

Pursuant to Article 6, paragraph 3 of the Law on Foreign Exchange Operations (RS Official Gazette, Nos 62/2006, 31/2011 and 119/2012), Article 14, paragraph 1, item 9 and Article 34, item 9 of the Law on the National Bank of Serbia (RS Official Gazette, No 72/2003, 55/2004, 85/2005 – other law and 44/2010, 76/2012 and 106/2012), the Executive Board of the National Bank of Serbia hereby adopts

**DECISION
ON THE OFFSETTING OF DEBTS
AND CLAIMS UNDER FOREIGN CREDIT OPERATIONS
IN FOREIGN EXCHANGE**

General provision

1. This Decision sets out the manner in which a bank, resident – legal entity, entrepreneur and branch of a foreign legal entity (hereinafter: resident) may offset debts or claims under foreign credit operations in foreign exchange against claims or debts under those operations, or under effected foreign trade in goods and services, or under direct investments referred to in Article 11 of the Law on Foreign Exchange Operations (hereinafter: Law), or under investments in real estate referred to in Article 12 of the Law.

Debts and claims subject to offsetting

2. Subject to offsetting, within the meaning hereof, shall be existing debt and claim under:

- 1) a foreign credit operation in foreign exchange on which a resident has reported to the National Bank of Serbia, more specifically:
 - unpaid due liability and uncollected due claims in respect of the principal and interest on a credit or loan referred to in Article 2, item (21) of the Law taken or extended by the resident, in accordance with the Law, from or to a non-resident after 28 April 2002,
 - exports and/or imports of goods or services for which payment has not been collected and/or made for longer than one year from the day of exports and/or imports, as well as goods or services

that were not exported and/or imported for longer than one year from the day the advance payment was made and/or collected (credit operation referred to in Article 4 of the Law);

2) effected foreign trade in goods or services – unpaid imports and uncollected exports of goods or services that are not considered foreign credit operations within the meaning of the Law;

3) direct investment by a non-resident in the Republic of Serbia (hereinafter: Republic) or by a resident abroad – unpaid due liability and/or uncollected due claim in respect of share in profit generated through performance of a business activity in the Republic and/or abroad;

4) investment in real estate by a non-resident in the Republic or by a resident abroad – unpaid purchase price as defined in the real estate sales agreement.

Manner of offsetting debts and claims

3. A resident's debt to or claim on a non-resident under a foreign credit operation in foreign exchange shall be offset against a claim or debt between these parties under one of the operations from Section 2 hereof, or more specifically, under a foreign credit operation in foreign exchange, effected foreign trade in goods or services, direct investment by a non-resident in the Republic or by a resident abroad or investment in real estate by a non-resident in the Republic or by a resident abroad. The offsetting shall be performed based on the offsetting agreement concluded by the parties in writing or based on a written consent to offsetting sent by one party to the other, provided the other party is willing.

In the manner set out in paragraph 1 hereof, a resident's debt to a non-resident may be offset against the resident's claim on another non-resident, provided that the resident and non-residents are related persons within the meaning of the law governing business companies.

Debts and claims referred to herein may be offset in whole or in part.

4. Offsetting date within the meaning hereof shall be a date designated by the parties in the offsetting agreement as the date of termination of mutual obligations, and if no such date has been designated, it shall be a date when both parties signed the offsetting agreement, and if

the agreement has not been concluded – a date when the last party to the offsetting signed the consent to offsetting.

5. A resident whose accounts are blocked on the offsetting date within the meaning hereof because of enforced collection may not settle its liabilities by offsetting, unless regulated otherwise by the law governing tax proceedings and tax administration.

6. A resident who performed offsetting as defined herein shall keep the relevant documentation and present it at the request of an inspection body, and shall be responsible for the accuracy of data and the authenticity of the documentation.

Reporting to the National Bank of Serbia

7. A resident shall report to the National Bank of Serbia on the offsetting within the meaning hereof in accordance with the decision that regulates reporting on foreign credit operations.

Final provision

8. This Decision shall enter into force on the eighth day following its publication in the “RS Official Gazette”.

NBS EB No 25
6 June 2013
Belgrade

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

Dr Jorgovanka Tabaković, sign.