Draft Regulation on the agenda of the National Assembly

Law on Payment Services
Law on Amendments to the Law on Foreign Exchange Operations
Law on Amendments to the Law on Protection of Financial Services Users

The National Assembly of the Republic of Serbia has published draft Law on Payment Services (hereinafter: the “draft Law”), as well as draft Law on Amendments to the Law on Foreign Exchange Operations that should implement the changes introduced by the draft Law. If enacted, both regulations should become applicable as of October 2015 and will bring significant changes to the payment services sector, for both domestic and cross-border payments. Apart from that, another important announced amendment refers to the amendments to the Law on Protection of Financial Service Users, which is expected to become applicable in the course of eight days, upon enactment.
i. Law on Payment Services

The most important changes introduced by the draft Law refer to opening service providers market that was reserved solely for National Bank of Serbia (hereinafter: “NBS”) and licensed commercial banks, but is now opened for new categories of service providers – payment institutions and e-money institutions.

As for the payment institutions, these will have to be authorized by the NBS for some or all payment services regulated by the draft Law and will be able to operate also through branches registered abroad, under the condition such branch is registered at the NBS. The authorization will depend on eligibility of certain conditions and criteria imposed by the draft Law referring to the amount of basic capital (which varies from EUR 20,000 to EUR 125,000, depending on the services provided). For example payment institutions with the EUR 20,000 basic capital would be entitled to provide only money remittance services while the basic capital of EUR 125,000 would allow the payment institution to provide all services regulated by the draft Law, including operations required for operating a payment account, transfers of funds on a payment account, issuing or acquiring payment instruments etc. Furthermore, payment institutions will be able to provide ancillary services, such as provision of short-term loans, but will not be authorized to take deposits. Other conditions for authorization refer to the requirements referring to members of the board of directors and for qualified shareholders.

Another important novelty introduced by the draft Law refers to the issuance of electronic money (e-money) by NBS, authorized commercial banks, credit institutions and branches of foreign credit institutions operating in Serbia, as well as e-money institutions. Just like payment institutions, e-money institutions would have to fulfill the criteria regarding minimal basic capital (amounting EUR 350,000), would be authorized to provide ancillary services but would not be authorized to take deposits.

Bearing in mind the aforementioned novelties of the draft Law, Law on Amendments to the Law on Foreign Exchange Operations only implements some of the changes imposed by the draft Law, by introducing the terms and definitions of payment and e-banking institutions, specifying that residents of Serbia can make payments abroad also through payment and e-banking institutions, specifying some supervising authorities of the NBS in reference to these institutions and finally imposing fines for payment and e-banking institutions, if not acting in accordance with the law.

ii. Amendments to the Law on Protection of Financial Service Users

In the light of the foregoing dilemma on whether bank claims can be transferred to any entity other than some other commercial bank, due to the stipulation of the currently applicable Article 39 of the Law on Protection of Financial Service Users (“Official Gazette of the RS”, no.36/2011) and the official opinion of the NBS regarding this issue confirming that bank claims can be exclusively transferred to another bank, it has been proposed through the Amendments of the mentioned law that such stipulation is completely changed.

The proposed amendment now explicitly allows for also other entities to assign/purchase bank’s claims but still provide the same level of protection to the financial services users, by prohibiting any change to the contracted terms which would anyhow worsen the position of the user.