

Pursuant to Article 145, paragraph 1 of the Law on Payment Services (RS Official Gazette, No 139/2014) and Article 59, paragraph 2 of the Law on the National Bank of Serbia (RS Official Gazette, Nos 72/2003, 55/2004, 85/2005 – other law, 44/2010, 76/2012, 106/2012, 14/2015 and 40/2015 – Constitutional Court decision), Governor of the National Bank of Serbia issues the following

## **OPERATING RULES FOR INTERBANK CLEARING OF PAYMENTS IN FOREIGN EXCHANGE**

### **Introductory provisions**

1. These Operating Rules set forth the operation of the payment system for the transfer of funds in euros between participants in the system, by executing transfer orders at designated times by the net principle (*DNS – Designated-Time Net Settlement System*), where the National Bank of Serbia (NBS) acts as the operator and settlement agent (hereinafter: NBS FX clearing system).

The execution of transfer orders at designated times by the net principle referred to in paragraph 1 of this Section means the processing and netting of transfer orders (clearing) and submitting negative and/or positive net settlement positions in accordance with the “Daily NBS FX Clearing Schedule” contained in Annex 1 to these Rules.

2. For the purpose of these Rules, the following definitions shall apply:

1) *transfer order* means a participant’s instruction leading to the assumption of payment obligation between participants in the NBS FX clearing system in accordance with these Rules;

2) *business identifier code* (BIC) means the identifier code defined by the ISO standard 9362 used by a participant in the NBS FX clearing system;

3) *operating day* means a part of the business day when transfer orders are executed in the NBS FX clearing system and reports on executed transfer orders are submitted in accordance with the Daily NBS FX Clearing Schedule;

4) *queue* means the mechanism by which received transfer orders of an individual participant are queued for execution in the NBS FX clearing system in accordance with these Rules;

5) *netting* means the procedure of calculation of multilateral net settlement positions within the meaning of the law governing payment services;

6) *negative net position* means a multilateral net obligation of an individual participant calculated in the netting procedure;

7) *positive net position* means a multilateral net claim of an individual participant calculated in the netting procedure;

8) *netting cycle* means a period of time specified in the Daily NBS FX Clearing Schedule used to perform netting and submission of negative and/or positive net settlement positions;

9) *inability to settle obligations* means the inability of a participant to settle its obligations due to the issuance of a decision to revoke license and/or an act passed by a relevant body to open bankruptcy proceedings or undertake other measures, in accordance with law, intended to wind up or reorganise the participant, and involve imposing a ban on the disposal of funds in the account.

3. Activities relating to operation of the NBS FX clearing system in accordance with these Rules shall be performed by NBS main organisational units – Payment System Department and Foreign Exchange Department.

### **Requirements for participation in NBS FX clearing system**

4. Participants in the NBS FX clearing system may be:

- 1) National Bank of Serbia;
- 2) a bank with the head office in the Republic of Serbia and licenced by the NBS in accordance with the law governing banks (hereinafter: bank).

5. To participate in the NBS FX clearing system, a bank shall file with the NBS the application for connection, using the form “Application to connect to the NBS FX clearing system”, set out in Annex 2 to these Rules.

6. For the NBS to include a bank in the NBS FX clearing system, the bank must:

- 1) be a participant in the NBS RTGS system;
- 2) submit the business identifier code (BIC) that it uses in the NBS RTGS system;
- 3) designate the employee to be in charge of security and protection of communication with the NBS FX clearing system in accordance with these Rules (hereinafter: security administrator) in the form “Security administrator” contained in Annex 3 to these Rules;
- 4) designate employees to be in charge of maintaining contact with the NBS in relation to operation of the NBS FX clearing system in the form “Persons in charge of maintaining contact with the NBS FX clearing system” which is contained in Annex 4 to these Rules;
- 5) conduct testing required by the NBS.

7. If the NBS finds that a bank meets the requirements for participation in the NBS FX clearing system, such bank shall become a system participant by concluding an agreement on connection to the NBS FX clearing system.

By concluding the agreement referred to in paragraph 1 of this Section, a bank shall accept these Operating Rules and agree that the NBS debits its account of FX required reserves in respect of a negative net position and the settlement account in the NBS RTGS system in respect of collection of the fee for rendered services determined by these Rules, in accordance with the decision on uniform fees charged for services provided by the NBS.

8. The NBS shall deliver and/or make available the technical documentation and information relating to the connection to and/or operation of this system to persons applying to connect to the NBS FX clearing system and the system's participants.

9. While executing transfer orders in the NBS FX clearing system, the participant shall use the same hardware and software that it uses for the execution of transfer orders in the NBS RTGS system. At the same time, it must configure software in accordance with technical documentation.

10. Participants shall be responsible for regular updating of data and information submitted to the NBS in accordance with these Rules.

11. The NBS and participants shall exchange information relating to the operation of the NBS FX clearing system using messages specified in Annex 5 to these Rules or otherwise (e.g. by email, telefax etc).

### **Execution of transfer orders**

12. Transfer orders in respect of credit transfer where a participant initiates the transfer of funds to execute payment transactions of its payment service users shall be executed in the NBS FX clearing system.

13. Before the start of the period established by the Daily NBS FX Clearing Schedule for the exchange of messages – transfer orders, each participant may determine the limit and reserve an appropriate amount of funds in the account of FX required reserves for the execution of transfer orders in the system.

For the purpose of calculating net positions – netting in the NBS FX clearing system, the NBS shall record the limit referred to in paragraph 1 of this Section.

In accordance with its needs, a participant may raise or lower the amount of reserve funds in the account of FX required reserves until the start of the netting cycle.

The NBS shall not accept a reduction in the amount of reserve funds if such funds have already been used in transfer orders included in the netting cycle.

14. A participant shall submit a transfer order in the NBS FX clearing system in accordance with the guidelines governing the issuance, exchange and protection of transfer orders in electronic form in NBS payment systems and Annex 5 to these Rules.

15. A transfer order shall be accepted in the NBS FX clearing system if it meets the following requirements:

- 1) it was created using a message whose format is established by Annex 5 to these Rules;
- 2) it was submitted in accordance with the guidelines governing the issuance, exchange and protection of transfer orders in electronic form in NBS payment systems;
- 3) it was submitted in accordance with the Daily NBS FX Clearing Schedule.

The NBS FX clearing system shall reject without delay a transfer order which does not meet the requirements referred to in paragraph 1 of this Section, of which the participant submitting the order shall be informed using an appropriate message in accordance with Annex 5 to these Rules.

16. A participant shall determine the order of executing transfer orders by assigning priorities from 11 to 99, with 11 being the highest and 99 the lowest priority.

17. A transfer order with the priority from 11 to 49, for whose execution there are no sufficient reserve funds referred to in Section 13 of these Rules, shall be queued and included in the netting cycle only after the provision of funds.

If the transfer order is queued, the participant submitting the order may cancel or change its priority within the group of priorities determined in paragraph 1 of these Rules – by submitting an appropriate message in accordance with Annex 5 to these Rules and the Daily NBS FX Clearing Schedule.

If after the expiry of the period determined by the Daily NBS FX Clearing Schedule for the exchange of messages – transfer orders, the transfer order referred to in paragraph 1 of this Section – for which sufficient reserve funds referred to in Section 13 of these Rules have not been provided – is queued, the inclusion of the order in the netting cycle shall be refused, of which the participant submitting the order shall be informed using an appropriate message in accordance with Annex 5 to these Rules.

18. The inclusion of a transfer order with the priority from 50 to 99 in the netting cycle, for whose execution there are no sufficient reserve funds referred to in Section 13 of these Rules shall be refused, of which the participant submitting the order shall be informed using an appropriate message in accordance with Annex 5 to these Rules.

19. Calculated negative and/or positive net positions in the netting cycle shall be submitted for settlement in accordance with the decision governing interbank clearing and settlement of payments in foreign exchange.

20. The transfer order included in netting in the NBS FX clearing system shall be executed once the settlement of negative and/or positive net positions is concluded through the account of FX required reserves, whereafter a participant shall be informed of executed transfer orders using an appropriate message in accordance with Annex 5 to these Rules.

### **Financial and operational risk management in the NBS FX clearing system**

21. Each participant shall be responsible for the limit – a debit cap in the account of FX required reserves for the execution of transfer orders.

22. The NBS shall enable participants to monitor the status of their transfer orders in the NBS FX clearing system in the course of an operating day, and/or the amount of reserve funds in the account of FX reserves, at request – using an appropriate message in accordance with Annex 5 to these Rules.

23. A participant shall be responsible to protect the confidentiality, integrity and availability of resources of its information system functionally connected to the NBS FX clearing system and shall ensure appropriate internal controls to protect from unauthorised access to these resources.

24. The security administrator with a participant must be in charge of:

- 1) configuration and administering of the software provided by the NBS in accordance with the guidelines governing the issuance, exchange and protection of transfer orders in electronic form in NBS payment systems;
- 2) issuance and protection of transfer orders in accordance with the guidelines governing the issuance, exchange and protection of transfer orders in electronic form in NBS payment systems and Annex 5 to these Rules;
- 3) submission of the monthly written report to the NBS.

The report referred to in this Section shall contain in particular: information on the implementation of measures determined in Section 23 of these Rules, records of participants' operational problems, information on completed testing in accordance with Section 32 of these Rules, and information on changes within resources of its information system which are functionally linked to the NBS FX clearing system.

The security administrator shall submit the report referred to in paragraph 2 of this Section by no later than the tenth day in the month for the previous month.

25. A participant shall ensure the protection of electronic messages determined in Annex 5 to these Rules in accordance with the guidelines governing the issuance, exchange and protection of transfer orders in electronic form in NBS payment systems.

26. The NBS shall verify electronic messages exchanged with participants in accordance with these Rules, in accordance with the guidelines governing the issuance, exchange and protection of transfer orders in electronic form in NBS payment systems.

27. If regular operation of the NBS FX clearing system is interrupted by unwanted and unexpected events, the NBS shall take measures to resolve emergency situations and ensure business continuity.

The measures that the NBS may take within the meaning of paragraph 1 of this Section shall include in particular the continuation of operation of the NBS FX clearing system from the back-up location and/or change in the Daily NBS FX Clearing Schedule.

The NBS shall decide on the measures it takes to resolve emergency situations and ensure business continuity, assessing in particular the duration of suspension of the NBS FX clearing system.

The NBS shall timely inform participants of the occurrence of events referred to in paragraph 1 of this Section and shall submit to them relevant

information, in particular: description of the event, planned delay of the execution of transfer orders, if possible, and instructions and recommendations relating to participants' action.

28. In the event of change in the Daily NBS FX Clearing Schedule, the NBS may postpone the start of operation of this system and/or extend its operation, of which it shall inform participants as soon as possible.

29. If particular data are not available due to the occurrence of events referred to in Section 27, paragraph 1 of these Rules, the NBS may continue with operation of the NBS FX clearing system based on the latest data it disposes of.

In the event referred to in paragraph 1 of this Section, at the NBS request participants shall submit again transfer orders and/or take other activities considered necessary by the NBS.

30. A participant with operational problems due to which it is not able to execute transfer orders in the NBS FX clearing system, shall solve these problems independently, but must immediately inform the NBS of their occurrence.

The security administrator with the participant referred to in paragraph 1 of this Section shall submit to the NBS, on the next operating day, the notification in writing, which shall contain in particular the description of the operational problem and the manner of its solving.

31. At the NBS request, participants must take part in regular and extraordinary testing of measures for the resolution of emergency situations and assurance of business continuity, in training activities or any other preventive activities deemed necessary by the NBS.

32. The NBS shall ensure testing at participants' request during or outside of an operating day, at the time agreed between participants and the NBS.

### **Terms and conditions of termination of participation in the NBS FX clearing system**

33. The NBS may permanently or temporarily exclude a participant from the NBS FX clearing system in the following cases:

1) due to the occurrence of inability of participants to settle obligations and/or if conditions have been met to close the account envisaged by the decision prescribing the conditions and manner of opening, maintaining and closing of current accounts;

- 2) if it fails to act in compliance with these Rules;
- 3) if it fails to act in compliance with the agreement it concluded with the NBS on participation in the NBS FX clearing system.

In the event referred to in paragraph 1, subparagraph 1) of this Section, the NBS shall permanently exclude a participant, of which it shall immediately inform it, as well as other participants, whereafter:

- 1) it shall cease to receive transfer orders of the excluded participant in the NBS FX clearing system;
- 2) it shall refuse all transfer orders of the excluded participant which are queued, as well as new transfer orders submitted by other participants in favour of that participant.

In cases referred to in paragraph 1, subparagraphs 2) and 3) of this Section, the NBS shall warn the participant of the reasons for temporary exclusion from the NBS FX clearing system and shall determine the deadline for the elimination of such reasons.

If it fails to eliminate reasons for temporary exclusion within the envisaged deadline, the NBS shall temporarily exclude a participant from the NBS FX clearing system, of which it shall immediately inform it, as well as other participants, whereafter transfer orders of that participant shall be temporarily suspended until the elimination of reasons for temporary exclusion, and/or rejected if the participant fails to eliminate the reasons for temporary exclusion until the end of the operating day.

The NBS may permanently exclude a participant that was temporarily excluded several times from the NBS FX clearing system during a calendar year.

34. After the elimination of reasons why a participant was temporarily excluded from the NBS FX clearing system, the NBS shall include again the temporarily excluded participant and shall enable the execution of transfer orders for that participant.

### **Operating day of the NBS FX clearing system**

35. For the purpose of these Rules, an operating day of the NBS FX clearing system shall mean any day other than a Saturday, Sunday or an official state holiday considered a non-working day.

### **Complaints**

36. The NBS instructions governing the handling of complaints by participants in NBS RTGS and clearing systems shall apply accordingly to

complaints concerning transfer orders executed in the NBS FX clearing system.

37. Electronic data record of appropriate messages on executed transfer orders in the NBS FX clearing system determined by Annex 5 to these Rules, kept by the NBS in accordance with law, shall represent evidence of the execution of transfer orders in the system.

### **Fees**

38. The NBS shall charge fees for rendered services determined by these Rules in accordance with the decision on uniform fees charged for services provided by the NBS.

### **Closing provisions**

39. The NBS may amend and supplement these Rules, of which it shall inform participants in advance.

40. These Rules repeal the Operating Rules for Interbank Clearing of Payments in Foreign Exchange (G. No 10457 of 13 November 2009).

41. These Rules shall be published on the NBS website and shall enter into force on 1 October 2015.

G. No 4773

3 July 2015

Belgrade

Governor

National Bank of Serbia

dr Jorgovanka Tabaković