

Pursuant to Article 23, paragraph 2 of the Law on Foreign Exchange Operations (RS Official Gazette, Nos 62/2006, 31/2011, 119/2012, 139/2014 and 30/2018) and Article 14, paragraph 1, item 9) and Article 34, item 9) 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 – Constitutional Court decision), the Executive Board of the National Bank of Serbia hereby adopts the following

DECISION
ON CONDITIONS AND MANNER IN WHICH RESIDENTS MAY GRANT FINANCIAL LOANS TO NON-RESIDENTS AND ISSUE WARRANTIES AND PROVIDE OTHER COLLATERALS UNDER FOREIGN CREDIT OPERATIONS AND CREDIT OPERATIONS BETWEEN NON-RESIDENTS

1. This Decision lays down the conditions and manner in which a resident – legal entity may grant financial loans to a non-resident – debtor, and issue warranties and provide other collaterals under foreign credit operations and credit operations between non-residents.

2. A resident – legal entity may grant a financial loan to a non-resident – debtor with the seat in a European Union member state.

A resident – legal entity may also grant a financial loan to a non-resident – debtor without the seat in a European Union member state, under the condition that the resident is the majority owner of the non-resident – debtor.

3. A resident – legal entity may provide collaterals in favour of a non-resident – creditor under credit operations it performs with non-residents for its account.

A resident – legal entity may issue warranties and provide other collaterals in favour of a non-resident – creditor under credit operations between another resident and non-residents with the seat in a European Union member state, and under credit operations between non-residents with the seat in a European Union member state.

A resident – legal entity may issue warranties and provide other collaterals in favour of a non-resident – creditor under credit operations between another resident and non-resident without the seat in a European Union member state.

A resident – legal entity may issue warranties and provide other collaterals in favour of a non-resident – creditor under credit operations between non-residents without the seat in a European Union member state,

under the condition that the resident is the majority owner of the non-resident – debtor.

4. When granting the financial loan under Section 2 hereof and issuing warranties and providing other collaterals under credit operations between non-residents, in accordance with Section 3, paragraphs 2 and 4 hereof, a resident – legal entity shall contract and obtain collateral instruments from a non-resident.

5. A resident – public enterprise and legal entity with state-owned capital or legal entity in the process of restructuring or privatisation may perform operations referred to in Sections 2 and 3 hereof only based on the Government's prior consent to concluding or amending such operations.

6. In order to preserve public policy and/or financial stability, the National Bank of Serbia may, in a decision with fixed-term effectiveness, limit the performance of operations referred to in Sections 2 and 3 hereof by a resident, based on the assessment of justification of the limitation on a case-by-case basis (case by case assessment principle), taking into account the fulfilment of the objectives of the determined limitations (targeting principle) and proportionality of the limitation, particularly bearing in mind:

- the effects of granting a financial loan to a non-resident or issuing warranties and providing collaterals in favour of a non-resident – creditor under this Decision, which may lead to excessive capital inflows or outflows to/from the Republic of Serbia;

- solvency and liquidity of a creditor and a borrower under this Decision or a resident who, within the meaning of this Decision, issues warranties or provides collaterals in favour of a non-resident – creditor, including their indebtedness in relation to capital;

- adequacy of issued warranties and provided collaterals and obtained collateral instruments issued and/or obtained by a resident under this Decision.

6a. The provisions of this Decision pertaining to operations involving a non-resident with the head office in a European Union member state shall also apply to operations involving a non-resident – international financial organisation which the Republic of Serbia is a member of or with which the Republic of Serbia has signed an agreement governing its activities in the Republic of Serbia, and whose memorandum of association or an agreement governing its activities in the Republic of Serbia has been ratified.

7. This Decision enters into force on the day following its publication in the Official Gazette of the Republic of Serbia.

NBS Executive Board No 66
28 April 2018
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, sgd.