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 Articles 18-21 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 conditions and procedure of issuing a prior consent for acquiring qualifying holding in institutions which perform the issuance of electronic money in Republika Srpska

Article 1

By means of this Decision, the Banking Agency of Republika Srpska (hereinafter: the Agency) shall define the general criteria for acquiring a qualifying holding in institutions which perform the issuance of electronic money in Republika Srpska (hereinafter: Institution), the documentation to be attached to the request for acquiring a qualifying holding in the Institution, the disposing of or reduction of a qualifying holding, the rejection of request for acquiring a qualifying holding in the Institution, subsequent consent for acquiring a qualifying holding in the Institution, and the revocation of consent and termination of the validity of the consent for acquiring a qualifying holding in the Institution.

Article 2

Documents submitted to the Agency for the purpose of acquiring a qualifying holding in the Institution must be in original form or certified photocopies.

Prior consent for acquiring qualifying holding in institution

Article 3

(1) A legal entity or private individual which/who intends to acquire 10% or more share in the capital or voting rights in the Institution, or which/who intends to acquire a share less than 10% that enables effective exercise of influence over the management of the Institution or the business policy of that Institution, shall be obliged to obtain a prior consent of the Agency for this acquisition. The same shall be applied to persons acting jointly.

(2) An entity that has acquired a qualifying holding in the Institution shall be obliged to obtain the prior consent of the Agency for any further direct or indirect increase of the share in the capital or voting rights, which would result in the acquisition of or exceeding 25%, 30% and 50% of the share in the capital or voting rights in that Institution.

(3) For the purpose of acquiring the share referred to in Paragraphs 1 and 2 of this Article, the following persons shall be deemed to act as one acquirer:
   1) one person controls or has a direct or indirect share in the capital or voting rights of another person of at least 20%,
   2) two or more persons are controlled by a third person,
   3) the majority of members of the managing and governing bodies of two or more legal entities are made up of the same persons,
   4) two or more persons are family members or
   5) two or more persons, based on a contract, agreement or informally, jointly carry out business activities on a significant scale.

(4) For the purpose of acquiring the share referred to in Paragraphs 1 and 2 of this Article, a person acts as one acquirer with another person even when there is no connection between them referred to in Paragraph 3 of this Article, but each such person acts as one acquirer with the same third person, in one of the ways specified in Paragraph 3, Items 1-5 of this Article.

(5) Upon a request for issuing a prior consent to acquire a qualifying holding, the Agency shall issue a written confirmation of receipt of the request to the applicant no later than two working days from the date of receipt of the request.

(6) The Agency shall issue a decision on the request referred to in Paragraph 5 of this Article within 60 days from the date of receipt of a complete and orderly request.

(7) If the Agency determines in the decision-making process that the request for the acquisition of a qualifying holding is not in order, it will request in writing from the applicant additional documentation necessary for the resolution of the request and set a deadline for supplementing the request of no more than 20 days from the date of receipt of the Agency's letter.

(8) The Agency may extend the deadline for completing the request referred to in Paragraph 7 of this Article by up to 30 days if the applicant has its residence or headquarters in another country or if it is not a subject of supervision of the Agency.

(9) If the applicant for the acquisition of a qualifying holding fails to remedy the deficiencies within the deadline set by the Agency, the Agency shall reject the request as irregular.

(10) A person which has received the prior consent of the Agency referred to in Paragraphs 1 and 2 of this Article shall be obliged to acquire a qualifying holding in the Institution within one year from the date of the decision to grant prior consent and to notify the Agency thereof within 15 days from the date of acquisition.

(11)The consent for the acquisition of a qualifying holding shall cease to be valid upon the expiry of the acquisition deadline referred to in Paragraph 10 of this Article, and a person which has obtained consent but has not commenced or completed the acquisition to the level of holding for which it has obtained consent shall be obliged to obtain a new consent if it intends to continue the acquisition.

(12) A person with a qualifying holding in the Institution which intends to reduce, by sale or in any other way, its share in the capital or voting rights in the Institution below the level of holding referred to in Paragraphs 1 and 2 of this Article for which it has received the consent of the Agency, shall immediately notify the Agency of its intention.

(13) A legal entity holder of a qualifying holding shall be obliged to notify the Agency of its planned participation in the procedure for changing the status of the Institution.

(14) To all other issues not defined by this Decision, the provisions of the laws and regulations governing the operations of banks shall apply accordingly.

Criteria for the acquisition of a qualifying holding in the Institution

Article 4

(1) In the decision-making process on issuing a prior consent for the acquisition of a qualifying holding, the Agency shall particularly assess the suitability and financial condition of the applicant, its management capabilities and impact on the Institution based on the following criteria:

1) appropriate business reputation, which is assessed in relation to its financial and business activities, the fact whether bankruptcy proceedings were initiated against the applicant's assets or whether the private individual, as the applicant, was in management positions in a bank or other legal entity at the time when bankruptcy proceedings were opened against him/her,
2) whether the acquirer has been finally convicted of a criminal offence punishable by an unconditional prison sentence or has been finally convicted of a criminal offence and an economic offence in the field of economic and financial crime or proceedings are being conducted against it for these offences, which makes it ineligible for acquiring a qualifying holding,
3) assessment of the management abilities, knowledge and skills of the acquirer of the qualifying holding, as well as the appropriate business reputation, appropriate professional abilities and experience of the person whom the applicant will propose to manage the Institution's operations after the acquisition of the qualifying holding,
4) the financial condition of the applicant and its impact on the Institution's operations if the consent is issued,

5) indicators that may be relevant for assessing the applicant's impact on risk management in the Institution,
6) the existence of justified grounds for suspicion, in accordance with the regulations on the anti-money laundering and terrorist financing, that in connection with the acquisition of a qualifying holding, money laundering or terrorist financing is being carried out or is intended to be carried out, or that such acquisition may increase the risk of money laundering or terrorist financing, and
7) the applicant's capacity to meet the requirements stipulated by the Law and by-laws.

(2) Before making a decision on issuing prior consent for the acquisition of a qualifying holding, the Agency shall consult the competent regulatory and other authorities if the request applicant is:

1) a person in the financial sector and
2) a person that is a parent Institution of another person in the financial sector.

Documentation to be attached to the request for acquiring a qualifying holding in the Institution

Article 5

(1) Private individuals and legal entities, together with a request for the issuance of approval for the acquisition or increase of significant ownership interest in the Institution exceeding 25%, 30% and 50% of the share in capital of the Institution or in the total number of shares of the Institution with voting rights, shall submit to the Agency:

1) legal entities - court registration;
2) private individuals - a certified copy of their ID card or passport;
3) legal entities - data on their operations in the last three business years (balance sheets and income statements audited by an external auditor), the last semi-annual report, a statement that no bankruptcy proceedings have been opened against the applicant's assets;
4) private individuals - evidence from the records of the competent authorities as to whether the applicant has been sentenced to a fine, measure or misdemeanor sanction for the acts referred to in Items 15 and 16 of the Questionnaire within a period of five years from the date the judgment becomes final, excluding the time served in prison, as well as evidence as to whether legal proceedings are being conducted against the applicant (criminal or misdemeanor for the acts referred to in Items 15 and 16 of the Questionnaire). The evidence cannot be older than three months.
5) private individuals and legal entities - proof of the origin of the money for the purchase of the holding;
6) legal basis for acquiring or increasing a significant ownership interest (purchase agreement, etc.);
7) evidence of ownership in other legal entities;
8) a statement of debts in banks and their amount, and
9) evidence of competence and experience for private individuals, so as not to jeopardize the interests of the Institution.

Additional data and documentation for issuing consent for the acquisition of a qualifying holding

Article 6

(1) In addition to the stipulated documentation for issuing consent for the acquisition of a qualifying holding, the Agency may request other data and documentation that it deems necessary for deciding on issuing consent, including information stipulated by the law regulating the anti-money laundering and financing terrorist activities, which is collected by entities subject to that law.

(2) When deciding on issuing consent for the acquisition of a qualifying holding, the Agency shall examine the funding sources with which the applicant intends to acquire a qualifying holding in the Institution, and may also verify other information submitted by the applicant.

Disposal of, i.e. reduction of qualifying holding

Article 7

(1) If a person which has acquired a qualifying holding in the Institution intends to completely dispose of the acquired qualifying holding, or to reduce it below the level for which it received such consent, it shall be obliged to notify the Agency thereof in advance, specifying the amount of the remaining holding in the Institution.

(2) If the person referred to in Paragraph 1 of this Article has disposed of the holding in the Institution or reduced it below the level of the qualifying holding, the consent shall cease to be valid, and if it has reduced it below the level for which the consent was given, but not below the level of the qualifying holding, the consent shall continue to be valid only for the remaining level of the qualifying holding.

Exceptions to a hybrid institution

Article 8

(1) At the request of a person intending to acquire a qualifying holding in a hybrid institution, the Agency may assess the scope of application of the provisions of Articles 18 to 20 of the Law on Electronic Money of Republika Srpska to such acquisition.

(2) When deciding on the request of a person intending to acquire a qualifying holding in a hybrid institution, the Agency shall take into account the legal form, type and scope of other activities carried out by the hybrid institution, as well as the legal form, type and scope of activities, i.e. the business carried out by the person intending to acquire a qualifying holding, and shall assess the possibility of whether that person negatively affects the prudent and reliable management of the hybrid institution.

Rejection of request to acquire a qualifying holding in institution

Article 9

The Agency shall reject a request for issuing a consent to acquire a qualifying holding in the following cases:

1) if the applicant does not meet the criteria for assessing eligibility and financial condition stipulated in Article 4, Paragraph 1 of this Decision,
2) if it is not possible to determine the origin of the funds with which the applicant intends to acquire a qualifying holding and
3) if the acquisition results in a concentration of participants in the financial market which significantly prevents, restricts or distorts market competition, primarily by creating or strengthening a dominant position in the financial market.

Subsequent consent for the acquisition of a qualifying holding in institution

Article 10

(1) The person may acquire a qualifying holding referred to in Article 3, Paragraphs 1 and 2 of this Decision without the prior consent of the Agency if the shares of the Institution were acquired by inheritance, legal succession or other acquisition independent of the will of the acquirer.

(2) The person referred to in Paragraph 1 of this Article shall, within 30 days from the date of acquisition of a qualifying holding, submit to the Agency a request for issuing a consent for the acquisition or notify it that it has reduced its holding in the Institution.

(3) The Agency shall decide on the request referred to in Paragraph 2 of this Article within the time limit and in the manner stipulated in Article 3, Paragraph 6 of this Decision.

Revoking the consent and termination of validity of consent for the acquisition of a qualifying holding in institution

Article 11

The Agency may revoke the consent for the acquisition of a qualifying holding in the following cases:

1) if the acquirer of a qualifying holding obtained consent by providing false or inaccurate information,
2) if the acquirer of a qualifying holding exercises its rights in a manner that threatens the stable operations of the Institution,
3) if it assesses that the acquirer of a qualifying holding no longer meets the criteria stipulated in Article 4 of this Decision,
4) if a person which has received consent to acquire a qualifying holding within the period referred to in Article 3, Paragraph 10 of this Decision does not acquire a holding of at least 10% of the capital, or voting rights in the Institution, the consent shall cease to be valid in its entirety,
5) if a person which has a qualifying holding of at least 10% of the capital, or voting rights in the Institution, within the period referred to in Article 3, Paragraph 10 of this Decision, does not acquire the entire holding for which consent was issued, the consent shall be valid only in the part acquired by the acquirer, and shall cease to be valid in the remaining part for which consent was obtained,
6) if a person which has a qualifying holding, by selling shares or in some other way, reduces its holding below the amount for which it received prior consent, and the amount of the holding has not been reduced below 10%, then the consent remains valid for the part of the holding that the person has on the date of expiry of the acquisition deadline referred to in Article 3, Paragraph 10 of this Decision.

Article 12

The applicant shall be obliged to pay the fee for issuing the decision which is determined by the conclusion or decision of the Agency.

Article 13

(1) The Agency's decision is final.

(2) An administrative dispute may be initiated against the Agency's decision before the competent court in accordance with the Law on Administrative Disputes.

Article 14

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

Number: UO-117/24
Date: 29 October 2024

PRESIDENT OF THE MANAGEMENT BOARD
Dejan Kusturić