

**Narodna banka Srbije omogućila dodatni
moratorijum u otplati kredita**

Narodna banka Srbije donela je nove odluke o zastoju (moratorijumu) obaveza po osnovu kredita i lizinga, kako sledi:

- 1) *Odluka o privremenim merama za banke radi ublažavanja posledica pandemije COVID-19 u cilju očuvanja stabilnosti finansijskog sistema;*
- 2) *Odluka o privremenim merama za davaoce finansijskog lizinga radi ublažavanja posledica pandemije COVID-19 u cilju očuvanja stabilnosti finansijskog sistema.*

Odlukama je propisan još jedan zastoj u otplati obaveza dužnika: (a) primalaca kredita i (b) korisnika finansijskog lizinga, koje dospevaju u periodu od **1. avgusta zaključno sa 30. septembrom 2020. godine**, uključujući i neizmirene obaveze koje su dospele u **julu 2020. godine**. Odluke su sadržinski gotovo iste, s tim što se prva odnosi na banke, a druga na lizing kompanije.

U nastavku teksta sledi kratak objedinjeni prikaz njihove sadržine:

Ponuda zastoja u otplati obaveza:

Banke i davaoci lizinga su bili dužni da, najkasnije **31. jula 2020. godine**, dužnicima/primaocima lizinga (fizičkim licima, poljoprivrednicima, preduzetnicima i privrednim društvima) ponude zastoj u otplati obaveza (moratorijum).

Banke i davaoci lizinga objavljuju obaveštenje o ponudi na svojoj internet stranici, čime se smatra da je isto dostavljeno svim dužnicima/primaocima lizinga.

Ako dužnik/primalac lizinga u roku od 10 dana od dana objavljivanja obaveštenja ne odbije ponudu, smatraće se da ju je prihvatio. Svi dužnici koji odbijaju

**The National Bank of Serbia has provided an
additional moratorium on loan repayment**

The National Bank of Serbia has adopted new decisions on the delay (moratorium) of obligations based on loans and leasing, as follows:

- 1) *Decision on interim measures for banks to mitigate the consequences of the COVID-19 pandemic with the aim to preserve the stability of the financial system;*
- 2) *Decision on interim measures for financial leasing providers to mitigate the consequences of the COVID-19 pandemic with the aim to preserve the stability of the financial system.*

The decisions prescribe another delay in the repayment of debtors' liabilities: (a) borrowers and (b) beneficiaries of financial leasing, maturing in the period from **1 August to 30 September 2020**, including outstanding liabilities that matured in **July 2020**. The content of the decisions is almost identical, save that the first refers to banks and the second to leasing companies.

Below is a consolidated summary of their content:

Offer for delay in repayment of obligations:

Banks and lessors were obliged to, no later than **31 July 2020**, offer debtors/lessees (individuals, farmers, entrepreneurs, and companies) a delay in repayment of obligations (moratorium).

Banks and lessors publish the notice of the offer on their websites, whereby it is considered that the same has been delivered to all debtors/lessees.

If the debtor/lessee does not decline the offer within 10 days from the date of publication of the notice, it will be considered as acceptance of the same. All

da prihvate predloženi moratorijum, u obavezi su da o tome obaveste banku/davaoca lizinga u gore pomenutom roku. Ponuda se može odbiti elektronskim putem, putem redovne pošte, putem telefona ili u poslovnim prostorijama banke/davaoca finansijskog lizinga. Takođe, dužnik može i da odustane od primene moratorijuma tokom njegovog trajanja na prethodno opisan način ili uplatom u celini dospele, a neizmirene obaveze.

Proizvodi banke na koje se (ne)primenjuje moratorijum:

Odluka koja se odnosi na banke propisuje da se moratorijum odnosi na obaveze dužnika po osnovu kredita i kreditnih proizvoda (npr. dozvoljeno prekoračenje po tekućem računu ili kreditne kartice), kao i na obaveze po osnovu drugih proizvoda banke (npr. obaveze po osnovu instrumenata zaštite od kamatnog rizika koji su povezani sa kreditima i/ili kreditnim proizvodima ili po osnovu bankarskih garancija). S druge strane, moratorijum se *ne primenjuje* na naknade za usluge banke, kao što su usluge platnog prometa (npr. provizija za izvršenje transakcija, naknada za održavanje računa), investicione usluge, brokersko-dilerske poslove, usluge u vezi sa sefovima i sl.

Obračun kamate:

Tokom trajanja moratorijuma, banka/davalac lizinga obračunava redovnu (ugovorenu) kamatu. Redovnu (ugovorenu) kamatu banka/davalac lizinga obračunava na nedospeo dug (koji ne uključuje obaveze koje dospevaju tokom trajanja moratorijuma) a tako obračunata kamata odgovara iznosu redovne kamate u skladu sa planom otplate koji je važio pre stupanja na snagu ovih odluka NBS.

Izuzetno, za dužnika privredno društvo, banka/davalac lizinga može redovnu (ugovorenu) kamatu da obračunava i na iznose glavnice duga koji dospevaju tokom trajanja moratorijuma.

Tokom trajanja moratorijuma, na obaveze po osnovu kreditnih kartica i dozvoljenog prekoračenja po tekućem računu, banka obračunava redovnu (ugovorenu) kamatu na iskorišćeni iznos.

debtors who decline to accept the proposed moratorium are required to notify the bank/lessor within the above deadline. The offer can be rejected electronically, by regular mail, by phone or at the business premises of the bank/lessor. Also, the debtor may waive the application of the moratorium during its duration in the previously described manner or by paying in full due but unpaid obligations.

Products of the bank to which the moratorium is (not) applied:

The decision regarding banks stipulates that the moratorium applies to obligations of the debtor based on loans and credit products (e.g. allowed overdraft on current account or credit card), as well as on obligations under other products of the bank (e.g. obligations under protection instruments from interest rate risk associated with loans and/or credit products or based on bank guarantees). On the other hand, the moratorium *does not apply* to fees for bank services, such as payment services (e.g. transaction fees, account maintenance fees), investment services, broker-dealer operations, safe deposit box services, etc.

Interest calculation:

During the moratorium, the bank/lessor charges regular (agreed) interest. The bank (lessor) calculates the regular (agreed) interest on the outstanding debt (which does not include liabilities due during the moratorium) and the interest thus calculated corresponds to the amount of regular interest in accordance with the repayment plan valid before the decisions of the NBS came into force.

Exceptionally, for a debtor company, the bank/lessor may charge regular (agreed) interest on the principal amounts of the debt that mature during the moratorium.

During the moratorium, the bank charges regular (agreed) interest on the used amount on credit card liabilities and current account overdrafts.

In addition during the moratorium, default interest is not calculated on the unsettled claim due during the

Takođe, tokom trajanja moratorijuma se ne obračunava zatezna kamata na neizmireno potraživanje koje je dospelo za vreme trajanja moratorijuma, ne pokreće se postupak izvršenja, kao ni postupak prinudne naplate prema dužniku, odnosno ne preduzimaju se druge pravne radnje u cilju naplate potraživanja od dužnika.

Prestanak moratorijuma:

Po prestanku moratorijuma, nastavlja se redovna otplata obaveza, uz produženje roka otplate za broj meseci primene moratorijuma, a obračunata redovna kamata na gore naveden način se ne pripisuje glavnici duga već se ravnomerno raspoređuje na preostali rok otplate. Zatezna kamata obračunata u toku perioda moratorijuma na potraživanja dospela pre početka primene moratorijuma ravnomerno će se raspodeliti na period otplate obaveza i neće se pripisati glavnici.

Banka/davalac finansijskog lizinga će sačiniti novi plan otplate za obaveze produžene za period trajanja moratorijuma i dostaviti dužniku putem elektronske ili redovne pošte, bez dodatnih troškova za dužnika. Prilikom dostavljanja plana otplate banka/davalac finansijskog lizinga mora dužniku jasno da predoči i druge moguće načine otplate, kao i rok u kome dužnik može zahtevati drugačiji način otplate po prestanku moratorijuma.

Nakon dostavljanja plana otplate, dužnik može, u roku od 7 dana, od banke/davaoca finansijskog lizinga zahtevati da umesto tako definisanog načina otplate, po prestanku moratorijuma:

1. izmiri sve obaveze koje su bile obuhvaćene moratorijumom (sve anuitete iz perioda moratorijuma – glavnici i redovnu kamatu); ili
2. izmiri sve obaveze po osnovu redovne kamate koja se obračunavala za vreme trajanja moratorijuma, uz produženje roka otplate obaveze za period trajanja moratorijuma.

Trajni nalozi i administrativne zabrane:

moratorium, the enforcement procedure is not initiated, nor the forced collection procedure against the debtor, i.e. no other legal actions are taken to collect claims from the debtor.

Termination of the moratorium:

Upon termination of the moratorium, regular repayment of obligations continues, with extension of the repayment period by the number of months of application of the moratorium, and the calculated regular interest in the above manner is not attributed to the debt principal but is evenly distributed over the remaining repayment period. Default interest calculated during the period of the moratorium on claims due before the moratorium will be distributed over the period of repayment of liabilities and will not be attributed to the main debt.

The bank/lessor will draw up a new repayment plan for obligations extended for the duration of the moratorium and deliver it to the debtor by e-mail or regular mail, at no additional cost to the debtor. When submitting the repayment plan, the bank/financial leasing provider must clearly present to the debtor other possible repayment methods, as well as the deadline within which the debtor may request a different repayment method upon termination of the moratorium.

After submitting the repayment plan, the debtor may, within 7 days, request from the bank/lessor that instead of the defined repayment method, upon termination of the moratorium:

1. settle all obligations that were covered by the moratorium (all annuities from the moratorium period – principal and regular interest); or
2. settle all obligations based on regular interest calculated during the moratorium, with the extension of the repayment period for the period of the moratorium.

Standing orders and administrative bans:

Stupanjem na snagu Odluke o privremenim merama za banke, obustavljene su sve isplate obaveza dužnika koje su obuhvaćene moratorijumom, i to po svim trajnim nalogima. Svim dužnicima koji odbiju moratorijum, biće ponovo aktivirani trajni nalozi i nastaviće se sa redovnom otplatom kredita kao da trajni nalog nije ni ukidan. Ako se dužnici naknadno (nakon 10. avgusta) opredele da odbiju moratorijum, moći će da odustanu od istog bez bilo kakvih posledica. Davalac lizinga je, u slučaju odbijanja prihvatanja moratorijuma od strane primaoca lizinga, dužan da, bez odlaganja, o tome obavesti banku preko koje se vrši plaćanje putem trajnog naloga, kako se plaćanje ne bi obustavilo tj. kako bi se ponovo aktivirao trajni nalog i izvršilo plaćanje davaocu lizinga.

Isto važi i za dužnike banaka/davalaca lizinga koji svoje obaveze izmiruju putem administrativne zabrane – poslodavci, odnosno Republički fond za penzijsko i invalidsko osiguranje („RFZO“) takođe treba da obustave prenos sredstava sve dok ih banka/davalac lizinga ne obavesti da je dužnik odbio moratorijum. Naime, ako se otplata obaveza dužnika koji je obavestio banku/davaoca lizinga da odbija ponudu vrši putem administrativne zabrane, banka/davalac lizinga je dužna da o tome odmah obavesti poslodavca/RFO, kako bi se izvršilo plaćanje u iznosu koji bi bio plaćen da administrativna zabrana nije obustavljena.

Nakon prijema obaveštenja banke/davaoca lizinga da je dužnik odbio moratorijum, poslodavac/RFO treba da izvrši prenos po osnovu obaveza koje su dospele nakon stupanja na snagu odluka u istom iznosu kao da administrativna zabrana nije obustavljena i da ponovo aktivira administrativnu zabranu za buduće obaveze dužnika. Ukoliko poslodavac dužnika ili RFZO ipak izvrše prenos sredstava po osnovu administrativne zabrane (u okviru redovne otplate obaveza u toku trajanja moratorijuma), a dužnik je prihvatio moratorijum – banka/davalac lizinga su u obavezi da dužniku u najkraćem mogućem roku omoguće raspolaganje tim sredstvima, njihovu isplatu ili prenos na račun dužnika kod druge banke.

Za sva dalja objašnjenja, obratite se advokatskoj kancelariji Cvetković, Skoko & Jović.

With entry into force of the Decision on interim measures for banks, all payments of debtors' obligations covered by the moratorium were suspended, according to all standing orders. All debtors who decline the moratorium will have their standing orders reactivated and the regular loan repayment will continue as if the standing order had not been revoked. If the debtors subsequently (after 10 August) decide to decline the moratorium, they will be able to do so without any consequences. In case of refusal to accept the moratorium by the lessee, the lessor is obliged, without delay, to inform the bank through which the payment is made through a standing order, so that the payment would not be suspended, i.e. to reactivate the standing order and execute the payment to the lessor.

The same applies to debtors of banks/lessors who settle their obligations through an administrative ban – employers, i.e. the Republic Pension and Disability Insurance Fund ("RPDIF") should also suspend the transfer of funds until the bank/lessor notifies them that the debtor declined the moratorium. Namely, if repayment of the debtor's obligation who informed the bank/lessor to decline the offer is made through an administrative ban, the bank/lessor is obliged to immediately notify the employer/RPDIF, in order to execute payment in the amount that would be paid if the administrative ban had not been lifted.

Upon receipt of the notification from the bank/lessor that the debtor has waived the moratorium, the employer/RPDIF should make a transfer based on the obligations due after entry into force of the decisions in the same amount as if the administrative ban had not been lifted and reactivate the administrative ban. If the debtor's employer or the RPDIF still transfers funds on the basis of an administrative ban (within the regular repayment of obligations during the moratorium), and the debtor has accepted the moratorium – the bank/lessor is obliged to allow the debtor to dispose of these funds as soon as possible, through payment or transfer to the debtor's account with another bank.

For all further explanations, please contact Law office Cvetkovic, Skoko & Jovicic.