

PAYMENT SERVICES

1.80

WHITE BOOK BALANCE SCORE CARD

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
Qualified signature – possibility of signing via the Cloud, possibility of offering legal entities an electronic signature.	2021	√		
The acceptance of electronic documents by government bodies	2021		√	
Amendments to the Law on Multilateral Interchange Fees and Special Operating Rules for Card-based Payment Transactions	2015		√	

CURRENT SITUATION

In 2021, there were no significant regulatory activities relative to payment services. The overall impression is that much has been done in recent years until the start of 2021, and what is left to do is to fine tune and adapt participants, in order for payment services provision and use process is additionally improved upon.

In the period starting from end-of-year 2014, when the Law on Payment Services was adopted, through to the amendments of said Law which took place in 2018, the period until the end of 2020 was a period of significant regulatory activity in this area, the aim of which was to establish a modern, easily accessible and digitalised process of providing and using payment services.

At the same time, we are not only referring to the Law on Payment Services and the bylaw adopted under said Law, we are also referring to the entire set of other regulations adopted by the National Assembly of the Republic of Serbia and other regulatory bodies (Law on Electronic Documents, Electronic Identification and Electronic Trust Services of 2017, the Law on the Protection of Financial Service Consumers in Distance Contracts of 2018, Decision on General Rules on Instant Credit Transfers of 2017 with amendments, Decision on Conditions and Manner of Establishing and Verifying Identity of a Natural Person through Means of Electronic Communication and the like). The entire group of these and other documents supports the implementation of both the 2020-2024 Strategy for Digital Skills Development of the Republic of Serbia and the Strategy for the Development of the Information Society and Information Security for the 2021 to 2026 Period, documents adopted by the Government of the Republic of Serbia, as umbrella documents serving to modernize and digitalize the entire society.

In line with the above, it is clear that much has been done in recent times to advance, digitalise, make available and

improve payment services customer protection relative to payment and other corresponding services. Of the significant regulatory changes made in 2021, we would like to highlight the amendments to the Law on Electronic Documents, Electronic Identification and Services of Trust Services by which an additional step was taken toward facilitating and simplifying the use of qualified electronic signatures (digital identification was introduced, document signing by branches of public administration via qualified electronic seal or the qualified electronic signature of authorised persons, has been made possible, and so on).

Furthermore, it is important to note that, differing from 2020, there were no significant regulatory activities of the National Bank of Serbia in the area of payment services linked to the COVID-19 pandemic, as there was no need. Namely, much was done throughout 2020 in order to sustain financial system stability, while in 2021, the circumstances themselves did not require intervention in the form of rendering various bylaws in this area.

In line with said, this text aims to analyse the results of the previous recommendations, as well as to propose what needs to be done in addition in order to improve payment services in the Republic of Serbia.

POSITIVE DEVELOPMENTS

RECOMMENDATIONS FROM THE PREVIOUS YEAR

As far as recommendations from the previous year are in question, there have been improvements in the following scope:

- Increasing the limits to which electronic signature is applicable – there has not been any improvement in this area, given that the limit, in line with the Law on the Protection of Financial Service Consumers has remained at the threshold (amount) of RSD 600,000.00. Given the

necessity for the author of the text to undertake responsibility in certain cases if he/she was not clear enough, we would like to take a critical look at the recommendation provided by us. Namely, the recommendation itself has not been expressed clearly enough, furthermore, we believe that said recommendation refers much more to the section referring to the area which regulates the protection of financial service customers. In line with the above, and although we remain of the opinion that it is necessary to increase the limit applied to concluding the Financial Services Contract, which may be concluded without the use of a personal qualified electronic signature, if consent to conclude this agreement was provided through the use of at least two elements to confirm the users identity (authentication) or by using a highly-reliable electronic identity scheme, we will no longer deal with this issue in the text referring to payment services.

- Qualified signatures – in this section, we believe that significant strides have been made in the regulatory and technical sense. Digital identification has been made possible in obtaining a qualified electronic signature. The technical infrastructure required for legal entities to use qualified electronic seals has been created, the use of qualified electronic signature in the Cloud has been made possible and, in this regard, a significant step forward has been made in terms of the large-scale use of qualified electronic signatures. In future it is necessary to actively promote the wide-scale use of qualified electronic signatures.
- Acceptance of electronic documents by government bodies – In this segment there has been a certain degree of improvement given that more and more government bodies correspond with citizens and corporate entities electronically. For example, the cadastre is largely digitalised, a large number of courts have created the technical infrastructure needed to receive documentation electronically, the Ministry of the Interior allows for the issuance of various documents electronically, thus, we see improvements in the area concerning the work of government bodies. The complete digitalisation of the government administration would be desirable, in particular in the area concerning the submittal of various documents by the citizenry and corporate entities to government bodies. For instance, if a client asks the Bank for a specific certificate/letter of confirmation it is necessary for the government body to accept this certificate/letter of confirmation if it is signed via a qualified electronic signature of the Bank’s authorised person,

and to allow clients to send said documents to the government body via an official email address designated to receive electronic mail (as is the case with most of the courts).

- Revision of the NBS’s transactions price list – Upon analysing this recommendation and historical analysis of the fees charged by the NBS for transactions, the authors of this text have abandoned this recommendation.
- Amendment to the Law on Multilateral Interchange Fees and Special Operating Rules for Card-Based Payment Transactions in the manner that the issue of cards, where domestic payment transactions are not processed in the Republic of Serbia, is not conditioned by the prior issuance of a payment card for the execution of domestic payment transactions - With regard to this recommendation, we believe that some progress has been made. Namely, upon detailed analysis and understanding of the reason for introducing this provision into our country’s legal system, we wish to emphasise that the FIC supports the opinion that in order to secure the unhindered functioning of domestic payment operations and financial stability, it is necessary for such a provision to exist in our legal system. We would like to highlight once again that our proposal is to abolish the need for a special request issued by the client to issue him/her a payment card that can be used to initiate payment services from their current account, where in domestic payment transactions, the processing, netting and settlement of transfer orders issued based on its use are NOT performed in the Republic of Serbia. Namely, our proposal is fully aimed at terminating unnecessary administration and the existence of a special request, and is in no way aimed at abolishing the existing obligation to issue ‘domestic’ payment cards. Given that the regulator believes that there is room for the consideration of the aforementioned proposal, and aiming to facilitate the actions of banks concerning payment card issuance, we believe that we are on the right track to completely fulfilling this proposal.

REMAINING ISSUES

1) Automating the video identification process

The authors of this text are content that as of 2019, and via the subsequent amendments which took place in 2020 and 2021, establishing and verifying the identity of clients have been enabled, by using electronic means of communication and without the obligatory physical presence of the

person whose identification is being verified (video identification procedure). Video identification in question here is a process that not only facilitates the work of legal entities which are obliged to identify clients, but also provides comfort to clients who can be identified from any location, without the need to visit the business premises of the reporting entity.

Not wishing to diminish the great significance of this regulatory solution, we would hereby propose to take this a step further. We propose the consideration of changes to the necessary regulations in order to automate the process itself, and to exclude the need for the presence of the reporting entity's representative in the video identification process, who conducts the video identification process in the name and on behalf of the said reporting entity.

In this regard, our proposal is to allow for video identification to be performed by using various software solutions which use biometric data to identify clients.

The advantages of creating a regulatory framework for introducing software into the video identification process are manifold, the process itself would be automated and quicker, the risk of personal assessment of protective elements of the identification document would be reduced, the risk of fraud would be reduced, as would the number of files created during the video ID process, connection issues, the need for the client to be in a certain type of environment in order for the process to take place, and at the end of the day, the client would be more comfortable using these services.

2) Establishing a joint platform for the banks to exchange information during the process of payment account switching (Switching Service)

The authors of the text understand that much has been done concerning the process of establishing a joint bank platform created to support the process of loan refinancing. From the client's viewpoint, we believe this is significantly beneficial. Further, we are aware of the fact that the amendments to the Law on Payment Services of 2018 have greatly facilitated the process of payment account switching from the payment service user's point of view.

What we consider to be a step further, and one that would make the process much more efficient is the need to create an interconnected (joint) bank platform, as is the case of

the refinancing loans process, which would allow for the exchange of data for those clients who wish to switch to another payment service provider. Also, to allow clients to issue authorisation to switch payment accounts electronically, in the same way they can give consent to establishing a business relationship, after the video identification process has been implemented.

The creation of this type of platform would further facilitate the process of payment account switching, from both the client's and the PSP's perspectives. Namely, data exchange is currently performed between PSPs via email, which can create issues in the monitoring process and in the ability to promptly respond to requests/forms.

3) Introducing electronic bills of exchange for PIs

Given that the process of implementing electronic bills of exchange (e-bills of exchange) for LEs and entrepreneurs is in its final stages, the authors of this text believe it necessary to introduce the possibility of issuing e-bills of exchange to PIs, under the same grounds.

Namely, PIs, as users of various banking products are very often obligated to issue bills of exchange when concluding agreements. In line with the above, it would be easier for both banks and clients alike if e-bills of exchange could be issued by PIs.

Primarily because banks are more often allowing for the conclusion of distance loan agreements, in line with the provisions of the Law on the Protection of Financial Service Customers concerning distance contracting. From a legal standpoint, these agreements are uncollateralised, because more often than not, nothing is taken from the client, not even bills of exchange. Namely, if a distance agreement is concluded, it is not expedient to ask the client to visit the bank's premises in order to issue bills of exchange.

Introducing e-bills of exchange increases the safety of bank operations in the area of loan approval. However, this may also benefit various segments of society, given the countless business transactions performed between PIs and LEs, as well as between PIs themselves.

4) Amendment to Article 9, paragraph 2 of the Law on Multilateral Interchange Fees and Special Operating Rules for Card-Based Payment Transactions in the section on the existence of special client requests

We propose the amendment of the Law on Multilateral Interchange Fees and Special Operating Rules for Card-Based Payment Transactions, such that the issue of cards, where in domestic payment transactions, the processing, netting and settlement of transfer orders issued based on its use are NOT performed in the Republic of Serbia, are not conditioned by the previously mentioned special request of the payment services user.

As already mentioned, the authors of the text are fully aware of the significance of the existence of the provisions of Article 9, paragraph 2 of the Law on Multilateral Interchange Fees and Special Operating Rules for Card-based Payment Transactions. We would once again like to propose here that within the aforementioned paragraph, the section which states that the card for which processing, netting and settlement of transfer orders issued on the basis of its use in domestic payment transactions are not carried out in the Republic of Serbia, can only be issued at the special request of the payment service user, given in writing.

We propose Article 9, paragraph 2 of the Law be worded as follows:

“A payment card which may be used to initiate current account payment transactions, where the operations stipulated in paragraph 1 of this Article are not performed in the Republic of Serbia – can only be issued to the user to initiate payment transactions from said current account if he/she has already been issued or will be issued the payment card referred to in paragraph 1 of this Article.”

Namely, the proposed amendment in no way jeopardises the meaning or reason for introducing the mentioned provisions into our legal system. On the other hand, by excluding the need for a special request in written form, unnecessary administration is reduced for the Bank, by introducing the need to generate and sign additional documentation for the issuance of a payment card, necessary for payment service users to perform transactions at points of sale or online stores abroad.

5) Amendments to the regulations in the section referring to documents submitted to clients when opening a current account

According to the current regulatory framework, PI clients who wish to open a so-called basic account, as an account that provides clients with a minimum set of services, it is nec-

essary to submit at least 6 documents during the pre-agreement and agreement phase (Payment Account Statement, Draft Agreement, Current Account Offer, General Business Regulations, Price List, Overview of Services and Fees, etc.). Experience in practice shows that the clients themselves complain, as they don't understand the need for such a large set of documentation. The authors of the text understand the regulators' desire for clients to receive as much information during the pre-agreement phase about the fees that they will be charged for by the PSP, and so that they may compare the fees of various PSPs. However, practice has shown that the average client cannot understand the vast amount of information and documentation they are given, that is, the average cost of the services they are charged for and what services they require, and to compare these with the fees charged by other PSPs. It is a fact that when opening an account, clients are given three documents which provide similar information – the Offer, Price List and Overview of Products and Fees. This can cause confusion and ambiguity regarding what information is important and should be paid close attention. On the other hand, clients are often unaware of the fact that the National Bank of Serbia's website provides an overview of the fees of various PSPs, which they can use to compare prices.

In line with the aforementioned, and aiming to protect and provide comprehensive information to the client, it would be desirable and more efficient to review regulations in this area so as to ensure full disclosure to clients while reducing the amount of documentation PSPs are required to provide clients.

We propose that the section of the documentation provided to clients excludes the obligation to provide the Offer, in that the submittal of the Draft Opening an Account Agreement together with the General Business Regulations and the Price List of the PSP could be considered the Offer.

Further, a key amendment which would allow for full client disclosure is to introduce a new document to replace the document entitled: Overview of Services and Fees. Namely, a set of approx. 5-10 most common services should be prescribed, which are taken as assessment criteria for all banks for the observed period of one month and to allow banks to download this document from the NBS's website, with the obligation that said document be submitted to the client in the pre-agreement phase. The idea behind this document is to provide the average client with a one-page document that shows the total monthly

fees for that particular set of services for every bank operating in Serbia. We believe that this would satisfy the regulator's desire for full disclosure to the client. An obstacle to this proposal is that the banks all have various package

accounts available, however, in this modern technological age, it would be easy to set up the application to recognise which package is most favourable for the client, and which includes a particular set of chosen services.

FIC RECOMMENDATIONS

- Automating the video identification process
- Establishing an interrelated (joint) bank platform for information exchange in the payment account switching process
- Introducing e-bills of exchange for PIs
- Amendment to Article 9, paragraph 2 of the Law on Multilateral Interchange Fees and Special Operating Rules for Card-Based Payment Transactions in the section on the existence of special client requests
- Amendment to the law in the section referring to documentation submitted to the client when opening a current account