument, the payment service provider shall provide the payment service user with the following information:

- 1) important characteristics and possible ways of using the payment instrument;
- 2) the liability of the payment service provider and payment service user for unauthorised, non-executed or incorrectly executed payment transactions;

- 3) charges payable by the payment service user to the payment service provider;
- 4) other relevant circumstances needed to the payment service user to make a decision on entering into the framework contract on this payment instrument;
- 5) indication of where any other information referred to in Article 17, paragraph 1 of this Law is made available to the payment service user.

By way of derogation from Article 16, paragraphs 1 and 3 of this Law, the framework contract on a low-value payment instrument must include elements and/or information referred to in paragraph 1 of this Article, and need not be concluded in writing.

By way of derogation from Article 18 of this Law, the framework contract on a low-value payment instrument may establish that the payment service provider shall not be required to propose changes to the framework contract in writing.

### **Information before and after the execution of an individual payment transaction in relation to a low-value payment instrument**

#### **Article 25**

The framework contract on a low-value payment instrument may establish that the payment service provider, prior to execution of a payment transaction, shall not provide the payer with the information referred to in Article 22, paragraph 1 of this Law.

By way of derogation from Articles 22 and 23 of this Law, the framework contract on a low-value payment instrument may establish that following the execution of an individual payment transaction the payment service provider shall provide the payment service user with the following information:

- 1) a reference or other data enabling the payment service user to identify an individual payment transaction;
- 2) the amount of an individual payment transaction or the total amount of all payment transactions of the same type executed to the benefit of the same payee;
- 3) the amount of every charge the payment service provider levies for an individual payment transaction or the total amount of charges levied for all payment transactions of the same type executed to the benefit of the same payee.

The framework contract on a low-value payment instrument may establish that the payment service provider shall not be required to provide the payment service user with the information from paragraph 2 of this Article if this instrument is used anonymously or if there are no technical possibilities to provide such information for a particular type of this instrument.

In the case from paragraph 3 of this Article, the payment service provider shall provide the payer with the possibility to verify the amount of available funds on the payment instrument.

### **3. Single payment transaction contract Prior information on a single payment transaction**

#### **Article 26**

Prior to the conclusion of the contract on a single payment transaction, the payment service provider shall make available to the payment service user, in an easily accessible manner, the following information:

- 1) unique identifier or other data to be provided by the payment service user for correct execution of a payment order;
- 2) time limit for execution of a payment transaction;
- 3) type and amount of all charges payable by the payment service user to the payment service provider and, if the payment service provider collects these charges in aggregate amount – the breakdown of the types and amounts of each individual charge making up the



aggregate charge;

4) if currency conversion is applied – the exchange rate and/or reference exchange rate used by the payment service provider for a payment transaction.

On request of the payment service user, the payment service provider shall provide the payment service user with the information referred to in paragraph 1 of this Article on paper or other durable medium.

The payment service provider may provide the payment service user with the information referred to in paragraph 1 of this Article in the form of a draft single payment transaction contract or a payment order containing that information.

If the single payment transaction contract has been concluded at the request of the payment service user, using a means of distance communication which does not enable the payment service provider to fulfil the obligations arising from paragraphs 1 and 2 of this Article, the payment service provider shall fulfil these obligations immediately after the execution of the payment transaction.

The payment service provider shall also make available in an easily accessible manner to the payment service user other information referred to in Article 17, paragraph 1 of this Law, necessary for the execution of a single payment transaction.

#### **Information for the payer after receipt of the payment order for execution of a single payment transaction**

##### **Article 27**

Immediately after receipt of the payment order for the execution of a single payment transaction, the payer's payment service provider shall provide or make available to the payer, in an easily accessible manner, the following information:

1) a reference or other data enabling the payer to identify the payment transaction and information relating to the payee;

2) the amount of the payment transaction in the currency indicated in the payment order;

3) the amount of any charge payable by the payer for execution of a payment transaction, and, if the payment service provider collects these charges in aggregate amount – the breakdown of the types and amounts of each individual charge making up the aggregate charge;

4) if currency conversion is applied – the exchange rate and/or reference exchange rate used in execution of the payment transaction by the payer's payment service provider and the amount of the payment transaction following currency conversion;

5) the date of receipt of the payment order.

The payer's payment service provider shall provide, on the payer's request, the information from paragraph 1 of this Article on paper or other durable medium.

#### **Information for the payee after execution of a single payment transaction**

##### **Article 28**

Immediately after the execution of a single payment transaction, the payee's payment service provider shall provide or make available to the payee, in an easily accessible manner, the following information:

1) a reference or other data enabling the payee to identify the payment transaction and information about the payer and other data transferred with the payment transaction in accordance with law;

2) the amount of the payment transaction in the currency in which funds have been made available to the payee;

3) the amount of any charge payable by the payee for execution of a payment transaction, and, if the payment service provider collects these charges in aggregate amount – the breakdown of the types and amounts of each individual charge making up the aggregate charge;

4) if currency conversion is applied – the exchange rate used in execution of the payment transaction by the payee's payment service provider and the amount of the payment transaction before currency conversion;

5) date when funds have been made available to the payee.

The payee's payment service provider shall provide the payee, on request of the payee, with the information from paragraph 1 of this Article on paper or other durable medium.

### **Exemption from the obligation to provide information for a single payment transaction**

#### **Article 29**

If a payment service user issues to the payment service provider the payment order for execution of a single payment transaction by using a payment instrument issued to it, based on the framework contract relating to the issue of such payment instrument, by another payment service provider – the payment service provider receiving the payment order shall not be obliged to provide the payment service user with the information which is already given or will be given based on such framework contract.

### **4. Exemptions in relation to the framework contract and information provided to payment service users in case of international payment transactions and payment transactions in currencies of third countries**

#### **Article 30**

By way of derogation from Article 17, paragraph 1 and Article 26, paragraph 1 of this Law, in case of international payment transactions or payment transactions in the currencies of third countries, the payment service provider is not obliged, before the conclusion of the payment services contract, to provide to the payment service user, and/or make available in an easily accessible way, the information concerning the time limit for the execution of a payment transaction of the payee's payment service provider in a third country, if this information is not available to it at the time of conclusion of this contract.

In the case from paragraph 1 of this Article, the framework contract relating to transactions from that paragraph need not contain the information from that paragraph, and the payment service provider shall provide the payment service user with information on the expected time of execution of a payment transaction.

If the payment service contract stipulates that the payment service provider shall levy charges on its payment service user which other payment service provider or intermediary participating in the execution of these transactions charges for the execution of international payment transactions or payment transactions in the currencies of third countries, the payment service provider shall notify the payment service user of the amount of the charge prior to initiating the payment transaction.

If the information on the exact amount of the charge referred to in paragraph 3 of this Article is not available to it at the moment of initiating the payment transaction, the payment service provider shall provide the payment service user with information on the expected amount of this charge.

The non-application of provisions of Articles 24 and 25 of this Law may be determined by the payment service provider and payment service user in the framework contract regulating the execution of international payment transactions or payment transactions in the currencies of

third countries solely with low-value payment instruments.

## **5. Other information provided to the payment service user**

### **Information on reductions and special charges**

#### **Article 31**

If the payee offers to the payer a reduction in case of use of a payment card or other payment instrument, it shall inform the payer thereof prior to the initiation of the payment transaction.

If the payment service provider or a third person requests from the payment service user the payment of a special charge for the use of a specific payment instrument, they shall inform it thereof prior to the initiation of the payment transaction.

### **Information set forth in other regulations**

#### **Article 32**

Provisions of this Law shall not exclude the payment service provider's liability, prior to the conclusion of the payment service contract, to provide the payment service user with all other information, in addition to the information set forth in this Law, which it is required to provide to the payment service user in line with provisions of special regulations.

## **Title III**

### **EXECUTION OF PAYMENT TRANSACTIONS**

#### **1. Conditions and manner of execution of payment transactions**

##### **Payer's consent for execution of payment transactions**

#### **Article 33**

The payment service provider shall execute a payment transaction only if the payer has given consent to its execution.

The payer shall give its consent to execute a payment transaction before execution, unless the payment service contract determines that the payer may give consent after execution.

The payer shall give consent to execute a payment transaction or a series of payment transactions in the form and manner agreed in the payment service contract.

If the payer does not give consent to execute a payment transaction as specified in paragraph 3 of this Article, the payment transaction shall be deemed to be unauthorised.

##### **Form and content of payment orders**

#### **Article 34**

The National Bank of Serbia shall prescribe the form, content and manner of using templates of payment orders for execution of payment transactions in dinars.

##### **Receipt of payment orders**

#### **Article 35**

It shall be deemed that the payment service provider received a payment order at the point in time when the payment order was transmitted in the manner specified in the payment service contract, regardless of the possible prior participation of the payment service provider in the process of drafting and issuing of the payment order.

The point in time of receipt is the time when the payer's payment service provider received a payment order transmitted by the payer, payee or by the payer through the payee.

If the payment order was not received during the business day of the payment service provider, it shall be deemed to have been received on the following business day.

The payment service provider may establish a cut-off time near the end of a business day beyond which any payment order received shall be deemed to have been received on the following business day.

If the payment service user and its payment service provider determine that the execution of a payment order shall start on a specific day or at the end of a certain period or on the day on which the payer places funds at its payment service provider's disposal – the payment order shall be considered to have been received on that particular day. If the agreed day is not a business day for the payment service provider, the payment order shall be deemed to have been received on the following business day.

### **Refusal to execute a payment order**

#### **Article 36**

The payment service provider may not refuse to execute a payment order if all conditions stipulated by the payment service contract have been met, unless stipulated otherwise by a regulation.

The payment service provider shall notify the payment service user of the refusal to execute the payment order and, if possible, of the reasons therefor, and of the procedure for correcting the mistakes that led to the refusal, unless such notification is prohibited by a regulation.

The payment service provider shall provide the notification referred to in paragraph 2 of this Article in the manner agreed in the payment service contract, without delay, by no later than within the time limit determined for execution of the payment transaction referred to in Article 42 of this Law.

The framework contract may determine that the payment service provider charges the payment service user for the notification of the refusal to execute the payment order – if such refusal is based on objective reasons.

If the payment service provider refuses to execute the payment order in accordance with this Article – the payment order shall be deemed not to have been received.

### **Revocation of a payment order**

#### **Article 37**

The payer may revoke a payment order at any time before the onset of irrevocability of the order.

The payer shall revoke a payment order by withdrawing consent to execute a payment transaction or a series of payment transactions. The consent to execute a series of payment transactions may be withdrawn so that any future payment transaction in a series is deemed to be unauthorised.

The payer shall withdraw its consent referred to in paragraph 2 of this Article in the form and manner agreed in the payment service contract.

### **Irrevocability of a payment order**

#### **Article 38**

The payment service user may not revoke a payment order once it has been received by the payer's payment service provider, except in the cases stipulated by this Article.

If a payment transaction is initiated by the payee or by the payer through the payee – the payer may not revoke the payment order after issuing the payment order or giving consent to the payee to execute the payment transaction.

By way of derogation from paragraph 2 of this Article, in case a payment transaction is

initiated by the payee through direct debit, the payer may revoke the payee's payment order by the end of the business day preceding the day determined for debiting the payer's payment account.

By way of derogation from paragraph 2 of this Article, in case from Article 35, paragraph 5 of this Law, the payment service user may revoke a payment order by the end of the business day preceding the day determined for the commencement of execution of a payment order.

Upon the expiry of time limits specified in paragraphs 1–4 of this Article, the payment service user may revoke a payment order only if so agreed with its payment service provider. If the payment transaction is initiated by the payee or by the payer through the payee, the payment order may not be revoked upon the expiry of time limits specified in paragraphs 2 and 3 of this Article without the payee's consent.

The framework contract may stipulate that the payment service provider may charge the payment service user for revocation of the payment order upon the expiry of time limits specified in paragraphs 1–4 of this Article.

### **Currency of payment transaction**

#### **Article 39**

A payment transaction shall be executed in the currency agreed upon between the payment service user and its payment service provider, in accordance with regulations governing foreign exchange operations.

### **Charges of the payment service provider for execution of a payment transaction**

#### **Article 40**

The payment service provider may levy on the payment service user only those charges related to the execution of payment transactions of which it informed the user in advance in accordance with Articles 17, 22, 24, 26 and 31 of this Law.

The payment service user shall pay the charges referred to in paragraph 1 of this Article to the payment service provider with whom it concluded a payment service contract, i.e. the payer and the payee shall each pay these charges to their respective payment service providers.

If a payment transaction involves currency conversion performed by the payer's payment service provider, the payment service provider and the payment service user may agree on the payment of charges referred to in paragraph 1 of this Article in the manner different from that specified in paragraph 2 of this Article.

The payer's payment service provider, the payee's payment service provider and the intermediary participating in the execution of a payment transaction for the account of the payment service provider shall transfer the total amount of the payment transaction specified in the payment order from the payer to the payee.

By way of derogation from paragraph 4 of this Article, the payee and its payment service provider may agree that the payment service provider shall deduct its charges from the amount transferred before crediting it to the payee's account or making it available to the payee. In such case, following the execution of a payment transaction, the full amount of the payment transaction and charges paid shall be shown separately in the information specified in Articles 23 and 28 of this Law.

Provisions of this Article are without prejudice to provisions of agreements concluded between payment service providers regulating mutual payment of charges and other fees in connection with the execution of payment transactions.

### **Payee's reductions and charges**

#### **Article 41**

The payee may offer the payer a reduction for the use of a payment card or other payment instrument and the payment service provider may not prevent or in any other way limit the payee in offering such reduction.

The payee may not request from the payer any additional charges for the use of a payment card or any other payment instrument.

#### **Time limit for the execution of a payment transaction of the payer's payment service provider**

##### **Article 42**

The payer's payment service provider shall ensure that, in case of a domestic payment transaction executed in dinars, the account of the payee's payment service provider is credited with the amount of the payment transaction on the same business day when the payer's payment service provider received the payment order.

The time limits for the execution of a payment transaction stipulated by this Law and/or other regulations shall apply to payment transactions not included in paragraph 1 of this Article.

#### **Transmission of a payment order through the payee's payment service provider**

##### **Article 43**

The payee's payment service provider shall transmit a payment order to the payer's payment service provider initiated by the payee or the payer through payee, within the time limits agreed between the payee and its payment service provider.

In case of direct debit, the payee's payment service provider shall transmit the payment order referred to in paragraph 1 of this Article also within the time limits enabling the payer's payment service provider to credit the account of the payee's payment service provider for the amount of the payment transaction, on the agreed due date.

#### **Execution of a payment transaction to the payee**

##### **Article 44**

The payee's payment service provider shall without undue delay credit the payee's payment account or, where the payee does not have a payment account with that payment service provider, make the funds available to the payee:

1) if the amount of the payment transaction for the payee has been credited to the payee's payment service provider's account or if the payee's payment service provider received the amount in another way;

2) if the payee's payment service provider received all information necessary for crediting the payee's payment account or making funds available to the payee.

After the payee's payment account has been credited, the payee's payment service provider shall immediately make that amount available to the payee.

If the payment service user who is not a legal person demands cash withdrawal from a payment account, the payment service provider shall pay to him these funds free of charge without undue delay, but if the consumer is withdrawing cash in the amount exceeding RSD 600,000 or foreign cash in the equivalent of RSD 600,000 at the official middle exchange rate – the payment service provider may pay to him these funds at the latest on the next business day.

If funds have been credited to the account of the payee's payment service provider on the day which is not a business day for that provider, it shall be deemed that the payee's payment service provider received the funds on the next business day.

#### **Debit and credit value dates**

##### **Article 45**

The payer's payment service provider shall ensure that the debit value date for the payer's payment account in connection with the execution of a payment transaction shall be the same as or later than the point in time at which the amount of the payment transaction is debited from that payment account.

The payee's payment service provider shall ensure that the credit value date for the payee's payment account in connection with the execution of a payment transaction shall be no later than the business day on which the amount of the payment transaction is credited to the payee's payment service provider's account.

### **Value date and availability of funds when cash is placed on a payment account**

#### **Article 46**

In case of a domestic payment transaction, where a payment service user places cash on its payment account with the payment service provider operating that account in the currency of that account, the payment service provider shall ensure that the value date of crediting the payment account is the date of the receipt of cash.

The payment service provider shall make the amount available to the payee immediately after the point of time of the receipt of funds, according to limits from Article 44, paragraph 3 of this Law.

Provisions of Article 35 of this Law shall apply *mutatis mutandis* to the point in time of receipt of cash from paragraph 1 of this Article.

## **2. Use of payment instruments**

### **Obligations of the payment service user in relation to a payment instrument**

#### **Article 47**

The payment service user shall use a payment instrument in accordance with the prescribed and/or agreed terms governing the issue and use of the payment instrument.

The payment service user shall in particular, immediately after receipt of the payment instrument, take all reasonable and adequate steps to protect the personalised security features of that instrument (e.g. personal identification number).

The payment service user shall notify the payment service provider, or the person specified by the latter, without undue delay on becoming aware of loss, theft or misappropriation of the payment instrument.

### **Obligations of the payment service provider in relation to a payment instrument**

#### **Article 48**

The payment service provider issuing a payment instrument shall ensure:

- 1) that the personalised security features of the payment instrument are not accessible to parties other than the payment service user to whom the instrument was issued, without prejudice to the user's obligations referred to in Article 47, paragraph 2 of this Law;
- 2) that the payment service user may at all times notify the payment service provider in line with Article 47, paragraph 3 of this Law, or demand to be permitted to further use the payment instrument, in accordance with Article 49, paragraph 5 of this Law;
- 3) to prevent any further use of the payment instrument after the payment service user notified the payment service provider pursuant to Article 47, paragraph 3 of this Law.

The payment service provider may not issue to the payment service user an unsolicited payment instrument, except where an already issued payment instrument is to be replaced.

The payment service provider shall bear the risk of delivering a payment instrument or any of its personalised security features to the payment service user.

The payment service provider shall provide the payment service user with evidence of

having been notified by the user pursuant to Article 47, paragraph 3 of this Law, provided the payment service user filed a request for the submission of such evidence within 18 months after the notification.

### **Limitation of the use of a payment instrument**

#### **Article 49**

The payer and its payment service provider may agree on spending limits for an individual payment transaction or a series of payment transactions in a given time period, if these transactions are executed based on a payment instrument used for the purposes of giving consent for their execution.

The payer and the payment service provider may agree in the framework contract that the payment service provider may block a payment instrument referred to in paragraph 1 of this Article for objective reasons relating to the security of the payment instrument, the suspicion of unauthorised or fraudulent use of the payment instrument, or an increased risk that the payer may be unable to fulfil its liability to pay in case of a payment instrument which is linked to the approval of credit and/or overdraft to the payer.

The payment service provider shall inform the payer of the intention to block the payment instrument and the reasons therefor. If the payment service provider is unable to inform the payer before the payment instrument is blocked, it shall do so immediately after the payment instrument has been blocked. The payment service provider shall notify the payer of its intention to block the payment instrument, and/or that it has been blocked, in the manner agreed in the framework contract.

By way of derogation from paragraph 3 of this Article, the payment service provider shall not notify the payer if giving such information is forbidden by regulations or contrary to objectively justified security reasons.

The payment service provider shall unblock the payment instrument or replace it with a new one once the reasons for blocking this payment instrument cease to exist.

### **3. Liability for execution of payment transactions and refunds for payment transactions**

#### **Payer's payment service provider's liability for an unauthorised payment transaction**

#### **Article 50**

The payer's payment service provider is liable for the execution of a payment transaction for which the payer has not given consent in accordance with Article 33 of this Law (hereinafter: unauthorised payment transaction).

In case of an unauthorised payment transaction, the payer's payment service provider shall refund to the payer immediately the amount of the unauthorised payment transaction and/or restore the debited payment account to the state in which it would have been had the unauthorised payment transaction not taken place.

The payment service provider from paragraph 2 of this Article shall also refund to the payer all charges levied for the executed unauthorised payment transaction and refund and/or pay any related interest the payer would be entitled to if the unauthorised payment transaction had not taken place.

#### **Payer's liability for an unauthorised payment transaction**

#### **Article 51**

By way of derogation from Article 50 of this Law, the payer shall bear losses arising from any unauthorised payment transactions up to RSD 3,000, resulting from:

- 1) the use of a lost or stolen payment instrument, or
- 2) the misappropriation of a payment instrument, if the payer has failed to protect its



personalised security features.

The payer shall bear all losses arising from the execution of any unauthorised payment transactions if it incurred them by acting fraudulently or by failing to fulfil its obligation under Article 47 of this Law with intent or gross negligence.

If the payment service provider does not provide appropriate means of notification of a lost, stolen or misappropriated payment instrument, as required under Article 48, paragraph 1, item 2) of this Law, the payer shall not bear losses resulting from the use of that payment instrument, except where it has acted fraudulently.

The payer shall not bear any losses resulting from unauthorised payment transactions executed after it notified the payment service provider of the lost, stolen or misappropriated payment instrument, except where these losses occurred due to the payer acting fraudulently.

By way of derogation from paragraph 1 hereof, the National Bank of Serbia may prescribe that the payer shall bear losses arising from execution of unauthorised payment transactions up to an amount not exceeding RSD 3,000, taking into account in particular the nature of personalised security features of a payment instrument and the circumstances in which the payment instrument was lost, stolen or misappropriated.

### **Exclusion of liability for unauthorised electronic money payment transactions**

#### **Article 52**

By way of derogation from Articles 50 and 51 of this Law, the payer's payment service provider shall not be held liable for the execution of an unauthorised electronic money payment transaction if it cannot block the payer's payment account where electronic money is held or the payer's electronic money payment instrument, and the total value of electronic money shall at no time exceed the amount of RSD 15,000.

### **Liability for non-execution or incorrect execution of a payment transaction initiated by the payer**

#### **Article 53**

The payer's payment service provider shall be liable to the payer for the correct execution of a payment transaction initiated by the payer to the payee's payment service provider, in line with Article 42 of this Law.

If the payer's payment service provider is liable for a non-executed or incorrect payment transaction, it shall without undue delay refund to the payer the amount of the non-executed or incorrect payment transaction and/or restore the payer's payment account to the state in which it would have been had the incorrect payment transaction not taken place, unless the payment service user requests correct execution of the payment transaction.

If the payer's payment service provider proves to the payer, and if needed, to the payee's payment service provider, that the payee's payment service provider's account has been credited with the amount of a payment transaction in accordance with Article 42 of this Law, the payee's payment service provider shall be liable to the payee for the non-executed and/or incorrectly executed payment transaction in accordance with Articles 44 and 45 of this Law.

The payment service provider that is liable for the non-execution or incorrect execution of a payment transaction shall refund to its user all charges levied and refund and/or pay any interest belonging to the user for the non-executed or incorrectly executed payment transaction.

### **Liability for non-execution or incorrect execution of a payment transaction initiated by the payee or by the payer through the payee**

#### **Article 54**

If a payment transaction is initiated by the payee or by the payer through the payee, the

payee's payment service provider shall be liable to the payee for correct transmission of the payment order to the payer's payment service provider in accordance with Article 43 of this Law.

If the payee's payment service provider failed to transmit, and/or transmitted the payment order from paragraph 1 of this Article incorrectly, it shall immediately transmit and/or re-transmit the payment order in question to the payer's payment service provider.

If the amount of a payment transaction initiated by the payee or by the payer through the payee, has been credited to the payee's payment service provider's account, the payee's payment service provider shall be liable to the payee for the correct execution of the payment transaction in accordance with Articles 44 and 45 of this Law.

If the payee's payment service provider proves to the payee, and if needed, to the payer's payment service provider, that it is not liable to the payee in accordance with paragraphs 1–3 of this Article, the payer's payment service provider shall be liable to the payer for the non-executed and incorrectly executed payment transaction.

Provisions of Article 53, paragraph 2 of this Law shall apply to the payer's payment service provider that is liable under paragraph 4 of this Article.

The payment service provider that is liable pursuant to this Article shall refund to its payment service user all charges levied and refund and/or pay any interest belonging to the user for the non-executed or incorrectly executed payment transaction.

### **Liability for the use of a unique identifier**

#### **Article 55**

If a payment order is executed in accordance with the payee's unique identifier, the payment order shall be deemed to have been executed correctly with regard to the payee specified by the unique identifier, regardless of other data provided to the payment service provider.

If the unique identifier provided by the payment service user to the payment service provider is incorrect, the payment service provider shall not be liable for the non-execution or incorrect execution of a payment transaction.

In the case referred to in paragraph 2 hereof, at the request of a payment service user, the payment service provider shall immediately take all reasonable measures in order that the payment service user receives the refund of a payment transaction amount, and the payee's payment service provider shall cooperate to this aim with the payer's payment service provider and provide all the necessary information to the provider so that the payment transaction amount is refunded. If in the case referred to in this paragraph the money cannot be refunded to the payer, the payer's payment service provider shall, upon the payer's written request, immediately submit all the available information which the payer needs to exercise the right to refund (e.g. information about the payee's payment service provider and/or the payee).

The payment service provider may charge the payment service user for taking measures under paragraph 3 of this Article, if so agreed in the framework contract.

In case of non-executed payment transactions due to an incorrect unique identifier referred to in paragraph 2 of this Article, the payment service provider shall without undue delay refund the amount of the non-executed payment transaction to the payment service user.

### **Rights and obligations of payment service providers in case of incorrectly executed payment transactions**

#### **Article 56**

Rights and obligations of payment service providers in case of incorrectly executed domestic payment transactions are the following:

- 1) if the payer's payment service provider transfers to the payee's payment service

provider the amount of the payment transaction that is higher than the amount indicated in the payment order or if it by mistake executes the same payment order several times, the payee's payment service provider shall, based on evidence submitted by the payer's payment service provider that made the error, return such funds to the payer's payment service provider without undue delay;

2) if the amount of the payment transaction transferred to the payee's payment service provider is lower than the amount indicated in the payment order, the payer's payment service provider may, within time limits specified in Article 42 of this Law, transfer to the payee's payment service provider the difference, even without request of the payment service user for correct execution of the payment transaction;

3) if funds are transferred to a payee other than the one indicated in the payment order, the payer's payment service provider may, within time limits specified in Article 42 of this Law, correctly execute the payment transaction even without the request of the payment service user for correct execution of the payment transaction, and the payee's payment service provider to whom the funds are wrongly transferred shall in any case, based on evidence submitted by the payer's payment service provider that made the error, return such funds (as recovery) to the payer's payment service provider without undue delay.

The return of funds under paragraph 1, items 1) and 3) of this Article shall take precedence over any other payment transaction from the payment account from which the recovery is to be made.

### **Liability of an intermediary for non-executed or incorrectly executed payment transactions**

#### **Article 57**

The payment service provider shall be liable to the payment service user for a non-executed or incorrectly executed payment transaction even if the liability is attributable to an intermediary participating in the execution of that payment transaction among payment service providers.

In the case referred to in paragraph 1 of this Article, the payment service provider shall be entitled to request from the intermediary the refund of the amounts paid by that payment service provider to its payment service user in accordance with Articles 53 and 54 of this Law.

The right to refund from paragraph 2 of this Article shall not exclude the right of the payment service provider to request from the intermediary compensation for any loss stemming from non-execution or incorrect execution of a payment transaction, in accordance with law and/or a contract concluded between the payment service provider and intermediary.

## **Obligation to trace funds in case of non-executed or incorrectly executed payment transactions**

### **Article 58**

In case of a non-executed or incorrectly executed payment transaction, without prejudice to obligations from Article 55 of this Law, the payment service provider shall, regardless of the liability for correct execution of a payment transaction, on request of its payment service user, take immediate and adequate steps to trace the funds and notify the user about the outcome of measures taken without undue delay.

## **Liability for losses stemming from unauthorised, non-executed or incorrectly executed payment transactions**

### **Article 59**

Provisions of Articles 50, 53 and 54 of this Law shall not exclude the right of the payment service user to request from its payment service provider, in accordance with law, a compensation for losses stemming from the execution of an unauthorised payment transaction, for non-execution or incorrect execution of the payment transaction that the provider is liable for.

## **Burden of proving the execution of payment transactions**

### **Article 60**

If the payment service user claims that it did not authorise an executed payment transaction or that the payment transaction was not executed or was not correctly executed, it is on its payment service provider, if it claims the opposite, to prove that the payment transaction was authenticated, accurately recorded, entered in the accounts and not affected by a technical breakdown or other deficiency.

A payment transaction is considered authenticated, within the meaning of paragraph 1 of this Article, if the payment service provider, by applying adequate procedures, verified and confirmed the use of a specific payment instrument, including its personalised security features.

If the payer claims that it did not authorise a payment transaction executed by using a payment instrument, the records of the payment service provider of the use of such instrument shall in themselves not be sufficient to prove either that the payer has authorised that payment transaction, or that the payer acted fraudulently or failed, with intent or gross negligence, to fulfil obligations referred to in Article 47 of this Law.

## **Notification and/or request as a condition for refund or correct execution of a payment transaction**

### **Article 61**

The payment service provider shall ensure the refund of the amount in accordance with Articles 50, 51, 53, 54 and 57 of this Law to the payment service user, or correct execution of the payment transaction according to Articles 53 and 54 of this Law, if the user notifies its payment service provider of any unauthorised, non-executed or incorrectly executed payment transaction and/or requests correct execution of the payment transaction, immediately after becoming aware of such payment transaction, provided that such notification and/or request are submitted by no later than 13 months after the debit date.

If the payment service provider fails to inform the payment service user of the payment transaction in line with Title II of this Part of the Law, the payment service provider liable for an unauthorised, non-executed or incorrectly executed payment transaction shall refund the amount under paragraph 1 of this Article even after the expiry of the time limit of 13 months, if the payment service user notifies its payment service provider without undue delay on becoming aware of any unauthorised, non-executed or incorrectly executed payment

transaction.

The payment service provider and the payment service user that is not a consumer may agree by contract on a time limit other than that provided for in this Article.

### **Exclusion of liability due to force majeure or law**

#### **Article 62**

The liability of the payment service provider and payment service user regarding the execution of a payment transaction is not governed by provisions of this Title in case of force majeure that prevented them from fulfilling obligations stemming from this Law or when this is prescribed by other law.

### **Refunds for authorised and correctly executed payment transactions**

#### **Article 63**

The payer's payment service provider shall refund the payer, on its request, the full amount of an authorised and correctly executed payment transaction initiated by the payee or by the payer through the payee, if the following conditions are met:

- 1) the payer's authorisation for execution of a payment transaction does not specify the exact amount of the payment transaction;
- 2) the amount of the payment transaction exceeds the amount the payer could reasonably have expected taking into account its previous spending pattern, the conditions stipulated by the framework contract and circumstances of the case.

The payer's payment service provider may require from the payer to provide evidence about facts relating to the fulfilment of conditions under paragraph 1 of this Article. The payer may not refer to the condition under paragraph 1, item 2) of this Article if the higher amount of the payment transaction was due to currency conversion at the agreed reference exchange rate.

The payer may submit the request referred to in paragraph 1 of this Article within 56 days after the debit date.

The payer's payment service provider shall refund the full amount of the payment transaction to the payer or inform it of the reasons for rejecting the request specified under paragraph 1 of this Article by no later than ten business days after the receipt of the request.

If it rejects the request referred to in paragraph 1 of this Article, the payment service provider shall, in the notification about the reasons for the refusal, also notify the payer about the procedure for the protection of rights and interests of payment service users, including out-of-court settlement, and the proceedings that could be instituted for the violation of provisions of this Law, as well as the body responsible for conducting these proceedings.

The payer and its payment service provider may agree by provisions of the framework contract regulating direct debits that the payer may request a refund of the amount of the authorised payment transaction executed through direct debit even when the conditions under paragraph 1 of this Article have not been met.

In case from paragraph 6 of this Article, the payer's payment service provider may not refuse the payer's request for a refund of the amount of the payment transaction.

The payer and the payer's payment service provider may agree in the framework contract that the payer has no right to a refund specified in paragraph 1 of this Article, if the following conditions are met:

- 1) the payer has given its consent to execute the payment transaction directly to its payment service provider;
- 2) information on the future payment transaction was provided or made available in the agreed manner to the payer for at least 28 days before the due date by the payment service

provider or by the payee.

#### **4. Special rules for execution of certain payment transactions**

##### **Execution of international payment transactions and payment transactions in currencies of third countries**

###### **Article 64**

Provisions of regulations governing foreign exchange operations shall apply to the execution of international payment transactions and payment transactions in the currencies of third countries.

Provisions of this Title shall apply to all aspects relating to the execution of payment transactions referred to in paragraph 1 of this Article which are not specified in regulations governing foreign exchange operations.

The payment service provider and payment service user may agree that certain provisions of this Title, applied to payment transactions from paragraph 1 of this Article, except for Articles 44, 45 and 55 of this Law, shall not apply in whole or in part to these payment transactions.

##### **Execution of payment transactions with low-value payment instruments**

###### **Article 65**

The payment service provider and payment service user may agree in the framework contract on a low-value payment instrument the following:

- 1) the payment service provider is not required to notify the payment service user of the refusal to execute a payment order in accordance with Article 36 of this Law, if the non-execution of the payment order is apparent from the circumstances of the case;
- 2) by way of derogation from Article 38 of this Law, the payer may not, under any circumstances, revoke the payment order after transmitting the payment order or giving its consent to execute the payment transaction to the payee;
- 3) by way of derogation from Articles 42–44 of this Law, other time limits for execution shall apply;
- 4) provisions of Article 47, paragraph 3, Article 48, paragraph 1, items 2) and 3) and paragraph 4, and Article 51, paragraphs 3 and 4 of this Law shall not apply if the payment instrument does not allow its blocking or prevention of its further use;
- 5) provisions of Articles 50 and 60 of this Law shall not apply if the payment instrument is used anonymously or the payment service provider is not in a position, for other reasons which are intrinsic to the payment instrument, to prove that a payment transaction was authorised.

##### **Execution of payment transactions based on promissory notes**

###### **Article 66**

A payment transaction on the basis of a promissory note is the payment transaction where the payee initiates a transaction for debiting the payer's payment account on the basis of a promissory note and payment order requiring the transfer of funds from the payer's to the payee's account.

The promissory note referred to in paragraph 1 of this Article shall be issued in accordance with the law governing the promissory note and shall represent an irrevocable consent of the issuer given to its payment service provider to execute the payment transaction initiated by the promissory note holder in accordance with that paragraph.

Provisions of Article 63 shall not apply to payment transactions on the basis of promissory notes.

Provisions of paragraphs 1–3 of this Law shall not exclude or impair the rights that a

promissory note issuer, promissory note holder or other persons holding promissory notes have under the law governing promissory notes.

### **Debiting the payment account without a payment order**

#### **Article 67**

The payment service provider shall debit the payment account of the payment service user without a payment order in the following cases:

- 1) in the execution and/or enforced collection procedure conducted over the user, in accordance with law;
- 2) for the purpose of collecting due fees for services provided by the provider in accordance with provisions of this Law, due receivables in respect of loans that the provider granted to the payment service user or other due receivables of the payment service provider from the payment service user, if such collection method has been agreed;
- 3) in other cases prescribed by law.

The executed payment transaction referred to in paragraph 1 of this Article shall not be considered an unauthorised payment transaction.

## **Title IV**

### **PAYMENT ACCOUNTS**

#### **1. Types of payment accounts**

##### **Article 68**

A payment account may be a current account or other payment account.

The National Bank of Serbia shall prescribe detailed conditions and manner of opening, maintaining and closing current accounts, and their unique structure, and may also prescribe detailed conditions and manner of opening, maintaining and closing other payment accounts and their unique structure.

By way of derogation from paragraph 2 of this Article, detailed conditions and the manner of opening, maintaining and closing foreign exchange accounts of residents and non-residents with banks, and their unique structure, shall be in line with regulations governing foreign exchange operations.

#### **A joint payment account**

##### **Article 69**

A joint payment account is a payment account held by the payment service provider in the name of two or more payment service users, in accordance with the framework contract on opening, maintaining and closing the joint payment account.

Each payment service user who is an individual holder of the joint payment account may dispose of the total amount of funds in that account, unless the contract referred to in paragraph 1 of this Article establishes limitations for the disposal of funds in that account.

Funds in the joint payment account may be fully used to pay obligations of individual holders of the joint payment account to third persons.

The contract referred to in paragraph 1 of this Article shall not restrict the right of a third person, in bankruptcy or liquidation proceedings, enforcement proceedings or enforced collection proceedings against an individual holder of the joint payment account, to collect its receivables from that holder from the total amount of funds held in the joint payment account, unless otherwise prescribed by law.

#### **Current account**

### **Article 70**

A current account is a payment account held with a bank, used for the execution of payment transactions and other purposes in relation to services offered by banks to payment service users.

In line with regulations governing the budget system, accounts held by the Treasury Administration shall be considered current accounts.

The public postal operator, payment institutions and electronic money institutions shall not open, maintain or close current accounts.

### **Accounts held with the National Bank of Serbia**

#### **Article 71**

The National Bank of Serbia shall maintain current and other accounts of banks and the National Bank of Serbia, and other accounts in accordance with regulations and/or operating rules of the payment systems it operates.

The National Bank of Serbia shall maintain the system of the consolidated treasury account, in accordance with law.

The National Bank of Serbia shall prescribe detailed conditions and manner of opening, maintaining and closing accounts under paragraph 1 of this Article, as well as their unique structure.

## **2. Payment account data**

### **Harmonisation of data relating to current accounts**

#### **Article 72**

Banks shall download data on status and other changes of legal persons and entrepreneurs, registered with the organisation in charge of keeping the register of business entities, each business day in electronic form from such organisation – in the manner and under the terms prescribed by that organisation.

Banks shall harmonise data relating to current accounts of legal persons and entrepreneurs within three business days from the day of data download referred to in paragraph 1 of this Article.

Legal persons and entrepreneurs shall notify banks maintaining their current accounts of any status and other change registered with other bodies and organisations, and shall take legal actions needed for the harmonisation of data relating to their current accounts with the change concerned by no later than three days from the day of receiving the decision on the entry of the change into the register.

### **Single register of accounts**

#### **Article 73**

The National Bank of Serbia shall maintain in electronic form a single register of current and other accounts of legal and natural persons (hereinafter: single register of accounts).

The single register of accounts shall contain the following data on legal persons and entrepreneurs with open current and other accounts:

- 1) designation of the account of the legal person or entrepreneur;
- 2) status of the account of the legal person or entrepreneur;
- 3) date of opening and closing of the account of the legal person or entrepreneur, and the date of other change in relation to such account;
- 4) business name or abbreviated business name of the legal person or entrepreneur;



5) address of the head office of the legal person or entrepreneur and the local government unit where the head office is located, including the name of the parent state for foreign legal persons;

- 6) registration number of the legal person or entrepreneur;
- 7) tax identification number of the legal person or entrepreneur;
- 8) activity of the legal person or entrepreneur;
- 9) other data prescribed by the National Bank of Serbia.

The single register of accounts shall contain the following data on consumers with open current and other accounts:

- 1) designation of the consumer's account;
- 2) date of opening and closing of the consumer's account, and the date of other change in relation to such account;
- 3) name and surname of the consumer;
- 4) unique identification citizen number for the consumer and/or other appropriate identification designation for consumers without the Republic of Serbia citizenship (e.g. passport number or the record number designated by the competent state authority);
- 5) address of permanent residence of the consumer and/or address of temporary residence for consumers without permanent residence;
- 6) data from items 3) to 5) of this paragraph about persons authorised to dispose of funds in the consumer's account.

The single register of accounts shall not keep data on the credit balance and changes in the account.

Banks and other entities responsible for maintaining current and other accounts of legal and natural persons in accordance with law shall regularly submit data on these accounts to the National Bank of Serbia and be responsible for the accuracy of reported data.

The National Bank of Serbia shall be responsible that the data submitted by the persons referred to in paragraph 5 of this Article correspond to the data contained in the single register of accounts.

Data on legal persons and entrepreneurs maintained in the single register of accounts are public, and are available on the website of the National Bank of Serbia.

Data on consumers, which are maintained in the single register of accounts, are not publicly available and are subject to provisions of Article 74 of this Law and regulations governing the protection of confidentiality of personal data.

The National Bank of Serbia shall prescribe detailed conditions and manner of maintaining the single register of accounts, the manner of submission of data maintained in the register, as well as the manner of accessing these data.

### **3. Provision of payment services linked to a payment account**

#### **Special rules regarding the provision of payment services linked to a payment account**

##### **Article 73a**

Provisions of Articles 73b to 73v of this Law shall apply to payment accounts which enable payment service users to use the services referred to in Article 4, paragraph 1, items 1) and 2) and item 3), sub-item (1) of this Law.

Services linked to the payment account, within the meaning of this Law, means all services related to the opening, maintaining and closing of a payment account, including the services referred to in paragraph 1 hereof and overdraft facilities and overrunning.

A payment service provider within the meaning of Articles 73b to 73v of this Law means a bank, electronic money institution, payment institution and public postal operator.

Fees which the payment service provider charges within the meaning of this Chapter of the Law means all fees and other charges payable by the payment service user to the payment service provider for or in relation to services linked to a payment account;

### **Non-discrimination**

#### **Article 73b**

When opening an account for a consumer legally resident in the Republic of Serbia, any form of direct or indirect discrimination, based on any ground, particularly race, sex, genetic features, nationality, social origin, birth, religion, political or any other opinion, property status, place of residence, culture, language, age, sexual orientation or disability, shall be prohibited.

### **List of representative services linked to a payment account**

#### **Article 73c**

The National Bank of Serbia shall prescribe a list of at least ten and no more than twenty representative services linked to a payment account and subject to a fee, offered by at least one payment service provider in the Republic of Serbia (hereinafter: the list of representative services).

The list of representative services shall contain established terms and definitions for each of the services linked to a payment account.

In establishing the list of representative services, the National Bank of Serbia shall have regard to the services that are most commonly used by payment service users in relation to their payment account and services that generate the highest cost for payment service users.

The list of representative services is regularly updated and published on the website of the National Bank of Serbia.

### **Fee information document**

#### **Article 73d**

The fee information document means a document containing a list of services from the list of representative services that are offered by a payment service provider, and details on individual fees for each such service.

Each service shall be described by terms and definitions from the list of representative services, and any additional explanations must be clear, unambiguous and understandable in all respects.

A payment service provider shall provide to the payment service user, free of charge and in good time before concluding with him a framework contract on payment services linked to a payment account (hereinafter: framework contract for a payment account), and at the same time when providing other information specified by this Law – the fee information document, on paper or another durable medium, in a manner that provides a proof of submission.

A payment service provider shall ensure that the fee information document is easily available at counters on its premises and on its website. The fee information document shall also be provided on paper or another durable medium, free of charge, upon the request of the payment service user.

The National Bank of Serbia shall prescribe in detail the contents and form of the fee information document.

### **Statement of fees**

#### **Article 73e**

A payment service provider shall provide the payment service user, at least annually and free of charge, with a statement of fees charged for services linked to the payment account (hereinafter: statement of fees).

By way of derogation from paragraph 1 hereof, the payment service provider shall provide

the statement of fees to the payment service user who is not the consumer, on his request.

The statement of fees shall also contain information on interest rates applied and the total amount of interest, where the payment service provider charged and/or paid interest in the reporting period for certain services linked to a payment account.

In the statement of fees charged for the services specified in the list of representative services the payment service provider shall use the terms and definitions set out in that list.

The statement of fees shall contain in particular the following information:

1) the unit fee charged for each service and the number of times the service was used during the reporting period, and where the services are combined in a package, the fee charged for the package as a whole, the number of times the package fee was charged during the reporting period and the potential additional fee charged for any service exceeding the quantity covered by the package fee;

2) the total amount of all fees charged during the reporting period for each service, each package of services provided and services exceeding the quantity covered by the package fee;

3) the overdraft and/or overrunning interest rate applied to the payment account and the total amount of interest charged relating to the overdraft and/or overrunning during the relevant period, if the payment service provider provided this service in the reporting period;

4) the credit interest rate and the total amount of interest earned during the relevant period, if the payment service provider provided a service linked to a payment account and subject to the credit interest rate in the reporting period;

5) the total amount of fees charged for all services linked to a payment account provided during the reporting period.

The statement of fees shall be a stand-alone document and contain a conspicuous and prominent title "Statement of Fees" at the top of the first page, to distinguish the document from other documentation. The statement of fees shall be presented and laid out in a way that is clear and easy to read and shall not contain inaccurate or misleading information on the fees charged.

Amounts of fees and interest in the statement of fees shall be expressed in dinars or other currency on which the payment service user and the payment service provider agreed upon, in accordance with the regulations governing foreign exchange operations.

The statement of fees shall be written in the Serbian language and/or another language in accordance with the framework contract for a payment account.

The manner of delivery of the statement of fees shall be specified in the framework contract for a payment account. The payment service provider shall provide the statement of fees on paper, upon the request of the payment service user.

The National Bank of Serbia may prescribe the presentation format and contents of the statement of fees.

## **Information for users of payment services linked to payment accounts**

### **Article 73f**

Payment service providers shall ensure that in their marketing and contractual information about the services specified in the list of representative services, they use the terms and definitions specified in that list.

Payment service providers may use product (brand) names in the fee information document and in the statement of fees, in addition to the terms specified in the list of representative services.

In marketing and contractual information about the services specified in the list of representative services, payment service providers may use product (brand) names, provided that they clearly identify the services defined in that list.

### **Information related to payment accounts specified by other regulations**

#### **Article 73g**

Provisions of Articles 73c to 73f of this Law do not exclude the obligation of payment service providers to provide information they are required to provide in accordance with other provisions of this Law and the regulations governing the protection of financial service consumers.

### **Comparison website**

#### **Article 73h**

The National Bank of Serbia shall publish on its website comparable data on fees charged to payment service users by payment service providers for at least the services included in the list of representative services.

The National Bank of Serbia shall regulate in more detail the content and the manner of submission and publishing of the data referred to in paragraph 1 hereof.

### **Payment accounts packaged with another product or service**

#### **Article 73i**

When the service of opening and maintaining a payment account is offered as part of a package together with another product or service which is not linked to that account, the payment service provider shall inform the payment service user whether it is possible to open the payment account separately and, if so, provide separate information regarding the costs and fees associated with each of the other products and services offered in that package.

## **4. Payment account switching**

### **Switching service**

#### **Article 73j**

A payment service provider shall provide the service of payment account switching, in the same currency, to any payment service user who opens or holds a payment account with a receiving payment service provider (hereinafter: new payment account).

Payment account switching shall be executed exclusively upon the receipt of the authorisation given by the payment service user, with or without the closing of the payment account opened with the transferring payment service provider.

When providing the switching service, the transferring payment service provider shall transfer to the receiving payment service provider:

- 1) information on all or some standing orders, recurring direct debit mandates and recurring credit transfers where the payment service user is the payee (hereinafter: incoming credit transfer);
- 2) any remaining positive account balance, if so requested by the payment service user in the authorisation referred to in paragraph 2 hereof.

The provisions of this Law governing the switching service shall apply *mutatis mutandis* to the switching between different payment accounts of the payment service user within the same payment service provider, i.e. the switching where one and the same payment service provider is at the same time the transferring and the receiving payment service provider.

### **Authorisation for payment account switching**

#### **Article 73k**

A receiving payment service provider shall start the actions of payment account switching upon the receipt of the authorisation for switching a payment account from the payment service user referred to in Article 73j of this Law (hereinafter: authorisation).

In the case of two or more holders of the payment account, account switching is initiated upon the receipt of the authorisation from each of them.

The authorisation shall be in writing, in Serbian or in another language agreed between the parties, and immediately upon the receipt of the authorisation, the payment service provider shall deliver to the payment service user his original or a copy as a proof of receipt of the authorisation.

By the authorisation, the payment service user gives consent to the transferring and receiving payment service providers for all or some actions within the switching service which those providers are obliged to perform in accordance with this Law.

By the authorisation, the payment service user may identify standing orders, direct debit mandates, incoming credit transfers and other payment services that are to be switched to the new payment account, provided that the receiving payment service provider provides those services.

By the authorisation, the payment service user specifies the date from which standing orders and direct debits are to be executed from the new payment account. The date shall be at least six business days from the date on which the receiving payment service provider received the documentation from the transferring payment service provider.

### **Obligations of payment service providers in payment account switching**

#### **Article 73I**

Within two business days from the receipt of the authorisation for payment account switching, the receiving payment service provider shall request the transferring payment service provider to carry out the following tasks, in accordance with the authorisation:

- 1) transmit to the receiving payment service provider and, if specifically requested by the payment service user, to him as well, a list of the existing standing orders and available information on direct debit mandates that the payment service user requested to be switched – within five business days from the receipt of this request;
- 2) transmit to the receiving payment service provider and, if specifically requested by the payment service user, to him as well, the available information about recurring incoming credit transfers and creditor-driven direct debits executed on the payment service user's payment account in the previous 13 months – within five business days from the receipt of this request;
- 3) refuse the execution of a payment transaction based on incoming credit transfers and direct debits with the effect from the date specified in the authorisation and inform the payer and the payee about the reasons for refusal, if it does not provide a system for automated redirection to the new payment account;
- 4) cancel standing orders with effect from the date specified in the authorisation;
- 5) transfer any remaining positive balance from the previous to the new payment account on the date specified in the authorisation;
- 6) close the payment account on the date specified in the authorisation.

The transferring payment service provider shall act upon the request of the receiving payment service provider in the manner and within the deadlines specified in paragraph 1 of this Article, in accordance with the authorisation.

The transferring payment service provider shall close the account if the payment service user has no outstanding obligations on that account and provided that the actions listed in paragraph 1, items 1), 2) and 4) of this Article have been completed, without prejudice to the provisions of this Law which pertain to the cancellation of the framework contract upon the request of the payment service user.

The transferring payment service provider shall immediately inform the payment service user where the conditions for closing an account from paragraph 3 of this Article are not met.

Within five business days from the receipt of the requested information referred to in paragraph 1 of this Article, and in accordance with the authorisation and all the information received, the receiving payment service provider shall do the following:

- 1) set up the standing orders specified by the payment service user in the authorisation and execute them with effect from the date specified in the authorisation;
- 2) make any necessary preparations to execute direct debits which the payment service user specified in the authorisation with effect from the date specified in the authorisation;
- 3) inform the payment service user of other rights related to the execution of direct debits that are agreed (e.g. the right to reduce the amount of direct debit, to approve each individual direct debit, to block direct debit);
- 4) inform the payers specified in the authorisation and making recurring incoming credit transfers of the details of the new payment account of the payment service user and transmit to them a copy or original of the authorisation;
- 5) inform the payees specified in the authorisation and using a direct debit to collect funds from the payment account of the payment service user of the details of the user's new payment account and the date from which direct debits are to be collected from that payment account and transmit to the payees, along with the information, a copy or original of the authorisation.

If it does not possess all the information necessary for the informing referred to in paragraph 5, items 4) and 5) of this Article, the receiving payment service provider may request from the transferring payment service provider or the payment service user to submit that information.

Where the payment service user chooses to directly provide the information referred to in paragraph 5, items 4) and 5) of this Article to the payers and/or payees, the receiving payment service provider shall provide to the payment service user, within the deadline specified in that paragraph, in writing, on a form specified by its internal act, details of the new payment account and the starting date specified in the authorisation as of which the receiving payment service provider will start to provide services linked to the new payment account.

Without prejudice to the provisions of this Law which relate to limiting the use of a payment instrument, the transferring payment service provider may not block payment instruments before the date specified in the authorisation, so that the provision of payment services to the payment service user is not interrupted in the course of payment account switching.

### **Fees connected with the switching service**

#### **Article 73m**

A payment service provider shall submit or make easily available to payment service users, free of charge and upon their request, information regarding existing standing orders and direct debits held with that payment service provider.

The transferring payment service provider shall provide to the payment service user or the receiving payment service provider the information from Article 73l, paragraph 1, items 1) and 2) of this Law, free of charge.

The fees for services from Article 73l of this Law, apart from the services specified in paragraphs 1 and 2 of this Article and the closing of an account, applied by the payment service provider to the payment service user who is not a consumer, shall be reasonable, in line with the actual costs incurred by the payment service provider and not higher than the average fees charged for those services to other payment service users.

### **Liability for damage incurred in the switching process**

#### **Article 73n**

A payment service provider shall refund to the payment service user, without delay, any damage suffered by the user in the switching process due to non-compliance with Articles 73k and 73l of this Law.

The payment service provider shall not be liable for the damage referred to in paragraph 1 of this Article in case of a force majeure which prevented the provider from executing its obligations specified by the Law.

### **Information about payment account switching**

#### **Article 73o**

A payment service provider shall make easily available to payment service users the information about:

- 1) obligations and responsibilities of the transferring and receiving payment service provider in accordance with Articles 73j to 73n of this Law;
- 2) the time-frames for the completion of actions referred to in Article 73l of this Law;
- 3) the fees, if any, charged for the switching of a payment account;
- 4) any information that the payment service user is required to provide to the payment service provider;
- 5) the out-of-court dispute settlement options, in accordance with the law governing the protection of financial service consumers.

The information referred to in paragraph 1 of this Article shall be available free of charge, on paper or another durable medium, on all premises of the payment service provider accessible to payment service users and on the website of the payment service provider.

A payment service provider shall provide to the payment service users the information referred to in paragraph 1 of this Article upon their request and free of charge.

### **5. Payment account with basic features**

#### **Consumer's right to a payment account with basic features**

##### **Article 73p**

Without prejudice to the provisions of the law governing the prevention of money laundering and terrorism financing and other provisions of this Law, a bank shall ensure that a consumer legally resident in Serbia, who does not have a payment account, may open and use a payment account with basic features, upon his request.

A bank may enable the consumer to open and use a payment account with basic features with the public postal operator as well, where the public postal operator offers payment services for and on behalf of that bank.

A payment account with basic features means a payment account used for executing payment transactions in dinars.

Basic features relating to the payment account from paragraph 1 of this Article shall include:

- 1) services required for the opening, maintaining and closing of the account;
- 2) services enabling cash to be placed on a payment account;
- 3) services enabling cash withdrawals from a payment account at counters or ATMs and other similar machines;
- 4) execution of the following payment transactions, i.e. transfer of funds from and/or to a payment account:
  - (1) direct debits,
  - (2) payment transactions through a payment card, including online payments;
  - (3) credit transfers, including standing orders, at adequate machines, bank counters or via online facilities.

When opening the account from paragraph 1 of this Article, banks shall offer the services from that paragraph only to the extent that they already offer them to consumers with relation to other payment accounts.

The conditions for opening, maintaining (using) and closing consumer's payment accounts with basic features must be non-discriminatory within the meaning of Article 73b of this Law.

### **Opening a payment account with basic features**

#### **Article 73q**

Upon the submission of an application by a consumer, a bank shall open a payment account with basic features or refuse to open it without delay and no later than within ten business days of the receipt of the duly completed application.

The bank may refuse an application for opening a payment account with basic features if the consumer has already opened a payment account with another bank which enables him to make use of the services listed in Article 73p hereof, except in the case when the consumer provides a written statement and presents a notification issued by another bank stating that the payment account will be closed.

In the case referred to in paragraph 2 hereof, the bank shall first verify whether the consumer has already opened a payment account with another bank or, if it does not perform such verification, it shall rely on the consumer's statement in writing on whether he has already opened a payment account with another bank which enables him to make use of the services listed in Article 73p of this Law.

Banks shall cooperate in the verification process referred to in paragraph 3 of this Article. The data which the banks collect and exchange in the verification process may be collected in accordance with Article 74, paragraph 4, item 1) of this Law and used only for the purpose of opening a payment account with basic features and in accordance with the regulations governing the protection of personal data.

If the application for opening a payment account with basic features is refused, the bank shall immediately inform the consumer of the refusal and of the reasons therefore, in writing and free of charge, unless such disclosure would be contrary to regulations.

In the event of refusal of the application for opening a payment account with basic features, the bank shall advise the consumer of the right to complain and the possibility of out-of-court dispute settlement in relation to the opening of a payment account with basic features, in accordance with the law governing the protection of financial service consumers.

### **Use of a payment account with basic features**

#### **Article 73r**

Banks shall ensure that a consumer is allowed to execute an unlimited number of payment transactions in relation to the services referred to in Article 73p of this Law.

Banks shall ensure that the consumer is able to execute payment transactions from the payment account with basic features on the bank's premises and/or via online facilities, where such facilities are offered by the bank.

### **Offering other services with a payment account with basic features**

#### **Article 73s**

At the consumer's request, an overdraft facility in relation to a payment account with basic features and credit card use may be allowed to the consumer in accordance with the law governing the protection of financial service consumers.

The bank may not make the opening and use of a payment account with basic features conditional on the acceptance of the overdraft facility or credit cards referred to in paragraph 1



hereof, or on the acceptance of another additional service.

### **Fees associated with a payment account with basic features**

#### **Article 73t**

Banks shall provide services referred to in Article 73p of this Law free of charge or for a reasonable fee, taking into account the actual costs to be incurred by the bank.

Based on the previously obtained opinion of the ministry in charge of social affairs, the National Bank of Serbia may prescribe and more closely define the bank's obligation to provide certain types and a certain number of payment services from Article 73p hereof free of charge to certain socially vulnerable categories of consumers and may also limit the fee referred to in paragraph 1 of this Article.

### **Termination of the framework contract on a payment account with basic features**

#### **Article 73u**

The framework contract for a payment account with basic features shall be subject to the provisions of Chapter II of this Law, unless otherwise specified in this Article.

Banks may unilaterally terminate the framework contract for a payment account with basic features if at least one of the following conditions is met:

- 1) the consumer deliberately used the payment account for illegal purposes;
- 2) there has been no transaction on the payment account for more than 24 consecutive months;
- 3) the consumer provided incorrect information in order to obtain the payment account with basic features;
- 4) the consumer has subsequently opened a second payment account which allows him to make use of the services listed in Article 73p of this Law;
- 5) the consumer is no longer legally resident in the Republic of Serbia.

Where the bank terminates the framework contract for a payment account with basic features due to the fulfilment of one or more conditions from paragraph 2, items 2), 4) and 5) of this Article, it shall inform the consumer of the grounds for the termination at least two months before the termination enters into force, in writing, on paper or another durable medium, and free of charge, unless such disclosure would be contrary to regulations.

Where the bank terminates the framework contract for a payment account with basic features due to the fulfilment of one or both conditions referred to in paragraph 2, items 1) and 3) of this Article, the termination shall take effect the moment the fulfilment of one of those conditions is established.

In the notification of termination of the framework contract for a payment account with basic features the bank shall underline the information regarding the consumer's right to complain and the possibility of out-of-court dispute settlement in accordance with the law governing the protection of financial service consumers.

### **General information on payment accounts with basic features**

#### **Article 73v**

The National Bank of Serbia shall publish the information about the availability of payment accounts with basic features, associated fees, conditions and manner of exercising the right to a payment account with basic features and about the consumer's right to complain and the possibility of out-of-court dispute settlement in accordance with the law governing the protection of financial service consumers.

Banks shall make easily available to consumers, free of charge, information and explanations about the characteristics of the payment account with basic features, the

conditions of use and associated fees.

The information referred to in paragraph 2 hereof shall make clear that the contracting of additional services is not compulsory in order to open and use a payment account with basic features.

## **Title V**

### **CONFIDENTIALITY AND PROTECTION OF DATA ON PAYMENT SERVICES**

#### **Confidentiality of data on payment services**

##### **Article 74**

Information obtained by the payment service provider in the course of its operations regarding its payment service user, including information regarding its personality, as well as data on the payment transaction and the status and changes to its payment account are regarded as a business secret.

The payment service provider, members of its bodies and persons employed or engaged by the payment service provider, as well as other persons that have access to data under paragraph 1 of this Article due to the nature of activities they perform (hereinafter: the obligor under confidentiality covenant), may not disclose or provide these data to third persons, nor may they enable third persons to have access to such data.

The obligation to keep the business secret referred to in paragraph 1 of this Article shall not cease to exist for the obligors under confidentiality covenant even after the termination of the status based on which they had access to data subject to secrecy.

By way of derogation from paragraph 2 of this Article, the obligor under confidentiality covenant may disclose or make available to third persons the data under paragraph 1 of this Article, and/or allow access to such data:

- 1) upon receipt of written consent from the person to whom these data relate;
- 2) upon request from a competent body performing supervision of the payment service provider, for the purpose of performing supervision;
- 3) based on the decision or request of the competent court;
- 4) for needs of the ministry competent for internal affairs, the authority competent for combating organised crime and the authority competent for money laundering prevention, in line with regulations;
- 5) for needs of the tax administration or the authority competent for supervision of foreign exchange operations pursuant to regulations governing activities within their field of competence;
- 6) in connection with property proceedings, based on the request of the guardian of assets or consular representative offices of foreign states, upon submission of written documents proving the legitimate interest of those persons;
- 7) in connection with the enforcement procedure or placing of collateral on assets of the payment service user, based on the request of the court, executor or other competent authority in this procedure;
- 8) in other cases prescribed by this or other law.

The payment service provider has the right to disclose data specified under paragraph 1 of this Article to the investigative judge, public prosecutor and courts, and/or other bodies that have public authorities, solely for the purpose of protecting its rights, in compliance with law.

Persons to whom data under paragraph 1 of this Article have been disclosed in compliance with paragraphs 4 and 5 of this Article may use these data exclusively for the purpose for which such data were obtained, and may not disclose such data to third persons or enable third persons to gain access to such data, unless in cases stipulated by law.

Provisions of paragraph 6 of this Article shall also apply to persons who are employed or engaged, and/or were employed or engaged by persons to whom the data under paragraph 1 of this Article have been disclosed in compliance with paragraphs 4 and 5 of this Article, as well as other persons who obtained access to such data due to the nature of activities they perform.

### **Protection of personal data in relation to payment services**

#### **Article 75**

Payment service providers, payment system participants and the settlement agent are required to act in accordance with regulations governing the protection of personal data when collecting and processing personal data referred to in Article 74, paragraph 1 of this Law.

Payment service providers and payment system participants may collect and process data referred to in paragraph 1 of this Article for the purpose of preventing, investigating or detecting fraudulent acts or misuse in connection with payment services.

## **Title VI**

### **PAYMENT INSTITUTIONS**

#### **1. Status provisions**

##### **Legal form**

#### **Article 76**

A payment institution shall be exclusively an undertaking, in line with the law governing companies.

#### **Application of the company law**

#### **Article 77**

Provisions of the law governing companies shall apply to payment institutions if not contrary to this Law.

#### **Activities of a payment institution**

#### **Article 78**

A payment institution is licensed to provide payment services upon obtaining the license of the National Bank of Serbia to perform these services as a payment institution (hereinafter: license to provide payment services).

A payment institution may operate only those payment accounts that are used solely for the execution of payment transactions.

Apart from the provision of payment services, a payment institution may also engage, in accordance with this and other law, in the following activities:

- 1) operational and ancillary activities directly related to the provision of payment services, such as ensuring the execution of payment transactions, data storage and processing, currency conversion and granting of loans referred to in Article 95 of this Article;
- 2) operation of the payment system;
- 3) other business activities that are not related to the provision of payment services.

#### **Hybrid payment institution**

#### **Article 79**

A payment institution that performs activities listed under Article 78, paragraph 3, items 2) and/or 3) of this Law shall be a hybrid payment institution.

A hybrid payment institution shall perform activities under paragraph 1 of this Article in the manner which does not jeopardise the safety and soundness of the part of its operations

relating to the provision of payment services nor hinders the supervision of a payment institution in line with this Law.

Provisions of this Law relating to payment institutions shall apply to payment institutions providing payment services as their sole activity and to hybrid payment institutions, unless otherwise prescribed by specific provisions of this Law.

### **Members of managing bodies and persons directly managing the provision of payment services in a payment institution**

#### **Article 80**

A member of a payment institution's managing body must have good business reputation with regard to managing a payment institution.

A member of a payment institution's managing body shall not be:

1) a person convicted of a criminal offence by final judgment to an unconditional prison sentence or a person convicted by final judgment of a criminal offence which makes him unsuitable for exercising this function;

2) a person against whom an effective safeguard measure has been imposed prohibiting the performance of the business activity making him unsuitable for exercising this function;

3) a person that, on the day of revocation of a legal person's operating license, and/or on the day of introduction of receivership or opening of bankruptcy or court-ordered liquidation proceedings against a legal person, was authorised to represent it or was a member of the managing body of that legal person, other than its official receiver.

Apart from the conditions from paragraph 2 of this Article, the National Bank of Serbia may prescribe other conditions to be met by a member of a payment institution's managing body.

The person directly managing the provision of payment services in a payment institution (hereinafter: director of a payment institution) shall, in addition to the conditions specified under paragraphs 1–3 of this Article, have appropriate professional qualifications and experience in managing these activities. It shall be regarded, unless proved otherwise, that the person has appropriate qualifications and experience in managing the provision of payment services if he has at least the first level of higher education of basic academic studies lasting minimum four years and not less than three years of experience in holding a management position in a financial sector person or in an undertaking whose business activity is similar to that of a payment institution.

A payment institution shall notify the National Bank of Serbia of the appointment and dismissal and/or resignation of the managing body's member or the director of a payment institution not later than the day following their appointment, and/or dismissal or resignation.

Along with the notification under paragraph 5 of this Article, a payment institution shall provide evidence that the appointed member of the managing body and/or the director meet the requirements set out in this Article.

A member of the managing body and director of a payment institution may not be members of the supervisory board of that payment institution.

A member of a payment institution's managing body referred to in this Article shall mean the director general and/or executive director within the meaning of the law governing companies.

A financial sector person shall have the meaning specified in the law governing banks.

The National Bank of Serbia shall prescribe detailed requirements to be met by a member of the managing body and director of a payment institution, as well as evidence to be submitted along with the notification from paragraph 5 of this Article.

## **Person having a qualifying holding in a payment institution**

### **Article 81**

A person having a qualifying holding in a payment institution shall at all times meet the following eligibility requirements to ensure safe and sound management of a payment institution:

- 1) have a good business reputation;
- 2) members of the managing body of a legal person having a qualifying holding in a payment institution and persons closely linked to that person have a good business reputation;
- 3) financial condition of a person having a qualifying holding in a payment institution is adequate, particularly in relation to the types of payment services provided and other activities performed by the institution;
- 4) supervision of a payment institution in accordance with this Law is not prevented or significantly hindered due to close links of persons having a qualifying holding with other persons;
- 5) the group of undertakings to which the legal person having a qualifying holding belongs is transparent and the holding of all persons who have direct or indirect holding in that legal person can be fully established, as well as any direct or indirect holding of such legal person in other legal persons;
- 6) business and other activities of a person having a qualifying holding are not linked to money laundering or terrorism financing, and do not threaten the safety and soundness of a payment institution's operations, nor prevent or substantially hinder supervision of a payment institution;
- 7) it is possible to determine the source of funding for the acquisition of a qualifying holding.

Apart from conditions from paragraph 1 of this Article, the National Bank of Serbia may prescribe other eligibility requirements to be met by a person with a qualifying holding in a payment institution, in order to provide for the safe and sound management of a payment institution.

A payment institution, and/or a person specified under paragraph 1 of this Article, shall notify the National Bank of Serbia of the person's acquisition of a qualifying holding in a payment institution and submit evidence of the fulfilment of requirements from that Article – by no later than the next day following the day of acquiring such holding.

Provisions of Article 120 of this Law shall apply *mutatis mutandis* to acting in concert with regard to acquisition.

The National Bank of Serbia shall prescribe in detail the eligibility requirements that the persons having a qualifying holding in a payment institution must meet in order to ensure safe and sound management of a payment institution, as well as evidence and/or documentation and data which a payment institution, and/or the person specified in paragraph 1 of this Article, is required to submit along with the notification referred to in paragraph 3 of this Article.

## **Associates and business reputation**

### **Article 81a**

A company which intends to provide payment services as a payment institution shall submit, when filing an application referred to in Article 82, paragraph 1 of this Law, as well as at the request of the National Bank of Serbia, the list of associates of persons acquiring a qualifying holding, members of managing bodies and the director of a payment institution, as well as the beneficial owner of the payment institution within the meaning of the law governing the prevention of money laundering and financing of terrorism, for the purpose of assessment of their business reputation.

By regulations referred to in Article 81, paragraph 5 and Article 82, paragraph 6 of this Law the National Bank of Serbia shall regulate in more detail the concept of associate from paragraph 1 hereof.

## **2. License to provide payment services**

### **Application for license to provide payment services**

#### **Article 82**

An undertaking intending to provide payment services as a payment institution shall submit to the National Bank of Serbia an application for license to provide payment services, supported with the following:

- 1) decision on entry in the register of business entities;
- 2) articles of incorporation and/or articles of association;
- 3) list of payment services and other activities specified in Article 78, paragraph 3 of this Law, which a payment institution intends to provide and/or engage in, and the assessment of risks to which a payment institution will be exposed;
- 4) a programme of activities of a payment institution, regulating in detail the conditions and manner of providing the payment services specified in item 3) of this paragraph;
- 5) a business plan of a payment institution, including the projection of revenue and expenditure for the first three years of operations, demonstrating the ability of the applicant to ensure the fulfilment of appropriate organisational, personnel, technical and other requirements for safe and sound operations of a payment institution;
- 6) evidence that the applicant holds the prescribed level of initial capital referred to in Article 83 of this Law;
- 7) a projection of the amount of capital requirements for the first year of operations calculated using the method specified in Article 90 of this Law;
- 8) a description of measures intended to be taken to safeguard payment service users' funds in accordance with Articles 93 and 94 of this Law;
- 9) a description of the governance and internal controls systems in line with Article 89 of this Law;
- 10) a description of internal control measures put in place in order to comply with the requirements arising from regulations governing the prevention of money laundering and terrorism financing;
- 11) a description of the organisational structure, including data on the intended provision of payment services through branches and/or agents, and/or on outsourcing some operational activities in relation to the provision of payment services;
- 12) a description of procedures and mechanisms of internal controls and internal audit put in place for the purpose of protecting the interests of payment service users and ensuring continuous, safe and sound provision of payment services, in connection with items 8)–11) of this paragraph;
- 13) a description of participation in payment systems, if the payment institution intends to participate in those systems;
- 14) data on persons who are members of managing bodies of the applicant and on future directors of a payment institution, along with data and evidence that these persons have good business reputation and adequate professional qualifications and experience in accordance with Article 80 of this Law;
- 15) data on persons having a qualifying holding in the applicant, the size of their holding and evidence regarding the ability of these persons to ensure safe and sound management of a payment institution and other data in accordance with Article 81 of this

Law;

16) data on the external auditor to audit financial statements of the applicant in the year in which the application is submitted, if such audit is mandatory for the applicant, in accordance with law;

17) data on persons having close links with the applicant and the description of such links;

18) address of the applicant's head office.

The National Bank of Serbia shall decide on the application specified under paragraph 1 of this Article by no later than three months following the day of receipt of a duly completed application.

If the application from paragraph 1 hereof is not duly completed, within one month upon receiving the application the National Bank of Serbia shall inform the company referred to in that paragraph how to duly complete the application, in which case the deadline from paragraph 2 of this Article shall start to run as of the day of submission of the duly completed application, in accordance with the notification from this paragraph.

In the decision on granting the license to provide payment services, the National Bank of Serbia shall define payment services that a payment institution may provide.

The decision on granting the license to provide payment services shall be published in the Official Gazette of the Republic of Serbia and on the website of the National Bank of Serbia.

The National Bank of Serbia shall prescribe in detail the conditions and manner of granting the license to provide payment services.

### **Initial capital of a payment institution**

#### **Article 83**

During the process of granting the license to provide payment services, and on the day of receipt of the decision of the National Bank of Serbia granting the license, the initial capital of the undertaking applying for the license shall not be less than:

1) the dinar equivalent of EUR 20,000 at the official middle exchange rate – if it intends to provide the payment service specified in Article 4, paragraph 1, item 6) of this Law;

2) the dinar equivalent of EUR 50,000 at the official middle exchange rate – if it intends to provide the payment service specified in Article 4, paragraph 1, item 7) of this Law;

3) the dinar equivalent of EUR 125,000 at the official middle exchange rate – if it intends to provide payment services specified in Article 4, paragraph 1, items 1)–5) of this Law.

If the undertaking applies for the license to provide payment services that are subject to different amounts of initial capital under paragraph 1 of this Article, the undertaking shall provide the amount prescribed solely for the payment service, and/or payment services for which the highest amount of initial capital is required.

The National Bank of Serbia shall prescribe in detail the elements and method of calculation of a payment institution's initial capital.

### **Refusal of application for license to provide payment services**

#### **Article 84**

The National Bank of Serbia shall refuse, in whole or in part, an application for the license to provide payment services, if it assesses that the applicant does not meet the requirements set out in Article 82 of this Law.

The National Bank of Serbia shall also refuse an application for the license to provide payment services if it assesses the following:

1) that the exercise of supervision of a payment institution's operation pursuant to this Law would be prevented or significantly hindered due to close links between the applicant and other persons, or

2) that, taking into account the third country's regulations that apply to persons with whom the applicant is closely connected and the manner in which those regulations are applied, the supervision of payment institutions in accordance with this Law would be prevented or significantly hindered, or

3) that, due to business operations of the applicant other than those in relation to the provision of payment services, the safety and soundness of a payment institution's operations would be jeopardised or that, because of these activities, the supervision of a payment institution in line with this Law would be significantly hindered.

In case of refusal of the application to grant the license to provide payment services for the reasons set forth in paragraph 2, item 3) of this Article, the National Bank of Serbia may, in the rationale of the decision to refuse the application, indicate to the applicant the possibility to establish a separate undertaking and submit a new application for the license to provide payment services for that undertaking — if it assesses that by establishing that undertaking, the particular reason for refusal would no longer exist.

### **Modification of the license to provide payment services**

#### **Article 85**

If, after obtaining the license to provide payment services, a payment institution intends to provide other payment services that are not specified in the license, a payment institution shall submit to the National Bank of Serbia the request to modify the license.

Provisions of Articles 82 and 84 of this Law shall apply *mutatis mutandis* to the process of deciding on the application referred to in paragraph 1 of this Article.

### **Changes in circumstances after granting the license to provide payment services**

#### **Article 86**

A payment institution shall, without undue delay, notify the National Bank of Serbia of any changes in circumstances or facts based on which the license to provide payment services has been granted and shall also submit the revised documentation and data specified under Article 82 of this Law.

In the notification referred to in paragraph 1 of this Article, a payment institution shall describe in detail the nature and scope of those changes.

### **Expiry of the license to provide payment services**

#### **Article 87**

The license to provide payment services shall expire in the following cases:

- 1) on the day of adoption of the decision of the National Bank of Serbia to revoke the license;
- 2) on the day of deletion of a payment institution from the register of business entities due to status change;
- 3) on the day of opening bankruptcy or court-ordered liquidation proceedings against a payment institution;
- 4) on the day following the receipt of the license to issue electronic money granted by the National Bank of Serbia.

After the license to provide payment services has expired in cases referred to in paragraph 1, items 1)–3) of this Article, a payment institution and/or an undertaking shall not enter into new legal arrangements relating to payment services for which the license has expired.

## **3. Operation of a payment institution**

### **Operation in accordance with prescribed requirements**



### **Article 88**

A payment institution shall at all times operate in accordance with the organisational, personnel, technical and other requirements established by this Law and other regulations.

## **Governance and internal controls systems**

### **Article 89**

A payment institution shall establish, maintain and improve reliable, efficient and comprehensive governance and internal controls systems that ensure responsible and reliable management of a payment institution.

The systems from paragraph 1 of this Article must be proportionate to the nature, scope and complexity of payment services provided by a payment institution.

The system of governance and the internal controls system under paragraph 1 of this Article shall include in particular:

- 1) the organisational structure with precisely and clearly defined, transparent and consistent division and separation of activities, as well as duties and responsibilities relating to the provision of payment services;
- 2) effective and efficient procedures for identifying, measuring and monitoring risks to which a payment institution is or might be exposed, and for managing these risks and/or reporting on these risks;
- 3) appropriate accounting procedures and procedures for assessing compliance with regulations governing the prevention of money laundering and terrorism financing, and other procedures.

The National Bank of Serbia may prescribe in detail the manner and conditions of establishing, maintaining and improving the systems from paragraph 1 of this Article.

## **Minimum amount of own funds**

### **Article 90**

In order to ensure its safe and sound operations and be able to meet obligations to creditors, a payment institution shall maintain an appropriate level of own funds which at no time shall be less than the amount of initial capital prescribed in Article 83 of this Law or of the amount of capital requirements calculated according to the method prescribed in paragraph 2 of this Article, whichever is higher.

The amount of capital requirements shall be calculated using one of the following methods, as determined by the National Bank of Serbia:

- 1) fixed overheads method;
- 2) payment transaction volume method;
- 3) operating income method.

The amount of capital requirements required for a hybrid payment institution shall be calculated only for the part of business activities relating to the provision of payment services.

The method under paragraph 2 of this Article which uniformly applies to all payment institutions, the manner of calculating own funds and capital requirements of the institution in accordance with this method, and the manner and time limits for reporting on own funds and capital requirements, shall be specified in more detail by a regulation of the National Bank of Serbia.

## **Changes to the minimum amount of own funds**

### **Article 91**

The National Bank of Serbia may, by way of a decision, order a payment institution to increase own funds under Article 90 of this Law by up to 20% relative to capital requirements

calculated in accordance with that Article.

Upon payment institution's application, the National Bank of Serbia may, by way of a decision, approve the reduction in own funds under Article 90 of this Law of up to 20% relative to capital requirements calculated in accordance with that Article, where a payment institution's own funds may not be lower than the amount of payment institution's initial capital under Article 83 of this Law.

The National Bank of Serbia shall adopt a decision under paragraphs 1 and 2 of this Article, taking into account the functioning of the governance and internal controls system, and in particular risk management of a payment institution, and data on losses incurred in the payment institution's operations.

### **Receiving funds from payment service users**

#### **Article 92**

A payment institution may receive funds from payment service users solely for the purpose of executing payment transactions in accordance with the payment service contract.

The funds received under paragraph 1 of this Article shall not constitute a deposit within the meaning of the law governing banks nor shall they constitute electronic money.

A payment institution shall not perform deposit-taking activities or issue electronic money.

### **Safeguarding of funds of payment service users**

#### **Article 93**

A payment institution shall safeguard the funds received from payment service users or other payment service providers in relation to the execution of payment transactions, in line with provisions of this Article.

A payment institution shall not commingle the funds from paragraph 1 of this Article with its own funds and the funds it has received on other grounds from natural and legal persons.

If a payment institution holds funds under paragraph 1 of this Article, which it did not transfer to a payee or other payment service provider by latest on the next business day following the day when funds were received, the payment institution shall safeguard those funds in one of the following ways:

- 1) deposit them in a separate account with a bank;
- 2) invest them in liquid and low-risk types of assets.

The funds under paragraph 1 of this Article shall neither be included in assets, or in the bankruptcy or liquidation estate of a payment institution, nor may they be subject to enforcement or enforced collection against a payment institution.

Provisions of paragraphs 2–4 of this Article shall not apply where a payment institution ensures the fulfilment of its financial obligations to payment service users by concluding an insurance contract with an insurance undertaking which, in line with the law governing insurance, operates in the Republic of Serbia or by obtaining an appropriate bank guarantee, provided that this insurance undertaking and/or the bank does not belong to the same group of undertakings as a payment institution.

The insurance contract or the appropriate guarantee specified under paragraph 5 of this Article shall ensure that the funds referred to in paragraph 1 of this Article are payable to payment service users in the event that a payment institution is unable to meet its obligations.

A payment institution shall notify in advance the National Bank of Serbia of each intended change in respect of the manner of safeguarding payment service users' funds and shall submit a description of planned safeguard measures accompanied with relevant evidence and documentation.

The National Bank of Serbia shall prescribe in detail the types of assets from paragraph 3,

item 2) of this Article, as well as conditions and manner of payment institution's investment in those assets in order to safeguard funds of payment service users.

### **Safeguarding funds partly intended for the execution of payment transactions**

#### **Article 94**

If it receives funds of which a portion is intended for the execution of a future payment transaction, and the remaining portion for other services that are not payment services, the hybrid payment institution shall safeguard the funds of payment service users which are intended for the execution of a payment transaction, in line with Article 93, paragraphs 3 and 5 of this Law.

If the portion of funds under paragraph 1 of this Article that is to be used for the execution of a future payment transaction is variable or unknown in advance, the hybrid payment institution shall determine the portion of funds intended for the execution of a future payment transaction, in accordance with the methodology it has determined itself. This methodology shall establish the manner of objective assessment of a portion of funds intended for execution of future payment transactions based on historical or other data relating to such transactions.

A hybrid payment institution shall provide the National Bank of Serbia with the methodology under paragraph 2 of this Article, including any amendments and supplements to the methodology, by no later than 15 days prior to its application.

### **Granting of loans in connection with payment services**

#### **Article 95**

A payment institution may grant a loan to the payment service user in connection with the provision of payment services under Article 4, paragraph 1, items 4), 5) and 7) of this Law, if the following conditions are met:

- 1) a loan has been granted exclusively for the execution of a payment transaction;
- 2) the loan repayment period does not exceed 12 months;
- 3) a loan has not been granted from the funds of payment service users received by a payment institution for the execution of payment transactions of these users;
- 4) own funds of a payment institution are at all times appropriate to the total amount of the loans granted.

The loan from paragraph 1 of this Article also relates to an authorised overdraft facility and credit cards issuance.

The National Bank of Serbia shall prescribe capital adequacy of a payment institution relative to the total amount of granted loans.

### **Acting in accordance with the law governing the prevention of money laundering and terrorism financing**

#### **Article 96**

A payment institution shall act in accordance with provisions of the law governing the prevention of money laundering and terrorism financing.

### **Keeping data and documentation**

#### **Article 97**

A payment institution shall keep data and documentation related to the provision of payment services for at least five years from the moment of their creation, unless a longer period is prescribed by law.

### **Business books and financial statements of a payment institution**

#### **Article 98**

A payment institution shall keep business books, recognise and value assets and liabilities, revenues and expenses, compile, present, submit and publish information from financial statements, and perform internal audit in accordance with laws governing accounting and audit and other legal, professional and internal regulations, unless otherwise specified by this Law.

A payment institution shall be considered a large legal person, within the meaning of the law governing accounting.

A hybrid payment institution shall in its business books separately enter business changes arising from the provision of payment services.

#### **Audit of financial statements of a payment institution**

##### **Article 99**

A payment institution shall have its financial statements audited in accordance with the law governing audit.

The external auditor carrying out the audit of a payment institution shall without undue delay notify the National Bank of Serbia of the following:

- 1) any fact that might constitute a violation of law or regulation that has been or is being committed by a payment institution;
- 2) a materially significant change in the financial result stated in unaudited annual financial statements of a payment institution;
- 3) circumstances which could lead to a significant material loss to a payment institution or could jeopardise the continuity of its operations;
- 4) any qualification contained in the external auditor's opinion on financial statements of a payment institution.

The external auditor shall also notify the National Bank of Serbia of the facts and circumstances referred to in paragraph 2 of this Article if he becomes aware of such facts and circumstances while auditing financial statements of a legal person closely linked to a payment institution.

The notification under paragraphs 2 and 3 of this Article shall not constitute a breach of data confidentiality and the external auditor may not be held liable therefor.

#### **Submitting financial statements to the National Bank of Serbia**

##### **Article 100**

A payment institution shall submit individual financial statements for the previous year, together with the external auditor's report, to the National Bank of Serbia, by no later than 30 days following the day the statements were submitted in accordance with the law governing accounting.

Within the time limit from paragraph 1 of this Article, and along with the external auditor's report, a hybrid payment institution shall also submit to the National Bank of Serbia separate accounting records relating to the payment services it provides.

If a payment institution is required to compile consolidated financial statements, it shall submit them for the previous business year, along with the external auditor's report, to the National Bank of Serbia by no later than 30 days following the date consolidated financial statements have been submitted in accordance with the law governing accounting.

#### **4. Provision of payment institution's payment services through a branch and agent and by outsourcing**

##### **Liability of a payment institution**

##### **Article 101**

A payment institution may provide payment services also through a branch, agent and/or by outsourcing some operational activities to a third person.

A payment institution providing payment services in the manner from paragraph 1 of this Article shall be fully liable for the lawful operation of that branch and agent in relation to the provision of those services, and for the lawful performance of operational activities entrusted to a third person.

A branch of a payment institution shall be its separate organisational part without legal personality, through which this institution provides one or more payment services, in accordance with this Law.

The agent of a payment institution shall be a legal person or entrepreneur providing one or more payment services in accordance with this Law, based on the institution's written authorisation.

### **Provision of payment institution's payment services through an agent in the Republic of Serbia**

#### **Article 102**

A payment institution may provide payment services in the Republic of Serbia through one or more agents.

A payment institution which intends to provide payment services in the Republic of Serbia through an agent shall submit to the National Bank of Serbia the application for entering the agent into the register of payment institutions maintained by the National Bank of Serbia in line with this Law (hereinafter: the register of payment institutions).

Along with the application from paragraph 2 of this Article, a payment institution shall submit:

- 1) description of payment services which it intends to provide through an agent, accompanied with the authorisation from Article 101, paragraph 4 of this Law;
- 2) data on the business name and address of the agent's head office;
- 3) description of internal controls that will be used by the agent in order to comply with obligations established by regulations governing the prevention of money laundering and terrorism financing;
- 4) data on persons who are members of managing bodies and persons who would directly manage the provision of payment services with the agent – legal person;
- 5) data and evidence that persons under item 4) of this paragraph, and/or the agent – entrepreneur have a good business reputation and appropriate professional qualifications and experience in line with Article 80 of this Law;
- 6) identities of persons having a qualifying holding in the agent – legal person.

A payment institution's agent may commence its operation on the day of adoption of the decision of the National Bank of Serbia on entering the agent into the register of payment institutions.

The National Bank of Serbia shall refuse to enter an agent of a payment institution into the register of payment institutions if it establishes:

- 1) that measures under paragraph 3, item 3) of this Article are not appropriate;
- 2) that persons under paragraph 3, item 5) of this Article do not have a good business reputation or appropriate professional qualifications and experience in accordance with Article 80 of this Law;
- 3) that the submitted data under paragraph 3 of this Article are inaccurate.

The National Bank of Serbia shall adopt a decision on the removal of an agent of a payment institution from the register of payment institutions:

- 1) if a payment institution submits a request for the removal of its agent from the register;
- 2) if bankruptcy or liquidation proceedings have been initiated against the agent;
- 3) if an agent – legal person has been removed from the register of business entities due to status changes;
- 4) if an agent – entrepreneur has been removed from the register of business entities in accordance with law.

The National Bank of Serbia may adopt a decision on the removal of an agent of a payment institution from the register of payment institutions if it determines the existence of the reasons referred to in paragraph 5 of this Article.

A payment institution shall without delay notify the National Bank of Serbia of any change in the data under paragraph 3 of this Article, and/or the occurrence of circumstances under paragraph 6 of this Article.

A payment institution shall ensure that its agent informs payment service users of the fact that it acts in the name and for the account of that payment institution.

### **Outsourcing operational activities**

#### **Article 103**

A payment institution intending to outsource some operational activities in relation to the provision of payment services shall notify the National Bank of Serbia thereof in advance.

A payment institution may outsource some materially important operational activities, if the following conditions are met:

- 1) the party to whom these activities are outsourced applies an appropriate level of internal controls equal to the level of the internal controls system of the payment institution outsourcing such activities;
- 2) supervision of a payment institution in accordance with this Law is not impaired;
- 3) obligations and responsibilities of members of managing bodies and directors of a payment institution will not be transferred to other persons;
- 4) obligations and responsibilities of a payment institution towards payment service users are not diminished;
- 5) after outsourcing these activities, a payment institution still meets the requirements of Article 82 of this Law and operates in accordance with other provisions of this Law.

Materially important operational activities of a payment institution shall be considered those activities which, if performed incorrectly, inappropriately or not at all, would significantly impair the legality of a payment institution's operation, its financial situation or the safety and soundness and/or continuity of its payment services.

A payment institution shall ensure that the National Bank of Serbia supervises the party entrusted with the performance of operational activities, in the section of the party's operations relating to such activities, and shall also ensure access to business records and other documentation and data relating to the performance of those activities which are at the disposal of that party.

### **Provision of payment services in a third country**

#### **Article 104**

A payment institution may provide payment services in a third country solely through a branch.

In order to establish a branch in a third country, a payment institution shall submit to the National Bank of Serbia an application for granting the approval.

Along with the application from paragraph 2 of this Article, a payment institution shall submit the following data and documentation:

- 1) name and address of the branch;
- 2) description of the organisational structure of the branch;
- 3) business plan of the branch for the first three business years, with the description of payment services that it intends to provide through the branch;
- 4) data on persons who will manage the branch's operations and persons directly managing the provision of payment services in the branch, along with data and evidence that these persons have a good business reputation, appropriate professional qualifications and experience in accordance with Article 80 of this Law.

The National Bank of Serbia shall decide on the application under paragraph 2 of this Article within three months from the day of receiving a duly completed application.

If the application from paragraph 2 hereof is not duly completed, within one month upon receiving the application the National Bank of Serbia shall inform the payment institution referred to in that paragraph how to duly complete the application, in which case the deadline from paragraph 4 of this Article shall start to run as of the day of submission of the duly completed application, in accordance with the notification from this paragraph.

The National Bank of Serbia shall prescribe in detail the conditions and manner of granting and withdrawing the approval referred to in paragraph 2 of this Article.

## **5. Register of payment institutions**

### **Contents and manner of keeping a register of payment institutions**

#### **Article 105**

The National Bank of Serbia shall maintain a register of payment institutions.

The register of payment institutions shall contain data on:

- 1) payment institutions licensed to provide payment services;
- 2) agents of payment institutions in the Republic of Serbia;
- 3) branches of payment institutions in third countries.

The National Bank of Serbia shall enter all changes in relation to the entities listed in the register of payment institutions on a regular basis.

The register of payment institutions shall be kept in electronic form, shall be publicly available and accessible on the website of the National Bank of Serbia.

The National Bank of Serbia shall prescribe in detail the conditions, contents and manner of keeping the register and the manner of removing data from the register.

## **Part three**

## **ELECTRONIC MONEY**

### **Title I**

### **ISSUANCE, ACCEPTANCE AND REDEEMABILITY OF ELECTRONIC MONEY**

#### **Electronic money issuers**

#### **Article 106**

Electronic money in the Republic of Serbia may be issued by:

- 1) a bank;
- 2) an electronic money institution;
- 3) a public postal operator,
- 4) the National Bank of Serbia,
- 5) the Treasury Administration or other public authority body in the Republic of Serbia, in line with its competences established by law.

No person other than an electronic money issuer under paragraph 1 of this Article may

issue electronic money in the Republic of Serbia.

If the National Bank of Serbia issues electronic money within competences prescribed by law, provisions of this Law governing electronic money shall not apply, unless so stipulated by a special regulation or contract governing the issuance of electronic money.

The National Bank of Serbia may prescribe special conditions and manner of protection of funds received by banks in exchange for issued electronic money.

### **Public postal operator as an issuer of electronic money**

#### **Article 107**

A public postal operator shall notify the National Bank of Serbia of its intention to commence or terminate the issuance of electronic money, and of the planned date of commencement and/or termination of issuance – by no later than a month prior to such commencement and/or termination.

Provisions of Article 129, paragraph 2, Articles 132, 133, Article 135, paragraphs 1 and 2, as well as Articles 136, 137 and 138 of this Law shall apply *mutatis mutandis* to the operations of the public postal operator as an issuer of electronic money.

A public postal operator may carry out the issuance, distribution and redemption of electronic money in the name and for the account of banks, and it may also provide intermediation services between banks and electronic money holders in connection with the issuance of electronic money, in line with the law governing banks.

### **Contract between the electronic money issuer and holder to whom electronic money is issued**

#### **Article 108**

Mutual relations between the electronic money issuer and holder to whom electronic money is issued are contractually regulated, particularly in connection with the issuance and redemption of electronic money, and all fees that the electronic money issuer charges to the electronic money holder when issuing and redeeming electronic money.

Provisions of Articles 13, 17, 18, 20, 21, 24, 25 and 65 of this Law shall apply *mutatis mutandis* to the contract referred to in paragraph 1 of this Article and information to be provided to the electronic money holder.

### **Electronic money issuance**

#### **Article 109**

The electronic money issuer shall issue electronic money at par value immediately upon the receipt of funds.

### **Prohibition of paying interest to the electronic money holder**

#### **Article 110**

Electronic money issuers shall not pay interest or grant any other proprietary benefit to electronic money holders related to the holding of such money within a particular time period.

### **Electronic money acceptance**

#### **Article 111**

Electronic money may be accepted by any natural or legal person that concludes a contract on accepting such money with the electronic money issuer and/or payment service provider.

The electronic money issuer may accept electronic money that it issued and may, in accordance with paragraph 1 of this Article, also accept electronic money issued by another



issuer of such money.

### **Redemption of electronic money**

#### **Article 112**

Upon request of the electronic money holder, electronic money issuers shall, without delay, pay out or transfer, at par value, the monetary value of electronic money held (redemption of electronic money).

Where redemption is requested before the termination of the contract concluded with the electronic money issuer, the electronic money holder may request the redemption of electronic money in whole or in part.

Where redemption is requested by the electronic money holder on or up to one year after the date of termination of the contract from paragraph 2 of this Article, this issuer shall redeem the total monetary value of electronic money held.

Where redemption is requested by the electronic money holder on or up to one year after the date of termination of the contract concluded with an electronic money institution which carries out activities other than electronic money issuance or provision of payment services and it is unknown in advance what proportion of funds is to be used as electronic money, all funds requested by the electronic money holder shall be redeemed by this institution.

The electronic money issuer may charge the electronic money holder a redemption fee only in the following cases:

- 1) where the electronic money holder requested redemption before the termination of the contract from paragraph 2 of this Article;
- 2) where the contract provides for a termination date and the electronic money holder terminates the contract from paragraph 2 of this Article before that date;
- 3) where the electronic money holder requested redemption more than one year after the date of termination of the contract from paragraph 2 of this Article.

The electronic money issuer may charge the fee under paragraph 5 of this Article only if such fee is defined in the contract from paragraph 2 of this Article, and the electronic money holder was informed in a timely manner of such fee before the conclusion of the contract.

Any such fee under paragraph 5 of this Article shall be appropriate and commensurate with the actual costs incurred by the electronic money issuer.

The electronic money issuer and a person, other than a consumer, who accepts electronic money, may agree upon different redemption rights from the ones provided for in this Article.

### **Confidentiality and protection of data on electronic money**

#### **Article 113**

Provisions of Articles 74 and 75 of this Law shall apply *mutatis mutandis* to the confidentiality and protection of data on electronic money.

## **Title II**

### **ELECTRONIC MONEY INSTITUTIONS**

#### **1. Status provisions**

##### **Legal form**

#### **Article 114**

An electronic money institution shall be exclusively an undertaking, in accordance with the law governing companies.

### **Application of the law governing companies**

#### **Article 115**

Provisions of the law governing companies shall apply to electronic money institutions, unless such provisions are contrary to this Law.

### **Activities of electronic money institutions**

#### **Article 116**

An electronic money institution shall be licensed to issue electronic money upon obtaining the National Bank of Serbia's license to issue electronic money (hereinafter: license to issue electronic money).

In addition to issuing electronic money, electronic money institutions may also perform the following activities:

- 1) provision of payment services under Article 4 of this Law;
- 2) granting credit relating to payment services, in accordance with Article 95 of this Law;
- 3) operational and ancillary activities directly related to the issuance of electronic money or to the provision of payment services referred to in item 1) of this paragraph, in accordance with law;
- 4) operation of a payment system in accordance with this Law;
- 5) other business activities not related to the issuance of electronic money or provision of payment services, in accordance with law.

If an electronic money institution provides payment services under paragraph 2, item 1) of this Article, provisions of Article 78, paragraph 2, and Article 92 of this Law shall apply *mutatis mutandis* to its operations.

The credit referred to in paragraph 2, item 2) of this Article may not be granted from funds received by an electronic money institution for the purpose of issuing electronic money.

If it provides payment services not directly related to electronic money issuance and/or performs activities specified in paragraph 2, item 4) and/or 5) of this Article, an electronic money institution shall provide these services and/or perform these activities in a manner that does not jeopardise the safety and soundness of the part of the institution's operations related to the issuance of electronic money or hinder the supervision of the institution in line with this Law.

### **Members of managing bodies and persons directly managing electronic money issuance activities in an electronic money institution**

#### **Article 117**

Provisions of Articles 80 and 81a of this Law shall apply *mutatis mutandis* to members of managing bodies and persons directly managing electronic money issuance activities in an electronic money institution (hereinafter: director of an electronic money institution).

## **2. Qualifying holding in an electronic money institution**

### **Prior approval for acquiring and/or increasing a qualifying holding**

#### **Article 118**

A person that intends to acquire a qualifying holding in an electronic money institution or to increase its qualifying holding so as to gain from 20% to 30%, more than 30% to 50% or over 50% of voting rights or capital in that institution, and/or to become its parent undertaking, shall obtain prior approval of the National Bank of Serbia for this acquisition and/or increase.

The National Bank of Serbia shall decide upon the application for approval under paragraph 1 of this Article within two months of the receipt of a duly completed application.

If the application for approval from paragraph 1 hereof is not duly completed, within 15 days upon receiving the application the National Bank of Serbia shall inform the person referred to in that paragraph how to duly complete the application, in which case the deadline from paragraph 2 of this Article shall start to run as of the day of submission of the duly completed

application, in accordance with the notification from this paragraph.

In the decision on granting approval referred to in paragraph 1 of this Article, the National Bank of Serbia shall establish that the person referred to in that paragraph shall acquire and/or increase its qualifying holding in an electronic money institution no later than within one year from the date of submission of this decision.

The approval referred to in paragraph 1 of this Article shall cease to have effect if the person referred to in this paragraph does not acquire and/or increase its qualifying holding in an electronic money institution within the period specified in paragraph 4 of this Article, and if it acquires and/or increases this holding within that period, but not at the level for which the approval has been granted, the approval will remain valid only for the share of acquired and/or increased qualifying holding in an electronic money institution.

The person who obtained the approval under paragraph 1 of this Article shall notify the National Bank of Serbia of any acquisition and/or increase in a qualifying holding in an electronic money institution, by no later than within eight days from the date of such acquisition and/or increase.

Article 81a of this Law shall apply *mutatis mutandis* to the process of deciding about the application for approval referred to in paragraph 1 of this Article.

### **Requirements for acquisition and/or increase in qualifying holding**

#### **Article 119**

The person submitting the application under Article 118, paragraph 2 of this Law must meet the following eligibility requirements to ensure safe and sound management of an electronic money institution:

- 1) have a good business reputation;
- 2) members of the managing body of the applicant – legal person and persons closely related to that legal person have a good business reputation;
- 3) the applicant's financial standing is appropriate, particularly in relation to the activities performed by an electronic money institution;
- 4) supervision of an electronic money institution in accordance with this Law shall not be prevented or significantly hindered due to close links of the applicant with other persons, nor shall the exchange of information between competent authorities be prevented or significantly hindered;
- 5) the group of undertakings to which the applicant – legal person belongs is transparent and the holding of all persons with direct or indirect holding in that legal person can be fully established, as well as any direct or indirect holding of such legal person in other legal persons;
- 6) business and other activities of the applicant are not linked to money laundering or terrorism financing, they may not threaten the safety and soundness of operation of an electronic money institution, and/or prevent or significantly hinder supervision of an electronic money institution or the exchange of data between competent bodies;
- 7) it is possible to determine the source of funding for acquiring and/or increasing the qualifying holding;
- 8) it meets other requirements prescribed by the National Bank of Serbia.

The National Bank of Serbia shall prescribe in detail the requirements for the acquisition and/or increase of a qualifying holding in an electronic money institution, and the evidence, documentation and data that the person referred to in paragraph 1 of this Article shall submit along with the application from that paragraph.

### **Acting in concert to acquire and/or increase qualifying holding**

#### **Article 120**

It shall be considered that, in order to acquire and/or increase a qualifying holding in an electronic money institution, the following persons act as a single acquirer:

- 1) a legal person and persons involved in the governance or management of that legal person or other legal person to which it is closely linked;
- 2) a legal person and persons directly appointed and dismissed by the managing body of such legal person or other legal person to which it is closely linked;
- 3) a legal person and agents and liquidators of that person or other legal person to which it is closely linked;
- 4) natural persons considered connected persons within the meaning of the law governing companies;
- 5) legal persons in whose management or governance the persons referred to in item 4) of this paragraph participate or have a controlling holding in them;
- 6) legal persons – members of the same group of undertakings;
- 7) persons involved in governance or management of the same legal person;
- 8) persons holding a qualifying holding in the same legal person;
- 9) person who enables another person to provide funds to acquire and/or increase a qualifying holding in an electronic money institution and such other person;
- 10) principal and agent;
- 11) two or more legal or natural persons among whom there is no relationship specified in items 1)–10) of this paragraph and who are connected in a manner which allows for a possibility that the deterioration or improvement in the financial standing of one person could lead to the deterioration or improvement in the financial standing of other person or persons, and the National Bank of Serbia, based on available documentation and data, estimates that there is a possibility of the transfer of loss, profit or creditworthiness.

In order to acquire and/or increase a qualifying holding in an electronic money institution, the person shall act as a single acquirer with another person even when there is no connection referred to in paragraph 1 of this Article between them but each person acts as a single acquirer with the same third person, in one of the ways set forth in that paragraph.

### **Disposal of and/or reduction in a qualifying holding**

#### **Article 121**

If a person who has received the approval referred to in Article 118 of this Law intends to dispose of the entire acquired qualifying holding and/or reduce it below the level for which the approval has been obtained, it shall notify the National Bank of Serbia thereof, stating the remaining level of the qualifying holding in that electronic money institution.

If the person referred to in paragraph 1 of this Article has fully disposed of its holding in an electronic money institution or has reduced it below the threshold of a qualifying holding – the approval from that paragraph shall cease to have effect, and if the person has reduced its qualifying holding in an electronic money institution below the level for which the approval has been granted, but not below the threshold of a qualifying holding – the approval shall remain valid only for the remaining level of the qualifying holding.

### **Legal consequence of unlawful acquisition of and/or increase in qualifying holding**

#### **Article 122**

If a person, without the approval from Article 118 of this Law acquires a qualifying holding in an electronic money institution or increases it so as to gain from 20% to 30%, more than 30% to 50% or over 50% of voting rights or capital in that institution, and/or to become its parent undertaking, the National Bank of Serbia shall adopt a decision requiring that person to dispose of the acquired and/or increased qualifying holding in that institution within a time period which

shall not exceed three months from the date of submission of the decision.

Upon delivery of the decision under paragraph 1 of this Article to an electronic money institution, the person referred to in that paragraph can no longer directly or indirectly exercise its voting rights in that institution, the right to dividend and other rights arising from the acquired or increased qualifying holding, nor can it influence the management of that institution or its business policy.

An electronic money institution shall ensure full implementation of the provision of paragraph 2 of this Article.

If the person referred to in paragraph 1 of this Article does not dispose of the acquired and/or increased qualifying holding in the manner and within the period specified in the decision from that paragraph, the legal act that was a basis for such acquisition and/or increase shall be null and void.

The National Bank of Serbia shall submit the decision under paragraph 1 of this Article to the Securities Commission and the Central Securities Depository and Clearing House.

### **Setting aside the approval for acquisition of and/or increase in qualifying holding**

#### **Article 123**

The National Bank of Serbia may set aside the decision on granting the approval referred to in Articles 118 and 124 of this Law if it establishes that the requirements specified in Article 119 of this Law for granting such approval are no longer met, or that a person with a qualifying holding may jeopardise safe and sound operation of an electronic money institution, or that the person increased its qualifying holding without the prior approval of the National Bank of Serbia beyond the threshold for which it obtained the approval by means of the decision.

If the National Bank of Serbia sets aside the decision under paragraph 1 of this Article, it shall require, by way of a decision, from the person to whom the approval has been set aside to dispose of its qualifying holding in an electronic money institution within the time limit of up to three months from the day of submission of this decision.

Provisions of Article 122, paragraphs 2, 3 and 5 of this Law shall apply *mutatis mutandis* to the rights and obligations of persons under paragraph 2 of this Article, obligations of an electronic money institution and submission of the decision from that paragraph.

### **Acquiring and/or increasing qualifying holding with subsequent approval**

#### **Article 124**

By way of derogation from Article 118 of this Law, a person may, without prior approval of the National Bank of Serbia, acquire and/or increase its qualifying holding in an electronic money institution through inheritance, legal succession or other acquisition independent of the will of the acquirer.

A person who acquired and/or increased its qualifying holding in the manner specified in paragraph 1 of this Article shall, within one month from the date of such acquisition and/or increase submit an application for approval of such acquisition and/or increase to the National Bank of Serbia or notify the National Bank of Serbia that it has alienated the qualifying holding acquired and/or increased in such way.

Until the decision of the National Bank of Serbia on granting approval to acquire and/or increase a qualifying holding is adopted, the person who has acquired a qualifying holding in the manner specified in paragraph 1 of this Article shall not directly or indirectly exercise its voting rights in an electronic money institution, or the right to dividend and other rights arising from the acquired and/or increased qualifying holding, nor can they influence the management of an electronic money institution or its business policy.

An electronic money institution shall ensure full implementation of the provision of

paragraph 3 of this Article.

Provisions of Article 118, paragraph 2 and Article 119 of this Law shall apply *mutatis mutandis* to the decision of the National Bank of Serbia on the application referred to in paragraph 2 of this Article.

Provisions of Article 122, paragraphs 1, 2, 3 and 5 of this Law shall apply *mutatis mutandis* if the National Bank of Serbia by its decision refuses to grant approval under paragraph 2 of this Article.

### **Providing information in relation to a qualifying holding**

#### **Article 125**

If there is suspicion that a person has acquired and/or increased its qualifying holding without the approval referred to in Article 118 of this Law, or that within the timeframe specified in Article 124, paragraph 2 of this Law it did not submit the application or notification from that paragraph, the National Bank of Serbia may require from that person or its parent undertaking, as well as members of bodies of that person and/or undertaking to provide information and relevant documentation relating to the verification and identification of such circumstances.

The National Bank of Serbia may require that the information and documentation referred to in paragraph 1 of this Article shall also be submitted by qualifying holders who have been granted the approval specified in Articles 118 and 124 of this Law.

The persons referred to in paragraph 2 of this Article shall submit to the National Bank of Serbia data and information on the newly appointed members of managing bodies of these persons, the persons who acquire a qualifying holding in them or become closely linked to them, and on any status change, by no later than 15 days from the date of appointment, and/or the date of acquiring such status and/or from the date of becoming aware of a future status change.

An electronic money institution shall at least annually and at the request of the National Bank of Serbia, notify the National Bank of Serbia of the identity of all persons who have qualifying holdings in the institution and of the share held by each of them.

The National Bank of Serbia may prescribe in detail the terms and manner of submitting the data and information specified in this Article.

### **Derogations when electronic money institutions are engaged in other business activities**

#### **Article 126**

The National Bank of Serbia may prescribe that all or certain provisions of Articles 118–125 of this Law do not apply to electronic money institutions which are, according to law, engaged in other activities not connected to the issuance of electronic money or provision of payment services, especially if these activities and/or the ownership structure of such institutions are subject to supervision of the competent authority in accordance with a special law.

### **3. License to issue electronic money**

#### **Application for the license to issue electronic money**

#### **Article 127**

The undertaking intending to issue electronic money shall submit an application for the license to issue electronic money to the National Bank of Serbia, supported with the following:

- 1) the decision on registration in the register of business entities;
- 2) articles of incorporation and/or articles of association;
- 3) the list of payment services and other activities specified in Article 116, paragraph 2 of this Law, which an electronic money institution intends to provide and/or engage in;
- 4) the assessment of risks to which it shall be exposed as an electronic money institution;

5) a programme of activities of an electronic money institution, regulating in detail the terms and manner of issuance of electronic money and provision of payment services specified in item 3) of this Article;

6) a business plan of an electronic money institution, including a projection of revenues and expenses for the first three years of its operation, demonstrating the ability of the institution to ensure the fulfilment of appropriate organisational, personnel, technical and other requirements for safe and sound operation;

7) evidence that the applicant holds initial capital prescribed by Article 128 of this Law;

8) a projection of the amount of capital requirements for the first year of operation, calculated in accordance with Article 130 of this Law;

9) a description of measures intended to be taken to safeguard funds of electronic money holders and payment service users, in accordance with Article 133 of this Law;

10) a description of the governance and internal controls systems;

11) a description of internal control measures put in place in order to comply with requirements arising from regulations governing the prevention of money laundering and terrorism financing;

12) a description of the organisational structure, including data on the planned issuance of electronic money through branches and/or provision of payment services through branches and/or agents, and data on outsourcing some operational activities in relation to the issuance of electronic money and/or provision of payment services;

13) a description of procedures and mechanisms of internal controls and internal audit put in place for the purpose of protecting the interests of electronic money holders, and, if it provides payment services specified under item 3) of this paragraph, payment service users, for the purpose of ensuring continuous, safe and sound issuance of electronic money and/or provision of payment services, in connection with items 9)–12) of this paragraph;

14) a description of participation in payment systems, if an electronic money institution intends to participate in those systems;

15) identities of persons who are members of managing bodies of the applicant referred to in this paragraph and future managers of an electronic money institution, along with data and evidence that these persons have a good business reputation and appropriate professional qualifications and experience, in accordance with Article 80 of this Law;

16) data on persons having a qualifying holding in the applicant from this paragraph, the size of their holding and evidence regarding the ability of these persons to ensure safe and sound management of an electronic money institution in accordance with Article 119 of this Law;

17) data on the external auditor to audit financial statements of the applicant for the year in which the application is submitted, if such audit is mandatory for the applicant, in accordance with law;

18) data on persons having close links with the applicant from this paragraph and the description of the manner in which they are linked;

19) address of the head office of the applicant from this paragraph.

The National Bank of Serbia shall decide on the application under paragraph 1 of this Article by no later than three months following the day of receipt of a duly completed application.

If the application from paragraph 1 hereof is not duly completed, within one month upon receiving the application the National Bank of Serbia shall inform the company referred to in that paragraph how to duly complete the application, in which case the deadline from paragraph 2 of this Article shall start to run as of the day of submission of the duly completed application, in accordance with the notification from this paragraph.

The decision on granting the license to issue electronic money shall be published in the Official Gazette of the Republic of Serbia and on the website of the National Bank of Serbia.

In the decision referred to in paragraph 4 of this Article, the National Bank of Serbia shall specify the payment services which an electronic money institution shall provide.

Provisions of Articles 84–87 of this Law shall apply *mutatis mutandis* to the refusal of application for the license to issue electronic money, supplement to this license, and a change in circumstances after granting the license and its termination.

If a payment institution has been granted the license to issue electronic money, the license to provide payment services expires on the business day following the day of submission of the license to issue electronic money to a payment institution.

The National Bank shall prescribe in detail the conditions and manner of granting the license to issue electronic money.

### **Initial capital of an electronic money institution**

#### **Article 128**

During the process of granting the license to issue electronic money and on the day of receiving the decision of the National Bank of Serbia granting this license, the initial capital of the undertaking applying for the license shall be no less than the dinar equivalent of EUR 350,000 at the official middle exchange rate.

The National Bank of Serbia shall prescribe in detail the elements and method of calculation of initial capital of an electronic money institution.

### **4. Operations of an electronic money institution**

#### **Safe and sound operations of an electronic money institution**

#### **Article 129**

An electronic money institution shall at all times operate in compliance with organisational, personnel, technical and other requirements laid down in this Law and other regulations.

Provisions of Article 89 of this Law shall apply *mutatis mutandis* to the governance and internal controls systems of an electronic money institution.

### **Minimum own funds of an electronic money institution**

#### **Article 130**

In order to ensure its safe and sound operation and be able to meet obligations to creditors, an electronic money institution shall maintain an appropriate level of own funds which shall at no time be less than the amount of initial capital prescribed in Article 128 of this Law or of the aggregate amount of capital requirements specified in paragraphs 2 and 3 of this Article, whichever is higher.

If it provides payment services not directly related to the issuance of electronic money, an electronic money institution shall calculate capital requirements for such services by applying the method for calculation of capital requirements of a payment institution, in line with Article 90, paragraphs 2–4 of this Law.

Capital requirements of an electronic money institution for the activity of issuing electronic money shall be at least 2% of average outstanding electronic money.

Average outstanding electronic money is the average total amount of financial liabilities relating to the issued electronic money at the end of each calendar day over the preceding six months. This average is calculated on the first day in the month for the previous six months, and is used to calculate capital requirements for the issuance of electronic money for that month.

If an electronic money institution provides payment services not directly linked to the issuance of electronic money or performs other activities specified in Article 116, paragraph 2, items 2)–5) of this Law, and the amount of average outstanding electronic money is not known in advance, the National Bank of Serbia may, by way of a decision, approve the institution to



use the representative portion assumed to be used for the purpose of electronic money issuance instead of the average outstanding electronic money as the basis for calculating capital requirements for the issuance of electronic money.

Along with the application from paragraph 5 of this Article, an electronic money institution shall submit to the National Bank of Serbia evidence that it is not possible to calculate the amount of average outstanding electronic money in advance and evidence that the representative portion referred to in that paragraph can be reasonably estimated on the basis of historical data.

If the period over which it operates is not sufficiently long to calculate average outstanding electronic money, an electronic money institution may, instead of this average, use the projected amount of outstanding electronic money determined in its business plan as the basis for calculation of capital requirements for the issuance of electronic money, subject to prior notification to the National Bank of Serbia which may require an adjustment of an unrealistically projected amount.

The manner of calculating own funds and capital requirements of an electronic money institution, as well as the manner and time limits for reporting on the method for calculating own funds and capital requirements, shall be specified in more detail by a regulation of the National Bank of Serbia.

### **Changes to the minimum amount of own funds**

#### **Article 131**

The National Bank of Serbia may, by way of a decision, order an electronic money institution to increase own funds referred to in Article 130 of this Law up to 20% relative to the sum of capital requirements calculated in accordance with paragraphs 2 and 3 of that Article.

Upon the application of an electronic money institution, the National Bank of Serbia Bank may, by way of a decision, approve the reduction in own funds referred to in Article 130 of this Law up to 20% relative to the sum of capital requirements calculated in accordance with paragraphs 2 and 3 of that Article, whereas own funds may not be lower than initial capital specified in Article 128 of this Law.

The National Bank of Serbia shall adopt decisions under paragraphs 1 and 2 of this Article taking into account the functioning of the governance and internal controls systems, and in particular risk management in an electronic money institution, as well as data on losses incurred in the institution's operations.

### **Receiving funds from electronic money holders**

#### **Article 132**

Any funds received by an electronic money institution from an electronic money holder shall be exchanged for electronic money without delay.

Funds from paragraph 1 of this Article shall not constitute a deposit within the meaning of the law governing banks.

An electronic money institution shall not engage in deposit-taking activities.

### **Safeguarding funds of electronic money holders and payment service users**

#### **Article 133**

An electronic money institution shall safeguard the funds received for the purpose of exchange for issued electronic money, in accordance with provisions of Articles 93 and 94 of this Law.

The funds referred to in paragraph 1 of this Article, received in the form of payment by a payment instrument need not be safeguarded until they are credited to an electronic money

institution's payment account or are otherwise made available to an electronic money institution in accordance with this Law. In any event, an electronic money institution shall safeguard these funds within five business days after the issuance of electronic money.

If an electronic money institution provides services not directly linked to the issuance of electronic money, it shall safeguard the funds received from payment service users or other payment service providers in relation to the execution of a payment transaction in accordance with Articles 93 and 94 of this Law.

### **Provisions on operations and financial reporting of payment institutions which apply *mutatis mutandis* to electronic money institutions**

#### **Article 134**

Provisions of Articles 96–100 shall apply *mutatis mutandis* to electronic money institutions.

By way of derogation from Article 98, paragraph 3 of this Law, an electronic money institution shall separately enter in its business books business changes arising from the issuance of electronic money and business changes arising from payment services not directly linked to the issuance of electronic money.

By way of derogation from Article 100, paragraphs 1 and 2 of this Law, in addition to individual financial statements for the previous year and the external auditor's report, an electronic money institution shall also submit to the National Bank of Serbia separate accounting records relating to the issuance of electronic money and separate accounting records relating to payment services not directly linked to the issuance of electronic money, together with the external auditor's report regarding those records, by no later than 30 days from the submission of financial statements in accordance with the law governing accounting.

An electronic money institution is considered a large legal person within the meaning of the law governing accounting.

### **Issuance of electronic money and provision of payment services through a branch**

#### **Article 135**

An electronic money institution may issue electronic money and provide payment services through a branch.

A branch of an electronic money institution is its separate organisational part without legal capacity, through which the institution issues electronic money or provides one or more payment services, in accordance with this Law.

In a third country, an electronic money institution may issue electronic money and provide payment services only through a branch.

In order to establish a branch in a third country, an electronic money institution shall submit the application to the National Bank of Serbia for granting approval, accompanied with the following data and documentation:

- 1) name and address of the branch;
- 2) description of the organisational structure of the branch;
- 3) business plan of the branch for the first three years of operation and description of operations which it intends to provide through the branch;
- 4) data on persons that will manage operations of the branch and on persons that will directly manage the issuance of electronic money and provision of payment services in the branch, accompanied with data and evidence of their good business reputation, and adequate professional qualifications and experience, in accordance with Article 80 of this Law.

The National Bank of Serbia shall decide on the application specified in paragraph 4 of this Article within three months of the receipt of a duly completed application.

If the application from paragraph 4 hereof is not duly completed, within one month upon receiving the application the National Bank of Serbia shall inform the electronic money institution referred to in that paragraph how to duly complete the application, in which case the deadline referred to in paragraph 5 of this Article shall start to run as of the day of submission of the duly completed application, in accordance with the notification from this paragraph.

The National Bank of Serbia shall prescribe in detail the conditions and manner of granting and withdrawing the approval referred to in paragraph 4 of this Article.

### **Issuance of electronic money and provision of payment services through an agent and through outsourcing some operational activities**

#### **Article 136**

An electronic money institution shall not issue electronic money through an agent.

An electronic money institution may provide payment services through one or more agents.

Provisions of Article 101, paragraph 4 and Article 102 of this Law shall apply *mutatis mutandis* to an electronic money institution intending to provide payment services through an agent in the Republic of Serbia.

Provisions of Article 103 of this Law shall apply *mutatis mutandis* to an electronic money institution intending to outsource some of its operational activities in relation to the issuance of electronic money and provision of payment services.

### **Distribution and redemption of electronic money through a third person**

#### **Article 137**

An electronic money institution may perform the distribution and redemption of electronic money through a third natural or legal person with which it concluded the contract on the performance of these activities, after it informs the National Bank of Serbia thereof and submits to it data on such person (name and surname, unique identification citizen number and address of permanent residence for natural persons and/or the business name or name, registration number, tax identification number and address of the head office for legal persons and entrepreneurs).

If it ceases to perform the distribution and redemption of electronic money through persons referred to in paragraph 1 hereof, an electronic money institution shall inform the National Bank of Serbia thereof without delay.

An electronic money institution shall publish on its website and shall update on a daily basis the list containing data from paragraph 1 of this Article about all third natural and legal persons through which it performs the distribution and redemption of electronic money.

### **Liability of an electronic money institution**

#### **Article 138**

An electronic money institution issuing electronic money, providing payment services and/or distributing and redeeming electronic money in accordance with Articles 135–137 of this Law shall be liable for lawful operation of its branch, agent and third person and for lawful execution of operational activities outsourced to a third person.

## **5. Register of electronic money institutions**

### **Contents and manner of maintaining the register of electronic money institutions**

#### **Article 139**

The National Bank of Serbia shall maintain the register of electronic money institutions.

The register of electronic money institutions shall contain data on:

- 1) electronic money institutions licensed to issue electronic money;

2) agents of electronic money institutions in the Republic of Serbia through which these institutions provide payment services;

3) branches of electronic money institutions in third countries.

The National Bank of Serbia shall enter all changes in relation to the entities listed in the register of electronic money institutions on a regular basis.

The register of electronic money institutions is a public record in electronic form, and the data contained therein are available on the website of the National Bank of Serbia.

The National Bank of Serbia shall prescribe in detail the requirements, contents and manner of keeping the register of electronic money institutions and the manner of removing data from the register.

## **Part IV PAYMENT SYSTEMS**

### **Title I**

### **MAIN FEATURES OF THE PAYMENT SYSTEM**

#### **Payment system in the Republic of Serbia**

##### **Article 140**

Provisions of this Law shall apply to the payment system operating in the Republic of Serbia, whose operator may only be the person specified in Article 144 of this Law.

#### **Interoperable payment systems**

##### **Article 141**

Interoperable payment systems are two or more payment systems whose operators have concluded an agreement on the transfer of funds of a participant in one payment system to a participant in the other payment system.

Conclusion of the agreement under paragraph 1 of this Article does not create a new payment system.

#### **Activities in the payment system**

##### **Article 142**

Activities of processing, netting and/or settlement of transfer orders are performed within the payment system.

The processing of transfer orders is the process of submitting, receiving and checking, and may include the sorting of these orders.

Netting is the process of converting claims and liabilities based on transfer orders which one or more participants in the payment system send or receive from one or more participants in that system – in one net liability or a net claim of an individual participant in the payment system:

- 1) to all other participants in the system – a multilateral net settlement position, or
- 2) to every other individual participant in the system – bilateral net settlement position.

Settlement is the discharging of financial obligations and/or claims between participants in the payment system based on transfer orders, performed by the transfer of funds.

A transfer order in the payment system is an instruction by a participant in that system to place at the recipient's disposal funds or an instruction which results in the assumption or discharge of payment obligations between participants in the payment system.

#### **Participants in the payment system**

##### **Article 143**

Participants in the payment system may be:

- 1) the National Bank of Serbia;
- 2) a bank;
- 3) an electronic money institution;
- 4) a payment institution;
- 5) a public postal operator;
- 6) an investment undertaking with the head office in the Republic of Serbia, which operates in accordance with the law governing the capital market;
- 7) the Republic of Serbia, autonomous province or local self-government unit, public authority, as well as an undertaking and other legal person established by the Republic of Serbia and whose obligations are guaranteed by the Republic of Serbia;
- 8) the operator of other payment system;
- 9) the Central Securities Depository and Clearing House or another operator of the securities settlement system.

In addition to participants from paragraph 1 of this Article, the payment system operator is considered a participant in that system.

Participants in the payment system are responsible for discharging financial obligations arising from transfer orders within that system.

The participant referred to in paragraph 1 of this Article may also participate in the payment system indirectly through another participant with whom it is in a contractual relationship and which enables the execution of transfer orders in that system, provided that the indirect participant is known to the operator of that payment system.

### **Payment system operator**

#### **Article 144**

A payment system operator (hereinafter: operator) is a legal person that manages the payment system's operation in accordance with payment system rules.

The operator may be:

- 1) the National Bank of Serbia;
- 2) a bank;
- 3) a public postal operator;
- 4) an electronic money institution;
- 5) a payment institution.

In addition to the persons referred to in paragraph 2 this Article, the operator may be:

- 1) an undertaking with the head office in the Republic of Serbia established as a joint-stock undertaking or a limited liability undertaking, in accordance with the law governing companies;
- 2) an association of banks or other payment service providers with the head office in the Republic of Serbia, established in accordance with the law governing banks and/or other law.

### **The National Bank of Serbia as an operator**

#### **Article 145**

The National Bank of Serbia may establish payment systems that it operates, may operate these systems and improve their work, participate in these systems and issue rules of those systems.

By way of derogation from Article 143 of this Law, the National Bank of Serbia may determine by payment system rules referred to in paragraph 1 of this Article that a participant in that system may be a central bank from a third country, and/or a legal person with the head office in a third country that performs activities appropriate to activities of a bank in terms of the

law governing banks.

The National Bank of Serbia shall establish, maintain and administer the IT infrastructure for payment systems which it operates.

The National Bank of Serbia may establish a system of the national payment card, operate that system, improve its operation and issue its operating rules.

The system referred to in paragraph 4 of this Article shall not constitute a payment system.

### **Members of the operator's managing body, persons directly managing payment system operation and a person with a qualifying holding in an operator**

#### **Article 146**

A member of an operator's managing body referred to in Article 144, paragraph 3 of this Law must have a good business reputation to manage payment system operation.

A person who directly manages payment system operation with an operator licensed by the National Bank of Serbia (hereinafter: director of a payment system) must have a good business reputation, as well as appropriate professional qualifications and experience in managing payment system operation.

Articles 80 and 81a of this Law shall apply *mutatis mutandis* to the member of an operator's managing body from paragraph 1 of this Article and the director of the payment system.

Provisions of Articles 81 and 81a of this Law shall apply *mutatis mutandis* to the person with a qualifying holding in an operator referred to in paragraph 1 of this Article.

### **Settlement agent**

#### **Article 147**

A settlement agent shall open, maintain and close settlement accounts of participants in the payment system, and may, if licensed by law, grant credits to those participants for the purpose of settlement.

A settlement account means an account in which funds are held and which is used for settlement.

A settlement agent may be the National Bank of Serbia or a bank.

By way of derogation from paragraph 3 of this Article, the National Bank of Serbia may determine by rules of the payment system it operates that the settlement agent for that system may be other legal person.

### **Payment system rules**

#### **Article 148**

Payment system rules shall stipulate in particular the following:

- 1) possible participants in the payment system according to their type, in accordance with Article 143 of this Law;
- 2) conditions for participation in the payment system;
- 3) manner of performing activities in the payment system;
- 4) rights and obligations of the operator and participants in the payment system in relation to risk management in this system;
- 5) working days and a daily schedule of the payment system;
- 6) terms and conditions of termination of participation in the payment system (exclusion of participants from the payment system, and/or voluntary withdrawal from the system).

### **Conditions for participation in the payment system**

#### **Article 149**

Payment system rules shall determine objective, non-discriminatory and proportionate conditions for participation in the payment system.

Participation in the payment system may be restricted only to the extent necessary to safeguard against financial, operational, business and other risks, and to preserve financial and operational stability of the system.

Payment system rules may not determine:

- 1) restrictions regarding participation in other payment systems;
- 2) rules that lead to a discriminatory position regarding rights and obligations related to participation in the payment system;
- 3) restrictions based on the type of a payment service provider.

Provisions of paragraphs 1–3 of this Article shall not apply to:

- 1) the payment system determined as important in accordance with this Law;
- 2) the payment system in which participants are exclusively payment service providers belonging to a group of undertakings linked by capital, with one of the linked undertakings having a controlling holding in other undertakings in the group;
- 3) the payment system in which a sole payment service provider:
  - (1) acts or can act as a payment service provider for the payer and the payee and is exclusively responsible for managing the system, and
  - (2) authorises other payment service providers to participate in that system, and those payment service providers have no right to negotiate fees between or among themselves in relation to that system, but they have the right to determine their own fees in relation to the provision of payment services to the payer and the payee.

## **Title II**

### **LICENSE FOR PAYMENT SYSTEM OPERATION**

#### **License as a precondition for payment system operation**

##### **Article 150**

In order to operate an individual payment system, an operator is required to obtain a license from the National Bank of Serbia (hereinafter: license for payment system operation), except in case of a payment system operated by the National Bank of Serbia.

The payment system whose operator is the National Bank of Serbia shall be established by determining the rules of operation of that system.

The operator that obtained the license for payment system operation shall notify the National Bank of Serbia of the commencement of operation of that system at least eight days prior to the date determined for commencement of operation of that system.

#### **Application for license for payment system operation**

##### **Article 151**

The legal person referred to in Article 144, paragraph 3 of this Law, which intends to manage payment system operation, shall submit to the National Bank of Serbia an application to obtain the license for payment system operation, along with the following documents:

- 1) the proof of registration in the register of business entities and/or registration with the competent body;
- 2) articles of incorporation and/or articles of association;
- 3) the business plan for the first three years of operation of the payment system that demonstrates the applicant's ability to ensure the fulfilment of appropriate organisational, personnel, technical and other requirements for safe and sound operation of the payment system;
- 4) evidence of the amount of initial capital prescribed in Article 152 of this Law;

- 5) proposal of payment system rules, in accordance with Article 148 of this Law;
- 6) the adhesion contract concluded between the applicant and participants in the payment system by which participants accept rules of operation of that system, which produces legal effect when the applicant receives the license for payment system operation;
- 7) description of governance system, in accordance with Article 156 of this Law;
- 8) data on members of the applicant's managing body, accompanied with data and evidence of their good business reputation, in accordance with Article 80 of this Law;
- 9) data on payment system directors, accompanied with data and evidence of their good business reputation, appropriate professional qualifications and experience in accordance with Article 80 of this Law;
- 10) data on persons having a qualifying holding in the applicant, the size of their holding and evidence regarding the ability of those persons to ensure safe and sound management of payment system operation, in accordance with Article 81 of this Law;
- 11) data on the external auditor performing audit of financial statements of the applicant for the year in which the application is submitted, if such audit is mandatory for the applicant, in accordance with law.

The legal person referred to in Article 144, paragraph 2, items 2) and 3) of this Law, which intends to manage payment system operation shall submit to the National Bank of Serbia an application to obtain the license for payment system operation, along with the documentation specified in paragraph 1, items 3), 5), 6), 7), and 9) of this Article.

The legal person referred to in Article 144, paragraph 2, items 4) and 5) of this Law, which intends to manage payment system operation, shall submit to the National Bank of Serbia an application to obtain the license for payment system operation, along with the documentation specified in paragraph 1, items 3), 4) 5), 6), 7), and 9) of this Article.

The National Bank of Serbia may prescribe that the legal person that intends to manage payment system operation shall, with the application to obtain the license for payment system operation, provide other documentation and/or data.

The National Bank of Serbia shall decide on the application for the license for payment system operation within four months following the day of receipt of a duly completed application.

Article 81a of this Law shall apply *mutatis mutandis* in the process of deciding about the application referred to in paragraph 1 of this Article.

If the application from paragraph 1 hereof is not duly completed, within one month upon receiving the application the National Bank of Serbia shall inform the person referred to in that paragraph how to duly complete the application, in which case the deadline from paragraph 5 of this Article shall start to run as of the day of submission of the duly completed application, in accordance with the notification from this paragraph.

The decision on granting the license for payment system operation shall be published in the Official Gazette of the Republic of Serbia and on the website of the National Bank of Serbia.

The National Bank of Serbia shall prescribe in detail the conditions and manner of granting the license for payment system operation.

### **Initial capital of the operator**

#### **Article 152**

The legal person under Article 144, paragraph 2, items 4) and 5) and paragraph 3 this Law, which applies for the license for payment system operation shall, in the course of the procedure and on the day of receipt of the decision of the National Bank of Serbia on granting the license, have initial capital which may not be less than the dinar equivalent of EUR 1,000,000 at the official middle exchange rate.



The legal person under paragraph 1 of this Article shall ensure initial capital in addition to the minimum amount of own funds which it is required to maintain in line with provisions of this or other law.

By way of derogation from paragraph 2 of this Article, the operator that has obtained the license for payment system operation and submits application for license for the operation of a new payment system is not required to provide initial capital for the new payment system in addition to the minimum amount of own funds that it already maintains in accordance with Article 157 of this Law.

The National Bank of Serbia shall prescribe in detail the elements and method of calculation of the operator's initial capital.

### **Refusal of application for license for payment system operation**

#### **Article 153**

The National Bank of Serbia shall refuse an application for license for payment system operation if it assesses that the applicant does not meet the conditions under Article 151 of this Law, and/or if it assesses that the applicant's proposal of payment system rules does not warrant the safe and sound operation of the payment system.

The National Bank of Serbia shall refuse an application for the license for payment system operation if it assesses that, due to business activities of the applicant other than those in relation to payment system activities, the safety and soundness of payment system operation would be jeopardised or that payment system supervision in line with this Law would be significantly hindered because of these activities.

The applicant whose application for license for payment system operation has been refused may not submit a new application within one year from the refusal date.

### **Changes in circumstances after granting the license for payment system operation**

#### **Article 154**

The operator shall, without undue delay, notify the National Bank of Serbia of any changes in facts or circumstances based on which the license for payment system operation has been granted and shall also submit the revised documentation and data specified under Article 151 of this Law.

In the notification referred to in paragraph 1 of this Article, the operator shall describe in detail the nature and scope of those changes.

### **Expiry of license for payment system operation**

#### **Article 155**

The license for payment system operation shall expire in the following cases:

- 1) on the day specified as the date of expiry in the decision of the National Bank of Serbia on revocation of the license;
- 2) on the day of deletion of the operator from the register of business entities, and/or other register of a competent body, due to a status change;
- 3) on the day of opening bankruptcy or court-ordered liquidation proceedings against the operator.

## **Title III**

### **PAYMENT SYSTEM OPERATIONS**

#### **Ensuring safe and sound payment system operation**

#### **Article 156**

An operator shall at all times maintain and enhance safe and sound operation of the payment system and specially ensure the following:

- 1) fulfilment of organisational, personnel, technical and other requirements established by this Law and other regulations;
- 2) a proper governance system, including in particular risk management and internal controls systems;

Risk management in the payment system shall include the management of all types of risks in this system, particularly financial and operational risks.

Financial risk in the payment system is the possibility of occurrence of negative effects on payment system operation due to the inability of a participant or other person in this system to meet its due obligations (liquidity risk), or to permanently fulfil all its obligations (solvency risk).

Operational risk in the payment system is the possibility of occurrence of negative effects on payment system operation due to failures by employees, deficiencies in the work of information and other systems, inadequate internal procedures and processes, and due to the occurrence of unpredictable external events.

The National Bank of Serbia shall prescribe in detail the manner of maintaining and enhancing safe and sound operation of the payment system.

### **Minimum own funds of the operator**

#### **Article 157**

The operator specified in Article 144, paragraph 2, items 4) and 5) and paragraph 3 of this Law shall maintain an appropriate level of own funds which shall at no time be less than the dinar equivalent of EUR 1,000,000 at the official middle exchange rate or less than the amount of prescribed capital requirements – depending on which amount is higher.

The amount of capital requirements under paragraph 1 of this Article for an operator performing other business activities as well shall be calculated only for the part of its operations relating to management of payment system operation.

The operator shall maintain minimum capital in addition to the other minimum amount of capital which it is required to maintain in line with the provisions of this or other law.

The method of calculation of the operator's own funds and capital requirements, as well as the manner and timeframe of reporting on own funds and capital requirements shall be regulated in detail by a regulation of the National Bank of Serbia.

### **Amendments and supplements to payment system rules**

#### **Article 158**

The operator shall submit to the National Bank of Serbia the application for approval of amendments and supplements to elements of payment system rules, in accordance with Article 148 of this Law.

Along with the application specified in paragraph 1 of this Article, the operator shall submit proposal of amendments and supplements to payment system rules and other documentation prescribed by the National Bank of Serbia.

The National Bank of Serbia shall decide on the application under paragraph 1 of this Article within two months following the day of receipt of a duly completed application.

If the application referred to in paragraph 1 hereof is not duly completed, within 15 days upon receiving the application the National Bank of Serbia shall inform the operator referred to in that paragraph how to duly complete the application, in which case the deadline from paragraph 3 of this Article shall start to run as of the day of submission of the duly completed application, in accordance with the notification from this paragraph.

Amendments and supplements to payment system rules may not enter into force before the decision granting approval for these amendments and supplements is submitted to the operator.

The operator shall notify the National Bank of Serbia of any amendments and supplements to payment system rules that are not covered by paragraph 1 of this Article, by no later than the following business day from the day of adoption of these amendments and supplements. The operator shall accompany this notification with the adopted amendments and supplements to payment system rules.

The National Bank of Serbia may prescribe in detail the conditions and manner of granting the approval referred to in paragraph 1 of this Article.

### **Outsourcing of operational activities**

#### **Article 159**

An operator intending to outsource some of its operational activities related to payment system operation shall notify in advance the National Bank of Serbia thereof.

An operator may outsource some activities specified in paragraph 1 of this Article if the following conditions are met:

- 1) the operator's responsibilities and obligations to participants are not diminished;
- 2) after outsourcing these activities, the operator continues to meet the requirements of Article 151 of this Law and operates in accordance with other provisions of this Law;
- 3) the exercise of payment system supervision is not hindered.

The operator that outsourced activities from paragraph 1 of this Article shall be liable for the legality of performing those activities and for the damage caused by the person to whom activities were outsourced in relation to the performance of these activities.

The operator shall enable the National Bank of Serbia to perform its supervision function over the person to whom it outsourced some operational activities, in the part of the person's operations related to these activities, and provide access to business records and other documentation and data arising from the performance of these activities available to that person.

### **Keeping data and documentation created in the payment system**

#### **Article 160**

The operator shall keep data on executed transfer orders and other documentation created in the course of payment system operation not less than five years from the date of their execution and/or creation, unless a longer time period is prescribed by law.

### **Business books, financial statements and audit of financial statements of an operator**

#### **Article 161**

The operator specified under Article 144, paragraph 3 of this Law shall keep business books, recognise and value assets and liabilities, revenues and expenses, compile, present, submit and publish information from financial statements, as well as perform internal audit in accordance with laws governing accounting and audit and other legal and internal regulations and standards of the profession, unless otherwise specified by this Law.

The operator specified under Article 144, paragraph 2, items 4) and 5) and paragraph 3 of this Law shall separately enter in its business books the business changes in relation to the management of payment system operation.

Provisions of Article 99 of this Law shall apply *mutatis mutandis* to the audit of financial statements of the operator specified in paragraph 1 of this Article.

The operator is considered a large legal person in line with the law governing accounting.

## **Submission of financial statements of the operator to the National Bank of Serbia**

### **Article 162**

The operators under Article 144, paragraph 2, items 4) and 5) of this Law that submit financial statements in accordance with Articles 100 and 134 of this Law, shall also submit to the National Bank of Serbia separate accounting records relating to the management of payment system operation, and ensure that the external auditor's report contains an opinion on such data.

The operator specified under Article 144, paragraph 3 of this Law shall submit to the National Bank of Serbia individual financial statements for the previous year, together with separate accounting records relating to management of payment system operation and external auditor's report containing an opinion on these records, by no later than 30 days from the day of submission of financial statements in accordance with the law governing accounting.

If the operator specified under paragraph 2 of this Article is required to compile consolidated financial statements as well, it shall submit them to the National Bank of Serbia for the previous year, along with the external auditor's report, by no later than 30 days from the day of submission of consolidated financial statements in accordance with the law governing accounting.

## **Accessibility of information and data on the payment system**

### **Article 163**

The operator shall publish on its website and regularly update basic information and data on the payment system which it operates, in particular: the name of the payment system and its main features, business name and head office of the operator and each participant in that system, and fees charged in connection with participation in the payment system.

The operator shall ensure that payment system participants and potential participants in that system have access to documentation, information and data relating to rights and obligations of participants in the payment system and risk management in that system.

## **Application of certain provisions of this Title to payment systems operated by the National Bank of Serbia**

### **Article 164**

Provisions of Articles 156, 160 and 163 of this Law shall also apply to payment systems operated by National Bank of Serbia.

## **Records of payment systems**

### **Article 165**

The National Bank of Serbia shall maintain records of payment systems in the Republic of Serbia.

The records under paragraph 1 of this Article shall be public, maintained in an electronic form and accessible on the website of the National Bank of Serbia.

The National Bank of Serbia shall prescribe in detail the contents and manner of keeping the records specified under paragraph 1 of this Article.

## **Title IV**

## **SETTLEMENT FINALITY IN IMPORTANT PAYMENT SYSTEMS**

### **Important payment system**

### **Article 166**

The National Bank of Serbia may determine that a payment system is important if that system, in addition to the requirements prescribed by this Law, fulfils the following conditions:

- 1) it has at least three participants, not including the operator of the system, settlement agent and indirect participant;
- 2) at least one participant in this system has its head office in the Republic of Serbia;
- 3) it is important for the stability of the financial system.

The participant in the payment system referred to in paragraph 1 of this Article (hereinafter: important payment system) cannot be a payment institution, electronic money institution or public postal operator.

The settlement agent for an important payment system may solely be the National Bank of Serbia.

Important payment systems are kept separately within the records referred to in Article 165 of this Law, and these records in particular contain data on the name of such system, business name and head office of its operator, and a list of participants in the system.

The National Bank of Serbia shall prescribe the manner and criteria for determining important payment systems.

### **Moment of entry and irrevocability of a transfer order**

#### **Article 167**

The moment of entry of a transfer order into the system shall be defined by the rules of an important payment system, as shall the moment from which neither a participant in the system nor a third person may revoke the transfer order (the moment of irrevocability of the transfer order).

In the rules of interoperable important payment systems, the moment of entry and the moment of irrevocability of the transfer order in the system shall be determined so that these rules are aligned with each other to the extent possible.

The rules of one system referred to in paragraph 2 of this Article regarding the moment of entry of the transfer order in the system and the moment of irrevocability of that order may not be affected by the rules of other system with which it is interoperable, unless otherwise determined by the rules of all systems within interoperable systems.

### **Irrevocability of netting and transfer orders in the event of a participant's inability to settle obligations**

#### **Article 168**

In the event of inability to settle obligations of a participant in an important payment system, a participant in an interoperable important payment system or an operator of an interoperable important payment system which is not a participant – netting and transfer orders shall be legally enforceable and binding on third persons provided that transfer orders have entered into the system before the moment of occurrence of that inability.

Transfer orders entered into an important payment system after the moment of occurrence of inability of persons from paragraph 1 of this Article and executed on the same business day – shall be legally enforceable and binding on third persons only if the system operator was not nor could have been aware of the occurrence of this inability.

Netting shall not be challenged nor shall it be unwound on the basis of the established nullity of transactions and contracts concluded before the moment of occurrence of the inability to settle obligations of persons under paragraph 1 of this Article.

In case of occurrence of inability to settle obligations of a participant in an important payment system or the operator of an interoperable important payment system, funds as collateral security available on the settlement account of that participant can be used to fulfil that

participant's obligations in the important payment system or in the interoperable important payment system on the business day on which the inability occurred.

The business day from paragraphs 2 and 4 of this Article means a day which, according to the rules of the important payment system, covers daily and overnight settlements and all events during the business cycle of the system and does not necessarily refer to a calendar day.

### **Occurrence of participant's inability to settle obligations**

#### **Article 169**

The inability to settle obligations of persons referred to in Article 168 of this Law shall occur once a relevant decision on license revocation is adopted and/or an act is passed by the relevant body to open bankruptcy proceedings or undertake other measures, in accordance with law, intended to wind up or reorganise that person, where such measures involve imposing a ban on the disposal of funds on the account.

The inability of a participant of the important payment system to settle obligations shall not affect the rights and obligations of a participant in that system, a participant in an interoperable important payment system or an operator of an interoperable important payment system which is not a participant, in connection with its participation in that system before the inability occurred.

In the event of occurrence of inability to settle obligations of a participant in an important payment system, the rights and obligations in connection with the participation of that participant in the system shall be governed by the regulations of the Republic of Serbia, unless otherwise prescribed by this Law.

The moment of occurrence of a participant's inability to settle obligations shall be the moment of adoption of the decision or act from paragraph 1 of this Article.

The authority that adopted the decision and/or act from paragraph 1 of this Article shall immediately submit that decision and/or act to the National Bank of Serbia, with the notification on the date, hour and minute of its adoption.

The National Bank of Serbia shall immediately forward the notification and the decision and/or act from paragraph 1 of this Article to the operator of the payment system to whose participant the notification relates.

### **Notification duty**

#### **Article 170**

The operator of an important payment system shall, without delay, inform the National Bank of Serbia of any change in connection with participants' access to or exclusion from that system, as well as of appropriate changes in relation to indirect participants.

A participant in an important payment system shall inform any entity with a legitimate interest, upon its request, about every system in which it participates and shall supply information on the main rules governing that system.

### **Rights of holders of collateral security in case of provider's inability to settle obligations**

#### **Article 171**

The exercise of rights of a participant or operator of an important payment system to be reimbursed from the collateral security provided in connection with participation in that system or in an interoperable important payment system, as well as rights of the National Bank of Serbia to be reimbursed from the collateral security – shall not be affected by the occurrence of inability to settle obligations of the following persons:

- 1) a participant in that system or interoperable important payment system;
- 2) the operator of an interoperable important payment system which is not a

participant in that system;

- 3) a counterparty to the National Bank of Serbia;
- 4) a third person which provided collateral security.

Provisions of the law governing financial collateral shall apply to the exercise of rights from paragraph 1 of this Article.

The occurrence of inability to settle obligations of an important payment system's operator that has received collateral security in connection with an interoperable important payment system shall not affect the exercise of rights in connection to that collateral security of the important payment system's operator which provided it.

Collateral security means money, financial instruments and credit claims within the meaning of the law governing financial collateral.

If financial instruments or rights to financial instruments are given as collateral security to a participant in an important payment system, to its operator or the National Bank of Serbia, and their rights to financial instruments are lawfully entered on the account of financial instruments in the register – laws of the state in which the head office of the register is located shall apply to the rights of the taker of that collateral security.

## **Accessibility of information and data on important payment systems**

### **Article 172**

The operator of an important payment system shall publish and regularly update on its website the data about the number and value of executed payment transactions in the system, in addition to information and data referred to in Article 163, paragraph 1 of this Law.

## **Part V**

## **SUPERVISION**

### **Title I**

## **SUBJECT AND MANNER OF EXERCISING SUPERVISION**

### **Applicable regulations**

### **Article 173**

Supervision of the implementation of provisions of this Law with regard to banks shall be exercised in compliance with the law governing banks, except for supervision over the part of their business related to management of payment system operation.

Supervision of the implementation of provisions of this Law with regard to payment institutions, electronic money institutions and the public postal operator shall be exercised in compliance with provisions of this Part of the Law.

Supervision of operation of payment systems shall be exercised in compliance with provisions of this Law.

The National Bank of Serbia may adopt regulations governing the regulation, supervision and promotion of smooth performance of domestic and cross-border payment transactions.

### **Subject of supervision**

### **Article 174**

The National Bank of Serbia shall supervise operations of payment institutions, electronic money institutions, the public postal operator and payment systems (hereinafter: supervision).

The aim of supervision of a payment institution, electronic money institution, public postal operator and operator (hereinafter: supervised entity) shall be to verify their compliance with this Law and regulations adopted under this Law.

The supervision of hybrid payment institutions is limited to the part of operations of these

institutions in relation to the provision of payment services and performance of activities specified in Article 78, paragraph 3, items 1) and 2) of this Law.

The supervision of electronic money institutions is limited to the part of operations of these institutions in relation to electronic money issuance and the performance of activities under Article 116, paragraph 2, items 1)–4) of this Law.

The supervision of a public postal operator is limited to the part of its operations relating to the provision of payment services, electronic money issuance and the performance of other activities specified in this Law.

The supervision of operators is limited to the part of operations relating to the management of payment system operation, including the performance of activities in the system.

### **Manner of exercising supervision**

#### **Article 175**

The National Bank of Serbia shall exercise supervision:

1) indirectly (off-site) – by collecting and analysing reports and other documentation and data that the supervised entity is required to submit to the National Bank of Serbia pursuant to this Law, and other documentation and/or data on business operations of the supervised entity which are at the disposal of the National Bank of Serbia,

2) directly (on-site) – by inspecting business books and other documentation and data of the supervised entity.

In the course of exercising supervision, the National Bank of Serbia may, in the manner stipulated in paragraph 1 of this Law, conduct supervision of an agent of the supervised entity and the person to whom the entity has outsourced some operational activities in accordance with this Law, as well as other persons related with the supervised entity by property, management and business links.

Supervised entities shall enable authorised persons of the National Bank of Serbia to exercise supervision smoothly and shall cooperate with those persons.

The decisions, reports and other acts, including 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 managing bodies of the supervised entity, directors of a payment institution, electronic money institution and/or payment system and responsible persons of the public postal operator, and no proof to the contrary shall be admissible.

The National Bank of Serbia shall prescribe in detail the conditions and manner of exercising supervision, and may also prescribe the obligation of supervised entities to ensure conditions for the receipt of decisions, reports and other acts, notifications, requests and communications of the National Bank of Serbia in the form of electronic documents.

### **Data and documentation to be submitted to the National Bank of Serbia**

#### **Article 176**

For the purpose of enabling supervision of its operations, the supervised entity and persons referred to in Article 175, paragraph 2 of this Law shall, upon request of the National Bank of Serbia, submit all requested data and documentation within the deadline determined in that request.

If data and documentation referred to in paragraph 1 of this Article have been prepared in the language which is not Serbian, the National Bank of Serbia may request from the supervised entity and/or persons referred to in that paragraph to provide, at their cost, the translation of these data and documentation into Serbian.

The National Bank of Serbia shall collect, process and analyse data relating to the



provision of payment services, issuance of electronic money and operation of payment systems which are submitted to it, for statistical and supervision purposes, by payment service providers, electronic money issuers and operators.

The National Bank of Serbia shall prescribe in detail the content, deadlines and method of submission of data referred to in paragraph 3 of this Article.

### **Confidentiality regime in exercising supervision**

#### **Article 177**

The data obtained in any way by employees of the National Bank of Serbia and authorised persons and other engaged persons under Article 179 of this Law, which relate to the supervision of operations and/or performance of activities of the supervised entity, as well as documents containing such data, including measures under Article 183, paragraph 1, items 1)–3) of this Law, shall be designated and protected as secret data with the designation “CONFIDENTIAL” or “INTERNAL”, in accordance with the law governing the secrecy of data.

The persons from paragraph 1 of this Law shall keep data and documents from that paragraph as secret data, and/or may not make them available to third persons, unless in cases prescribed by law.

The obligation of keeping data secrecy for persons from paragraph 1 of this Article shall not cease even after the termination of employment and/or engagement by the National Bank of Serbia, or the termination of any other status on the basis of which those persons had access to data from that paragraph.

By way of derogation from paragraph 2 of this Article, the National Bank of Serbia may make data and documents from paragraph 1 of this Article available to domestic and foreign supervisory bodies, on condition that those bodies use them exclusively for the purposes they were obtained for.

The publication of data from paragraph 1 of this Article, expressed in aggregate form which disables the identification of individual supervised entities and/or natural and legal persons shall not be considered a violation of the obligation to keep data secrecy.

### **Cooperation of the National Bank of Serbia with other competent authorities**

#### **Article 178**

The National Bank of Serbia and other competent authorities in the Republic of Serbia shall cooperate and exchange data for the purpose of exercising and improving supervision, decision making in administrative procedures and performing other activities prescribed by this Law.

The National Bank of Serbia shall be entitled at all times to request from the competent authority that keeps criminal conviction records the details of conviction of persons, their associates, as well as the beneficial owners of those persons within the meaning of the law governing the prevention of money laundering and the financing of terrorism – to whom the applications and notifications submitted to the National Bank of Serbia in accordance with this Law pertain, and/or persons whose business reputation is relevant for acting and deciding upon those applications and/or notifications.

The National Bank of Serbia shall cooperate with competent authorities of third countries and may exchange with them data relating to exercising supervision over supervised entities, for the purposes from paragraph 1 of this Article, in accordance with provisions of this Law and agreements concluded with those authorities.

### **On-site supervision**

#### **Article 179**

A supervised entity shall enable the National Bank of Serbia to conduct on-site supervision

of its operations and/or performance of specific activities at its head office, branches and other organisational parts.

The supervision referred to in paragraph 1 of this Article shall be conducted by employees of the National Bank of Serbia in accordance with a special decision adopted by the National Bank of Serbia.

The decision under paragraph 2 of this Article shall specify the supervised entity and the area of supervision.

A supervised entity shall enable employees of the National Bank of Serbia referred to in paragraph 2 of this Article (hereinafter: authorised persons) to inspect its business books, documentation and data required by such persons, in written and/or electronic form, as well as give them access to equipment, databases and computer programs that it uses.

On-site supervision shall be conducted by authorised persons on working days during regular working hours of the supervised entity, but depending on the nature and scope of supervision, a supervised entity shall enable authorised persons to conduct that supervision also on non-working days, and/or outside working hours.

In the course of on-site supervision, authorised persons may:

- 1) enter all premises of the supervised entity;
- 2) request that a separate room be made available in which to conduct on-site supervision;
- 3) request to be provided with data, and/or copies of documentation related to the subject of on-site supervision;
- 4) communicate directly with members of managing bodies, managers and responsible employees of the supervised entity in order to receive necessary clarifications.

A supervised entity that processes data or keeps its business books and other documentation in electronic form shall provide to authorised persons necessary technical support for examining those data and/or business books and documentation.

A supervised entity shall appoint its representative who shall provide all necessary support to authorised persons enabling unimpeded performance of on-site supervision.

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.

Provisions of this Article shall apply *mutatis mutandis* in the event when the National Bank of Serbia conducts on-site supervision of the agent of the supervised entity, the person to whom the supervised entity has outsourced some operational activities, and other persons having property, management and business links with the supervised entity.

## **Report on supervision**

### **Article 180**

Authorised persons shall prepare a report on 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 when, after the verification of statements presented in objections from paragraph 2 hereof, it is established 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.

If it establishes that the objections of the supervised entity to the report on supervision are not founded 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.

### **Conclusion on termination of procedure**

#### **Article 181**

The National Bank of Serbia shall render a conclusion on termination of the supervisory procedure with the supervised entity if no irregularities or deficiencies in operations have been established in the report on supervision, or if the supervised entity, in its objections submitted within the timeframe specified by this Law, has successfully disputed all findings from the report on supervision.

The conclusion specified in paragraph 1 hereof shall be delivered to the supervised entity.

### **Verification and prohibition of unauthorised provision of payment services, issuance of electronic money and management of payment system operation**

#### **Article 182**

If there is doubt that a legal or natural person other than a payment service provider in accordance with this Law is engaged in the provision of payment services, or that a legal or natural person other than an electronic money issuer in accordance with this Law issues electronic money, or that a legal or natural person manages the operation of a payment system, for whose operation the National Bank of Serbia's license is needed in accordance with this Law, without the license granted by the National Bank of Serbia – the National Bank of Serbia may directly or indirectly verify whether the persons providing payment services, issuing electronic money, and/or operating a payment system are contravening the provisions of this Law.

Provisions of Articles 174–181 of this Law shall apply *mutatis mutandis* to the verification specified under paragraph 1 hereof.

If the legal or natural person referred to in paragraph 1 hereof fails to submit, on request of the National Bank of Serbia, all requested data and documentation within the deadline stipulated in that request or if it does not enable the National Bank of Serbia to perform on-site supervision or does not cooperate with authorised persons, the National Bank of Serbia may pronounce against such person the fine ranging:

- 1) from RSD 100,000 to 500,000 for legal persons and from RSD 30,000 to 100,000 for responsible persons in such legal person;
- 2) from RSD 30,000 to 100,000 for natural persons.

If the verification under paragraph 1 hereof establishes that the person referred to in that paragraph is engaged in unauthorised provision of payment services, issuance of electronic money or management of payment system operation, the National Bank of Serbia shall adopt a decision prohibiting the discharge of these activities and submit it to competent authorities.

By virtue of the decision from paragraph 4 hereof, the National Bank of Serbia shall at the same time pronounce a fine against the person from that paragraph, ranging:

- 1) from RSD 100,000 to 5,000,000 for legal persons and from RSD 30,000 to 1,000,000 for responsible persons in that legal person;
- 2) from RSD 30,000 to 1,000,000 for natural persons.

If the National Bank of Serbia subsequently verifies that an undertaking and/or entrepreneur subject to prohibition in accordance with paragraph 4 hereof did not cease to perform unauthorised activities specified under that paragraph, the National Bank of Serbia shall adopt a decision establishing that the conditions for opening court-ordered liquidation proceedings against the undertaking have been met, and/or a decision on prohibition of

business activity of the entrepreneur, and submit it to the organisation in charge of keeping the register of business entities for the purpose of instituting court-ordered liquidation proceedings and/or deleting the undertaking from the register.

Provisions of Article 187 of this Law shall apply *mutatis mutandis* to the pronouncement of fines referred to in paragraphs 3 and 5 hereof.

## **Title II**

### **SUPERVISORY PROCEDURE MEASURES**

#### **Taking of measures**

##### **Article 183**

If deficiencies or irregularities have been found in the operations of a supervised entity, and/or if it is established that the entity acted contrary to this Law or other regulations adopted under this Law, the National Bank of Serbia shall take against the supervised entity one of the following measures:

- 1) send a recommendation;
- 2) send a letter of warning;
- 3) issue orders and specify measures to eliminate the established irregularities;
- 4) revoke the license granted in accordance with provisions of this Law.

The National Bank of Serbia shall take measures under paragraph 1 hereof on the basis of the factual state established in the report on supervision, in line with Article 180 of this Law.

The National Bank of Serbia shall pass a decision on implementing the measures stipulated in paragraph 1, items 3) and 4) hereof.

Once it has been established whether and to what extent the measures from paragraph 1 hereof have been complied with by the supervised entity, the National Bank of Serbia shall either terminate the supervision procedure or impose another measure to the entity.

By way of derogation from paragraph 2 hereof, before the expiry of the time limits specified in Article 180 of this Law, if during supervision the National Bank of Serbia establishes that a supervised entity has committed serious irregularities, or that safe or sound operations of the supervised entity have been jeopardised, or that interests of payment service users, electronic money holders or payment system participants have been jeopardised – it may pass a decision on a temporary measure ordering the supervised entity to undertake one or more activities specified in Article 186, paragraph 2 of this Law.

#### **Recommendation**

##### **Article 184**

If during the supervision procedure minor irregularities or deficiencies in the operations of the supervised entity have been established which do not pose a significant risk to its operations, the National Bank of Serbia shall issue to that entity an appropriate recommendation.

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.

#### **Letter of warning**

##### **Article 185**

The National Bank of Serbia shall issue a letter of warning to a supervised entity if during the supervision procedure it has found irregularities that do not have a significant and direct impact on the entity's operations, but might have such impact unless eliminated, or if the entity did not 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.

### **Orders and measures to eliminate established irregularities**

#### **Article 186**

If during the supervision procedure it is established that a supervised entity did not act in compliance with this Law or regulations adopted under this Law, and/or did not act in compliance with the letter of warning, the National Bank of Serbia shall adopt a decision imposing on the supervised entity the orders and measures to eliminate the established irregularities.

The decision under paragraph 1 hereof shall order the supervised entity to perform one or more activities, in particular:

- 1) to align its operations with this Law and regulations adopted under this Law;
- 2) to increase the amount of capital, in line with provisions of this Law;
- 3) to temporarily cease to provide certain payment services or issue electronic money,
- 4) to take appropriate measures to protect payment service users, electronic money holders or payment system participants, in accordance with this Law;
- 5) to remove from duty members of the managing body and/or directors of a payment institution, electronic money institution or payment system, and/or the responsible person with the public postal operator, if they no longer meet the conditions prescribed under this Law and/or if they contravene the provisions of this Law,
- 6) to temporarily suspend or restrict granting of credits specified in Article 95 and/or Article 116, paragraph 2, item 2) of this Law,
- 7) to order termination of the agreement with an entity to whom it has outsourced some operational activities, if requirements for the performance of those activities provided for in this Law have not been met;
- 8) to undertake and/or discontinue other activities.

The decision under paragraph 1 hereof shall state 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.

### **Imposing a fine**

#### **Article 187**

If during the supervision procedure the National Bank of Serbia establishes that the supervised entity has failed to comply with this Law or regulations based on this Law, especially if the same violations have been committed in a certain period of time, using the same situation or permanent relationship with payment service users or electronic money holders – the National Bank of Serbia shall adopt the decision from Article 186 of this Law imposing a fine on that person, as well as on the member of the managing body, director of a payment institution, electronic money institution or payment system (hereinafter: director of the supervised entity) and/or the authorised person of the public postal operator.

A supervised entity shall be fined no less than RSD 100,000 and no more than RSD 5,000,000, and a member of the managing body, director of a supervised entity and responsible persons of the public postal operator shall be fined no less than RSD 30,000 and no more than RSD 1,000,000.

If the supervised entity, within the timeframe specified in Article 186, paragraph 3 of this Law, fails to provide the National Bank of Serbia with evidence from that paragraph – regardless of whether the fine in line with paragraphs 1 and 2 hereof has already been imposed – the

National Bank of Serbia shall adopt a decision imposing a fine and/or a new fine against that subject and/or other persons from paragraph 2 of this Article for the violation committed, within the amounts prescribed in that paragraph.

In imposing the fines from paragraphs 2 and 3 hereof, the National Bank of Serbia shall take into account the criteria from Article 191 of this Law.

A natural person may be subject to the fine from this Article even if, at the time of pronouncing a fine, the person no longer acts in the capacity of a member of the managing body of the supervised entity, director of the supervised entity or responsible person with the public postal operator – because of the failure to act and/or for the breach referred to in paragraph 1 hereof, committed while these persons performed such duties in the supervised entity.

Following submission to the supervised entity, the decision pronouncing the fine from this Article shall be an enforceable title.

The fines referred to in this Article shall be paid to the account of the National Bank of Serbia.

### **Revoking the license to provide payment services**

#### **Article 188**

The National Bank of Serbia shall adopt a decision to revoke the license to provide payment services if:

1) it establishes that a payment institution did not commence providing payment services within 12 months from the date of granting this license or if it has not been providing these services for more than six months;

2) a payment institution informs the National Bank of Serbia in writing of its intention to terminate the provision of payment services.

The National Bank of Serbia may adopt a decision to revoke the license to provide payment services if it establishes that:

1) a payment institution no longer meets the requirements stipulated in Article 82 of this Law;

2) the license was granted based on false data;

3) continued provision of payment services by a payment institution would jeopardise the stability of the payment system;

4) activities of a payment institution are connected with money laundering or terrorism financing;

5) a payment institution failed to implement orders and undertake measures specified in Article 186 of this Law in a timely manner;

6) a payment institution does not maintain minimum own funds in accordance with provisions of this Law;

7) a payment institution has committed a major violation of provisions of this Law or regulations adopted under this Law;

8) a payment institution fails to allow the National Bank of Serbia to perform supervision of its operations.

If it establishes existence of the reasons specified in paragraph 1 of this Article which are not applicable to all payment services for which a payment institution has been granted the license to provide payment services, the National Bank of Serbia shall revoke the license only in relation to the provision of payment services to which those reasons refer.

The decision to revoke the license to provide payment services shall be published in the Official Gazette of the Republic of Serbia and on the website of the National Bank of Serbia.

### **Revoking the license to issue electronic money**

### **Article 189**

The National Bank of Serbia shall adopt a decision to revoke the license to issue electronic money in the following cases:

- 1) an electronic money institution did not commence issuing electronic money within 12 months from the date of granting this license or if it has not been issuing electronic money for more than six months;
- 2) an electronic money institution informs the National Bank of Serbia in writing of its intention to terminate the issuance of electronic money.

The National Bank of Serbia may adopt a decision to revoke the license to issue electronic money if it establishes that:

- 1) an electronic money institution no longer meets the requirements stipulated in Article 127 of this Law;
- 2) the license to issue electronic money was granted based on false data;
- 3) continued electronic money issuance by an electronic money institution would jeopardise the stability of the payment system;
- 4) activities of an electronic money institution are connected to money laundering or terrorism financing;
- 5) an electronic money institution failed to implement orders and undertake measures specified in Article 186 of this Law in a timely manner;
- 6) an electronic money institution does not maintain minimum own funds, in accordance with this Law;
- 7) an electronic money institution has committed serious violation of provisions of this Law or regulations adopted under this Law;
- 8) an electronic money institution fails to allow the National Bank of Serbia to perform supervision of its operations.

The decision to revoke the license to issue electronic money shall be published in the Official Gazette of the Republic of Serbia and on the website of the National Bank of Serbia.

### **Revoking the license for payment system operation**

#### **Article 190**

The National Bank of Serbia shall adopt a decision to revoke the license for payment system operation if:

- 1) a payment system does not commence its operation within 12 months from the date of obtaining the license for payment system operation or stops operating for more than six consecutive months;
- 2) it determines that further operation of the payment system may jeopardise the stability of overall payment operations or the safety and soundness of provision of payment services in the Republic of Serbia;
- 3) the operator informs the National Bank of Serbia in writing of its intention to stop managing payment system operation.

The National Bank of Serbia may adopt a decision to revoke the license for payment system operation if it establishes that:

- 1) the requirements stipulated in Article 151 of this Law are no longer fulfilled;
- 2) the license for payment system operation was granted based on false data;
- 3) activities of an operator are connected to money laundering or terrorism financing;
- 4) the operator failed to implement orders and undertake measures specified in Article 186 of this Law in a timely manner;
- 5) the operator does not maintain minimum own funds, in accordance with this Law;
- 6) the operator fails to enable the National Bank of Serbia to perform supervision of

payment system operation.

The decision to revoke the license for payment system operation shall be published in the Official Gazette of the Republic of Serbia and on the website of the National Bank of Serbia.

### **Discretionary right of the National Bank of Serbia**

#### **Article 191**

The National Bank of Serbia shall decide on the measures to be taken against a supervised entity according to the discretionary evaluation of the following:

- 1) the severity of established irregularities;
- 2) demonstrated readiness and capability of members of managing bodies and directors to eliminate the established irregularities;
- 3) other important circumstances in which an irregularity occurred.

In evaluating the severity of established irregularities, the following shall be evaluated in particular:

- 1) exposure to specific types of risks of a supervised entity;
- 2) effects of the committed irregularity on future operations, and/or performance of activities of a supervised entity;
- 3) number and mutual dependence of established irregularities;
- 4) duration and frequency of committed irregularities;
- 5) legality of operations and/or performance of activities of a supervised entity.

In evaluating the demonstrated readiness and capability of members of managing bodies and managers to eliminate the established irregularities, the following shall be evaluated in particular:

- 1) capability of these persons to identify, measure, monitor, evaluate and manage risks in the supervised entity;
- 2) efficiency in eliminating any previously established irregularities, and particularly in implementing the measures specified in Article 186 of this Law;
- 3) awareness of persons with a qualifying holding and managing bodies of a supervised entity of the difficulties in operations and/or performance of activities of that entity;
- 4) cooperativeness with authorised persons during supervision.

### **Part VI**

## **PROVISIONS APPLIED AFTER ACCESSION OF THE REPUBLIC OF SERBIA TO THE EUROPEAN UNION**

### **Payment service providers from member states and/or third countries**

#### **Article 192**

By way of derogation from Article 10, paragraph 2 of this Law, payment services in the Republic of Serbia may also be provided by:

- 1) a credit institution having its head office in a member state which is licensed by the competent body of the home member state to provide payment services and which provides these services in the Republic of Serbia in line with the law governing banks (hereinafter: credit institution from a member state);
- 2) a credit institution having its head office in a third country which is licensed by the competent body of its home country to provide payment services and which provides these services in the Republic of Serbia in line with the law governing banks (hereinafter: credit institution from a third country);
- 3) an electronic money institution having its head office in a member state which is licensed by the competent body of the home member state to issue electronic money and which



issues electronic money in the Republic of Serbia in line with this Law (hereinafter: electronic money institution from a member state);

4) an electronic money institution having its head office in a third country which is licensed in accordance with regulations of that country to issue electronic money and which issues electronic money in the Republic of Serbia in line with this Law (hereinafter: electronic money institution from a third country);

5) a payment institution having its head office in a member state which is licensed by the competent body of the home member state to provide payment services as a payment institution and which provides payment services in the Republic of Serbia in line with this Law (hereinafter: payment institution from a member state).

Payment service providers under paragraph 1, items 1) and 2) hereof may operate current accounts under Article 70 of this Law, in which case Articles 72 and 73 of this Law regarding banks shall apply.

A public postal operator may provide payment services referred to in Article 4 of this Law in the name and on behalf of payment service providers under paragraph 1, items 1) and 2) hereof, and it may also provide intermediation services between those payment service providers and payment service users in connection with respective payment services, in line with the law governing banks.

### **Cross-border payment transactions and payment transactions in euros or currency of a member state other than the euro**

#### **Article 193**

Provisions of this Law shall also apply to national and cross-border payment transactions executed in euros or other currency of a member state and to cross-border payment transactions in dinars, while in accordance with Articles 30 and 64 of this Law they shall also apply to cross-border payment transactions in currencies of third countries.

A cross-border payment transaction in accordance with this Law means a payment transaction where one payment service provider provides the service in the territory of the Republic of Serbia and the other payment service provider in the territory of another member state, as well as a payment transaction where the same payment service provider provides the service in the territory of the Republic of Serbia for one payment service user and in the territory of another member state for that same or another payment service user.

A member state in accordance with this Law means a member state of the European Union or a country signatory to the Agreement on the European Economic Area.

### **Information on currency conversion**

#### **Article 194**

If a currency conversion service is offered by the payee to the payer prior to the initiation of the payment transaction or if that currency conversion service is offered to the payer at the point of sale prior to the initiation of the payment transaction, the party offering the currency conversion service shall disclose to the payer all charges as well as the exchange rate to be used for converting the payment transaction.

The currency conversion from paragraph 1 hereof may not be executed without the payer's consent.

### **Time limit for execution of cross-border payment transactions and payment transactions in euros or currency of a member state other than the euro**

#### **Article 195**

In case of domestic payment transactions executed in euros, the payer's payment service

provider shall ensure that the account of the payee's payment service provider is credited with the amount of the payment transaction at the latest by the end of the next business day after the business day on which the payer's payment service provider received the payment order. This time limit shall also apply to national and cross-border payment transactions which involve single conversion between the dinar and the euro, provided that the conversion is executed in the Republic of Serbia, and in case of cross-border payment transactions, also provided that the transaction is executed in euros. In case of cross-border dinar transactions, the time limit specified in paragraph 3 hereof shall apply.

In case of cross-border payment transactions executed in euros, the payer's payment service provider shall ensure that the account of the payee's payment service provider is credited with the amount of the payment transaction at the latest by the end of the next business day after the business day on which the payer's payment service provider received the payment order. The time limit for the execution of a payment transaction may be extended by one business day for payment service user's paper-initiated payment transactions.

In case of national and cross-border payment transactions in the currency of a member state other than the euro, the payer's payment service provider shall ensure that the account of the payee's payment service provider is credited with the amount of the payment transaction at the latest by the end of the next business day after the business day on which the payer's payment service provider received the payment order, unless the payment service provider and payment service user have agreed upon a different time limit which cannot exceed the end of the fourth business day after the point in time of receipt of the payment order.

In case of a cross-border payment transaction, if the payment service user places cash on the payment account with the payment service provider operating that account and in the currency of that payment account, the payment service provider shall ensure that the credit value date for the payment account of the payee that is a consumer is the same as the date of the receipt of cash. The payment service provider shall make the amount available to the payee immediately after receiving cash.

In the case from paragraph 4 of this Article, if the payee is not a consumer, the payment service provider shall ensure that the credit value date for the payee's payment account is at the latest on the next business day after receiving cash. In that case, the payment service provider shall ensure that the payee may dispose of funds at the latest on the next business day after receiving cash.

By way of derogation from paragraphs 4 and 5 hereof, if the payment service user places cash in a currency of the member state other than the euro on the payment account with the payment service provider operating that account in that currency, the payment service user and payment service provider may agree upon a different time limit than that specified in those paragraphs, but such time limit may not be longer than four business days after the receipt of cash.

Provisions of Article 35 of this Law shall apply *mutatis mutandis* to the point in time of receipt of cash under paragraphs 4–6 hereof.

## **Safeguarding payment service users' funds in a member state**

### **Article 196**

A payment institution may safeguard funds in accordance with Article 93, paragraph 3 of this Law also by depositing them in a separate account with a credit institution having its head office in a member state which is licensed by the competent body of the home member state.

The insurance contract under Article 93, paragraph 5 of this Law may also be concluded with an insurance undertaking with the head office in a member state, and the guarantee under that paragraph may also be obtained from a credit institution with its head office in a member

state which is licensed by the competent body of the home member state provided that this insurance undertaking and/or credit institution does not belong to the same group of undertakings as that payment institution.

Provisions of this Article shall also apply to safeguarding of the portion of funds to be used for execution of a payment transaction in line with Article 94 of this Law, as well as to safeguarding of funds of electronic money holders and payment service users in accordance with Article 133 of this Law.

## **List of representative services after the Republic of Serbia joins the European Union**

### **Article 196a**

The National Bank of Serbia shall prescribe, publish and update on its website the list of representative services complying with the standardised European Union-level terminology.

## **Offering the service of cross-border switching of the consumer's payment account**

### **Article 196b**

Should the consumer decide to open a payment account with a payment service provider whose head office is located in another European Union member state, the payment service provider located in the Republic of Serbia, with which the consumer has already opened a payment account, shall take the following actions at the consumer's request:

1) provide the consumer free of charge with a list of the existing standing orders and authorisations for direct debits granted to that payment service provider, and the available information on recurring incoming credit transfers and creditor-driven direct debits executed on the consumer's payment account in the previous 13 months; the receiving payment service provider shall not be obligated to provide those services on the list from this item which it does not have in its offer;

2) transfer any positive balance remaining on the previous payment account to the new payment account, provided that the request includes all the necessary information allowing the receiving payment service provider and the new payment account to be identified;

3) close the payment account held by the consumer.

If the consumer has no outstanding obligations on the payment account, the payment service provider shall take the actions set out in paragraph 1 of this Article on the date specified by the consumer, which shall be at least six business days after the payment service provider receives the consumer's request, unless a shorter deadline has already been agreed in the specific case or if the framework contract for opening a payment account defines a longer deadline in accordance with the law governing payment services.

The payment service provider shall immediately inform the consumer where outstanding obligations on the payment account toward that provider prevent consumer's payment account from being closed.

The provisions of this Article shall pertain to payment service users who are not consumers if the national legislation of another European Union member state in which the receiving payment service provider operates defines that such users also have the right to payment account switching within the meaning of this Law.

## **Right to a payment account with basic features after the Republic of Serbia joins the European Union**

### **Article 196c**

The consumer who is legally resident in the European Union, including consumers with no fixed address and asylum seekers, and consumers who are not granted a residence permit but whose expulsion is impossible for legal or factual reasons, shall have the right to open and use a payment account with basic features with a bank, irrespective of the consumer's place of residence.

Provisions of Article 73b and Article 73p, paragraph 6 of this Law shall apply when opening and using the account from paragraph 1 of this Article.

Provisions of Article 73u of this Law shall apply *mutatis mutandis* to termination of the framework contract for opening and maintaining the account from paragraph 1 hereof; sufficient reason for contract termination shall also be the fact that the consumer from paragraph 1 hereof is no longer legally resident in the European Union.

Within the meaning of this Law, the concept of "legally resident in the European Union" means the right of a natural person to reside in a European Union member state based on the regulations of the European Union or national legislation, including natural persons with no fixed address and asylum seekers, in accordance with the generally accepted rules of international law and ratified international treaties.

### **Provision of payment institution's payment services directly or through a branch within the territory of another member state**

#### **Article 197**

A payment institution which intends to provide payment services directly or through a branch in another member state shall in advance notify the National Bank of Serbia thereof.

The notification referred to in paragraph 1 hereof shall contain the description of payment services that a payment institution intends to provide in another member state and shall specify the state concerned. If a payment institution intends to provide payment services through a branch, it shall also provide the following:

- 1) name and address of the branch;
- 2) description of the organisational structure of the branch;
- 3) data on persons who are to be responsible for managing the branch's operations and persons directly managing the provision of payment services within the branch, accompanied with data and evidence of their good business reputation, appropriate professional qualifications and experience in accordance with Article 80 of this Law.

A payment institution shall submit the notification specified in paragraph 1 hereof to the National Bank of Serbia only at the time of setting up the first branch in a member state. All branches of a payment institution set up in the same member state shall be regarded as a single branch.

The National Bank of Serbia shall notify the competent authority of the host member state of the name and address of the head office of a payment institution which intends to provide payment services in its territory and it shall also submit the notification and data under paragraph 2 hereof within a month from their receipt.

A payment institution may commence providing payment services directly or through a branch in another member state after the competent body in that state has received the notification and data under paragraph 4 hereof, and if a payment institution provides those services through a branch – after the branch has been entered into the register of payment institutions.

If the competent authority of the host member state notifies the National Bank of Serbia that there are reasonable grounds to suspect that the provision of payment services by a payment institution through a branch in that country involves an act or an attempted act of money laundering or terrorism financing, or that the provision of such services could increase

the risk of money laundering or terrorism financing, the National Bank of Serbia may refuse to approve entering that branch into the register of payment institutions or may remove that branch from the register, if it has already been registered.

A payment institution shall notify the National Bank of Serbia without undue delay of any change in data under paragraph 2 of this Article.

A payment institution shall ensure that its branch in another member state informs payment service users of the fact that it acts in the name and for the account of that payment institution.

A payment institution which provides payment services through a branch in a member state shall be liable for the legality of operations of that branch in connection with the provision of these services.

### **Provision of payment services by a payment institution through an agent within the territory of another member state**

#### **Article 198**

A payment institution may provide payment services in a member state through one or more agents.

A payment institution which intends to provide payment services through an agent in a member state shall notify the National Bank of Serbia thereof in advance. This notification shall be considered to represent an application to enter the agent into the register of payment institutions within the meaning of Article 102, paragraph 2 of this Law.

In accordance with Article 102, paragraph 3 of this Law, a payment institution shall accompany the notification under paragraph 2 hereof with data on payment services, license and the agent through which it intends to provide services in a member state, and if the agent is a legal person – it shall also provide the description of its organisational structure.

The National Bank of Serbia shall notify the competent authority of the host member state of the business name and address of the head office of a payment institution which intends to provide payment services through an agent in its territory, and of its intention to enter that agent into the register of payment institutions, and shall submit to it the notification and data under paragraph 3 hereof within a month from their receipt, prior to registration.

A payment institution may commence providing payment services through an agent in a host member state after the competent body in that state has received the notification and data under paragraph 3 hereof and after the agent has been entered into the register of payment institutions.

By way of derogation from paragraph 4 hereof, if it assesses that there are grounds to refuse registration specified in Article 102, paragraph 5 of this Law, the National Bank of Serbia shall not submit the notification and data from that paragraph to the competent authority of the host member state, it shall refuse to enter an agent into the register of payment institutions and shall without undue delay notify a payment institution thereof.

If the National Bank of Serbia receives the notification from the competent authority of the host member state that there are reasonable grounds to suspect that the provision of payment services by a payment institution through an agent in that country involves an act or an attempted act of money laundering or terrorism financing, or that the provision of such services could increase the risk of money laundering or terrorism financing, the National Bank of Serbia may refuse to enter that agent into the register of payment institutions or may remove that agent from the register, if it has already been registered.

Provisions of Article 102, paragraphs 6–9 of this Law shall apply *mutatis mutandis* to the agent of a payment institution from this Article.

A payment institution which provides payment services through an agent in a member state shall be liable for the legality of agent's operations in connection with the provision of these

services.

## **Provision of payment services by a payment institution from another member state in the Republic of Serbia**

### **Article 199**

A payment institution from a member state may provide payment services for which it has been licensed in its home member state within the territory of the Republic of Serbia directly or through a branch or an agent.

A payment institution from a member state may commence providing payment services in the Republic of Serbia when the National Bank of Serbia receives notification of the competent authority of that state on the intention of a payment institution to provide such services in the Republic of Serbia, and if a payment institution from a member state intends to provide payment services through a branch or agent – when such branch or agent has been entered in the register of payment institutions maintained by the competent authority of the home member state.

In addition to the notification under paragraph 2 hereof, if a payment institution from a member state intends to provide payment services through a branch, data under Article 197, paragraph 4 of this Law shall also be submitted, and if a payment institution from a member state intends to provide payment services through an agent, data under Article 198, paragraph 4 of this Law shall also be submitted.

All branches set up in the Republic of Serbia by the same payment institution from another member state shall be regarded as a single branch, within the meaning of this Law.

An agent of a payment institution from another member state in the Republic of Serbia may only be a legal person or an entrepreneur whose head office is in the Republic of Serbia.

If the National Bank of Serbia assesses that there are reasonable grounds to suspect that the provision of payment services by a payment institution from another member state in the Republic of Serbia involves an act or an attempted act of money laundering or terrorism financing, or that the provision of such services could increase the risk of money laundering or terrorism financing, it shall notify the competent authority of the home member state thereof.

Provisions of Article 70, paragraph 3 and Article 78, paragraph 2 of this Law shall also apply to a payment institution from a member state providing payment services in the Republic of Serbia.

## **Electronic money issuers from a member state and/or third country**

### **Article 200**

By way of derogation from Article 106, paragraph 2 of this Law, electronic money in the Republic of Serbia may be issued by:

- 1) a credit institution from a member state;
- 2) a credit institution from a third country;
- 3) an electronic money institution from a member state;
- 4) an electronic money institution from a third country.

## **Issuance of electronic money and provision of payment services of an electronic money institution within the territory of another member state**

### **Article 201**

An electronic money institution may issue electronic money and provide payment services in another member state through a branch or directly, in which case provisions of Article 197 hereof shall apply *mutatis mutandis*.

Provisions of Article 136, paragraphs 1 and 2 and Article 198 hereof shall apply *mutatis mutandis* to electronic money institutions intending to provide payment services through an agent in another member state.

### **Distribution and redemption of electronic money of an electronic money institution in a member state**

#### **Article 202**

If an electronic money institution intends to distribute and redeem electronic money through a third natural or legal person in the territory of another member state, it shall notify the National Bank of Serbia thereof in advance.

An electronic money institution shall accompany the notification under paragraph 1 hereof with the following:

- 1) description of operations to be performed through a third person;
- 2) data on the business name and head office, and/or the name, surname and address of permanent residence of the third person that would distribute and redeem electronic money;
- 3) data on the organisational structure of a legal person that would distribute and redeem electronic money if that distribution and redemption are to be performed through a third legal person;
- 4) data on members of the managing body and persons directly managing electronic money distribution and redemption at the legal person that would carry out these operations if distribution and redemption are to be performed through a third legal person.

The National Bank of Serbia shall notify the competent authority of the host member state of the business name and address of the head office of an electronic money institution which intends to distribute and redeem electronic money in its territory through a third person, and shall submit the notification and data specified in paragraph 2 hereof within a month of their receipt.

An electronic money institution may commence distributing and redeeming electronic money through a third person in a host member state after the competent body in that state has received the notification and data under paragraphs 2 and 3 hereof.

An electronic money institution shall notify the National Bank of Serbia without delay of any change in data specified in paragraph 2 hereof.

### **Issuance of electronic money and provision of payment services of an electronic money institution from a member state in the Republic of Serbia**

#### **Article 203**

An electronic money institution from a member state may issue electronic money and provide payment services within the territory of the Republic of Serbia directly or through a branch.

An electronic money institution from a member state may provide payment services through an agent, but it cannot issue electronic money in the Republic of Serbia through an agent.

Provisions of Article 199 of this Law shall apply *mutatis mutandis* to an electronic money institution which intends to issue electronic money and/or provide payment services in accordance with provisions of this Article.

### **Issuance of electronic money and provision of payment services of an electronic money institution from a third country in the Republic of Serbia**

#### **Article 204**

An electronic money institution from a third country may issue electronic money and

provide payment services that are directly connected to electronic money issuance in the Republic of Serbia through a branch, upon obtaining the National Bank of Serbia's approval for the issuance of electronic money.

The National Bank of Serbia shall decide upon the application for approval specified in paragraph 1 hereof within six months of the receipt of a duly completed application.

If the application for consent from paragraph 1 hereof is not duly completed, within one month upon receiving the application the National Bank of Serbia shall inform the electronic money institution referred to in that paragraph how to duly complete the application, in which case the deadline from paragraph 2 of this Article shall start to run as of the day of submission of the duly completed application, in accordance with the notification from this paragraph.

The National Bank of Serbia shall prescribe conditions and manner of granting and withdrawing the approval referred to in paragraph 1 hereof.

The National Bank of Serbia may not, by the regulation referred to in paragraph 4 hereof, prescribe that an electronic money institution from a third country perform the activities under paragraph 1 hereof under the conditions more favourable than the conditions under which these activities in the Republic of Serbia are performed by an electronic money institution from another member state.

The National Bank of Serbia shall without undue delay inform the European Commission of all granted and withdrawn approvals referred to in paragraph 1 hereof.

### **Distribution and redemption of electronic money of an electronic money institution from a member state through a third person in the Republic of Serbia**

#### **Article 205**

An electronic money institution from a member state may carry out the distribution and redemption of electronic money in the Republic of Serbia through a third person with whom it concluded a contract on the performance of these activities.

An electronic money institution from a member state may commence distributing and redeeming electronic money through a third person in the Republic of Serbia after the National Bank of Serbia has received the notification of the competent authority from that member state of the intention of that institution to engage in these activities in the Republic of Serbia through a third person.

In addition to the notification under paragraph 2 hereof, data under Article 202, paragraphs 2 and 3 of this Law shall also be submitted.

### **Data on cross-border provision of services entered into registers**

#### **Article 206**

In addition to data under Article 105 of this Law, the register of payment institutions shall contain data on:

- 1) branches of payment institutions in member states;
- 2) agents of payment institutions in member states;
- 3) notifications of competent authorities of home member states with regard to payment institutions from those states intending to provide payment services in the Republic of Serbia.

In addition to data under Article 139 of this Law, the register of electronic money institutions shall contain data on:

- 1) branches of electronic money institutions in member states;
- 2) agents of electronic money institutions in member states through which these institutions provide payment services;
- 3) notifications of competent authorities of home member states on electronic money



institutions from those member states intending to issue electronic money, provide payment services and/or distribute and redeem electronic money in the Republic of Serbia;

- 4) electronic money institutions from third countries.

### **Participants in the payment system, operator and settlement agent from a member state and/or third country**

#### **Article 207**

In addition to persons under Article 143 of this Law, participants in the payment system may be:

- 1) a credit institution with the head office in a member state licensed by the competent authority of that state;
- 2) an institution with the head office in a member state that performs activities of a credit institution but which is not subject to regulations of the European Union governing credit institutions;
- 3) an investment undertaking with the head office in a member state that performs activities in accordance with regulations of that state;
- 4) a legal person with the head office in a third country whose activities correspond to the activities of a credit institution or investment firm in accordance with regulations of the European Union;
- 5) member states, the European Central Bank, national central banks of member states, public authority of a member state, as well as an undertaking and other legal person whose obligations are guaranteed by the member state or its territorial autonomy or local self-government unit;
- 6) the payment service provider referred to in Article 192, paragraph 1 of this Law.

The payment service provider referred to in Article 192, paragraph 1, items 3)–5) of this Law may not be a participant in the payment system determined as important in accordance with this Law.

In addition to persons referred to in Article 144 of this Law, an operator may be:

- 1) a branch of a legal person with the head office in a member state, entered into the register of business entities in the Republic of Serbia;
- 2) a branch of a legal person with the head office in a third country, entered into the register of business entities in the Republic of Serbia.

The legal person referred to in paragraph 3 hereof must have the legal form which corresponds to a joint-stock undertaking or limited liability undertaking, in accordance with the law governing companies.

Provisions of this Law which apply to the operator referred to in Article 144, paragraph 3 of this Law shall also apply to the operator referred to in paragraph 3 of this Article.

In addition to the agent referred to in Article 147 of this Law, a settlement agent may be a credit institution from a member state or a third country.

### **Foreign participant's inability to settle obligations**

#### **Article 208**

The inability to settle obligations of participants within the meaning of Article 169 of this Law shall also occur with the opening of bankruptcy proceedings and/or taking of other collective measure against the participant, in accordance with regulations of a member state or a third country, intended to wind up or reorganise the participant, where such measure involves imposing a ban or limitations on the disposal of funds from the account.

The moment of occurrence of inability referred to in paragraph 1 hereof shall be the

moment of the adoption of a relevant act to open proceedings and/or take measures from that paragraph.

The National Bank of Serbia shall without undue delay forward the notification from Article 169, paragraph 6 of this Law to the competent bodies of member states or a third country, the European Systemic Risk Board and the European Securities and Markets Authority – ESMA.

The National Bank of Serbia shall inform the European Securities and Markets Authority – ESMA about important payment systems and their operators.

The National Bank of Serbia shall without undue delay forward the notification on the occurrence of inability to settle obligations of participants received from the competent body of a member state or third country to the operator of the payment system to whose participant the notification relates.

### **Rights of member states and central banks in the European Union as takers of collateral security**

#### **Article 209**

Provisions of Article 171, paragraph 1 of this Law shall apply *mutatis mutandis* to the rights of a member state, the European Central Bank or the central bank of a member state to be reimbursed from the received collateral security.

When financial instruments or rights to financial instruments are provided as collateral security to the central bank of a member state or third country or the European Central Bank, and their rights to financial instruments are lawfully entered on the account of financial instruments in the register – laws of the state in which the register's head office is located shall apply to the rights of that collateral security taker.

### **Supervision of payment service providers, electronic money issuers and operators from a member state and/or third country**

#### **Article 210**

Supervision over the implementation of provisions of this Law with regard to credit institutions from member states or credit institutions from third countries shall be exercised in compliance with the law governing banks.

Supervision over the implementation of provisions of this Law with regard to payment institutions from member states and electronic money institutions from member states and third countries shall be exercised in compliance with this Law.

Supervision over payment systems whose operator is the person referred to in Article 207, paragraph 3 of this Law shall be exercised in compliance with this Law.

### **Cooperation with competent authorities of the European Union or other member states in exercising supervision**

#### **Article 211**

The National Bank of Serbia shall cooperate with the European Central Bank, national central banks of member states, competent authorities of other member states responsible for granting the license and exercising supervision of payment institutions, electronic money institutions and payment systems, as well as for the supervision of payment service providers regarding their obligations pertaining to transparency and comparability of fees charged to consumers in relation to payment accounts, respect of consumer rights in terms of payment account switching and the manner of exercising the consumer right to open and use a payment account with basic features, and/or whose competence is established in accordance with regulations of the European Union or a member state applicable to payment service providers, electronic money issuers and payment systems, with authorities whose competence is

established by regulations of the European Union or other member state governing the protection of personal data or prevention of money laundering and terrorism financing, as well as other competent authorities of the European Union or a member state.

Within cooperation under paragraph 1 of this Article, the National Bank of Serbia may exchange data with the entities specified in that paragraph.

The National Bank of Serbia may obtain data specified under paragraph 2 of this Article for the purpose of exercising and improving supervision, decision making in administrative procedures stipulated by this Law and performing other activities prescribed by this Law.

The National Bank of Serbia shall submit to the competent authority of a host member state, at its request, all available data and information which are required to exercise supervisory powers, and it shall also, without any special request being made, submit to this competent authority all available data and information essential for performing supervision, particularly in case of established or suspected irregularities.

Within cooperation referred to in paragraph 1 of this Article, the National Bank of Serbia may indicate to the competent authority of a member state that data and information from paragraph 4 of this Article may be disclosed to or exchanged with third persons solely with the express agreement of the National Bank of Serbia and for the purposes for which such agreement has been given.

The National Bank of Serbia shall not disclose to or exchange with third persons any data or information it has obtained through cooperation from paragraph 1 hereof without the express agreement of the authority that provided such information and data, and may use them solely for the purpose for which those authorities have given their consent, except in justified circumstances in accordance with law, in which case the National Bank of Serbia shall immediately inform the authority that supplied the information.

The National Bank of Serbia may refuse to act on a request for cooperation from paragraph 1 of this Article or to exchange information and data as provided for in paragraph 4 of this Article only where:

- 1) such supervisory activity or exchange of information might adversely affect the sovereignty, security or public order of the Republic of Serbia;
- 2) judicial proceedings have already been initiated in respect of the same persons and the same actions before the authorities of the Republic of Serbia;
- 3) final judgement has already been delivered in the Republic of Serbia addressed in respect of the same persons and the same actions.

If the National Bank of Serbia or a competent authority of other member state refuses a request for cooperation or fails to act upon such request within a reasonable period, the authority whose request was not acted upon may ask for the mediation of the European Banking Authority in accordance with the regulations governing the operations of that authority.

### **Cooperation with competent authorities of a host member state when exercising supervision in that state**

#### **Article 212**

In exercising supervision of branches of a supervised entity with a head office in the Republic of Serbia, its agents and other persons to whom the supervised entity outsourced operational and other activities in another member state, the National Bank of Serbia shall cooperate with competent authorities of the host member state.

The National Bank of Serbia shall inform the competent authority of the host member state of its intention to perform on-site supervision of operations of the supervised entity specified in paragraph 1 of this Article in the territory of that state.

The National Bank of Serbia may delegate on-site supervision of the supervised entity

referred to in paragraph 1 of this Article, in whole or in part, to the competent authority of the host member state in that state, with its consent, if this would improve the efficiency of such supervision.

**Cooperation with competent authorities of a home member state when exercising supervision of a supervised entity from that state operating in the Republic of Serbia**

**Article 213**

The competent authority of a home member state may perform in the territory of the Republic of Serbia on-site supervision of a supervised entity with a head office in that state operating in the Republic of Serbia through a branch, agent or other person to whom it outsourced some operational and other activities.

The competent authority of a home member state shall inform the National Bank of Serbia in advance of its intention to perform supervision specified in paragraph 1 of this Article.

When exercising supervision referred to in paragraph 1 of this Article, provisions of Article 179 of this Law shall apply *mutatis mutandis* to the powers of the competent authority of a home member state.

At the request of the competent authority of a home member state, the National Bank of Serbia may perform supervision referred to in paragraph 1 of this Article. Authorised persons of the competent authority of a home member state may be present during such supervision.

**Part VII**  
**PENALTY PROVISIONS**

**Title I**  
**FINES**

**Fine in the procedure of exercising the protection of rights and interests of payment  
service users and electronic money holders**

**Article 214**

If, in the procedure of exercising the protection of rights and interests of payment service users and electronic money holders, it is determined that the payment service provider or electronic money issuer acted in breach of provisions of Articles 215–217 of this Law, the National Bank of Serbia shall adopt the decision ordering the financial service provider to eliminate the determined irregularities and to submit to it the corresponding evidence within the deadline established by that decision, and shall at the same time impose the fine referred to in those Articles.

If the payment service provider or electronic money issuer, in the event from paragraph 1 hereof, fails to submit to the National Bank of Serbia evidence that it eliminated irregularities within the timeframe stipulated in that paragraph, the National Bank of Serbia shall adopt the decision imposing a new fine against such provider, to the maximum amount of such fine determined in Articles 215–217 of this Law.

The imposing of a fine against the payment service provider and electronic money issuer in the procedure of exercising the protection of rights and interests of payment service users and electronic money holders shall be subject to the law governing the protection of financial service consumers.

**Fine against a payment service provider**

**Article 215**

The fine ranging from RSD 50,000 to 800,000 shall be imposed against the payment service provider referred to in Article 10, paragraph 1, items 1)–3) and item 6) of this Law, and the electronic money issuer referred to in Article 106, paragraph 1, items 1)–3) of this Law:

1) if it charges payment service users for the provision of information and/or fulfilment of their obligations in performing payment transactions, contrary to provisions of Article 12 of this Law (Article 12);

2) if it fails to advertise payment services in a clear and comprehensible way, and/or if such advertising contains inaccurate information or information that may mislead payment service users regarding the terms of use of these services (Article 13, paragraph 1);

3) if it fails to provide information and notifications from this Law to payment service users in a clear and comprehensible way, in Serbian or other language proposed by the payment service user, about which the parties agreed (Article 13, paragraph 2);

4) if prior to engaging persons in the activities of provision of information to payment service users it fails to ensure training for such persons or appropriate evidence of such training (Article 13, paragraph 6);

5) if persons that it engaged in the activities of provision of information to payment service users do not possess appropriate qualifications, knowledge and experience or act contrary to good business practices or business ethics, or do not respect the personality and integrity of payment service users (Article 13, paragraph 7);

6) if the framework contract does not contain elements and/or information referred to in Article 16 of this Law, if it failed to conclude the framework contract in writing, if it failed to ensure that the payment service user receives at least one copy of the framework contract,

and/or if, in the course of the contractual relationship, on request of the payment service user, it failed to submit in paper or other durable medium a copy of the framework contract and/or information from Article 17, paragraph 1 of this Law (Article 16);

7) if it failed to submit to the payment service user all information from Article 16 of this Law prior to conclusion of the framework contract or failed to submit information in the manner determined by Article 17 of this Law (Article 17);

8) if it unilaterally starts to implement amendments to the framework contract, contrary to provisions of Article 18 of this Law, and/or if it fails to submit a proposal or notification in the manner and within deadlines stipulated by that Article (Article 18);

9) if it fails to inform immediately the payment service user about changes in the interest rate referred to in Article 19, paragraphs 1 and 2 of this Law, in the manner and within deadlines stipulated by that Article, unless the framework contract stipulates different deadlines and manner of informing (Article 19, paragraph 3);

10) if it failed to ensure equal treatment of payment service users in calculation and application of changes in the interest rate and the currency exchange rate referred to in Article 19, paragraphs 1 and 2 of this Law (Article 19, paragraph 4);

11) if the framework contract stipulates a period of notice longer than one month in the event of termination of this contract on request of the payment service user (Article 20, paragraph 1);

12) if in the event of termination of the framework contract, on request of the payment service user, it fails to give back the proportionate part of the previously paid charges for payment services not rendered, or charges a fee for termination of the framework contract (Article 20, paragraphs 3 and 4);

13) if the framework contract envisages a period of notice shorter than two months in the event of termination of this contract, on request of the payment service provider, or if it fails to submit the notification of termination of the framework contract in writing (Article 21, paragraphs 1 and 3);

14) if it terminates the framework contract and does not give back the proportionate part of the previously paid charges for payment services not rendered or charges a fee for termination of the framework contract (Article 21, paragraph 4);

15) if it failed to submit to the payer, before or after an individual payment transaction, information in accordance with Article 22 of this Law (Article 22);

16) if it failed to submit to the payee, after an individual payment transaction, information in accordance with Article 23 of this Law (Article 23);

17) if, prior to concluding the contract on a low-value payment instrument, it failed to submit to the payment service user all information from Article 24 of this Law (Article 24);

18) if it failed to provide to the payment service user information in accordance with Article 25 of this Law (Article 25);

19) if it failed to make available and/or submit to the payment service user prior information on a single payment transaction in accordance with Article 26 of this Law (Article 26);

20) if, immediately upon receiving the payment order for execution of a single payment transaction, it failed to submit or make available to the payer the prescribed information in accordance with Article 27 of this Law (Article 27);

21) if, immediately upon execution of a single payment transaction, it failed to submit or make available to the payee the prescribed information in accordance with Article 28 of this Law (Article 28);

22) if it failed to provide the payment service user with information on the expected time of execution of an international payment transaction or payment transaction in the currency of third

countries, or information on the amount of the charge of another payment service provider or intermediary participating in the execution of such transaction, in accordance with Article 30 of this Law, and/or if it failed to inform the payment service user, when it does not possess information on the exact amount of the charge at the moment of initiating the payment transaction, about the expected amount of the charge (Article 30, paragraphs 2–4);

23) if it failed to inform the payment service user, before initiating the payment transaction, about the payment of a special charge required for the use of a specific payment instrument (Article 31, paragraph 2);

24) if it executes the payment transaction without the payer's consent in accordance with Article 33 of this Law (Article 33);

25) if it refuses to execute the payment order once all conditions determined by the payment service contract have been fulfilled, unless stipulated otherwise by a regulation, or if it fails to inform the payment service user about the refusal to execute the payment order in accordance with Article 36, paragraphs 2 and 3 of this Law, or if it charges a fee for such notification and this is not determined by the framework contract in accordance with paragraph 4 of that Article (Article 36);

26) if it fails to enable the payer to revoke the payment order in accordance with Article 37 of this Law before the occurrence of irrevocability of that order (Article 37);

27) if it enables the payment service user to revoke the payment order contrary to provisions of Article 38 of this Law (Article 38);

28) if it performs a payment transaction in the currency upon which it did not agree with the payment service user (Article 39);

29) if it levies a charge in relation to the execution of a payment transaction of which it failed to previously inform the payment service user in accordance with Articles 17, 22, 24, 26 and 31 of this Law (Article 40, paragraph 1);

30) if it levies a charge in relation to the execution of a payment transaction from the payment service user with which it did not conclude a payment service contract, unless it is entitled to it in accordance with Article 40, paragraph 3 of this Law (Article 40, paragraphs 2 and 3);

31) if it fails to transfer, in execution of a payment transaction, from the payer to the payee the total amount of the payment transaction determined in the payment order, except in the case from Article 40, paragraph 5 of this Law (Article 40, paragraphs 4 and 5);

32) if, prior to crediting funds to the account of the payee or placing these funds at the disposal of the payee, it levies its charges from the payment transaction amount being transferred, whereas in the information from Articles 23 and 28 of this Law it failed to show separately the total amount of the payment transaction and charges levied (Article 40, paragraph 5);

33) if it prevents or otherwise limits the payee in offering to the payer a reduction for using the payment card or other payment instrument (Article 41, paragraph 1);

34) if it fails to ensure that the payment transaction amount is credited to the account of the payee's payment service provider, in accordance with Article 42 of this Law (Article 42);

35) if it fails to submit to the payer's payment service provider the payment order issued by the payee or the payer through the payee within the time limits agreed between the payee and its payment service provider, and/or, in case of direct debit, if it fails to submit such payment order within the deadline enabling the payer's payment service provider to credit the account of the payee's payment service provider by the amount of the payment transaction on the agreed due date (Article 43);

36) if it fails to credit funds without delay to the payee's payment account or, when the payee does not have a payment account with such payment service provider, if it fails to place

at its disposal these funds, and the conditions from Article 44, paragraph 1 of this Law have been fulfilled (Article 44, paragraph 1);

37) if immediately upon crediting funds to the payment account it fails to enable the payee to dispose of these funds (Article 44, paragraph 2);

38) if in the case from Article 44, paragraph 3 of this Law it fails to pay cash free of charge immediately and/or by no later than the following business day (Article 44, paragraph 3);

39) if it fails to ensure the determination of the debit value date and the credit value date in accordance with provisions of Article 45 of this Law (Article 45);

40) if it fails to ensure that the credit value date of the payment account be the date when the payment service provider receives cash, if the payment service user places cash to the payment account with the payment service provider holding such account, in the account currency, and/or if it fails to ensure that the payee may dispose of funds immediately upon receiving cash in accordance with limitations from Article 44, paragraph 3 of this Law (Article 46);

41) if it fails to fulfil its obligations in relation to the payment instrument determined in Article 48, paragraph 1 of this Law (Article 48, paragraph 1);

42) if it issues to the payment service user an unsolicited payment instrument, and it is not necessary to replace the already issued payment instrument (Article 48, paragraph 2);

43) if it fails to submit to the payment service user the evidence that the user informed the payment service provider in accordance with Article 47, paragraph 3 of this Law, if the payment service user submitted the request for the submission of such evidence within 18 months from the notification date (Article 48, paragraph 4);

44) if it blocks the payment instrument, while conditions from Article 49, paragraph 2 of this Law have not been fulfilled, or if it fails to inform the payer about the intention to block and/or about the blocking of the payment instrument in the manner determined in that Article, and/or if it fails to enable the re-use of the payment instrument or fails to replace it with a new one once the reasons for its blocking have ceased (Article 49);

45) if it fails to act in accordance with provisions of Article 50 of this Law in case of an unauthorised payment transaction (Article 50);

46) if it fails to compensate the payment service user for losses, in accordance with Article 51 of this Law (Article 51);

47) if it fails to act in accordance with provisions of Article 53 of this Law in case of a non-executed or incorrectly executed payment transaction initiated by the payer (Article 53);

48) if it fails to act in accordance with provisions of Article 54 of this Law in case of a non-executed or incorrectly executed payment transaction initiated by the payee or the payer through the payee (Article 54);

49) if it fails to immediately take reasonable measures in accordance with Article 55 of this Law, i.e. fails to provide information about the flow of payment transaction funds and immediately inform the payee's payment service provider or if it fails to refund the amount of the non-executed payment transaction (Article 55, paragraphs 3 and 5);

50) if it fails to return without delay to the payer's payment service provider funds in accordance with Article 56, paragraph 1, items 1) and 3) of this Law (Article 56, paragraph 1, items 1) and 3));

51) if, in case of a non-executed or incorrectly executed payment transaction, on request of its payment service user, it fails to immediately take appropriate measures to determine the flow of payment transaction funds and inform the user immediately about the outcome of measures taken (Article 58);

52) if it unjustifiably refuses the refund of the amount of the authorised and correctly executed transaction referred to in Article 63 of this Law (Article 63);



53) if it fails to provide the payment service user with a fee information document before the conclusion of the framework contract for a payment account, or if it fails to provide such fee information document in the manner specified in Article 73d, paragraph 3 of this Law (Article 73d, paragraph 3);

54) if it fails to ensure that the fee information document is easily available at counters on the provider's premises and on its website, or if it fails to provide such document free of charge to the payment service user, on its request, on paper or another durable medium (Article 73d, paragraph 4);

55) if the fee information document which it has provided to the payment service user pursuant to Article 73d, paragraphs 3 and 4 of this Law or which it has made easily available in accordance with paragraph 4 of that Article was not drafted in accordance with the regulation of the National Bank of Serbia referred to in paragraph 5 of that Article (Article 73d, paragraph 5);

56) if it fails to send to the payment service user a statement of fees at least once a year, or if it charged the user for the delivery of such statement (Article 73e, paragraph 1);

57) if the statement of fees was not drafted in accordance with Article 73e, paragraphs 2 to 9 of this Law (Article 73e, paragraphs 2 to 9);

58) if when marketing and contracting the services specified in the list of representative services it fails to use the terms and definitions specified in that list or if it uses product (brand) names which make it difficult to clearly identify the services defined in that list (Article 73f, paragraphs 1 and 3);

59) if it fails to inform the payment service user about the possibility to open a payment account separately from purchasing a product or service not linked to the account, but offered as part of a package of payment account opening and maintaining services, or if in that case, it fails to provide the payment service user with separate information regarding the costs and fees associated with each of the other products and services offered in that package (Article 73i);

60) if it fails to enable the payment service user, who is opening or holds a payment account with the payment service provider, to switch the payment account in the same currency (Article 73j, paragraphs 1 and 4);

61) if, when switching the payment account to the receiving payment service provider, it fails to transfer the information on all or some standing orders, recurring direct debit mandates and incoming credit transfers and/or fails to transfer any positive account balance, if so requested by the payment service user (Article 73j, paragraph 3);

62) if, upon receiving the authorisation, it fails to undertake actions relating to payment account switching (Article 73k, paragraphs 1 and 2);

63) if it fails to deliver to the payment service user an original or copy of the authorisation from Article 73k of this Law immediately upon receiving such authorisation (Article 73k, paragraph 3);

64) if, as the receiving payment service provider, it fails to transmit to the transferring payment service provider the request from Article 73l, paragraph 1 of this Law in the prescribed manner and/or within the set deadline (Article 73l, paragraph 1);

65) if, as the transferring payment service provider, it fails to act on the request of the receiving payment service provider from Article 73l, paragraph 1 of this Law in the prescribed manner and/or within the set deadline (Article 73l, paragraph 2);

66) if, as the transferring payment service provider, it fails to close the account in accordance with Article 73l, paragraph 3 of this Law (Article 73l, paragraph 3);

67) if, as the transferring payment service provider, it fails to inform the consumer without delay that the conditions for closing the account have not been fulfilled (Article 73l, paragraph 4);

68) if, as the receiving payment service provider, it fails to act in accordance with Article

73l, paragraph 5 of this Law (Article 73l, paragraph 5);

69) if, as the receiving payment service provider, it fails to act in accordance with Article 73l, paragraph 7 of this Law (Article 73l, paragraph 7);

70) if, as the transferring payment service provider, it blocks a payment instrument contrary to Article 73l, paragraph 8 of this Law (Article 73l, paragraph 8);

71) if it fails to make information about the existing standing orders and direct debits easily available to the payment service user or fails to deliver that information, or delivers it at a fee (Article 73m, paragraph 1);

72) if, as the transferring payment service provider, it fails to provide to the payment service user or the receiving payment service provider the information from Article 73l, paragraph 1, items 1) and 2) of this Law, and/or provides it at a fee (Article 73m, paragraph 2);

73) if it charges a fee contrary to Article 73m, paragraph 3 of this Law (Article 73m, paragraph 3);

74) if it fails to refund to the payment service user, without delay, any damage incurred by the user in the switching process due to non-compliance with Articles 73k and 73l of this Law (Article 73n, paragraph 1);

75) if it fails to make the information on the payment account switching easily available to the payment service user in the manner specified in Article 73o of this Law and/or if it does so at a fee (Article 73o);

76) if, upon receiving a duly completed application from the consumer for opening a payment account with basic features, it fails to act within the set deadline (Article 73q, paragraph 1);

77) if it refuses the consumer's application for opening a payment account with basic features contrary to Article 73q, paragraphs 2 and 3 of this Law (Article 73q, paragraphs 2 and 3);

78) if, in the case of refusing the consumer's application for opening a payment account with basic features, it fails to inform the consumer about the refusal and the reasons therefore and/or it fails to provide to the consumer the information about the right to complain and the possibility of out-of-court dispute settlement (Article 73q, paragraphs 5 and 6);

79) if it fails to allow the consumer to execute an unlimited number of transactions in relation to the payment account with basic features or to execute payment transactions from that account on the bank's premises and/or via online facilities, where such facilities are offered by the bank (Article 73r);

80) if it makes the opening and using of a payment account with basic features conditional on the contraction of the overdraft facility or credit card use, or of another additional service (Article 73s, paragraph 2);

81) if it charges higher fees in relation to the payment account with basic features than the prescribed ones or if it does not provide certain types and a certain number of payment services from Article 73p hereof free of charge to certain socially vulnerable categories of consumers in accordance with the regulation of the National Bank of Serbia referred to in Article 73t, paragraph 2 of this Law (Article 73t);

82) if it unilaterally terminates the contract contrary to Article 73u of this Law (Article 73u);

83) if it fails to provide to the consumer a notification about the termination of the contract on a payment account with basic features in writing, or fails to deliver it within no more than two months before the termination comes into effect, and/or if it delivers the notification at a fee (Article 73u, paragraph 3);

84) if the notification about the termination of the contract on a payment account with basic features does not contain information about the consumer's right to complain and the possibility of out-of-court dispute settlement (Article 73u, paragraph 5);

85) if it fails to make the information about payment accounts with basic features easily available to the consumer and/or fails to provide explanations referred to in Article 73v, paragraph 2 of this Law or does so at a fee (Article 73v, paragraph 2);

86) if it fails to act in the prescribed manner and/or within the set deadline specified in Article 196b of this Law (Article 196b);

87) if it violates the consumer's rights in relation to the payment account referred to in Article 196c of this Law (Article 196c).

### **Fine against an electronic money issuer**

#### **Article 216**

The fine ranging from RSD 50,000 to 800,000 shall be imposed against the electronic money issuer referred to in Article 106, paragraph 1, items 1)–3) of this Law:

1) if, by appropriate application of Article 13, paragraph 1 of this Law, it fails to advertise the issuance of electronic money in a clear and comprehensible way and/or if such advertising contains inaccurate information or information which may mislead the electronic money holder regarding the terms of use of services relating to electronic money (Article 108, paragraph 2);

2) if, by appropriate application of Article 13, paragraph 2 of this Law, it fails to provide information and notifications from this Law to electronic money holders in a clear and comprehensible way, in Serbian or other language proposed by the electronic money holder, about which the parties agreed (Article 108, paragraph 2);

3) if, by appropriate application of Article 13, paragraph 6 of this Law, prior to engaging persons in the activities of provision of information to electronic money holders, it failed to ensure training for those persons or appropriate evidence of such training (Article 108, paragraph 2);

4) if, by appropriate application of Article 13, paragraph 7 of this Law, persons that it engaged in the activities of provision of information to electronic money holders do not possess appropriate qualifications, knowledge and experience or act contrary to good business practices and business ethics, or do not respect the personality and integrity of electronic money holders (Article 108, paragraph 2);

5) if, by appropriate application of Articles 17, 24 and 25 of this Law, it failed to submit to the electronic money holder all information from Articles 24 and 25 of this Law, which relate to electronic money, and/or failed to submit such information in the manner envisaged by Article 17 of this Law (Article 108, paragraph 2);

6) if, by appropriate application of Article 18 of this Law, it unilaterally starts to implement amendments and supplements to the contract concluded with the electronic money holder, contrary to provisions of that Article (Article 108, paragraph 2);

7) if, by appropriate application of Article 20 of this Law, the contract concluded with the electronic money holder envisages the period of notice longer than one month in case of termination of this contract which is required by the electronic money holder, or if it levies a charge for termination of the contract (Article 108, paragraph 2);

8) if, by appropriate application of Article 21, paragraph 1 of this Law, the contract concluded with the electronic money holder envisages a period of notice shorter than two months in case of termination of this contract which is required by the electronic money issuer, or if it levies a charge for termination of such contract (Article 108, paragraph 2);

9) if immediately upon receipt of funds it fails to issue electronic money at par value (Article 109);

10) if it pays interest or grants other material benefit to the electronic money holder because of holding such money over a particular time period (Article 110);

11) if it accepts electronic money that it did not issue, without concluding the contract on

accepting such money with another electronic money issuer (Article 111, paragraph 2);

12) if it fails to redeem electronic money in accordance with Article 112 of this Law or levies charges for such redemption contrary to provisions of that Article (Article 112).

### **Fines applied following the Republic of Serbia's accession to the European Union**

#### **Article 217**

In addition to fines from Article 215 of this Law, the fine ranging from RSD 50,000 to 800,000 shall be imposed against the payment service provider from Article 10, paragraph 1, items 1)–3) and item 6) of this Law, as well as the electronic money issuer from Article 106, paragraph 1, items 1)–3) of this Law – if it acted contrary to provisions of Article 195 of this Law (Article 195).

Provisions of Articles 215 and 216 shall apply to payment service providers and/or electronic money issuers from a member state or third country when, in accordance with this Law, they provide payment services through a branch or agent, and/or issue electronic money in the Republic of Serbia.

## **Title II**

### **MISDEMEANOURS**

#### **Misdemeanours of legal persons, entrepreneurs and natural persons**

#### **Article 218**

The fine ranging from RSD 50,000 to 800,000 shall be imposed against a legal person for a misdemeanour:

1) if, as a third person, prior to initiating a payment transaction, it fails to inform the payment service user about the payment of a special charge required for the use of a particular payment instrument (Article 31, paragraph 2);

2) if, as an intermediary that participates in execution of a payment transaction for the account of the payment service provider, it fails to transfer the entire amount of the payment transaction determined in the payment order (Article 40, paragraph 4);

3) if, as the payee, it requires an additional charge from the payer for the use of the payment card or other payment instrument (Article 41, paragraph 2);

4) if it fails to inform the bank in which it has an open current account about status and other change registered with other bodies and organisations, or fails to take legal actions necessary to harmonise data relating to its current account with this change – within three days from receiving the decision on the entry of such change (Article 72, paragraph 3);

5) if it fails to inform the National Bank of Serbia about its acquisition of a qualifying holding in a payment institution, by no later than the next day from the acquisition date (Article 81, paragraph 3);

6) if, without the National Bank of Serbia's prior approval, it acquires a qualifying holding in an electronic money institution or increases the holding so as to acquire from 20% to 30%, more than 30% to 50%, or more than 50% of voting rights or capital in that institution, and/or to become its parent undertaking (Article 122);

7) if it acquires and/or increases a qualifying holding in an electronic money institution in the manner from Article 124, paragraph 1 of this Law, and within one month from such acquisition and/or increase fails to submit the application for the National Bank of Serbia's approval of such acquisition and/or increase, or fails to notify the National Bank of Serbia of having disposed of the thus acquired and/or increased qualifying holding (Article 124, paragraph 2);

8) if it fails to submit information and relevant documentation in relation to a qualifying holding, in accordance with Article 125 of this Law (Article 125, paragraphs 1, 2, 3 and 5);

9) if it participates in a payment system and cannot be a participant in that system in accordance with provisions of this Law (Article 143);

10) if, by appropriate application of Article 81, paragraph 3 of this Law, it fails to inform the National Bank of Serbia about its acquisition of a qualifying holding in the operator, by no later than the next day following such acquisition (Article 146, paragraph 4);

11) if, in the case from Article 194, paragraph 1 of this Law, it failed to disclose to the payer the information about the exchange rate to be used for conversion of the payment currency and about charges to be levied in relation to such conversion, or if it performed such change without the payer's consent (Article 194);

For actions from paragraph 1 of this Article, the responsible person in the legal person shall also be punished for a misdemeanour with a fine ranging from RSD 30,000 to 150,000.

For actions from paragraph 1 of this Article, an entrepreneur shall be punished for a misdemeanour with a fine ranging from RSD 50,000 to 500,000.

For actions from paragraph 1, items 5)–10) of this Article, a natural person shall be punished for a misdemeanour with a fine ranging from RSD 30,000 to 150,000.

### **Misdemeanour of an external auditor**

#### **Article 219**

The external auditor performing audit of financial statements of a payment institution, electronic money institution or operator, shall be punished with a fine ranging from RSD 100,000 to 800,000 if it fails to inform the National Bank of Serbia without delay about the facts and data from Article 99, paragraph 2 of this Law (Article 99, paragraph 2, Article 134, paragraph 1 and Article 161, paragraph 3).

For the action from paragraph 1 of this Article, the responsible person in the external auditor shall be punished with a fine ranging from RSD 30,000 to 150,000.

### **Misdemeanours of responsible persons at the National Bank of Serbia**

#### **Article 220**

A fine ranging from RSD 50,000 to 150,000 shall be imposed against the responsible person at the National Bank of Serbia:

1) if within three months from receiving the duly completed application it fails to decide about the application for the license to provide payment services or about the request to supplement the license (Article 82, paragraph 2 and Article 85);

2) if within three months from receiving the duly completed application it fails to decide about the application for granting approval to a payment institution to establish a branch in a third country (Article 104, paragraph 4);

3) if within two months from receiving the duly completed application it fails to decide about the request for granting approval from Article 118, paragraph 1 and Article 124, paragraph 2 of this Law (Article 118, paragraph 2 and Article 124, paragraph 5);

4) if within three months from receiving the duly completed application it fails to decide about the application for the license to issue electronic money or about the request to supplement the license (Article 127, paragraphs 2 and 5);

5) if within three months from receiving the duly completed application it fails to decide about the application for granting approval to an electronic money institution for the issuance of electronic money and provision of payment services through a branch in a third country (Article 135, paragraph 5);

6) if within four months from receiving the duly completed application it fails to decide on

the application for granting the license for payment system operation (Article 151, paragraph 5);

7) if within two months from receiving the duly completed application it fails to decide about the application for granting approval to amendments and supplements to elements of payment system rules from Article 148 of this Law (Article 158, paragraph 3).

8) if within six months from receiving the duly completed application it fails to decide about the application for granting approval to an electronic money institution from a third country for the issuance of electronic money and provision of payment services that are directly related to the issuance of such money in the Republic of Serbia (Article 204, paragraph 2).

**Part VIII**  
**TRANSITIONAL AND FINAL PROVISIONS**  
**Harmonisation of bank operation**  
**Article 221**

Banks shall harmonise their operation and internal regulations with provisions of this Law by its application date.

Banks shall, by no later than one month before the application date of this Law, submit the proposal of the framework contract from Article 16 of this Law (offer) to be applied from the application date of this Law to payment service users with which they concluded a contract on account opening and maintenance, contract on the issue and use of the payment card or other contract on payment services with permanent execution.

If a payment service user, prior to the application date of this Law, failed to inform the bank in writing that it refuses the proposal from paragraph 2 of this Article, it will be considered that it agreed with the proposal, of which the bank shall inform it simultaneously with the submission of such proposal.

If the framework contract is concluded in the manner specified in paragraph 3 of this Article, a bank or payment service user may, within three months from the application date of this Law, unilaterally terminate this contract without the expiry of the period of notice determined in Article 20 and/or Article 21 of this Law.

In addition to the manner established in paragraphs 2–4 of this Article, a bank may harmonise the contract on account opening and maintenance, contract on the issue and use of a payment card and other contracts on payment services with permanent execution from paragraph 2 of this Article with provisions of this Law also by harmonising general terms of business applied to these contracts.

In the event from paragraph 5 of this Article, banks shall ensure that general terms of business from that paragraph contain all mandatory elements and/or information from Article 16 of this Law which are not regulated by contracts from that paragraph or are regulated by these contracts contrary to provisions of this Law.

In the event from paragraph 5 of this Article, banks shall, by no later than a month before the application date of this Law, inform all payment service users with which they have concluded contracts from that paragraph of the fact that they harmonised general terms of business with provisions of this Law and shall make these terms available to such users.

If provisions of contracts from paragraph 5 of this Article are contrary to provisions of harmonised general terms of business and/or provisions of this Law, provisions of these terms and/or this Law shall apply to the contractual relationship between a bank and a payment service user from the application date of this Law.

In the event from paragraph 5 of this Article, a payment service user shall be entitled to termination of the contract from that paragraph within three months from the application date of this Law.

The National Bank of Serbia may prescribe more detailed conditions and manner of

harmonisation referred to in this Article.

If, in the period from the expiry of the deadline for submission of the proposal from paragraph 2 of this Article until the application date of this Law, it has concluded with payment service users the contract on account opening and maintenance, the contract on the issue and use of a payment card or other contract on payment services with permanent execution – a bank shall, simultaneously with such contract, conclude the framework contract from Article 16 of this Law, to be applied as of the application date of this Law.

The National Bank of Serbia shall take measures under its remit towards the bank acting contrary to provisions of this Article, in accordance with the law governing banks and this Law.

### **Application of this Law to payment transactions initiated by its application date**

#### **Article 222**

The Law on Payment Transactions (FRY Official Gazette, Nos 3/02 and 5/03 and RS Official Gazette, Nos 43/04, 62/06, 111/09 – other law and 31/11 – hereinafter: Law on Payment Transactions) shall apply to the execution of payment transactions in dinars, initiated by the application date of this Law.

By way of derogation from paragraph 1 of this Article, provisions of the Law on Payment Transactions shall apply to payment transactions to be initiated based on the mandate given by the debtor to its bank and its creditor, issued in accordance with the Law on Payment Transactions by the application date of this Law.

### **Domestic payment transactions in dinars between residents and non-residents**

#### **Article 223**

By the day of the Republic of Serbia's accession to the European Union, a domestic payment transaction between a resident and non-resident or between non-residents, which is executed in dinars, shall not be considered a domestic payment transaction, but an international payment transaction, within the meaning of provisions of this Law.

### **Meaning of the third country**

#### **Article 224**

By the day of the Republic of Serbia's accession to the European Union, the third country means any foreign country, and after that date – the country which is not a member state.

### **Electronic money institutions from third countries which operate in accordance with the Law on Foreign Exchange Operations**

#### **Article 225**

By way of derogation from Article 10, paragraph 2 of this Law, provisions of the law governing foreign exchange operations shall apply to the operations of electronic money institutions from third countries through which residents, in accordance with provisions of the law governing foreign exchange operations, perform activities of foreign payment transactions.

The electronic money institution from paragraph 1 of this Article shall inform the National Bank of Serbia about its business name and head office and the relevant number under which it has been registered in the home country's register, as well as about the name and address of the head office of the supervisory authority – by no later than the application date of this Law and/or prior to the start of providing services to residents if it has not started to provide such services before the application date of this Law.

The National Bank of Serbia shall publish the list of electronic money institutions from third countries which submitted the notification from paragraph 2 of this Article.

Provisions of paragraphs 1–3 of this Article shall apply by the day of the Republic of

Serbia's accession to the European Union.

### **Notification of the public postal operator**

#### **Article 226**

The public postal operator which, on the day of entry into force of this Law, provides services in accordance with the Law on Payment Transactions, shall submit to the National Bank of Serbia the notification from Article 11, paragraph 4 of this Law, by no later than one month prior to the start of application of this Law.

### **Submission of application for license**

#### **Article 227**

The application for license from Articles 82, 127 and 151 of this Law may be submitted to the National Bank of Serbia at the earliest two months before the start of application of this Law.

The National Bank of Serbia's decision granting the license from paragraph 1 of this Article may not produce legal effect prior to the application date of this Law.

### **Submission of application for license for payment system operation**

#### **Article 228**

A legal person, apart from the National Bank of Serbia, which by the application date of this Law managed payment system operation in accordance with provisions of the Law on Payment Transactions and regulations adopted based on that Law shall, by that date, submit to the National Bank of Serbia the application for license for payment system operation.

A legal person which, by the application date of this Law, submitted the application from paragraph 1 of this Article, shall continue to operate in accordance with provisions of the Law on Payment Transactions and regulations adopted based on that Law by the day of submission of the National Bank of Serbia's decision on such request.

### **Continuity of payment systems of the National Bank of Serbia**

#### **Article 229**

On the application date of this Law, the National Bank of Serbia shall continue, in accordance with provisions of this Law, to manage payment systems which it operates and which have been set up based on provisions of the Law on Payment Transactions and other regulations.

The National Bank of Serbia shall continue to manage the system of the national payment card.

### **Secondary legislation of the National Bank of Serbia**

#### **Article 230**

The National Bank of Serbia shall adopt regulations implementing this Law by no later than within six months from the day of its entry into force.

### **Repeal of provisions of the Law on Payment Transactions**

#### **Article 231**

On the application date of this Law, provisions of the Law on Payment Transactions (FRY Official Gazette, Nos 3/02 and 5/03 and RS Official Gazette, Nos 43/04, 62/06, 111/09 – other law and 31/11) shall be repealed, apart from provisions of Article 2, Articles 47–49, Article 50, paragraph 1, item 6) and paragraphs 2 and 3, Article 51, paragraph 1, items 18) and 19) and paragraph 2 and Article 57, paragraph 3 of that Law.

Provisions of Article 2 of the Law on Payment Transactions (FRY Official Gazette, Nos 3/02



and 5/03 and RS Official Gazette, Nos 43/04, 62/06, 111/09 – other law and 31/11) shall remain in force exclusively for the purpose of applying other provisions of paragraph 1 of this Article which shall not be repealed on the application date of this Law.

### **Entry into force**

#### **Article 232**

This Law shall enter into force on the eighth day following its publication in the RS Official Gazette and shall apply as of 1 October 2015, apart from provisions of Articles 192–213, Article 217 and Article 218, paragraph 1, item 11) of this Law, which shall enter into force on the day the Republic of Serbia accedes to the European Union.

### ***Separate articles of the Law on Payment Services (RS Official Gazette, 44/2018)***

#### **Article 32**

The National Bank of Serbia shall adopt the necessary implementing regulations under this Law by no later than 16 December 2018.

#### **Article 33**

Banks shall harmonise their operations and internal acts with the provisions of this Law no later than 17 March 2019.

Banks shall, by no later than 16 February 2019, harmonise the already concluded contracts governing services linked to a payment account and submit the proposal of contracts applicable as of 17 March 2019 to payment service users.

If payment services users failed to inform the bank in writing, prior to 17 March 2019, that they refuse the proposal referred to in paragraph 2 of this Article, it will be considered that they agreed with the proposal, of which the bank shall have informed them simultaneously with the submission of such proposal.

In addition to the manner established in paragraphs 2 and 3 of this Article, a bank may harmonise contracts governing services linked to a payment account also by harmonising general terms of business applied to these contracts.

In the event from paragraph 4 of this Article, banks shall, by no later than 16 February 2019, inform all payment service users with which they have concluded contracts from that paragraph of the fact that they harmonised general terms of business with provisions of this Law and shall make these terms available to such users.

If the provisions of contracts from paragraph 4 of this Article are contrary to the provisions of harmonised general terms of business and/or provisions of this Law, the provisions of those terms and/or this Law shall apply to the contractual relationship between a bank and a payment service user starting with 17 March 2019.

The National Bank of Serbia may prescribe more detailed conditions and manner of harmonisation referred to in this Article.

The National Bank of Serbia shall take measures under its remit towards the bank acting contrary to provisions of this Article, in accordance with the law governing banks and this Law.

#### **Article 34**

This Law shall enter into force on 16 June 2018 and apply as of 17 March 2019, apart from provisions 28 to 30 of this Law, which shall apply as of the day the Republic of Serbia accedes to the European Union.