



NEWSLETTER

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Adjustments to the legal framework for holding, trading, transferring and investing of digital property

The National bank of Serbia (further on “**NBS**”) has published a number of decisions in its official gazette no. 49/2021 which have further straightened the legal framework concerning the ways of holding, trading, transferring and investing of digital property, as well as, businesses which want to deal in digital property. All of the aforementioned decisions have come into force on the 22nd of May 2021 and will be in effect as of the **29th of June 2021**.

- 1. Decision on the conditions and ways in which the register of virtual currency holders has to be kept** – With this decision the NBS has formed a registry for legal persons and entrepreneurs which hold virtual currencies. The registry will contain data regarding digital property users and its holders. Specifically, it will contain the identification data, data pertaining to the legal basis for holding virtual currencies and the virtual currency addresses. The decision outlines specific ways and deadlines for providing the NBS with the aforementioned data, as well as, the ways in which the data can be accessed. This data can only be accessed under specific conditions as it is considered to be a trade secret under law. The decision also outlines the way in which the aforementioned data has to be provided to the NBS by digital property facilitators.

- 2. Decision on the conditions and for oversight over digital property facilitators, its issuers and holders** – The decision outlined the ways in which the NBS will perform its oversight over businesses dealing in virtual currencies, its issuers and holders and persons which are, or have been holders of virtual currencies. The NBS has decided to perform its oversight in ways which are common for other financial subjects which are under direct and indirect oversight of the NBS. Additionally, the NBS will issue warnings and measures to these businesses in order to prevent or remove potential or existing irregularities, if such irregularities are observed during oversight.
- 3. Decision on foreign currency payments relating to digital property transactions** – This decision outlines three ways in which payments can be performed which they involve digital property. First off, payments performed in the Republic of Serbia have to be performed in the local currency (RSD) when the transaction concerns an initial public offer or the issuing of digital property (ICO), regardless of whether the transaction is performed on the OTC market in Serbia or the secondary market. Secondly, a digital property facilitator can perform international transactions in foreign currency for its business for digital property that has an approved white paper, if the business is a resident of the Republic of Serbia, all in accordance with the approved license or approval from the appropriate body. The third way for payments to be performed concern digital property that has the characteristics of a financial instrument.
- 4. Decision on license granting by the NBS under the Law on digital property** – With the aforementioned decision the NBS has completely fleshed out all of the requirements concerning the founding of digital property facilitators, as well as, the details of the request that need to be filed in order for the license to be granted. The decision also outlines other conditions that have to be met by financial subjects such as brokerages or market facilitators that already meet some of the conditions for doing business as a business dealing with digital property if they wish to also provide services relating to digital property.
- 5. Decision on minimal capital requirements for digital property facilitators** – The aforementioned decision outlines detailed requirements concerning minimal capital requirements, the calculation of such requirements and the reporting of such requirements. In essence, the NBS decided to apply the existing calculations and reporting methods for minimal capital requirements that pertain to all other subjects under its oversight, to digital property facilitators as well.
- 6. Decision on conditions and ways digital property facilitators can offer their services in other countries** – This decision outlines the conditions which have to be met and maintained by digital property facilitators in order for them received approval from the NBS in order for them to provide its services in other countries.
- 7. Decision on the form and substance of the registry that digital property facilitators have to maintain for users of virtual currencies for which they hold monetary means** – The aforementioned decision outlines specific conditions that the digital

property facilitator has to meet in order to hold monetary means and virtual currencies for his users. The monetary means and virtual currencies can be held on an individual account or on a collective account, they can also be held on a single account or on multiple accounts. The decision also outlines the substance, form and way in which the registry has to be kept for every user that holds monetary means or virtual currencies with a digital property facilitator. The registry includes detailed identification data of the user, the legal basis, and the digital property in questions, which has to be kept in an electronic database.

8. Decision on managing the information-communication system for digital property facilitators – This decision outlines all of the details regarding the day-to-day IT systems that has to be in place and used by digital property facilitators. The decision specifically outlines the management of such a system, its risk management and additional internal review. Additionally, the decision outlines specific conditions that have to be met in order for the IT system to be secure, and for it be maintained and developed further. All of the aforementioned requirements can be entrusted to a third party under specific conditions outline by the Decision. Additionally, the Decision also fleshes out the electronic services relating to such a service and the way in which the identity of the users is ascertained.

9. Decision concerning the contents of the Register of digital property facilitators and conditions and ways of managing such a register – The aforementioned decision outlines a new register which will be kept by the NBS, so as to gather and make available all of the data concerning digital property facilitators and their branches. This register requires digital property facilitators to provide the NBS with all of the data the is required by the Register.

With the introduction of the previously mentioned decisions, the legal framework and its legal certainty in terms of digital property has been greatly improved. However, until these decisions take effect, there are still some issues that can arise over the course of their implementation depending on the business model of certain investors or the legal situations concerning certain persons. With all of this in mind, detailed familiarization with these issues will be required in order for any potential dangers or lacks in compliance to be avoided.

For additional consultations and assistance, feel free to contact us at Tasic&Partners through our email office@tasiclaw.com or by phone +381116302233.