

Pursuant to Article 128x, paragraph 7 of the Law on Banks (RS Official Gazette, Nos 107/2005, 91/2010, 14/2015 and 19/2025) and Article 15a, 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, 44/2018 and 19/2025), the Executive Board of the National Bank of Serbia hereby adopts

D E C I S I O N ON COUNTERPARTY SAFEGUARDS

1. This Decision regulates in more detail the application of safeguards for counterparties referred to in Article 128x of the Law on Banks (hereinafter: Law), restrictions on their application and types of arrangements and financial instruments to which these safeguards apply.

2. The National Bank of Serbia shall apply counterparty safeguards in the following cases:

1) when it transfers to the acquirer, the bridge bank or the asset management company only a part of assets and liabilities of the bank under resolution;

2) when it terminates an arrangement in which the bank under resolution is one of the counterparties or when it modifies the terms of such an arrangement.

3. Counterparty safeguards shall be applied to financial arrangements from Article 128x of the Law regardless of the number of parties to those arrangements, as well as whether they are governed in whole or in part by foreign law.

Counterparty safeguards shall be applied without prejudice to the provisions of Article 128h, paragraph 10, Article 128k, paragraph 2, items 7) and 10) and Article 128v, paragraph 5 of the Law.

4. Netting arrangements from Article 128x, paragraph 1 of the Law shall comprise:

1) netting arrangements which the bank has concluded with a single counterparty which pertain to rights and obligations under financial arrangements or derivatives;

2) netting arrangements which the bank has concluded with one or more counterparties which pertain to rights and obligations with respect to payment or securities settlement systems and are connected to the core activity of that counterparty as a payment or security settlement system.

By way of exception to paragraph 1 hereof, the National Bank of Serbia may establish in individual cases that netting arrangements concluded

between a bank and one or more counterparties may be considered netting arrangements referred to in Article 128x, paragraph 1 of the Law even when they pertain to rights and obligations that are not covered by paragraph 1 of this Section, if those arrangements are recognised as risk-mitigating in accordance with applicable regulations and if the condition for their recognition is the safeguarding of the counterparty of those arrangements, especially with regard to the inseparability of rights and obligations from those arrangements from the associated collateral or other assets underlying those arrangements (e.g. repo agreements, securities lending or borrowing agreements or other assets etc.).

5. Financial collateral arrangements from Article 128x, paragraph 3 of the Law shall include:

- 1) guarantee and warranty arrangements;
- 2) pledge and mortgage arrangements;
- 3) securities lending agreements which do not imply full title transfer over collateral, based on which one counterparty (lender) lends securities to another counterparty (borrower) in exchange for a remuneration or interest and the borrower provides the lender with the collateral during the term of the loan.

Arrangements from paragraph 1 of this Section shall be considered financial collateral arrangements within the meaning of Article 128x, paragraph 3 of the Law only if the assets to which the pledge right pertains, or would pertain in the case of enforcement, is sufficiently determined or determinable in accordance with the terms of the arrangement and applicable regulations.

6. Structured finance arrangements referred to in Article 128x of the Law include arrangements relating to both traditional and synthetic securitisation.

Arrangements that establish a securitisation structure encompassing the mutual relationships between the originator, issuer, trustee, servicer, cash manager, and other counterparties in swap and credit protection arrangements shall be considered structured finance arrangements only if such mutual relationships arise directly from the connection with the underlying assets and the payments that must be made, from the funds generated by those assets, to the holders of structured financial instruments.

Mutual relationships from paragraph 2 of this Section shall include rights and liabilities connected with the underlying assets, liabilities arising from issued financial instruments and collateral arrangements, including derivative transactions, necessary to maintain payment flows within those liabilities.

By way of exception to paragraphs 1 to 3 hereof, the National Bank of Serbia may, in individual cases, taking into account the structure of the structured finance arrangements referred to in this Section, determine that other arrangements between counterparties, such as loan servicing

agreements, which are not directly connected with the underlying assets and payments to be made, also form an integral part of the structured finance arrangement.

7. The National Bank of Serbia shall apply counterparty safeguards to arrangements from Sections 4 and 5 of this Decision without prejudice to the exercise of its authority to:

1) protect every arrangement covered by Article 128x of the Law, except the title transfer financial collateral arrangement and covered bonds, which are protected in the bankruptcy procedure from the temporary or permanent separation, suspension, or termination of the assets and liabilities arising from that arrangement;

2) protect every arrangement which is not covered by Article 128x of the Law, but which is protected in the bankruptcy procedure from the temporary or permanent separation, suspension, or termination of the assets and liabilities arising from that arrangement.

By way of exception to paragraph 1 hereof, the National Bank of Serbia may, in individual cases, exempt from counterparty safeguards the netting arrangements and collateral arrangements which contain the provision that, in the case of one counterparty's default, allows the other counterparty which is not in such status, to settle partly or not settle at all its liabilities under the arrangement related to the assets of the counterparty in default — even when the counterparty in default is a net creditor.

8. The provisions of this Decision shall apply accordingly to a member of the banking group.

9. This Decision shall enter into force on the eighth day following its publication in the RS Official Gazette and shall apply as of 1 October 2025.

NBS EB No 51

10 July 2025

B e l g r a d e

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

Dr Jorgovanka Tabaković, sign.