

Pursuant to Article 13 j, paragraph 5 of the Law on Financial Leasing (RS Official Gazette, Nos 55/2003, 61/2005, 31/2011 and 99/2011 – other laws) and Article 15, paragraph 1 of the Law on the National Bank of Serbia (RS Official Gazette, Nos 72/2003, 55/2004, 85/2005 – other law, 44/2010, 76/2012, 106/2012, 14/2015, 40/2015 – CC decision and 44/2018), the Executive Board of the National Bank of Serbia hereby adopts the following

## **D E C I S I O N**

### **ON MANAGEMENT OF RISKS ARISING FROM INTRODUCTION OF NEW PRODUCTS/SERVICES BY LESSORS**

#### **Introductory provision**

1 This Decision sets out detailed conditions and manner of identifying, measuring and assessing, i.e. managing the risks to which a lessor is exposed in its operations based on the introduction of new products, services and activities related to the lessor's processes and systems (hereinafter: new service).

#### **Meaning of certain terms**

2. A new service, within the meaning of this Decision, is the service which a lessor did not provide prior to the effective date of this Decision and which is similar to financial leasing and/or is customarily provided along with financial leasing (operational leasing, sale&lease back etc.).

Operational leasing service is a legal transaction between a lessor and a lessee whereby the lessor undertakes to transfer to the lessee the right to hold and use the lease asset (a movable non-consumable asset or immovable asset owed by the lessor) for a definite time, and the lessee undertakes to pay to the lessor the agreed fee for the use of the lease asset, according to the agreed timeframe, whereby:

- 1) the total value of the lease asset does necessarily impact the level of the fee for the use of the lease asset;
- 2) the lessor largely retains the risks and rewards incidental to the ownership over the lease asset, and/or does not transfer them to the lessee;
- 3) the lessor bears the costs of depreciation of the lease asset;
- 4) the lessee does not have a contractual right to purchase the lease asset.

The sale&lease back is a legal transaction between a lessor and a lessee whereby the lessee, who is the initial owner of the lease asset undertakes to sell this asset to the lessor, who further grants the right to the use of such asset to the lessee, i.e. transfers the right to hold and use the lease asset to the lessee, for a definite time, whereby the lessee undertakes to pay the fee to the lessor for such transfer, according to the agreed timeframe.

Provisions of the law governing contracts and torts shall accordingly apply to legal transactions (contracts) of operational leasing, financial sale&lease back and other contracts on new services within the meaning of this Decision.

Provisions of the regulations governing financial leasing shall accordingly apply to informing of the lessee when concluding operational lease contract and sale&lease back contract and when setting up the file on the lessee.

### **System for managing the risk of introduction of a new service**

3. The lessor shall set up a comprehensive and reliable system for managing the risk of introduction of a new service and shall regulate the process of introduction of this service by appropriate internal acts, including entry into new markets, and the introduction of new and modification of existing systems, processes, standards and rules related to such service.

### **Process of introduction of a new service**

4. The lessor shall regulate the process of introduction of a new service in a manner which ensures the compliance of this service with the regulations and internal acts on risk management.

Internal acts from paragraph 1 hereof shall in particular regulate the following:

- 1) defining of a new service;
- 2) decision-making process when introducing a new service, i.e. all issues considered by the lessor before deciding about entering new markets and introducing a new service;
- 3) obligation to consider the accounting treatment of a new service;
- 4) obligation to consider the pricing of a new service (pricing mechanism).

Prior to introducing a new service, in accordance with the acts from paragraph 2 hereof, the lessor shall undertake the following:

- 1) analyse all the risks arising from the introduction of a new service;
- 2) analyse the impact of the introduction of a new service on the lessor's profitability;
- 3) determine the accounting treatment of a new product, and/or elements, method of calculation and manner of accounting recording of all receivables, liabilities, expenses and revenues arising from a new service;
- 4) establish the pricing mechanism for a new service;
- 5) obtain a reasoned opinion from the organisational unit in charge of risk management, and/or a reasoned opinion of a financial sector person to which the activities of managing the risks in the lessor's operations were outsourced – about the impact of the introduction of a new service on the risks in the lessor's operations;
- 6) obtain a reasoned opinion from the organisational unit in charge of supervising the compliance of lessor's operations, and/or a reasoned opinion from a financial sector person to which the activities of managing the risks in the lessor's operations were outsourced – about the compliance of the introduction of a new service with the regulations and internal acts of the lessor.

A financial sector person from paragraph 3, provisions 5) and 6) of this Section shall, in addition to a lessor, also be a bank, insurance undertaking, underwriter of securities issuance, investment and voluntary pension funds management company, broker-dealer company, and other legal person primarily engaged in financial activity in the country or abroad.

The outsourcing of operations referred to in paragraph 3, provisions 5) and 6) hereof does not relieve the lessor of the responsibility for the legality of the performance of such operations.

### **Notification on introduction of a new service**

5. The lessor shall inform the National Bank of Serbia about the introduction of a new service no later than 60 days prior to the planned service introduction and submit the following documentation along with that notification:

- 1) analyses and/or opinions referred to in Section 4, paragraph 3 of this Decision, with the accompanying documentation.
- 2) presentation of the pricing mechanism for the new service;
- 3) decision on the introduction of a new service;
- 4) detailed information about the lease object;
- 5) model contract about the new service which the lessor will conclude with the lessee and the representative example of this service, including all the elements needed to determine the terms of use for the new service;
- 6) if they intend to advertise the new service – information about the manner of advertising and the proposal of the advertising message, in accordance with the regulation governing service advertising.

The deadline from paragraph 1 hereof shall run from the date of submission of duly completed documentation from that paragraph.

If the National Bank of Serbia requests additional documentation upon the receipt of the notification from paragraph 1 hereof, it may set a timeframe before the expiry of which the lessor may not submit such supplemented documentation.

The timeframe from paragraph 3 hereof may not be longer than six months.

### **Records of new services**

6. A lessor shall set up and keep single records in relation to the introduction of a new service.

The lessor shall submit to the National Bank of Serbia excerpts from the records referred to in paragraph 1 hereof on a semi-annual basis, with the data as at 30 June of the current year – no later than 31 July of the current year and/or with the data as at 31 December of the current year – no later than 31 January of the following year.

The excerpts from the lessor's records shall be submitted on the form "New service" – Annex 1, which is printed along with and integral to this Decision.

### **Final provision**

7. This Decision shall enter into force on the eighth day following its publication in the RS Official Gazette and shall apply as of 1 January 2021.

NBS Executive Board No 120

10 December 2020

B e l g r a d e

Chairperson  
of the NBS Executive Board  
G o v e r n o r  
of the National Bank of Serbia

Dr Jorgovanka Tabaković, sign.