NATIONAL COMMISSION FOR FINANCIAL MARKETS

D E C I S I O N
on the approval of the Regulation on the classification of assets by non-bank credit organizations

No 60/4 of 16.12.2019
(in force as of 17.02.2020)

Official Monitor of the Republic of Moldova No 7-13 Art. 36 of 17.01.2020

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Pursuant to Article 23 (4) letter a) of Law No 1/2018 on non-bank credit organizations (Official Monitor of the Republic of Moldova, 2018, No 108–112, art.200), the National Commission for Financial Markets

DECIDES:

The Regulation on the classification of assets by non-bank credit organizations (to be annexed) is hereby approved.

CHAIRMAN OF THE NATIONAL
COMMISSION FOR FINANCIAL MARKETS   **Valeriu CHIŢAN**

No 60/4. Chişinău, December 16, 2019.

Approved
by the Decision of the National Commission
for Financial Markets
No 60/4 of December 16, 2019

REGULATION
on the classification of assets by non-bank credit organizations

I. GENERAL NOTIONS

1. The Regulation on the classification of assets by non-bank credit organizations (hereinafter - the Regulation) shall be applied by non-bank credit organizations (hereinafter - NBCOs) registered in the authorized NBCOs Register when classifying and calculating the amount of provisions for covering losses for supervisory purposes, as well as for the determination of the permissible amount of deductions for tax purposes on assets subject to credit risk under related contracts, namely:

1) non-banking credits;

2) financial leasing claims;

3) interest and other amounts calculated and reflected in the accounting records of the NBCOs to be received.

The concepts and essence of the categories of assets to which this Regulation applies shall be determined in accordance with the legislation and National Accounting Standards.

2. The NBCOs are required to classify and calculate provisions for covering losses to assets for supervisory purposes under this Regulation.

For tax purposes, NBCOs that meet the criteria set out in Article 22 paragraph (1) of Law No 1/2018 are allowed the deduction of provisions to cover losses on assets calculated in accordance with International Financial Reporting Standards.

3. For the purposes of this Regulation, the following notions shall be used:

past-due asset – assets whose payment for reimbursement/settlement has not been made more than 30 days from the maturity date of the payments provided for in the contract. If an asset becomes past due and its balance is considered expired;

renegotiated asset – outstanding/unextinguished asset, to which subsequently, on the basis of an agreement, the deadlines for overdue payments have been modified;

prolonged asset – the asset which term for reimbursement/settlement of payment, established under the contract, is extended by agreement. For qualifying an asset as prolonged, the agreement must be signed before the qualification of the asset as expired under the terms of payment specified in the original contract. Determining the expiration of the asset shall be carried out under the original contract and the term "past-due asset";

payment – the interest or the original amount of the asset and interest, or part of the asset and interest, or part of the asset paid in accordance with the terms and conditions for repayment/settlement of the asset under the contract;

provisions to cover losses on assets – the allowance constituted on account of expenses to cover potential losses caused by defaults on non-bank credit, financial leasing receivables, interest, and other amounts receivable.

II. ASSET CLASSIFICATION REQUIREMENTS.
CREATION OF PROVISIONS TO COVER LOSSES ON ASSETS

4. The NBCO is obliged to establish provisions to cover losses on assets in the amounts set out in point 12.

5. The NBCO shall classify the assets at least quarterly as at the last date of the management period in accordance with this Regulation.

6. New assets are classified at the time of their finding as an asset (occurrence of assets) in the NBCO's balance sheet.

7. The adjustment of the amount of provisions to cover losses on assets to the required level shall be made in full volume at the expense or income of the NBCO.

8. When classifying assets, the NBCO will take into account at least the following aspects:

1) the debtor's financial situation and/or the debtor's sources of repayment (including the income of individual debtors) assessed in terms of ability to meet commitments only at the time of recognition of new assets;

2) compliance with contractual conditions;

3) the ability of the debtor to pay based on the financial historical development within the NBCO and the credit history regarding the debtor's compliance with the assumed obligations, requested from the credit history office only at the time of finding new assets.

9. Assets will be included in one of the following classification categories:

1) standard – an asset on which all contractual conditions are complied with, which has no overdue payments, and which has not been extended and/or renegotiated;

2) supervised - an asset on which payments are overdue from 31 up to and including 90 days;

3) substandard - an asset on which payments are overdue for 91 to 180 days inclusive;

4) doubtful - an asset on which payments are overdue for 181 to 360 days inclusive;

5) compromised - asset on which payments are overdue for 361 days and more.

10. The classification of assets in accordance with point 9 shall be made on the debtor at the total balance of assets under the contracts. If a debtor has more than one asset granted by the same NBCO, then all its assets shall be classified in the toughest of the categories recorded by the debtor.

11. The extension and/or renegotiation of an asset cannot result in it being classified in a better category than that which was at the time of the extension or renegotiation.

12. The NBCO will establish provisions to cover losses on assets by applying the following percentages to the sum of the assets in each classification category in accordance with point 9:

1) Standard   2%
2) Supervised   5%
3) Substandard   30%
4) Doubtful   60%
5) Compromised   100%.

13. The determination of an asset as an expired asset does not have the effect of cancelling the liabilities related to the asset of the debtor or other obliged counterparty and does not affect the right of the NBCO to require that such payments be made, or the enforcement of other claims related to the asset.

III. PARTICULARITIES REGARDING THE CLASSIFICATION OF CERTAIN ASSETS

14. The NBCO classifies the asset no higher than the "substandard" category if:

1) prior to the decision granting new assets, the NBCO did not assess the debtor's ability to pay in terms of points 8 sbp.1) and sbp.3);

2) the credit report obtained from the credit history bureau and/or the financial historical development in the NBCO contains information on payments overdue for more than 60 days related to the debtor's assets over the past 12 months only at the time of the new assets recognition.

15. The NBCO classifies the asset no higher than the "supervised" category if the assessment of the debtor's ability to pay reveals the following cases:

1) the debtor's financial situation and/or the debtor's sources of repayment (including the debtors' income - natural persons) have been confirmed other than by means of financial reports/statements, and/or documents confirming the size of the debtor's salary, and/or income, and/or contributions to the public budget only at the time of the recognition of new assets;

2) the debtor's income does not cover the amount of payments assumed under contractual commitments only at the time of recognition of new assets.

16. If during the last 9 consecutive months the debtor has not recorded any arrears on the assets granted and classified according to the provisions of points 14-15 of this Regulation, the NBCO is entitled to qualify the respective assets in the "standard" category.

17. The asset that has been extended or renegotiated is classified:

1) In case of extension:

a) in the "supervised" category - for assets which at the extension date are classified in the "standard" or "supervised" category, and

b) in the category of asset recognized at the date of the extension – for assets which on the same date are classified as "substandard" or "doubtful" if the payments at the extension date have been paid to the NBCO or are due to be paid within the first 3 months after the extension date. In this case, the asset remains classified in one of these categories for a period of 3 months after the extension if the interest and the basic amount of the asset have been paid regularly (at least monthly). At the expiry of 3 months after the extension, these assets will be classified in a more favorable category by one level, but no higher than the "supervised" category. Otherwise, a tougher classification is made.

c) the asset will be classified no higher than the "substandard" category if the asset has been extended by 2 times or more due to a worsening of the debtor's financial situation or diminishing revenues.

2) In case of renegotiation:

a) in the "substandard" category - for assets which at the date of renegotiation are classified in the "supervised" category, and

b) in the category of assets found at the date of renegotiation – for assets that on the same date are classified in the category "substandard" or "doubtful" if the payments on the renegotiation date have been paid to the NBCO or are to be paid within the first 3 months after the renegotiation date. in this case, the asset remains classified in one of these categories for a period of 3 months after the renegotiation if the interest and the basic amount of the asset have been paid regularly (at least monthly). At the expiry of 3 months after the renegotiation, these assets will be classified in a more favorable category by one level, but not above the "supervised" category. Otherwise, a tougher classification is made.

18. If the debtor contracts an asset that is not secured by pledge or goods subject to financial leasing contracts, the repayment of which is based solely on the debtor's obligation, NBCO will classify the asset as follows:

1) if the debtor has withheld payments for up to 30 days, the asset is classified no higher than the "supervised" category;

2) if the debtor has withheld payments from 31 to 60 days, the asset is classified no higher than "substandard";

3) if the debtor has withheld payments from 61 to 90 days, the asset is classified no higher than "doubtful";

4) if the debtor has withheld payments for more than 90 days, the asset is classified no higher than "compromised" category.

19. If the debtor contracts a foreign currency or foreign currency-linked asset that is not collateralized by pledge or goods subject to financial leasing contracts and does not have income in such currency in a sufficient amount for servicing and repayment of the foreign currency or foreign currency-linked asset as contractually agreed, the asset shall be classified in a category one level more severe than in cases where the debtor has foreign currency income or is collateralized by pledge/goods subject to financial leases.

20. If the debtor contracts an asset which is secured by goods subject to financial leasing contracts, the classification of the assets, in accordance with the provisions of this Regulation, shall be made per debtor at the total balance of the assets, diminished by the fair value of the asset estimated at the date of classification of the asset. NBCO will determine the fair value of assets subject to financial leasing contract based on its own methodologies set out in internal rules. The provisioning to cover losses on assets at any date will not be less than 2% of the total balance of assets.

21. If the NBCO grants a new asset to the debtor for the purpose of reimbursement/extinguishment of other expired assets registered in the same NBCO, it will be classified at least in the same category as the expired assets concerned.

22. An asset that is subject to litigation in court is classified as 'doubtful'.

23. If insolvency proceedings are initiated against the debtor, the NBCO classifies all the debtor's assets in a tougher category.

24. If assets can be classified differently according to the provisions of the Regulation, they refer to the tougher category.

IV. OTHER PROVISIONS

25. Deduction for tax purposes of the amount of provisions intended to cover claims related to non-recovery of rates and non-payment of interest on financial leasing by NBCO shall be made within the limits provided for by the Tax Code of the Republic of Moldova No 1163/1997.

26. The provisions related to point 14 on the aspects related to the obligation of the NBCO to assess the credit history on the debtor's compliance with the obligations undertaken, requested from the credit bureau, shall be applied within 6 months from the entry into force of this Regulation.

27. NBCO presents the report on the classification of assets and the calculation of provisions for covering losses to assets in accordance with the reporting requirements of the National Commission for Financial Markets.