

Pursuant to Article 13h, paragraph 8 of the Financial Leasing Law (RS Official Gazette, Nos 55/2003, 61/2005 and 31/2011) and Article 15, paragraph 1 of the Law on the National Bank of Serbia (RS Official Gazette, Nos 72/2003, 55/2004 and 44/2010), the Executive Board of the National Bank of Serbia adopts

DECISION
ON DETAILED CONDITIONS AND MANNER OF CONDUCTING
SUPERVISION OF LESSORS' OPERATIONS

1. This Decision prescribes detailed conditions and manner of conducting supervision of lessors' operations and the procedure for taking measures referred to in Article 13h, paragraph 3 of the Financial Leasing Law (hereinafter: Law).

2. The National Bank of Serbia (NBS) shall conduct supervision referred to in Section 1 hereof (hereinafter: supervision), as follows:

1) off-site, by reviewing reports, other documentation, and data submitted to it by the lessor in accordance with regulations or on NBS's request, and by reviewing data available to the NBS (hereinafter: off-site supervision);

2) on-site, by examining books of account and lessor's documentation, as well as other documentation (hereinafter: on-site supervision).

In conducting on-site supervision, the NBS may examine books of account and other documentation, and persons that have business relations with the lessor, for the purpose of checking data acquired in the course of supervision.

3. On-site supervision shall be conducted by NBS staff designated by the decision of the NBS Governor (hereinafter: the Governor) or a person authorised by him (hereinafter: authorised persons).

The decision referred to in paragraph 1 hereof shall specify the lessor in which on-site supervision shall be conducted, and the subject of that supervision.

The Governor or the person authorised by him may amend or supplement the decision referred to in paragraph 1 hereof.

4. Authorised persons shall compile records of on-site supervision (hereinafter: records) and deliver them to the lessor.

The lessor may give its objections to the records within 15 days from their receipt.

The NBS shall check the lessor's assertions in its objections to the records.

If the check referred to in paragraph 3 hereof reveals that the factual state differs significantly from that specified in the records, authorised persons shall supplement the records and submit such supplemented records to the lessor.

The lessor may submit its objections to the supplemented records within 5 days from their receipt.

The submitted objections within the meaning of paragraphs 2 and 5 hereof mean the combined objections of the lessor's executive board and its board of directors.

5. The NBS shall adopt a conclusion on completion of the supervision procedure if:

- no illegalities and irregularities in the lessor's operation are established in the records, or
- the established illegalities and irregularities are eliminated by the lessor by the time the decision referred to in Section 6 hereof is adopted, or
- the lessor, within the timeframe prescribed herein, successfully disputes the findings from the records or supplemented records establishing illegalities and irregularities in its operation.

6. If the lessor fails to deliver its objections to the records or supplemented records within the timeframe prescribed herein or fails to successfully dispute the findings from the records or supplemented records establishing illegalities and irregularities in its operation, the NBS shall pronounce one of the following measures against such lessor:

- delivering a written warning notice;
- delivering a letter of order;
- issuing the order to eliminate the established irregularities;
- revoking the license to engage in financial leasing.

The NBS shall pronounce the measures referred to in paragraph 1 hereof by passing a decision.

By the decision referred to in paragraph 2 hereof, the NBS may pronounce a fine against the lessor and the lessor's responsible person (hereinafter: responsible person), in line with Article 13h, paragraphs 6 and 7 of the Law.

The responsible person shall be a member of the lessor's management body referred to in Article 10d of the Law.

7. The NBS's decision on the measures referred to in Section 6 hereof to be taken against the lessor shall be based on its appraisal of:

- illegalities and irregularities established in lessor's operation;
- readiness and capacity demonstrated by lessor's responsible persons to eliminate the established illegalities and irregularities.

For the purposes of this Decision, illegalities and irregularities in lessor's operation mean any lessor's activity in breach of the Law, other regulations and acts of the lessor, or activity which may jeopardise its financial standing.

8. In appraising the illegalities and irregularities established in lessor's operation, the following shall be appraised in particular:

- legality of operation;
- degree of exposure to individual types of risk, notably to credit risk, operational risk, liquidity risk and other risks that the lessor, in line with the Law, is required to identify, measure, estimate, i.e. manage;
 - the effect of illegality and irregularity on the future financial standing and business reputation;
 - number and interdependence of illegalities and irregularities;
 - duration and incidence of illegalities and irregularities;
 - capacity of responsible persons to eliminate the established illegalities and irregularities.

The readiness and capacity of responsible persons to eliminate the established illegalities and irregularities shall be appraised in particular based on:

- activities taken and efficiency in eliminating any earlier established illegalities and irregularities, particularly in implementation of measures referred to in Section 6, paragraph 1, subparagraphs 1-3 hereof;
- capacity to identify, measure and estimate risks, and to manage these risks;

– degree of cooperation with the NBS and authorised persons during supervision.

9. A written warning notice shall be delivered to the lessor if:

1) the established illegalities and irregularities do not have a significant or direct effect on the lessor's financial standing, but could have such effect if not eliminated;

2) the established illegalities and irregularities are not numerous and do not have a significant or direct effect on the lessor's financial standing;

3) the established illegalities and irregularities continue over a shorter period and do not have a significant or direct effect on the lessor's financial standing;

10. A letter of order shall be delivered to the lessor if:

1) the established illegalities and irregularities may significantly or directly jeopardise the lessor's financial standing;

2) the established illegalities and irregularities are numerous but do not have a significant or direct effect on the lessor's financial standing;

3) the established illegalities and irregularities continue over a longer period but do not have a significant or direct effect on the lessor's financial standing.

11. The order to eliminate the established irregularities shall be delivered to the lessor if:

1) the established illegalities and irregularities significantly or directly jeopardise the lessor's financial standing;

2) the established illegalities and irregularities are numerous, continue over a longer period but do not have a significant or direct effect on the lessor's financial standing;

3) the established illegality brought about adverse consequences in the performance of its operation due to the lessor's failure to carry out the prescribed actions within the prescribed timeframes.

12. By the decision pronouncing one of the measures referred to in Sections 9, 10 and 11 hereof, the lessor shall be ordered to implement one or several actions to ensure the elimination of the established illegalities and irregularities. The decision shall also specify the timeframe for carrying out such action and the timeframe within which the NBS must be notified of the undertaken actions ordered by the decision, and may also stipulate a fine against the lessor and the responsible person.

The explanation of the decision referred to in paragraph 1 hereof shall specify in particular:

- 1) lessor's operation not managed as prescribed;
- 2) facts established in the supervision procedure having the features of illegal and irregular operations, and the provisions of the regulation being breached;
- 3) reasons taken into account by the NBS when selecting the measure against the lessor;
- 4) reasons taken into account by the NBS when setting the amount of the fine pronounced against the lessor or the responsible person.

13. The lessor against whom one of the measures referred to in Sections 9, 10 and 11 hereof has been pronounced shall, within the timeframe specified in the decision on such measure, deliver a notification to the NBS of acting upon the measure pronounced and submit the report on eliminated illegalities and irregularities, with supporting evidence enclosed.

The NBS may request from the lessor to supplement the report referred to in paragraph 1 hereof and/or to provide additional explanation.

Following the receipt of the report referred to in paragraph 1 hereof and/or supplement to the report referred to in paragraph 2 hereof, the NBS shall ascertain whether the established illegalities and irregularities have been eliminated, as follows:

- 1) if it finds that illegalities and irregularities have been eliminated or that only minor irregularities remain, the NBS shall issue a conclusion to discontinue supervision;
- 2) if it finds that conditions for the discontinuation of supervision pursuant to subparagraph 1 hereof have not been met, the NBS shall pronounce against the lessor the new measure referred to in Section 6 hereof;
- 3) if it ascertains that illegalities and irregularities have been eliminated, but the new ones have been committed in the meantime, the NBS shall issue a conclusion to discontinue supervision and shall immediately conduct new supervision.

14. The NBS shall revoke the license issued to the lessor to engage in financial leasing if during supervision it ascertains that:

- 1) the license was issued based on untrue and incorrect data supplied by the lessor's founder;
- 2) the lessor no longer meets the requirements for holding the license;
- 3) the lessor does not make the conduct of supervision possible;

4) the lessor's pecuniary portion of capital is lower than prescribed by the Law.

The lessor shall be considered not to have made the conduct of supervision possible pursuant to paragraph 1, subparagraph 3 hereof if, on NBS's request:

- it fails to deliver the requested data to the NBS and/or fails to deliver them within the timeframe specified in the request;
- it submits untrue or incomplete data intentionally or by gross negligence;
- it fails to provide authorised persons with necessary facilities for the conduct of on-site supervision, ensuring at the same time that they are not disturbed in their work by employees in the lessor or third person.

15. The NBS may revoke the license issued to the lessor to engage in financial leasing if it ascertains during supervision that:

- 1) the lessor has failed to submit the prescribed reports, documentation and other data on its operation in the manner and within timeframes prescribed;
- 2) the lessor has failed to implement within the prescribed timeframe the measures ordered to it by the decision pronouncing those measures.

16. On request, the lessor shall submit to the NBS, within the prescribed timeframe, the salary data of responsible persons and details of these persons' current accounts with banks.

17. The lessor shall submit to the NBS the evidence that the fine referred to in Section 6, paragraph 3 hereof was credited to NBS's gyro-account, not later than within 15 days from the receipt of the decision pronouncing the fine.

If the lessor or the responsible person fails to pay the fine referred to in paragraph 1 hereof within the timeframe period referred to in that paragraph, the NBS shall undertake enforced collection.

18. To collect, process and analyse the necessary data, the NBS may conduct diagnostic examination of lessor's operation by on-site examination of its books of account and other documentation, whereon it shall compile a report which shall not be submitted to the lessor.

19. Supervision activities initiated before the date of effectiveness of this Decision shall be completed pursuant to provisions of the Decision on Detailed Conditions and Manner of Conducting Supervision of Lessors' Operations (RS Official Gazette, No 117/2005).

20. As of the effectiveness hereof, the Decision on Detailed Conditions and Manner of Conducting Supervision of Lessors' Operations (RS Official Gazette, No 117/2005) shall cease to be valid.

21. This Decision shall be published in the RS Official Gazette and shall enter into force on 17 May 2012.

NBS Executive Board No 79
10 November 2011

Belgrade

Chairman of
the Executive Board of
the National Bank of Serbia
Governor of
of the National Bank of Serbia

Dejan Šoškić, sign.