

## **Decision on detailed conditions, manner and procedure of the guaranteed deposit payout**

*(Official Gazette of Montenegro 76/17 as of 17 November 2017; 86/17 as of 20 December 2017 and 17/19 as of March 2019 )*

### **Article 1**

This Decision regulates in more detail the conditions, manner and procedure of the guaranteed deposit payout in case of occurrence of the protected event.

### **Article 2**

The protected event and the obligation of the Deposit Protection Fund (hereinafter: the Fund) to compensate the guaranteed deposit shall occur as at the date of initiation of bankruptcy proceedings against a bank.

### **Article 3**

Depositors shall be entitled to dispose of the guaranteed deposits as of the day of commencement of the guaranteed deposits payout.

### **Article 4**

On the basis of data and documents submitted by the trustee in bankruptcy, the Fund shall calculate the amount of the guaranteed deposit for every individual depositor.

In accordance with the calculation of the guaranteed deposit for every individual depositor, a payment order shall be generated to contain the following information on: the depositor, the amount of all deposits (by the account) in euros, including any accrued interest, the amount of all deposits (by the account) in a currency other than the euro as per the middle exchange rate of the Central Bank of Montenegro as at the protected event date, including any accrued interest, the balance of accrued liabilities of a depositor to the bank in bankruptcy as at the protected event date, and the amount of the guaranteed deposit.

The guaranteed deposit shall not be calculated for depositors who are not entitled to the guaranteed deposit compensation in accordance with Article 6 paragraphs 2 and 3 of the Deposit Protection Law (hereinafter: the Law).

### **Article 5**

The total amount of a depositor's deposit shall be calculated by summing all deposits held by the depositor in the bank in bankruptcy, including any accrued interest on such deposits as at the protected event date.

All depositor's liabilities to the bank in bankruptcy as at the protected event date shall then be deducted from the summed up deposits.

Depositors whose deposits exceed their liabilities to the bank in bankruptcy shall be compensated by the Fund up to the amount specified in Article 5 paragraph 3 of the Law.

## **Article 6**

Pursuant to Article 36 paragraph 5 of the Law, the Fund shall pass a decision on the selection of one or more banks for the payout of the guaranteed deposits (hereinafter: the agent bank) no later than within 10 business days following the protected event date.

The Fund shall provide the agent bank with the Technical instructions to be followed by the agent bank in the procedure of guaranteed deposits payout and allow it a direct access to the database on the calculation of the guaranteed deposits and the generated payment orders.

## **Article 7**

In the procedure of the guaranteed deposit payout, the agent bank shall:

- 1) carry out the payout of the guaranteed deposits in line with the Law, this decision, Technical instructions to be followed by the agent bank in the procedure of guaranteed deposits payout, and the contract on the regulation of mutual rights and obligations concerning the performance of the agent bank function that the agent bank shall enter into with the Fund;
- 2) determine whether there is a generated payment order in the database for every individual depositor requesting the compensation;
- 3) after determining that the guaranteed deposit has been calculated for the respective depositor and that the generated order for payment of the guaranteed deposit has been issued, identify the depositor or the person authorized to dispose of the guaranteed deposit;
- 4) make the payment of the guaranteed deposit to the depositor or the person authorized to dispose of the guaranteed deposit in accordance with the calculation of the guaranteed deposit.

## **Article 8**

The identification of the depositor or the person authorized to dispose of the guaranteed deposit referred to in Article 7 paragraph 1 point 3) herein shall be made by inspecting their ID card or travel document:

- 1) the authorised person of a natural person for the disposal of a guaranteed deposit shall submit a special power of attorney for the disposal of a guaranteed deposit, signed by the depositor;
- 2) the person authorised to represent the legal person shall submit the original or a certified copy of the excerpt from the registry of the legal person with the competent registration authority that shall not be older than 30 days, and the original or a certified copy of the document of registration with the competent tax authority;
- 3) the proxy of the legal person shall submit the original or a certified copy of the excerpt from the registry of the legal person with the competent registration authority that shall not be older than 30 days, the original or a certified copy of the document of registration with the competent tax authority, and a special power of attorney to dispose of the guaranteed deposits, signed by the authorized person and verified by the stamp of the legal person;

- 4) the person authorised to represent a business entity without legal personality shall submit the original or a certified copy of the excerpt from the registry of the firm with the competent registration authority that shall not be older than 30 days, and the original or a certified copy of the document of registration with the competent tax authority;
- 5) the proxy of a business entity without legal personality shall submit the original or a certified copy of the excerpt from the registry of the firm with the competent registration authority that shall not be older than 30 days, the original or a certified copy of the document of registration with the competent tax authority, and a special power of attorney to dispose of the guaranteed deposits, signed by the person authorised for representation and verified by the stamp of the firm;
- 6) the person authorised to represent a condominium shall submit the original or a certified copy of the excerpt from the registry of the condominium with the competent registration authority that shall not be older than 30 days;
- 7) the proxy of a condominium shall submit the original or a certified copy of the excerpt from the registry of the condominium with the competent registration authority that shall not be older than 30 days, and a special power of attorney to dispose of the guaranteed deposits, signed by the person authorised for representation and verified by the stamp of the condominium;
- 8) a parent of a minor shall provide the original or a certified copy of the extract from the birth registry of the minor to whom the guaranteed deposit is made;
- 9) the guardian of a natural person shall submit the original or a copy of the decision on granting the custodianship over the person to whom the guaranteed deposit is made.

The special power of attorney shall be certified by a notary and/or a local or foreign competent authority, an authorized person of a diplomatic or consular post of the country issuing the power of attorney, or by the State of Montenegro.

The special power of attorney shall be issued on the form presented in Annex 1 (in case of a private depositor) or on the form presented in Annex 2 (if the depositor is a legal person, a business entity without legal personality or a condominium) hereof.

A proxy may dispose of the guaranteed deposits only on the basis of a special letter of attorney granting the disposal of the guaranteed deposit.

A proxy may not dispose of the guaranteed deposits on the basis of the letter of attorney that the proxy held during the regular business of a bank prior to the initiation of bankruptcy against that bank.

## **Article 9**

The calculation of the guaranteed deposit of a natural person engaged in a business activity shall include deposits held in accounts of that natural person opened for the purpose of performing that business activity and all other accounts of that natural person, up to the amount of the guaranteed deposit.

## **Article 10**

The compensation of the guaranteed deposits to natural persons shall be non-cash and cash.

Non-cash compensation may be made by transferring funds to an account in the agent bank or an account in another bank.

If the compensation of the guaranteed deposit is made by transferring funds to the account in the agent bank or another bank, the depositor or their proxy authorised to

dispose of the guaranteed deposit shall sign the generated payment order executed in three copies, fill out and sign the payer's order on the agent bank's form executed in three copies.

If the guaranteed deposit is compensated in cash, the depositor or the person authorized to dispose of the guaranteed deposit shall sign the generated payment order executed in three copies, fill out and sign the payer's order on the agent bank's form executed in three copies.

### **Article 11**

The compensation of the guaranteed deposit to legal persons, business entities without legal personality, and condominiums may be made only as non-cash payment.

Non-cash compensation may be made by transferring funds to an account in the agent bank or an account in another bank made to the same name as that indicated in the generated order for the payment of guaranteed deposit.

If the compensation of the guaranteed deposit is made by transferring funds to the account in the agent bank, the person authorised to represent the legal person, the business entity without legal personality, the condominium, or the person authorised to dispose of the guaranteed deposit shall sign the generated payment order executed in three copies, fill out and sign the payer's order on the agent bank's form executed in three copies and stamp it.

If the compensation of the guaranteed deposit is made by transferring funds to an account in another bank, the person authorised to represent the legal person, the business entity without legal personality, the condominium, or the person authorised to dispose of the guaranteed deposit shall furnish a photocopy of the document on the depositor's active account in the other bank to which the transfer shall be made, sign the generated payment order executed in three copies, fill out and sign the payer's order on the agent bank's form executed in three copies and stamp it.

Notwithstanding paragraph 1 of this Article, if non-cash guaranteed deposit payout to a non-resident legal person cannot be made due to the internal procedures of the agent bank or some other justified reasons, the guaranteed deposit of that person may be paid out in cash.

In the case under paragraph 5 above, the payment shall be made to a person authorized to represent the non-resident legal person or to a person authorized to dispose of the guaranteed deposit who is obliged to sign the generated payment order executed in three copies, as well as to fill out and sign the payer's order on the agent bank's form executed in three copies.

### **Article 12**

If a depositor's deposit has been frozen, it shall be included in the calculation of the guaranteed deposit, provided that the depositor may not dispose of the frozen portion of the guaranteed deposit until it has been released.

In case of death of a depositor, the depositor's successor(s) shall furnish the original or a certified copy of a valid court decision on inheritance to the trustee in bankruptcy.

### **Article 13**

If a deposit is subject to lien, it shall be included in the calculation of the guaranteed deposit, provided that the depositor may not dispose of the portion of the deposit subject to lien as long as the funds are encumbered by lien.

#### **Article 14**

If a depositor has acted as a representative of a third party, the right to the guaranteed deposit payout shall be determined for that third party, in relation to total funds deposited by that third party with a bank, provided that it is possible to determine the identity of that third party at the time of initiation of the bankruptcy proceedings against the bank.

#### **Article 15**

If a depositor considers that his/her guaranteed deposit has been miscalculated, the depositor may file an objection with the Director General of the Fund on the form provided in Annex 3 herein within 8 days following the receipt of the generated payment order from the agent bank.

The Director General shall decide on complaints to the calculation of guaranteed deposit no later than within 15 days.

#### **Article 16**

The Decision on Detailed Conditions, Manner and Procedure of the Guaranteed Deposit Payout (OGM 16/12, 66/12 and 58/15) shall be repealed as of the day of entry into force of this Decision.

#### **Article 17**

This Decision shall enter into force on the eighth day following that of its publishing on the Official Gazette of Montenegro,

#### **NOTE:**

The consolidated draft does not contain the provision specified in Article 3 of the Decision Amending the Decision on detailed condition, manner and procedure of the guaranteed deposit payout (OGM 17/19) that reads:

#### **“Article 3**

This Decision shall enter into force on the day of its publishing in the Official Gazette of Montenegro.”

## SPECIAL POWER OF ATTORNEY

I hereby authorize \_\_\_\_\_, personal ID number  
*(Name and Surname)*  
\_\_\_\_\_, from \_\_\_\_\_, Street \_\_\_\_\_, No.  
\_\_\_\_\_, ID/Passport no. \_\_\_\_\_ issued by \_\_\_\_\_, to dispose  
on my behalf and for my account of the funds up to the amount of the guaranteed  
deposit defined in the Deposit Protection Law (OGM 44/10, 40/11, and 47/15) held  
with the agent bank \_\_\_\_\_ that is the agent bank for  
*(Agent bank name)*  
deposits held with \_\_\_\_\_ undergoing bankruptcy and to  
*(Name of bank in bankruptcy)*  
sign all documents necessary for the realization of payment, including accepting  
payment in cash or to the account of their choice.

In \_\_\_\_\_, date \_\_\_\_\_

### Grantor

\_\_\_\_\_  
*(Name and Surname)*

\_\_\_\_\_  
(Personal ID number)

\_\_\_\_\_  
(Place and Address)

\_\_\_\_\_  
(ID/Passport no., issue date, issuer)

Pursuant to Article \_\_\_\_ of the By-Law \_\_\_\_\_(Note: or another act) of \_\_\_\_\_, address \_\_\_\_\_, (Depositor`s name)

VAT/Personal ID no. \_\_\_\_\_, as the person authorised as the proxy pursuant to the registration no. \_\_\_\_\_ dated \_\_\_\_\_ issued by the Central Registry of Business Entities \_\_\_\_\_ (Note: in case of another competent authority, indicate its name), I hereby grant the following

**SPECIAL POWER OF ATTORNEY**

I hereby authorize \_\_\_\_\_, personal ID no. \_\_\_\_\_ (Name and Surname)

from \_\_\_\_\_, Street \_\_\_\_\_, No. \_\_\_\_\_, ID/Passport no. \_\_\_\_\_ issued by \_\_\_\_\_, to dispose of the funds of \_\_\_\_\_ up to the amount of the (Depositor`s name)

guaranteed deposit defined in the Deposit Protection Law (OGM 44/10, 40/11, and 47/15) held with the agent bank \_\_\_\_\_ (Agent bank name)

that is the agent bank for \_\_\_\_\_ undergoing (name of bank in bankruptcy)

bankruptcy and to sign all documents necessary for the realization of payment via transfer of funds to the grantor`s account in the agent bank, to an account in another bank or by accepting the payment in cash.

In \_\_\_\_\_, date \_\_\_\_\_

Grantor

\_\_\_\_\_  
(Name and Surname of the Grantor - Depositor)

\_\_\_\_\_  
(Name and surname of the authorised person)

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
(Signature)

L.S.



The objection to the calculation of guaranteed deposit shall be supported with the following:

1. A photocopy of the applicant's identification document (if the objection is filed by a natural person) or a photocopy of a special power of attorney for disposing of the guaranteed deposit and a photocopy of the identification document of the proxy (if the objection is filed by the authorized person);
2. A photocopy of the identification document of the person authorized to represent the objector and the excerpt from the registration authority (if the objection is filed by a legal person, a business entity without legal personality, a condominium) or a photocopy of a special power of attorney for disposing of the guaranteed deposit and a photocopy of the identification document of the proxy (if the objection is filed by the authorized person);
3. Generated payment order taken in the agent bank;
4. A photocopy of the deposit document (contract, card, etc.);
5. Other documents to evidence the facts indicated in the objection.

The filled out objection to the calculation of guaranteed deposit, as supported with the listed documents, shall be submitted to the Deposit Protection Fund, St. Miljana Vukova bb, Podgorica, either personally or by registered mail, within 8 days following the receipt of the generated payment order from the agent bank.