

Serbia: Draft Law on Payment Services

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Draft Law on Payment Services – creates new opportunities

The National Bank of Serbia has published the Draft Law on Payment Services. If enacted, this law will bring significant changes to the payment services sector, currently regulated by the Law on Payment Transactions, as far as domestic transactions are concerned, and the Law on Foreign Exchange Transactions, as far as cross-border payments are concerned. Specifically, the Draft Law opens this previously "bank- exclusive" market to a range of other institutions. In addition, the Draft Law regulates the issuance of e-money and the establishment of e- money institutions. Reflecting the provisions found in the Directive 2007/64/EC on payment services in the internal market (PSD) and the Directive 2009/110/EC on the taking up, pursuit and prudential supervision of the business of electronic money institutions (2EMD), the Draft Law is a step forward in harmonizing Serbian law with that of the EU. Consequently, this reform would modernize the country's payment services to the European level.

Payment service providers beyond banks

The existing regulatory framework renders eligible only the NBS and Serbian-licensed commercial banks as payment service providers. If the Draft Law is enacted into a law, the market will open up to new categories of providers: payment institutions and e-money institutions.

The NBS will implement a demanding application process for authorization to operate as a payment institution. An authorized payment institution will be obliged to have a minimum pecuniary share capital depending on the type of payment services the institution will provide. The amount required is as follows: EUR 20,000 for money remittance services, EUR 50,000 for the 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 EUR 125,000, for all payment services envisioned by the Draft Law (that would also include services enabling cash to be placed on a payment account, including operations required for operating a payment account; services enabling cash withdrawals from a payment account, including operations required for operating a payment account and the execution of payment transactions, including transfers of funds on a payment account with the user's payment service provider or with another payment service provider; issuing or acquiring payment instruments). Capital maintenance requirement is also imposed.

The Draft Law further prescribes eligibility requirements for members of the board of directors and for qualified shareholders of payment institutions, i.e. shareholders having, directly or indirectly, at least 10% of ownership or voting rights in the payment institution, or having effective significant influence on the management of payment institution.

Payment institutions will be authorized to provide ancillary services to its customers, including provision of short-term loans (from proprietary funds) and foreign exchange services directly related to payment services, but will not be allowed to take deposits.

The NBS will be authorized to revoke an existing license if the institution no longer meets the eligibility requirements. As a result, adequate internal controls, filing of annual financial reports to the NBS and external audits are a few of the requirements a payment service provider will have to engage in. It will also be required to insure client's funds and funds remitted to it by other payment institutions by adequate insurance or bank guarantee obtained from a non-related entity, or to segregate those funds from its proprietary assets.

Payment institution licensed in Serbia may operate in another country via foreign branch, subject to registration of such branch with the NBS.

E-money

The Draft Law on Payment Services also regulates issuance of e-money by e-money institutions. E-money is defined as "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 making payment transactions, and which is accepted by a natural or legal person other than the electronic money

issuer". Authorized issuers of electronic money under the Draft Law include the NBS, Serbian licensed commercial banks and credit institutions authorized to provide payment services, licensed electronic money institutions and Serbian branches of foreign credit institutions in Serbia. The services they will be authorized to provide encompass ancillary services, such as providing loans and additional operational services required for operating a payment account. E-money institution may not take deposits.

E-money institution must obtain a license from the NBS. Minimum share capital is set at EUR 350,000 and is subject to capital maintenance requirements. The Draft Law lays down in detail supervisory authorities of NBS with respect to e-money institutions.

New law would open up horizons

It is evident that the Draft Law, if enacted, will bring new opportunities to a wide range of institutions, creating competition in the market and thus enhancing the overall payment system of the country. The Draft Law contains a separate set of provisions which will apply once Serbian become EU member state.

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