

Pursuant to Article 127b, paragraph 6, Article 127c, paragraph 8 and Article 127d, paragraph 3 of the Law on Banks (RS Official Gazette, Nos 107/2005, 91/2010 and 14/2015) 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 and 14/2015), the Executive Board of the National Bank of Serbia issues the following

DECISION ON INTRA-GROUP FINANCIAL SUPPORT

1. This Decision sets out detailed conditions for granting prior consent to the conclusion of an agreement on financial support within a banking group (hereinafter: intra-group financial support agreement) and the documentation submitted along with the application for such consent. It also regulates in detail the conditions for providing intra-group financial support, the content of information on concluded intra-group financial support agreements which must be disclosed, as well as the conditions, manner and timeframes for disclosing such information.

Prior consent to an intra-group financial support agreement

2. A bank, an ultimate parent company of a banking group subject to consolidated supervision by the National Bank of Serbia (NBS) and a banking group member, shall submit to the NBS the application for prior consent to the conclusion of an intra-group financial support agreement, accompanied with the following:

- 1) text of the proposed intra-group financial support agreement;
- 2) data on the business name and head office of banking group members intending to conclude the proposed intra-group financial support agreement, and names of regulatory authorities in charge of supervision of operations and/or supervision of these members;
- 3) the analysis of effects of implementation of the proposed intra-group financial support agreement, stating in particular all direct and indirect benefits and risks for the applicant in case of provision of financial support in accordance with this agreement;
- 4) the analysis of elements based on which the fee for the provision of financial support is determined – the analysis may also take into account the information that is not available in the market and that the intra-group provider of financial support (hereinafter: support provider) possesses by virtue of belonging to the same group as the intra-group recipient of financial support (hereinafter: support recipient), whereas the expected temporary effects on

market prices triggered by events outside the group need not be taken into account.

If the NBS has not concluded an agreement for the needs of cooperation and exchange of data (information) with the regulatory authority in charge of supervision of operations and/or supervision of one of banking group members designated as a contracting party in the proposed intra-group financial support agreement, along with the application referred to in paragraph 1 hereof and in addition to evidence from that paragraph, the following documents shall be submitted:

1) report on the member's financial condition, which shall contain in particular data on capital adequacy, liquidity, debt, percentage of non-performing loans and exposure concentration – as at the last calendar day of the month preceding the month when the application is filed;

2) certificate of the regulatory authority of the home country as at the last calendar day of the month preceding the month when the application is filed – confirming that early intervention measures and/or other measures corresponding to early intervention measures within the meaning of European Union regulations have not been taken against the member, or other appropriate evidence confirming that the member does not meet the conditions for the imposition of these measures.

If based on evidence referred to in paragraphs 1 and 2 hereof it is not possible to determine all facts important for decision making on the application referred to in paragraph 1 hereof, the NBS may require from the applicant to submit additional documents it deems necessary.

3. The NBS shall decide on the application referred to in Section 2 of this Decision within four months after receipt of the duly completed application.

The NBS shall give consent to the conclusion of an intra-group financial support agreement if it assesses that:

1) the proposed intra-group financial support agreement fulfils the conditions referred to in Article 127b of the Law on Banks (hereinafter: Law);

2) the applicant referred to in Section 2 of this Decision shall consider the conclusion of an intra-group financial support agreement bearing in mind its own best interest, based on careful examination of all data and information important for decision making on the conclusion of an intra-group financial support agreement;

3) at the moment of submitting the application, the applicant referred to in Section 2 of this Decision does not meet the conditions for early

intervention measures referred to in Article 113 of the Law, and/or other parties to the intra-group financial support agreement do not meet the conditions for early intervention measures as stipulated by their home regulations.

4. Sections 2 and 3 of this Decision shall apply accordingly to granting of prior consent to amendments to a concluded intra-group financial support agreement.

Conditions for the provision of intra-group financial support

5. In assessing the fulfilment of conditions referred to in Article 127d, paragraph 1, item 1) of the Law, the NBS shall consider whether:

- based on the balance of capital and liquidity of the support recipient, it may be expected that the provision of financial support, along with funds provided from other sources, will satisfy the recipient's projected needs for capital and liquidity in the relevant period following the provision of such support;
- the analysis of the financial condition and internal and external causes of the recipient's financial difficulties, particularly its business model and the risk management system, indicates the possibility to significantly redress such difficulties, taking into account market conditions;
- an adequate plan has been developed regarding the activities to be taken to significantly redress the recipient's financial difficulties, including changes in the business model and risk management system when necessary.

6. The NBS shall assess the fulfilment of conditions referred to in Article 127d, paragraph 1, item 2) of the Law based on the comparison of the effects and risks that the provision of financial support would have on the banking group and/or the support provider with the effects and risks that the non-provision of financial support would have on the financial position of the banking group and/or support provider.

7. In assessing the fulfilment of conditions referred to in Article 127d, paragraph 1, item 3) of the Law, the NBS shall consider whether:

- the fee for the provision of financial support is calculated in accordance with the intra-group financial support agreement to which the NBS gave its consent;
- the fee for the provision of financial support adequately reflects the risk of a default status of the support recipient, a possible loss for the support provider due to the occurrence of such status, the ranking of receivables

arising from the provision of support, and/or the maturity of such receivables if the support is given in the form of a credit or loan;

- the envisaged dynamics of paying the fee for the provision of financial support is aligned with the intra-group financial support agreement referred to in indent 1 hereof.

8. The NBS shall assess the fulfilment of conditions referred to in Article 127d, paragraph 1, item 4) of the Law based on the analysis of all risks which may affect the support recipient's capability to timely pay the fee and settle other obligations relating to the provision of such support. The analysis shall take into account in particular the criteria referred to in Section 5 of this Decision.

9. In assessing the fulfilment of conditions referred to in Article 127d, paragraph 1, item 5) of the Law, the NBS shall assess whether it is reasonable to expect that following the provision of financial support – and taking into account the risk of a default status of the support recipient and a possible loss for the support provider due to the occurrence of such status – the assets of the support provider would exceed its obligations, and whether the support provider would be able to settle all its obligations as they mature.

10. In assessing the fulfilment of conditions referred to in Article 127d, paragraph 1, item 6) of the Law, the NBS shall take into account the importance of the support provider for the Republic of Serbia's financial system, the support provider's financial condition and the financial condition of other group members that are important for its stability, and shall assess whether the provision of financial support would reduce the capability of the support provider to adjust its operations to adverse market conditions and/or to provide financial support to group members that are important for its stability.

11. The NBS shall assess the fulfilment of conditions referred to in Article 127d, paragraph 1, item 7) of the Law based on the analysis of effects of the provision of financial support on the support provider's financial condition, particularly on its capability to continue, after the provision of support, to fulfil the prescribed requirements relating to capital, liquidity and large exposures.

12. In assessing the fulfilment of conditions referred to in Article 127d, paragraph 1, item 8) of the Law, the NBS shall assess whether the implementation of the resolution plan in respect of the support provider would be prevented or significantly impeded by the provision of support, particularly taking into account the possibility to cover losses and the risk of contagion within the banking group, connectedness between the support provider and the support recipient and interconnectedness within the group.

13. The management body of the person referred to in Section 2, paragraph 1 of this Decision which concluded an intra-group financial support agreement and intends to provide such support, shall notify the NBS of its intention.

The notification referred to in paragraph 1 hereof shall include in particular a reasoned proposal of the decision referred to in Article 127d, paragraph 2 of the Law and details of the proposed financial support, including a copy of the intra-group financial support agreement.

The management body of the person referred to in paragraph 1 hereof shall specify in the explanation of the proposal of the decision referred to in paragraph 2 hereof all facts and circumstances it knows of, which may be significant for the assessment of the fulfilment of conditions for the provision of financial support referred to in Sections 5–12 of this Decision, and shall submit appropriate documentation substantiating such facts or circumstances.

The NBS shall assess the fulfilment of conditions referred to in Article 127d, paragraph 1 of the Law based on the submitted notification referred to in paragraph 1 hereof and other data in its possession.

Disclosure of information on intra-group financial support agreements

14. The person referred to in Section 2, paragraph 1 of this Decision shall disclose information on whether it concluded an intra-group financial support agreement. If yes, it shall also disclose the following information:

- 1) business names of banking group members that concluded an intra-group financial support agreement;
- 2) forms in which such support may be provided and individual limitations for each of such forms;
- 3) information on whether the reciprocity of financial support has been envisaged among the parties to the intra-group financial support agreement, and/or information on different conditions applied to different support recipients and/or providers if such reciprocity does not exist;
- 4) information on the manner of calculating the fee for the provision of financial support;
- 5) information on the ranking, maturity and final due date of receivables arising from the provision of support;
- 6) information on circumstances and/or indicators relating to operations of the support recipient and/or provider, representing the basis for the provision of such support;

7) information on collateral envisaged for the provision of financial support.

In case of a multilateral intra-group financial support agreement, the person referred to in Section 2, paragraph 1 of this Decision shall disclose only the information referred to in paragraph 1, indents 2)–7) of this Decision relating to that person in the capacity of a support provider or recipient.

15. The person referred to in Section 2, paragraph 1 of this Decision shall clearly disclose on the homepage of its website the link to the information referred to in Section 14 of this Decision, with the designation *Information on the intra-group financial support agreement*, and shall update such information at least once a year, and/or without delay in case of amendments to the intra-group financial support agreement.

16. The documentation and evidence prescribed by this Decision shall be submitted in the original or a certified copy, and shall include the latest available data on financial operations of a bank and/or banking group member.

The documentation referred to in paragraph 1 hereof must be in Serbian, and if it is prepared in a foreign language, it shall be accompanied by translation into the Serbian language, certified by a court interpreter – along with the original or a certified copy.

17. This Decision shall be published in the RS Official Gazette and shall enter into force on 1 April 2015.

NBS Executive Board No 20
26 March 2015
Belgrade

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

Jorgovanka Tabaković, PhD