Based on 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 and 40/2015 – CC decision) and Section 8, paragraph 2, Section 10, paragraph 4, Section 12, paragraph 3, Section 13, paragraph 9, Section 23, paragraph 3, Section 24, paragraph 10, Section 26, paragraph 3, Section 28, paragraph 3, Section 30, paragraph 3 and Section 31, paragraph 8 of the Decision on Capital Adequacy of Banks (RS Official Gazette, No 103/2016), the Executive Board of the National Bank of Serbia hereby adopts

G U I D E L I N E S
FOR THE IMPLEMENTATION OF SPECIFIC PROVISIONS OF THE DECISION ON CAPITAL ADEQUACY OF BANKS RELATING TO BANK CAPITAL

Introductory provision

1. These Guidelines, for the purposes of implementing specific provisions of the Decision on Capital Adequacy of Banks (hereinafter: Decision) prescribe in detail:

– cases of direct and indirect funding of capital instruments and subordinated liabilities of the bank;
– distributions on Common Equity Tier 1 instruments with a dividend multiple;
– preferential distribution on a Common Equity Tier 1 instrument;
– the manner of calculating the projected amount of liabilities for dividends and other liabilities payable from profit by which the amount of interim profit or profit from the preceding year is reduced;
– the manner of determining the degree of the close correspondence between the value of the covered bonds and the value of the bank’s assets;
– method for calculating specific deductibles from capital;
– specific conditions for the inclusion of capital instruments and subordinated liabilities of the bank in the calculation of Additional Tier 1 capital and Tier 2 capital;
– write-off of the nominal value and/or the principal amount of Additional Tier 1 instruments following the occurrence of a trigger event;
– the manner of application of the broad market index.

Cases of direct and indirect funding of capital instruments and subordinated liabilities of the bank

2. Direct funding of capital instruments under Section 8, paragraph 1, item 2), Section 23, paragraph 1, item 1) and Section 28, paragraph 1, item 3) of the Decision shall refer to situations where a bank has granted a loan or other funding in any form to an investor that is used for the purchase of its capital instruments.

Direct funding referred to in paragraph 1 hereof shall also include funding granted for other purposes than purchasing a bank's capital instruments, to any person related to the bank within the meaning of the Law on Banks, if the bank is not able to demonstrate the following:

– the funding transaction is realised under similar conditions as other funding transactions with third parties;
– the related party does not have to rely on the distributions or on the sale of the capital instruments held to support the repayment of the funding.

Indirect funding of capital instruments under Section 8, paragraph 1, item 2), Section 23, paragraph 1, item 1) and Section 28, paragraph 1, item 3) of the Decision shall include in particular the following:

– funding of an investor's purchase, at issuance or thereafter, of a bank's capital instruments by any entities in which the bank has controlling participation or by entities included together with the bank in consolidated supervision of the banking group by the National Bank of Serbia or in consolidation in accordance with the law governing accounting;
– funding of an investor's purchase, at issuance or thereafter, of a bank's capital instruments by entities that are protected by a guarantee or by the use of a credit derivative or are secured in some other way so that the credit risk is transferred to the bank or to any entities in which the bank has controlling participation or any entities included, together with the bank, in consolidated supervision of the banking group by the National Bank of Serbia or in consolidation in accordance with the law governing accounting;
– funding of an entity that passes the funding on to the ultimate investor for the purchase, at issuance or thereafter, of the bank's capital instruments.

When establishing whether the purchase of a capital instrument involves direct or indirect funding, the amount to be considered shall be net of any individually assessed allowances for impairment of balance sheet assets and provisioning for off-balance sheet losses.

This Section shall accordingly apply to subordinated liabilities referred to in Section 28, paragraph 1 of the Decision.

Distributions on Common Equity Tier 1 instruments with a dividend multiple

3. Distributions on Common Equity Tier 1 instruments with a dividend multiple shall be deemed not to constitute a disproportionate drag on capital of the bank within the meaning of Section 8, paragraph 1, item 7), indent three of the Decision where the following conditions are met:

1) the dividend multiple is a multiple of the distribution paid on voting Common Equity Tier 1 instruments and not a predetermined fixed amount;
2) the dividend multiple is set by internal acts or the decision on issuing the instruments of the bank;
3) the dividend multiple is not revisable;
4) the same dividend multiple applies to all Common Equity Tier 1 instruments with a dividend multiple;
5) the amount of the distribution does not represent more than 125% of the amount of the distribution on one voting Common Equity Tier 1 instrument. In formulaic form this shall be expressed as:

$$l \leq 1{,}25 * k$$

where:
k – shall represent the amount of the distribution on one Common Equity Tier 1 instrument without a dividend multiple,
l – shall represent the amount of the distribution on one Common Equity Tier 1 instrument with a dividend multiple;

6) the total amount of the distributions paid on all Common Equity Tier 1 instruments during a one-year period does not exceed 105% of the amount of dividends that would have been paid if the dividend on the non-voting Common Equity Tier 1 instrument equalled the dividend on the voting Common Equity Tier 1 instrument. In terms of a formula applied annually, this shall be expressed as:

$$k * X + l * Y \leq 1{,}05 * k * (X + Y)$$

where:
k – shall represent the amount of the distribution on one Common Equity Tier 1 instrument without a dividend multiple,
l – shall represent the amount of the distribution on one Common Equity Tier 1 instrument with a dividend multiple,

X – shall represent the number of voting Common Equity Tier 1 instruments,

Y – shall represent the number of non-voting Common Equity Tier 1 instruments.

Where any of the conditions from paragraph 1, items 1) to 5) of this Section is not met, distributions on all Common Equity Tier 1 instruments with a dividend multiple shall be deemed to constitute a disproportionate drag on the bank's capital.

Where conditions from paragraph 1, items 1) to 5) of this Section are met and the condition from paragraph 1, item 6) of that Section is not met, those Common Equity Tier 1 instruments with a dividend multiple that exceed the threshold defined in item 6) of that paragraph shall be deemed to cause a disproportionate drag on the bank's capital.

Preferential distribution on a Common Equity Tier 1 instrument

4. A distribution on a Common Equity Tier 1 instrument within the meaning of Section 8, paragraph 1, item 7), indent one of the Decision shall be deemed to be preferential relative to distribution on other Common Equity Tier 1 instrument if there are differences in the amount of payment, unless the conditions referred to in Section 3 of these Guidelines are met.

A distribution on a Common Equity Tier 1 instrument shall be deemed to be preferential relative to distribution on another Common Equity Tier 1 instrument regarding the order of distribution payments referred to in Section 8, paragraph 1, item 7), indent one of the Decision where at least one of the following conditions is met:

– distributions are decided at different times;
– distributions are paid at different times;
– there is an obligation on the issuer to pay the distributions on one type of Common Equity Tier 1 instruments before paying the distributions on another type of Common Equity Tier 1 instruments;
– a distribution is paid on one type of Common Equity Tier 1 instruments but not on others.

Manner of calculating the projected amount of liabilities for dividends and other liabilities payable from profit by which the amount of interim profit or profit from the preceding year is reduced

5. The projected amount of liabilities for dividends by which the amount of interim profit or profit from the preceding year is reduced, in accordance

with Section 10, paragraph 3, indent one of the Decision is determined as follows:

– if the bank's assembly has taken the decision on distribution of profit for dividends, the distributed amount shall be deducted from the profit for the preceding year;

– before the bank's assembly makes the decision on distribution of profit for dividends, the projected amount of liabilities for dividends to be deducted from interim profit or profit from the preceding year shall equal the amount of interim profit or profit from the preceding year multiplied by the dividend payout ratio, determined on the basis of the dividend policy approved by the bank's assembly for the relevant period.

Where the dividend policy approved by the bank's assembly contains a payout range, the upper end of the range is to be used when making a deduction from interim profit or profit from the preceding year.

In the absence of a dividend policy approved by the bank's assembly or when this policy is not a sufficient basis upon which to determine the amount of projected deduction from interim profit or profit from the preceding year, the dividend payout ratio shall be based on the highest of the following:

– the average dividend payout ratio determined for the last three years in which the bank realised profit preceding the year in which the projected amount of liabilities for dividends from Section 10, paragraph 3, indent one of the Decision is calculated, and for which the decision on profit distribution through dividend payout was taken up to the day of submission of the application for prior consent of the National Bank of Serbia for inclusion of profit in accordance with Section 10, paragraph 2 of the Decision;

– the dividend payout ratio in the last year in which the bank realised profit, preceding the year for which the projected amount of liabilities for dividends from Section 10, paragraph 3, indent one of the Decision is calculated, and for which the decision on dividend payout was taken up to the day of submission of the application for prior consent of the National Bank of Serbia for inclusion of profit in accordance with Section 10, paragraph 2 of the Decision.

In determining the projected amount of liabilities for dividends, the bank shall apply regulatory restrictions on distributions, including restrictions on distributions from Section 455 of the Decision. If the bank does not meet the combined buffer requirement, the projected amount of liabilities for dividends shall be determined based on the capital conservation plan approved by the National Bank of Serbia in accordance with Section 458 of the Decision.

The projected amount of dividends to be paid in a form that does not reduce the amount of Common Equity Tier 1 capital, such as payment in shares, shall not be deducted from interim profit or profit from the preceding year to be included in Common Equity Tier 1 capital.

Projected amounts of profit tax and all other charges deducted from profit that have not already been taken into account in the bank’s income statement shall be assigned to the interim period during which they have incurred so that each interim period bears the respective amount of these charges. Events that might affect profit distribution, whether one-off or more durable in nature, shall be considered in full and without delay in the interim period during which they arise.

Manner of determining the degree of the close correspondence between the value of the covered bonds and the value of the bank’s assets

6. A close correspondence between the value of the covered bonds and the value of a bank’s assets within the meaning of Section 12, paragraph 2, item 2) of the Decision shall be deemed to exist if the following conditions are met:

1) any changes in the fair value of the covered bonds issued by the bank result in equal changes in the fair value of the assets underlying the covered bonds. The fair value shall be determined according to the IFRS/IAS;
2) the mortgage loans underlying the covered bonds issued by the bank to finance the loans may be at any time redeemed by buying back the covered bonds at market or nominal value through the exercise of the delivery option;
3) there is a transparent mechanism for determining the fair value of the mortgage loans and of the covered bonds. Determining the fair value of the mortgage loans shall include calculating the fair value of the delivery option of covered bonds within the meaning of item 2) of this paragraph.

A close correspondence between the value of the covered bonds and the value of a bank’s assets within the meaning of paragraph 1 of this Section shall be deemed not to exist where a net profit or net loss arises from changes in the fair value of the covered bonds or of the underlying mortgage loans with the embedded delivery option.

Method for calculating specific deductibles from capital

A significant investment of a bank in a financial sector entity

7. In determining if there is a significant investment of a bank referred to in Section 13, paragraph 4, item 1) of the Decision, a bank shall determine the sum of amounts of direct holdings of Common Equity Tier 1 instruments issued by that entity and the amount of indirect holdings of those instruments referred to in Section 10, paragraph 2, indents three to six of these Guidelines.

In determining if there is a significant investment referred to in Section 13, paragraph 4, item 2) of the Decision, direct, indirect and synthetic holdings by the bank of the Common Equity Tier 1 instruments of that entity shall be taken into account.

In determining if there is a significant investment referred to in Section 13, paragraph 4, item 3) of the Decision, direct, indirect and synthetic holdings by the bank of the Common Equity Tier 1 instruments of that entity shall be taken into account.

Amount of tax charge relating to Common Equity Tier 1 items foreseeable at the moment of its calculation

8. If a bank, in accordance with the regulations, fully recognises current and deferred tax liabilities related to the transactions and events recognised in the bank's balance sheet and/or income statement, it shall be deemed that the amount of tax charge relating to Common Equity Tier 1 items foreseeable at the moment of its calculation in accordance with Section 13, paragraph 1, item 12) of the Decision has already been taken into account.

If the condition from paragraph 1 of this Section is not met, the bank shall deduct from Common Equity Tier 1 capital the foreseeable amount of current or deferred tax liabilities that are not yet recognised in the balance sheet and/or income statement of the bank and that refer to transactions and events recognised in the balance sheet or income statement. The foreseeable amount of deferred tax liabilities shall not be reduced by the foreseeable amount of deferred tax assets that are not recognised in the balance sheet and income statement of the bank.

Direct, indirect and synthetic holdings by the bank

9. For the purpose of calculating deductibles referred to in Section 13, paragraph 1, items 7) to 9), Section 26, paragraph 1, items 2) to 4) and Section 30, paragraph 1, items 2) to 4) of the Decision, where a financial sector entity is a bank, and/or a foreign bank subject to banking and banking supervision regulations that comply with the appropriate regulations of the European Union, holdings of capital instruments of that entity shall be deducted from the same form of capital under which such instruments would be classified if issued by the bank itself.

Holdings of capital instruments of other financial sector entities shall be deducted from capital according to the following calculations:

– all capital instruments qualifying as capital and, where such entity is subject to capital requirements, which are included in the highest quality Tier of regulatory capital without any limits, shall be deducted from Common Equity Tier 1 capital, whereas holdings of capital instruments which do not meet the requirements to be included in the regulatory capital shall not be deducted from the bank's regulatory capital, but shall be included in calculation of risk-weighted assets.

– all instruments which qualify as capital and, where the entity is not subject to capital requirements, which are perpetual, absorb the first and proportionately greatest share of losses as they occur, have no preferential or predetermined distributions and rank below the claims of all other creditors and of holders of other capital instruments of that entity in the event of insolvency and liquidation, shall be deducted from Common Equity Tier 1 capital;

– any subordinated instruments absorbing losses on a going-concern basis, including the discretion of the issuer to cancel distributions, shall be deducted from Additional Tier 1 capital. Where the amount of these subordinated instruments exceeds the amount of Additional Tier 1 capital, the excess amount shall be deducted from Common Equity Tier 1 capital;

– any other subordinated instruments shall be deducted from Tier 2 capital. If the amount of these subordinated instruments exceeds the amount of Tier 2 capital, the excess amount shall be deducted from Additional Tier 1 capital. Where the amount of Additional Tier 1 capital is insufficient, the remaining excess amount shall be deducted from Common Equity Tier 1 capital;

– any other instruments included in the capital of the financial sector entity pursuant to the prudential regulations and any other instruments for which the bank is not able to demonstrate that they meet the conditions in indents one to four of this paragraph, shall be deducted from Common Equity Tier 1 capital.

10. Indirect holdings by the bank of capital instruments of a financial sector entity in accordance with Section 13, paragraph 1, items 6), 8) and 9) of the Decision means any exposure to an intermediate entity that has an exposure to capital instruments issued by a financial sector entity where, in the event the capital instruments issued by the financial sector entity were permanently written off, the loss that the bank would incur as a result would not be materially different from the loss the bank would incur from a direct holding of those capital instruments issued by the financial sector entity.

The intermediate entity referred to in paragraph 1 of this Section means any of the following entities that hold capital instruments of financial sector entities:

– an open-ended investment fund;
– a pension fund;
– an entity in which a bank, its subsidiary, its parent company or a subsidiary of its parent company or a member or the banking group to which the bank belongs, holds minimum 10% of this entity's capital in direct or indirect ownership, and/or has the ability to effectively exercise significant influence over the management or the business policy of such entity;
– special-purpose entity;
– an entity investing in financial instruments of financial sector entities;
– an entity for which the National Bank of Serbia has assessed that it operates with the intention of circumventing the obligations from regulations relating to deduction of indirect and synthetic holdings in financial sector entities from Common Equity Tier 1 capital.

Except in the case referred to in paragraph 2, indent six of this Section, an intermediate entity does not mean the following entities:

– mixed-activity holding companies, banks, insurance undertakings, and reinsurance undertakings;
– financial sector entities whose operation is under appropriate supervision of the competent regulatory authority and which are required to deduct direct and indirect holdings of their own capital instruments and of capital instruments of financial sector entities from their regulatory capital.

The amount of indirect holdings of Common Equity Tier 1 items that are deducted from Common Equity Tier 1 capital in accordance with Section 13, paragraph 1, items 6), 8) and 9) of the Decision shall be calculated in one of the following ways:

– according to the default approach set out in paragraphs 5 to 8 of this Section;

– where the bank demonstrates that the approach described in indent one of this paragraph is excessively burdensome, according to the structure-based approach described in paragraphs 9 to 15 of this Section. The structure-based approach shall not be used by banks for calculating the amount of deductibles from Common Equity Tier 1 capital in relation to investments in intermediate entities referred to in paragraph 2, indent three of this Section.

According to the default approach, the amount of indirect holdings of Common Equity Tier 1 instruments to be deducted from Common Equity Tier 1 capital, as required by Section 13, paragraph 1, items 6), 8) and 9) of the Decision, shall be calculated for each holding in a financial sector entity by each intermediate entity referred to in paragraph 2 of this Section, as follows:

– where the exposures of all entities to the intermediate entity rank pari passu with regard to priority of collection, the amount of a deductible shall be equal to the percentage of bank's holdings multiplied by the amount of Common Equity Tier 1 instruments of the financial sector entity held by the intermediate entity;

– where the exposures of all entities to the intermediate entity do not rank pari passu with regard to priority of collection, the amount of a deductible shall be equal to the percentage of the bank's holdings multiplied with the lower of the following amounts: amount of Common Equity Tier 1 instruments of the financial sector entity held by the intermediate entity or the sum of the bank's exposure to the intermediate entity and of all other exposures to this intermediate entity that rank *pari passu* with the bank's exposure. This calculation shall be made for each tranche of exposures that ranks pari passu with the bank's exposures with regard to priority of collection.

The percentage of the bank's holdings for the purposes of calculation from paragraph 5 of this Section shall be the bank's exposure to the intermediate entity divided by the sum of the bank's exposure to the intermediate entity and of all other exposures to this intermediate entity that rank pari passu with the bank's exposure.

Where holdings of Common Equity Tier 1 instruments of a financial sector entity are held indirectly through subsequent or several intermediate entities, the percentage of the bank's holdings set out in paragraph 5 of this Section shall be determined by dividing the 1) the result of the multiplication of amounts of the bank's exposures to intermediate entities by the amounts of exposures of each of these intermediate entities to subsequent intermediate entities, by 2) the result of the multiplication of amounts of capital instruments issued by each intermediate entity.

The percentage of the bank's holdings referred to in paragraph 7 of this Section shall be calculated separately for each holding in a financial sector entity held by intermediate entities and for each tranche of exposures that ranks pari passu with the exposure provided by the bank and the subsequent intermediate entities.

In accordance with the structure-based approach, indirect holdings of own Common Equity Tier 1 instruments that are deducted from Common Equity Tier 1 capital referred to in Section 13, paragraph 1, item 6) of the Decision shall be equal to the percentage of the bank's holdings, as defined in paragraph 6 of this Section, multiplied by the amount of Common Equity Tier 1 instruments of the bank held by each intermediate entity referred to in paragraph 2 of this Section.

In accordance with the structure-based approach, indirect holdings of capital instruments of financial sector entities that are deducted from Common Equity Tier 1 capital referred to in Section 13, paragraph 1, items 8) and 9) of the Decision shall be calculated separately per each intermediate entity from paragraph 2 of this Section by multiplying the percentage of the bank's holdings referred to in paragraph 6 of this Section by the aggregate amount of Common Equity Tier 1 instruments of all financial sector entities that the intermediate entity holds. The amount of indirect holdings of Common Equity Tier 1 instruments of financial sector entities thus calculated shall be considered a significant investment referred to in Section 13, paragraph 4 of the Decision and shall be a deductible from Common Equity Tier 1 capital in accordance with Section 13, paragraph 1, item 9) of the Decision.

For the purpose of applying paragraphs 9 and 10 of this Section, the bank shall calculate separately for each intermediate entity the aggregate amounts that the intermediate entity holds in Common Equity Tier 1 instruments of the bank and in Common Equity Tier 1 instruments of other financial sector entities.

For the purpose of implementing paragraphs 9 and 10 of this Section, the percentage of the bank's holdings shall be determined pursuant to paragraphs 7 and 8 of this Section, where holdings of Common Equity Tier 1 instruments of financial sector entities are held indirectly through subsequent or several intermediate entities.

Where a bank is not able to identify the aggregate amounts that the intermediate entity holds in Common Equity Tier 1 instruments of the bank and/or in Common Equity Tier 1 instruments of another financial sector entity, the bank shall, for the purpose of implementing paragraph 11 of this Section, estimate those amounts by using the maximum amounts that the intermediate entity is allowed to hold on the basis of its investment mandates. Where the bank is not able to determine the maximum amount that the intermediate entity is allowed to hold in these instruments based on the entity's investment mandates, the bank shall treat the amount of exposure to the intermediate entity as holdings of own Common Equity Tier 1 instruments and shall deduct them from Common Equity Tier 1 capital in accordance with Section 13, paragraph 1, item 6) of the Decision.

By way of derogation from paragraph 13 of this Section, the bank shall treat the amount of exposure to the intermediate entity as a non-significant investment and shall deduct them from Common Equity Tier 1 capital in accordance with Section 13, paragraph 1, item 8) of the Decision, where the following conditions are met:

– the amounts of exposures to the intermediate entity are less than 0.25% of the bank's Common Equity Tier 1 capital;
– the amounts of exposures to the intermediate entity are less than RSD 1,200,000,000;
– the bank cannot determine the amounts of its own Common Equity Tier 1 instruments that the intermediate entity holds.

Where indirect holding is in the form of units of an open-ended investment fund, when determining the aggregate amounts that the intermediate entity holds in Common Equity Tier 1 instruments of the bank referred to in paragraph 13 of this Section, the bank may rely on assessments of a third party referred to in Section 60, paragraph 5 of the Decision if the conditions from that Section are met.

Where the intermediate entity referred to in paragraph 2 of this Section holds Common Equity Tier 1 instruments, Additional Tier 1 instruments and Tier 2 instruments of financial sector entities, Common Equity Tier 1 instruments shall be deducted first, the Additional Tier 1 instruments shall be deducted second, and the Tier 2 instruments last, in the amount of bank's exposure to the intermediate entity and subject to the following limits:

– in case of holdings of capital instruments of banks, when determining the amount of deductibles for each type of capital, banks shall deduct the intermediate entity's holdings of their own capital instruments first;
– in case of holdings of capital instruments of financial sector entities, the amount to be deducted from the bank's capital on account of those holdings shall not be higher than the lower of the following amounts:

the total bank's exposure to the intermediate entity or the amount of capital instruments held by the intermediate entity in the financial sector entity.

11. Synthetic holdings within the meaning of Section 13, paragraph 1, items 6), 8) and 9) of the Decision shall comprise the following financial instruments and credit protection instruments:

– derivative instruments that have capital instruments of a financial sector entity as their underlying or have the financial sector entity as their reference entity;
– guarantees or credit protection provided to a third party in respect of the third party's holdings of capital instruments of a financial sector entity.

Financial instruments referred to in paragraph 1 of this Section shall comprise:

– TRS derivatives pertaining to capital instruments of a financial sector entity;
– call options purchased by the bank on a capital instrument of a financial sector entity;
– put options sold by the bank on a capital instrument of a financial sector entity or any other actual or contingent contractual obligation of the bank to purchase its own capital instruments;
– forward purchase agreements on a capital instrument of a financial sector entity.

The amount of synthetic holdings that the bank is required to deduct from Common Equity Tier 1 capital from the date of signature of the contract between the bank and the counterparty, in accordance with Section 13, paragraph 1, items 6), 8) and 9) of the Decision, for holdings in the trading book, shall be determined as follows:

– for options, as the value of the underlying exposure multiplied by the relevant delta coefficient calculated in accordance with Chapter VII of the Decision;
– for any other synthetic holdings, the nominal or notional amount, as applicable.

For holdings in the non-trading book, the amount referred to in paragraph 3 of this Section shall be determined as follows:

– for call options, the current market value;
– for any other synthetic holdings, the nominal or notional amount, as applicable.

12. Banks shall calculate deductibles from Additional Tier 1 capital referred to in Section 26, paragraph 1, items 2) to 4) of the Decision by applying Sections 7, 10 and 11 of these Guidelines accordingly.

13. Banks shall calculate deductibles from Tier 2 capital referred to in Section 30, paragraph 1, items 2) to 4) of the Decision by applying Sections 7, 10 and 11 of these Guidelines accordingly.

Certain conditions for inclusion of capital instruments and subordinated liabilities in calculation of Additional Tier 1 and Tier 2 capital

14. Incentives to redeem a capital instrument within the meaning of Section 23, paragraph 1, item 6) and Section 28, paragraph 1, item 8) of the Decision shall mean all features of instruments and/or subordinated liabilities that provide, at the date of issuance, an expectation that the capital instrument and/or the subordinated liability is likely to be redeemed and shall include the following forms:

– a call option combined with an increase in the credit spread of the instrument if the call is not exercised;
– a call option combined with a requirement or an investor option to convert the instrument into a Common Equity Tier 1 instrument where the call is not exercised;
– a call option combined with an increase of the redemption amount in the future;
– marketing of the instrument in a way which suggests to investors that the instrument will be called.

Write-off of the nominal value, and/or principal amount of the Additional Tier 1 instrument following the occurrence of a trigger event

15. Write-off of the nominal value, and/or principal amount of Additional Tier 1 instruments when the trigger event referred to in Section 23, paragraph 1, item 13) of the Decision occurs – shall apply on a pro rata basis to all holders of Additional Tier 1 instruments that include a similar mechanism for write-off of nominal value and/or principal amount and an identical trigger level of the Common Equity Tier 1 capital adequacy ratio.

Write-off of the nominal value, and/or principal amount of Additional Tier 1 instruments when the trigger event occurs shall be temporary if the following conditions are met:

– any distributions payable after the write-off of the nominal value and/or principal amount of those instruments shall be based on the reduced amount after the write-off;

– write-ups of the nominal value, and/or principal amount of instruments shall be based on the bank's profit stated in the adopted financial statements;

– any write-up of the nominal value, and/or principal amount of instruments or payment of coupons on the reduced amount of the principal shall be operated at the discretion of the bank subject to the constraints arising from indents four to six of this paragraph and there shall be no obligation for the bank to operate or accelerate a write-up of the nominal value and/or principal amount;

– a write-up of the nominal value, and/or principal amount of instruments shall be operated on a pro rata basis among similar Additional Tier 1 instruments that have previously been subject to a write-off of the nominal value, and/or principal amount;

– the maximum amount to be attributed to the sum of the write-up of the nominal value and/or principal amount of the instrument together with the payment of coupons on the reduced amount of the principal shall be equal to the profit of the bank multiplied by the amount obtained by dividing the sum of the nominal amount and/or principal of all Additional Tier 1 instruments of the bank before write-off that have been subject to a write-off by the total Tier 1 capital of the bank. The calculation is to be performed at the moment of the write-up of the nominal amount and/or principal amount of the instrument;

– the sum of any amounts of the write-up of the nominal value and/or principal amount of the instrument and payments of coupons on the reduced amount of the principal shall be treated as a payment that results in a reduction of Common Equity Tier 1 capital and shall be subject, together with other distributions on Common Equity Tier 1 instruments, to the restrictions relating to the maximum distributable amount referred to in Section 455 of the Decision.

Manner of application of broad market index

16. An interest rate index shall be deemed to be a broad market index referred to in Section 31, paragraph 5 of the Decision if it fulfils the following conditions:

– it is used to set interbank lending rates in one or more currencies;

– it is used as a reference rate for floating rate debt issued by the bank in the same currency, where applicable;

– it is calculated as an average rate by a body independent of the banks that are contributing to the index (hereinafter: panel of banks);

– each of the rates set under the index is based on quotes submitted by a panel of banks active in that interbank market;

– the composition of the panel of banks ensures a sufficient level of representativeness of banks present in the Republic of Serbia and/or a member state of the European Union.

Within the meaning of paragraph 1, indent five of this Section, a sufficient level of representativeness shall be deemed to be achieved in either of the following cases:

– the panel of banks includes at least six different banks contributors in setting the rate;

– the panel of banks includes at least four different contributors, and the sum of their assets and liabilities represents at least 60% of the related market.

A stock index shall be deemed to be a broad market index if it is a broadly diversified index in accordance with Section 354, paragraph 5 of the Decision.

17. These Guidelines shall enter into force on the eighth day following their publication in the “Official Gazette of the Republic of Serbia” and shall apply as of 30 September 2017.

NBS Executive Board No 60
7 September 2017

B e l g r a d e

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

Dr Jorgovanka Tabaković, sgd.