

Pursuant to Article 5, Paragraph 1, Item b, Article 20, Paragraph 2, Item b and Article 37 of the Law on the Banking Agency of Republika Srpska ("Official Gazette of Republika Srpska", No.: 59/13 and 4/17), Article 6, Paragraph 1, Item b and Article 11 and 19, Paragraph 1, Item b of the Statute of the Banking Agency of Republika Srpska ("Official Gazette of Republika Srpska" No.: 63/17) and Article 46, Paragraph 10 of the Law on electronic money ("Official Gazette of Republika Srpska", No.: 01/24), the Management Board of the Banking Agency of Republika Srpska, at the 11th session, held on 29 October 2024 adopted the

DECISION

ON THE METHOD OF CONDUCTING SUPERVISION OF ELECTRONIC MONEY INSTITUTIONS AND UNDERTAKING SUPERVISORY MEASURES

1. General provisions

General provisions

Article 1

- (1) Decision on the method of conducting supervision of electronic money institutions and undertaking supervisory measures (hereinafter: the Decision) shall stipulate the procedure and method of conducting supervision over the electronic money institution (hereinafter: the Institution), undertaking supervisory measures, and the obligations of the Institution during and after supervision.
- (2) The provisions of this Decision shall apply to the supervision of institutions seated in Republika Srpska to which the Banking Agency of Republika Srpska (hereinafter: the Agency) has issued an operating license to issue electronic money, as well as to organizational units of institutions seated in the Federation of Bosnia and Herzegovina and the Brcko District of Bosnia and Herzegovina that have obtained a license to issue electronic money from the competent authority in the Federation of Bosnia and Herzegovina or the Brcko District of Bosnia and Herzegovina, and that operate in Republika Srpska.
- (3) In addition to institutions and organizational units of institutions referred to in Paragraph 2 of this Article, the provisions of this Decision shall also apply in the case of supervision by the Agency over entities to whom the Institution has outsourced certain operational activities in accordance with the Law on Electronic Money (hereinafter: the Law).
- (4) In the case of a hybrid institution referred to in Article 14 of the Law, the provisions of this Decision shall apply only to the organizational unit of the Institution that is engaged in issuing electronic money and performing the activities referred to in Article 13, Paragraph 3, Items 1 and 2 of the Law.

Supervision activities and scope

Article 2

- (1) The Agency, in accordance with the Law and the competencies stipulated by the Law on the Banking Agency of Republika Srpska and the regulations adopted based thereon, when performing supervision, shall verify the legality and quality of the Institution's operations, including the organization, strategies, policies and procedures adopted by the Institution, and the procedures it applies to align its operations with the regulations and principles of prudential management and good business practices.
- (2) When performing supervision, the Agency shall assess:
 - 1) compliance of the Institution's operations with the law and by-laws of the Agency adopted on the basis of the Law, other relevant regulations, as well as with prudential standards and good business practices,
 - 2) Institution's capital and capital adequacy,

- 3) Institution's management system, risk management system and internal control system, the work of the external auditor,
 - 4) Institution's financial condition,
 - 5) implementation of regulations in the field of anti-money laundering and financing of terrorist activities,
 - 6) implementation of regulations in the field of protection of the rights and interests of electronic money holders,
 - 7) quality, accuracy and reliability of the Institution's reporting system,
 - 8) other segments and indicators of the Institution's operations that have or may have an impact on the efficient and stable operations of the Institution,
- (3) The Agency shall conduct the supervision referred to in Paragraphs 1 and 2 of this Article continuously, and when deems as necessary, it shall conduct enhanced supervision of the Institution's operations, by:
- 1) increasing the number and frequency of on-site supervisions of the Institution,
 - 2) stipulating additional and more frequent reporting to the Agency by the Institution.

2. Supervision conducting method

Type and method of supervision

Article 3

The Agency shall conduct supervision of the Institution's business operations by:

- 1) off-site supervision,
- 2) on-site supervision and
- 3) imposing supervisory measures.

Off-site supervision

Article 4

- (1) The Agency shall perform off-site supervision over the Institution's operations by continuously collecting and analyzing reports, data and other documentation that the Institution submits to the Agency in accordance with the Law and other laws and regulations adopted on their basis, as well as other information and data on the Institution's operations that the Agency has at its disposal.
- (2) Reports, data and other documentation referred to in Paragraph 1 of this Article are reports submitted by the Institution to the Agency with content, within deadlines and in a manner in accordance with the law and by-laws of the Agency, reports of the external auditor, correspondence with the Institution, information, reports, statements submitted by the Institution at the request of the Agency, and other available reports, information and notifications related to the Institution's operations.
- (3) Based on the reports and information referred to in Paragraphs 1 and 2 of this Article, the Agency shall prepare a periodic analysis of the Institution's operations.
- (4) Off-site supervision of the Institution's operations shall be carried out by employees of the Agency who are authorized to do so in accordance with their position of employment.

Minutes on off-site supervision

Article 5

- (1) The minutes on the off-site supervision of the Institution shall be drawn up only when the following has been identified in the procedure of off-site supervision of the Institution's operations:
 - 1) irregularities and illegalities in the Institution's operations, including untimely or inaccurate submission of stipulated reports, and other reports and information at the request of the Agency and/or
 - 2) the existence of grounds for undertaking particular supervisory measures.

- (2) The procedure for drawing up the minutes referred to in Paragraph 1 of this Article and filing an objection by the Institution to them, as well as undertaking supervisory measures, shall be carried out in the same method as in the case of on-site supervision.
- (3) The minutes referred to in Paragraph 1 of this Article, as well as the annex to the minutes, shall be signed by the employees referred to in Article 4, Paragraph 4 of this Decision, who prepared the relevant Minutes.

On-site supervision

Article 6

- (1) The Agency shall carry out on-site supervision of the Institution's operations at the Institution's headquarters and in other premises in cases stipulated by the Law, and may have as its subject the entire Institution's operations (full supervision) or a specific part/parts of the Institution's operations (targeted supervision), as well as control of the implementation of measures imposed on the Institution.
- (2) The Agency shall determine the frequency and scope of on-site supervision of the Institution, taking into account the type, scope and complexity of the electronic money issuing service and the risk profile, as well as the degree of irregularities and non-compliance identified in the Institution's operations, and guided by the principle of proportionality.
- (3) On-site supervision of the Institution's operations is carried out by the Agency's employees based on the authorization of the Agency's director (hereinafter: authorized persons of the Agency)
- (4) On-site supervision of the Institution's operations is carried out by:
 - 1) reviewing accounting documents, business books, auxiliary and other records and calculations, reports that the Institution is obliged to compile, policies, procedures, other internal acts, other documentation related to the Institution's operations in material (paper) form and/or in the form of an electronic record on a media or in the form required by authorized persons of the Agency, as well as by controlling the adequacy and reliability of the information system and providing access to the database used by the Institution,
 - 2) obtaining written and oral explanations from responsible persons, managers, members of the management/supervisory board and other persons of the Institution.
- (5) By way of derogation from Paragraph 3 of this Article, the Agency may authorize an audit firm or another professionally qualified person to perform certain tasks related to supervision, in which case such authorized persons shall have the same powers and duties as the authorized person of the Agency. The costs of engaging an audit firm or another professionally qualified person shall be borne by the Institution.
- (6) The authorized persons of the Agency shall conduct supervision on working days during working hours, and when necessary due to the scope and nature of the supervision, they may also conduct supervision outside the Institution's working hours.

Institution's obligations during on-site supervision

Article 7

- (1) The Institution shall be obliged to enable authorized persons of the Agency to supervise its operations at the Institution's headquarters and at other premises in cases stipulated by the Law.
- (2) The Institution shall be obliged to enable authorized persons of the Agency to perform supervision of business documentation, financial and other reports, and other data and records, as well as supervision of the information system and technologies that enable the operation of the information system to the extent necessary for supervision, in the manner and within the deadlines in accordance with the provisions of the Law and other laws and regulations of the Agency.
- (3) The Institution shall be obliged to make available to authorized persons of the Agency, upon their request, business books and documentation in written form, or in electronic form, as well as to provide them with access to all parts of the information system used by the Institution for the purpose of supervising computer programs.

- (4) At the request of the authorized persons of the Agency, the Institution shall be obliged to provide during the supervision procedure:
 - 1) access to all Institution's premises and all organizational units, while adhering to its security procedures,
 - 2) a separate premise for carrying out supervision activities,
 - 3) copies of documents related to the subject of supervision and access to original documentation,
 - 4) direct communication with members of the Institution's management bodies and employees of the Institution in order to obtain necessary information and
 - 5) written responses from the persons referred to in Item 4 of this Paragraph to questions that are important for conducting supervision.
- (5) The Institution shall be obliged to appoint its representative(s) who will coordinate all activities of the Institution during the supervision to provide the necessary assistance to the authorized persons of the Agency for the unhindered performance of on-site supervision.

Notification on on-site supervision

Article 8

- (1) At least 15 days before the start of on-site supervision, the Agency shall submit to the Institution a notification thereof, which, in addition to the subject of on-site supervision, shall necessarily contain information on the planned start and duration of on-site supervision, a review of the documentation and information necessary for the preparation and execution of on-site supervision (List of requirements to the Institution), as well as other information related to on-site supervision.
- (2) As an exception to Paragraph 1 of this Article, the Agency may deliver a notification on on-site supervision to the Institution just before the commencement of on-site supervision of the Institution if it assesses that such notification would jeopardise the purpose of on-site supervision.
- (3) If specialized software tools that require direct access to the Institution's information system are used during the preparation and conduct of the on-site supervision, the notification on the planned on-site supervision shall also contain a list of authorized persons who will prepare and conduct the supervision, the period during which the Institution must ensure access to the Institution's information system, the resources that the Institution must at least provide to enable access to the Institution's information system, and other information necessary for the preparation and conduct of the on-site supervision.

Minutes on conducted on-site supervision

Article 9

- (1) After the on-site supervision has been carried out, the authorized persons of the Agency shall be obliged to draw up and submit the minutes on the conducted supervision within 20 working days from the date of completion of the on-site supervision.
- (2) The date of completion of on-site supervision is the last day of supervision at the premises of the Institution and/or the Agency.
- (3) By delivering the minutes to the Institution, it is deemed that it has been delivered to the members of the supervisory/management board, the Institution's management bodies, and the managers and/or employees of the Institution whose jurisdiction includes the area that was the subject of the supervision, and the contrary cannot be proven.
- (4) The Director of the Agency may, by a decision, set a different deadline for submitting the minutes on conducted supervision in relation to the deadline referred to in Paragraph 1 of this Article.
- (5) The minutes on conducted on-site supervision and the supplement to the minutes referred to in Article 10 of this Decision shall be signed by the authorized persons of the Agency who conducted the supervision and drew up the minutes.
- (6) The Institution may submit objections on the submitted minutes within 15 days from the date of receipt of the minutes.

- (7) If the Institution fails to submit objections on the minutes within the stipulated deadlines or fails to reasonably challenge the findings from the minutes that identify irregularities and illegalities in operations, the Agency shall impose an appropriate measure to the Institution as stipulated by the Law and this Decision.

Supplement to the minutes on conducted on-site supervision

Article 10

- (1) When the Institution submits the objections to the minutes on conducted on-site supervision, and the Agency, when considering the objections, determines that they are justified, the authorized persons of the Agency shall draw up a supplement to the minutes, which shall be submitted to the Institution no later than 15 days from the date of receipt of the objections.
- (2) If, upon consideration of the Institution's objections to the minutes, it is determined that they are not justified or that they are partially justified in the sense that they do not essentially dispute the statements in the minutes, the Agency shall adopt a conclusion and submit it to the Institution.
- (3) No separate complaint is allowed against the conclusion referred to in Paragraph 2 of this Article.

Suspension and termination of on-site supervision procedure

Article 11

- (1) The Agency shall suspend the on-site supervision procedure if no irregularities and illegalities in the Institution's operations are identified in the individual on-site supervision procedure, and shall draw up the minutes and a conclusion on the suspension of the procedure.
- (2) If, during the on-site supervision procedure, the Institution prevents the supervision from being carried out in accordance with Article 47 of the Law and Article 6 of this Decision, the Agency shall terminate the supervision procedure, and draw up the minutes and issue a conclusion on the termination of the on-site supervision procedure.
- (3) It is considered that the Institution failed to enable the Agency to carry out supervision and failed to cooperate with the authorized persons of the Agency if it failed to act in accordance with Article 47 of the Law and Article 6 of this Decision, as well as in the following cases:
 - 1) if it failed to submitted all the requested data and evidence within the specified deadline, especially the data that the Institution is obliged to have available under the Law, by-laws, other relevant regulations, and prudential standards,
 - 2) if it intentionally or through gross negligence provides data that is incorrect or incomplete, and
 - 3) if it fails to submit reports that it is obliged to submit periodically in accordance with the Law or by-laws and if, even upon repeated request by the Agency, it fails to submit the requested reports or data within the specified deadline.
- (4) When, during on-site supervision, it is determined that there is a prior issue without the resolution of which the matter in question cannot be resolved, and that issue constitutes an independent legal entity whose discussion is not within the competence of the Agency, the procedure shall be suspended until the competent authority resolves the disputed issue.
- (5) The Agency shall draw up the minutes and issue the conclusion on the termination of the supervision procedure, but only in relation to the disputed issue referred to in Paragraph 4 of this Article, while in relation to the issue of the relevant supervision, it shall continue to conduct supervision without adopting a separate act.
- (6) The conclusion referred to in Paragraphs 1, 2 and 5 of this Article shall be delivered to the Institution, which may also file a complaint to the Director of the Agency within 15 days from the date of delivery of the conclusion.

3. Supervisory measures

Supervisory measures

Article 12

- (1) The Agency shall impose to the Institution one or more measures stipulated by Article 51 of the Law when, in the course of the supervision of the Institution's operations, it is determined that the Institution's activities are contrary to the provisions of the Law, the Agency's regulations, other relevant regulations or prudential standards.
- (2) In supervising the operations of the Institution, the Agency may impose the following supervisory measures to the Institution:
 - 1) provide recommendation,
 - 2) issue a written warning,
 - 3) order the elimination of illegalities and irregularities,
 - 4) issue a misdemeanor warrant,
 - 5) temporarily suspend the issuance of electronic money and the execution of related payment services
 - 6) revoke license.
- (3) If the Agency, while supervising the operations of the Institution, determines deficiencies or inconsistencies in operations that do not amount to a violation of regulations, it shall issue recommendations to the Institution for their elimination, in order to improve operations, financial stability and position, as well as reduce the risks to which the Institution is or may be exposed in its operations.
- (4) The recommendation shall contain a deadline for eliminating the deficiencies or inconsistencies referred to in Paragraph 3 of this Article, as well as a deadline within which the Institution is obliged to submit to the Agency a report on the eliminated deficiencies or inconsistencies, with appropriate evidence.
- (5) If the Agency, while supervising the operations of the Institution, identifies irregularities, and their nature and scope do not have a significant impact and adverse consequences, it may issue a written warning to the Institution.
- (6) The Agency shall issue a decision ordering the Institution to eliminate illegalities and irregularities identified in the supervision procedure if it determines that the Institution's operations violate the Law, as well as the Agency's bylaws, and if the Institution fails to act in accordance with the Agency's recommendation and written warning.
- (7) The decision referred to in Paragraph 6 of this Article shall order the Institution to carry out one or more of the following activities:
 - 1) harmonize its operations with the Law and regulations adopted pursuant to the Law,
 - 2) increase the amount of capital, in accordance with the provisions of the Law,
 - 3) undertake appropriate measures to protect electronic money holders, in accordance with the Law,
 - 4) dismiss members of the management bodies, i.e. the responsible person of the Institution, if they act contrary to the provisions of the Law,
 - 5) order the termination of the contract with the entity to whom it has outsourced certain operational activities if the conditions for performing those activities set out in the Law are not met,
 - 6) undertake or suspend certain activities.
- (8) By the decision ordering the elimination of illegalities and irregularities, the Agency shall set a deadline for their elimination, as well as for submitting a report to the Agency on the measures undertaken with appropriate evidence that the illegalities and irregularities have been eliminated.
- (9) The Agency shall supervise the implementation of orders and measures after the expiry of the deadline for their execution.

- (10) The Agency may temporarily prohibit the Institution from issuing electronic money and providing related payment services in accordance with the Law.
- (11) The Agency shall issue a decision on revoking the license and deletion from the register of companies in the following cases:
 - 1) if it determines that the Institution has not started issuing electronic money in Republika Srpska within 12 months from the date of granting this license or that it has ceased issuing electronic money for a period longer than six months,
 - 2) if the Institution submits a request for the license revocation in the manner and within the deadlines determined by the Agency,
 - 3) if it determines that the license was obtained based on false information.

Agency's discretionary right

Article 13

- (1) The Agency shall decide on the measure it undertakes against the Institution based on a discretionary assessment of:
 - 1) the severity of identified irregularities,
 - 2) demonstrated willingness and ability of members of the management bodies to eliminate identified irregularities,
 - 3) other significant circumstances under which the irregularity was committed.
- (2) When assessing the severity of identified irregularities, the following shall be assessed in particular:
 - 1) the degree of exposure of the Institution to certain types of risks,
 - 2) the impact of the committed irregularity on future operations, i.e. the performance of the Institution's business operations,
 - 3) the number of identified irregularities and their interdependence,
 - 4) duration and frequency of the irregularities committed
 - 5) legality of operations, i.e. the performance of the Institution's business operations.
- (3) When assessing the demonstrated willingness and ability of the Institution's bodies to eliminate the identified irregularities and illegalities, the following shall be assessed in particular:
 - 1) the ability of these persons to identify, measure, monitor, assess and manage risks in the Institution,
 - 2) the efficiency in eliminating previously identified irregularities, and in particular in implementing the measures referred to in Article 54 of the Law and Paragraphs 6-8 of Article 12 of this Decision,
 - 3) awareness of persons with the qualifying holding and the Institution's management bodies about difficulties in the operations, i.e. performance of the Institution's business operations,
 - 4) the degree of cooperation with authorized persons of the Agency during supervision.

Administrative procedure

Article 14

- (1) Based on the competencies established by law, the Agency shall decide on administrative matters by applying the provisions of the regulations governing general administrative procedure, as well as the rules of supervision and the profession, unless otherwise provided by the Law.
- (2) In the procedure referred to in Paragraph 1 of this Article, the Agency shall decide by a Ruling, which shall be final.
- (3) An administrative dispute may be initiated against the Ruling referred to in Paragraph 2 of this Article, and a lawsuit against the Ruling shall not postpone its execution, and the dissatisfied party may exercise its property-legal claim in civil proceedings.
- (4) In an administrative dispute against the Ruling referred to in Paragraph 2 of this Article, the court may not, in a procedure of full jurisdiction, resolve an administrative matter for whose resolution the Agency's competence has been stipulated by law.

- (5) If the court annuls the Agency's Ruling, the plaintiff's rights are limited to compensation for the damage caused to it by the enforcement of that Ruling.

Issuing a misdemeanor order and submitting a request to initiate misdemeanor proceedings

Article 15

The Agency may issue a misdemeanor order or submit a request to initiate misdemeanor proceedings, in accordance with the regulations governing misdemeanor proceedings, if it determines that the Institution has acted contrary to the provisions of the Law and other relevant regulations.

4. Transitional and final provisions

Transitional and final provisions

Article 16

This Decision shall come into force on the eighth day from the day of its publication in the "Official Gazette of Republika Srpska".

Number: UO-109/24

Date: 29 October 2024

PRESIDENT OF THE
MANAGEMENT
BOARD
Dejan Kusturić