

Deposit Insurance Law

(Official Gazette of the Republic of Serbia, Nos. 14/15, 51/17 and 73/19)

I. BASIC PROVISIONS

Article 1

This law regulates the statutory insurance of deposits of natural persons, entrepreneurs, and micro, small and medium-sized legal entities in banks for the purpose of protection of deposits of these persons and entities in case of bank bankruptcy, liquidation or resolution and maintaining financial stability in the Republic of Serbia.

Article 2

For the purpose hereof, specific terms will have the following meanings:

- 1) *DIA* is the Deposit Insurance Agency established by the law governing the Deposit Insurance Agency;
- 2) *Bank* has the meaning determined by the law governing banks;
- 3) *Deposit* is a credit balance in dinar or foreign currency which results from a cash deposit, savings deposit, current account or any other account or from any other temporary situation that derives from normal banking transactions, which a bank is legally or contractually obliged to repay;
- 4) *Deposit Insurance Fund* (hereinafter: DIF or Fund) is a special fund established in accordance with the Deposit Insurance Law ("Official Gazette of the Republic of Serbia", No. 61/05, 116/08 and 91/10) to secure the financial means for deposit insurance, to pay out the covered deposits and to meet other expenses incurred in the process of securing the financial means for deposit insurance and repayment of covered deposits;
- 5) *Entrepreneur, micro, small and medium-sized legal entity* shall have the meanings set by the law governing accounting;
- 6) *Eligible Deposits* are the deposits of individuals, entrepreneurs, micro, small and medium-sized legal entities, insured by the DIA, excluding the deposits:
 - (1) of legal entities or individuals connected with a bank, within the meaning of the law governing banks,
 - (2) coded or bearer deposits,
 - (3) which are the product of money laundering or terrorism financing, in accordance with the law governing prevention of money laundering and terrorism financing,
 - (4) of large legal entities, within the meaning of the law governing accounting,
 - (5) of government bodies, within the meaning of the law governing public administration, bodies of the autonomous province within the meaning of the statutes of the autonomous provinces or bodies of local governments, within the meaning of the law governing local government.
 - (6) of investors, whose assets are protected in accordance with the law governing capital market,
 - (7) that constitute contractual collateral, as long as the bank's claim on the depositor, which is guaranteed by that deposit, exceeds or equals that deposit,
 - (8) bankruptcy and liquidation estates;
- 7) *Covered deposit* is the eligible deposit up to the level of 50,000 euros per depositor per bank, based on the following deposits:

(1) eligible deposits denominated in dinars – in the dinar equivalent at the official middle exchange rate of dinar to euro applicable on the day of initiation of the bankruptcy (insolvency) or liquidation procedure over the bank,

(2) eligible foreign-currency deposits held in euros,

(3) eligible foreign-currency deposits held in currencies other than euro – recalculated into euros, at exchange rate of euro to the given currency, calculated on the basis of official middle exchange rate of dinar to euro and official middle exchange rate of dinar to the given foreign currency, applicable on the day of initiation of the bankruptcy or liquidation procedure over the bank.

8) *payout (agent) bank* is the bank which compensates the depositors of the bank which has been placed in bankruptcy or liquidation on behalf of the DIA.

9) *methodology* refers to the methodology for the assessment of the risk-based deposit insurance premiums, adopted by the DIA's Managing Board and previously approved by the National Bank of Serbia;

10) *target level of the Fund* is the balance of the reserves on the DIF account, deducted by any borrowed funds, which shall be reached within a determined time period, expressed as a percentage of the total covered deposits in the banking system.

Article 3

DIA insures deposits of individuals, entrepreneurs, micro, small and medium-sized legal entities held with banks.

A bank shall insure all deposits of individuals, entrepreneurs, micro, small and medium-sized legal entities with the DIA.

On the basis of the decision of the National Bank of Serbia, branches of local banks shall insure the deposits of individuals, entrepreneurs, micro, small and medium-sized legal entities with the DIA in case:

1) they have not insured the deposits in the host country; or

2) they have insured the deposits in the host country, but the National Bank of Serbia has established and announced on its website that the scheme in the host country is less favorable to depositors than the deposit guarantee scheme defined herein.

Article 4

DIA insures the deposits up to the coverage level.

Obligations referred to in paragraph 1 of this Article are guaranteed by the Republic of Serbia.

Article 5

DIA and the National Bank of Serbia shall enter into an agreement which shall govern their cooperation and information exchange regarding banks and deposit insurance.

The cooperation referred to in paragraph 1 of this Article shall include particularly the exchange of information and opinions regarding the possibility of the initiation of a bank resolution procedure in accordance with the law governing banks.

National Bank of Serbia shall timely notify the DIA of any measures taken in the procedure of supervision of creditworthiness and lawfulness of banking operations due to the deterioration of the financial position of a bank, and solicit the DIA's opinion about the draft least cost test report, in accordance with the law governing banks. The DIA shall deliver to the NBS timely information and data necessary for the assessment of resolvability of the bank and for drawing up the least cost test report.

DIA and the National Bank of Serbia shall keep the obtained information or data referred to in this Article, and use it solely for the intended purposes, in accordance with the provisions of the law governing secrecy, i.e. confidentiality of this information and data, as well as in accordance with the provisions of the law which regulates the protection of personal information.

At least once per quarter, the DIA shall submit the report on the balance of the deposit insurance fund to the ministry in charge of finance, as well as the projection of the deposit insurance fund balance in the following twelve months.

II. DEPOSIT INSURANCE FUND

Article 6

The DIA manages the Deposit Insurance Fund to secure the financial means for deposit insurance. Deposit Insurance Fund is comprised of:

- 1) premiums paid by banks;
- 2) returns on investment of the Deposit Insurance Fund's financial means;
- 3) DIA's recoveries from the bankruptcy or liquidation estates of banks on the basis of payment of covered deposits together with the associated costs of procuring, managing and paying the means of the Deposit Insurance Fund (costs related to services, interest, fees and taxes, as well as all other actual costs incurred by the DIA in the process of procuring the financial means to pay out the covered deposits, conduct the payout and recover the funds from the bankruptcy or liquidation estates of banks), or the expenses incurred in the course of a bank resolution process in accordance with the law governing banks;
- 4) borrowed funds;
- 5) funds from the state budget;
- 6) grants; and
- 7) other financial means, in compliance with the Law.

The Deposit Insurance Fund reserves may be used to:

- 1) pay out the covered deposits and cover all associated costs in case of bankruptcy or liquidation of the bank (costs of services, interest, fees and taxes, and other actual costs incurred by the DIA in the process of procuring the funds for the payout, reimbursement and recovery of the funds from the bank's estate);
- 2) fund the bank resolution, to the extent and under the conditions defined in the law governing banks;
- 3) cover the costs of the Deposit Insurance Fund management and operating expenses incurred by the DIA to perform the tasks related to deposit insurance, up to the limit set by the law governing the DIA;
- 4) repay the funds borrowed for the purposes referred to in this paragraph (the principal and all related obligations derived from the interests, fees, taxes and other cost);
- 5) fund the DIA's investments in fixed and intangible assets in order to perform the operations in connection with deposit insurance, in the full amount of the determined investments.

The Director of the DIA shall define the criteria for allocation of investments referred to in paragraph 3, item 5) of this Article and for the division of these investments from the investments related to the DIA's other operations.

The Deposit Insurance Fund reserves cannot be the seized, forfeited or granted as a lien.

Article 7

The DIA shall keep the financial means of the Deposit Insurance Fund in a special account with the National Bank of Serbia.

In accordance with the decisions of its Managing Board, the DIA shall invest the financial means of the Deposit Insurance Fund, denominated in Serbian dinars, in the debt securities issued by the Republic of Serbia or the National Bank of Serbia.

Based on the decisions of the Managing Board of the DIA, the contract concluded with the DIA and at the order of the DIA, the National Bank of Serbia shall invest foreign currency funds of the Deposit Insurance Fund in foreign securities or deposit them with foreign banks, on its own behalf and to the benefit of the Agency, in accordance with the policy of foreign currency reserve management.

Notwithstanding paragraph 3 of this Article, in the event of significant changes at the international financial market as the result of negative deposit interest rates set by foreign banks, the DIA may also invest one quarter of the foreign currency assets of the Deposit Insurance Fund into debt instruments denominated in foreign currencies, issued by the Republic of Serbia or the National Bank of Serbia.

Deposit Insurance Fund reserves shall be invested in a way that would help mitigate risk, maintain liquidity of this Fund and generate adequate revenue.

III. INSURANCE PREMIUMS

Article 8

Banks shall pay insurance premiums (hereinafter: "the premium") to the DIA in the manner and within time frames prescribed by the DIA.

DIA may set the premium levels based on the risk of the bank's operations by applying the methodology.

In accordance with the agreement referred to in Article 5, paragraph 1 hereof, the National Bank of Serbia shall submit to the DIA the information necessary to determine the risk level of each individual bank and to establish the risk factors when assessing the premiums referred to in paragraph 2 of this Article. The DIA shall ensure confidentiality of such information in compliance herewith, with the law which regulates the DIA and the agreement referred to in Article 5, paragraph 1 hereof.

Banks shall deliver to the DIA monthly reports on total, eligible and covered deposits as well as other data the DIA may need to conduct its business as determined by the law, in the manner and within the time frames prescribed by the DIA.

At all times shall banks submit or otherwise make available to the DIA or to the person who acts on behalf and to the benefit of the DIA the information on depositors and their deposits.

The information on individual depositors and their deposits, within the meaning of Article 2, item 3) hereof, submitted to the DIA by banks, includes: national identification number or any other identification number in case of nonresidents; permanent or current address, the identity document number and the date and place of its issuance; deposit balance; deposit date; deposit currency; changes of the deposit balance; the contract date (or the date the relationship between the bank and the depositor concerning the deposit were otherwise

regulated); and provisions of the deposit contract between the bank and the depositor, or of any other document regulating the relationship between the depositor and the bank (including the information on any amendments or supplements to that agreement or document).

The DIA or the person who acts on behalf and to the benefit of the DIA may directly inspect the bank's documentation to verify the accuracy of the submitted reports and data referred to in paragraph 4 of this Article.

Banks shall allow the authorized persons referred to in paragraph 6 of this Article to inspect the documents which the DIA deems relevant for verifying the accuracy of the submitted reports and data referred to in paragraph 4 of this Article, and shall cooperate with such persons.

Article 9

Banks shall pay the premiums from the day of entry into the Business Register until the day of the ruling of the National Bank of Serbia on withdrawal of the operating license.

Article 10

Banks shall pay the initial, regular and extraordinary premiums.

Article 11

The initial premium is a one-off payment the banks shall make within 45 days from the date of entry into the Business Register.

The initial premium equals 0.3 per cent of the monetary portion of the minimum initial capital of the bank.

Article 12

The DIA shall determine the regular premium rate for the following year no later than by the 30th of September of the current year, having taken into account the situation in the banking and overall financial system of the Republic of Serbia, its risk exposure level, the total reserves available in the Deposit Insurance Fund and the estimated amount necessary for the disbursement of covered deposits in case of a simultaneous bankruptcy or liquidation of three medium-sized banks.

The regular quarterly premium rate may be set at maximum 0.2 per cent of total covered deposits in banks. The premium assessment base shall equal the average balance of total covered deposits in a bank in the previous quarter, determined on the basis of the bank's report on the total, eligible and covered deposits referred to in Art. 8, para. 4 hereof.

The DIA shall assess and collect the regular premiums quarterly, by multiplying the premium assessment base by the determined regular premium rate referred to in para. 1 of this Article, in the manner and within the timeframes set by the DIA in accordance with Art. 8, para 1 hereof.

In case the risk-based premium is assessed, regular premium shall be calculated by multiplying the premium assessment base by the regular premium rate referred to in para. 1 of this Article and each bank's perceived risk factor, determined by the DIA in accordance with the methodology.

The DIA shall assess and collect the regular premium in dinars in case of deposits denominated in dinars. In case of the deposits held in euros or other foreign currencies, the regular premium shall be assessed and

collected in euros. When determining the base referred to in paragraph 3 of this Article for the purpose of assessment of the regular premiums on account of the deposits denominated in euros and the foreign-currency deposits denominated in currencies other than euro, the exchange rate of euro to the given currency, calculated on the basis of the official middle dinar-euro exchange rate and official middle exchange rate of dinar to the given currency applicable on the the last day of each month of the quarter shall apply.

The DIA may stop assessing and levying regular premiums when the Deposit Insurance Fund reserves have reached the target level as defined in Art. 23 hereof, with the exception of the amounts required for the coverage of:

- 1) DIA's actual operating costs incurred in the course of operations related to the deposit insurance, which may not exceed the actual outlays from the Fund to cover the operating costs in the previous calendar year,
- 2) DIA's investments in fixed and intangible assets to support the operations related to deposit insurance,
- 3) the cost of repayment of the resources borrowed by the Fund.

Article 13

If the reserves of the Deposit Insurance Fund are insufficient for the payout of the covered deposits or for other purposes specified in Article 6 hereof, additional funds may be secured by collecting the extraordinary premium, based on the decision of the DIA.

The sum of extraordinary premium rates in a single calendar year may not exceed 0.5 per cent.

Paragraph 2 of this Article notwithstanding, the DIA may decide to increase the extraordinary premium rate, with the prior approval of the National Bank of Serbia, so that the sum of all extraordinary premium rates in a single calendar year in no more than 1%.

The DIA shall assess and collect the extraordinary premium based on the most recent determined average balance of the total covered deposits referred to in Article 12, paragraph 3 hereof, in the manner defined in the DIA's decision referred to in paragraph 1 of this Article.

The National Bank of Serbia may defer a bank's payment of the extraordinary premium partially or in full over the period of maximum 6 months if the payment of the extraordinary premium would threaten the bank's liquidity and solvency.

The decision referred to in paragraph 5 of this Article shall be made at the bank's request, for the period of maximum six months. The bank may reapply for the deferral.

In case the payment of extraordinary premium has been deferred in accordance with paragraph 5 of this Article, the bank shall pay the deferred extraordinary premium when the approved deferral period has expired.

Article 14

In case the DIA estimates that the Deposit Insurance Fund reserves are insufficient for the pay-out of the covered deposits or for the other purposes specified in Article 6 hereof, the DIA may obtain additional funds:

- 1) from the budget of the Republic of Serbia;
- 2) from domestic and international borrowings with the sovereign guarantee;

- 3) by issuing debt securities with the sovereign guarantee;
- 4) from other sources specifically allotted for this purpose by the Republic of Serbia.

Decision on provision of the funds referred to in paragraph 1 of this Article shall be made by the Government, at the DIA's request, with the previously obtained positive opinion of the ministry in charge of finance.

IV. REIMBURSEMENT

Article 15

The DIA shall pay out the covered deposits in the event of initiation of bankruptcy or liquidation procedure over a bank, which is regulated by the law governing bankruptcy and liquidation of banks.

Article 16

On the basis of the information referred to in Article 8 paragraph 5 hereof, the DIA shall determine the balance of the covered deposit per depositor on the basis of the balance of all eligible deposits of that depositor in the bank on the day of initiation of the bankruptcy or liquidation procedure over the bank, including the accrued contractual interest calculated by that date.

When calculating the covered amount in case of a deposit which constitutes the contractual collateral, the depositor will be compensated if his or her claim exceeds the amount of his or her obligation to the bank based on the contract, up to the coverage level.

In case of bank merger or acquisition, the depositors are entitled to the repayment of the covered deposits which they would have claimed in accordance herewith in case no merger or acquisition had taken place, within 6 months from the day of merger or acquisition.

No later than 30 days before the expiry of the timeframe referred to in paragraph 3 of this Article, the bank which is keeping the eligible deposits of the merged or acquired banks shall notify the depositors of the day when their right to a separate coverage as per paragraph 3 of this Article shall cease to apply.

In the period referred to in paragraph 3 of this Article, the bank shall deliver the information on the covered deposits in accordance with Article 8, paragraph 4, having also taken into account the separate coverage for the deposits referred to in paragraph 3.

Within the shortest possible time frame, and based on the public tender conducted in line with the decision of the Managing Board, the DIA shall decide which bank, as the payout (agent) bank, shall pay out the covered deposits on behalf of the DIA and enter into agreement with that bank.

The law governing public procurement shall not apply to selection procedure of the payout bank referred to in paragraph 6 of this Article.

Within three days from the day on which the competent court issues the ruling on initiation of the bankruptcy or liquidation procedure over the bank, the DIA shall, via mass media and its website, notify the depositors of their rights and obligations, date of beginning of reimbursement process, selected payout bank referred to in paragraph 6 of this Article and payout locations and enable the depositors to have available the deposited funds up to the coverage level within seven weekdays from the day of issuance of the ruling referred to in this paragraph.

The obligation of the payout bank and the DIA to pay out the deposited funds up to the coverage level shall cease on expiry of the three-year period as from the day when the competent court issued a ruling on initiation of bankruptcy or liquidation procedure over the bank.

Article 17

Via the payout bank, the DIA shall pay out in dinars the covered deposits denominated in dinars. In case of the deposits denominated in a foreign currency, the covered deposits shall be paid out in euros. The covered deposits in foreign currencies other than euro shall be calculated at the exchange rate of euro to the given currency, on the basis of the official middle exchange rates of dinar to euro and of dinar to the given currency applicable on the day of initiation of the bankruptcy or liquidation procedure over the bank.

In case a depositor holds deposits both in dinars and in foreign currencies, such depositor shall be reimbursed by the DIA through the agent bank in proportion to the currency structure of the depositor's eligible deposits held with the bank in dinars and foreign currencies.

A depositor who disagrees with the calculated covered deposit may send a written request to the DIA to review the determined balance.

The DIA shall regulate the manner and the time limit for submission of the requests referred to in paragraph 3 of this Article in more detail as well as the DIA's actions based on such requests, and the procedure of reimbursement.

Article 18

The claims of depositors based on the covered deposits are subrogated to the DIA.

DIA shall recover the claims referred to in paragraph 1 of this Article from the bankruptcy or liquidation estate, in accordance with the law governing bankruptcy/liquidation of banks.

The depositors whose claims on the bank exceed the coverage level shall recover the difference between the claim and the coverage level in the bankruptcy, i.e. liquidation procedure.

Article 19

Banks are required to provide the information on deposit insurance set hereby to depositors and all interested parties, especially the information on the coverage level and the manner of its reimbursement.

The information referred to in paragraph 1 of this Article must be comprehensible and available in writing.

The information referred to in paragraph 1 of this Article may not be used by banks for advertising purposes or in a manner which may threaten the stability of the banking system and the depositors' confidence.

The DIA shall set the manner of dissemination and content of the information referred to in paragraph 1 of this Article by a special regulation.

V. REPORTS OF THE DIA

Article 20

DIA shall keep separate books and financial statements for the Deposit Insurance Fund and make this information available to internal and independent auditors hired by the DIA.

Within the audit of its annual accounts, the DIA must provide for the audit of the statements referred to in paragraph 1 of this Article.

The annual report of the DIA for the previous year shall include a detailed report on the Deposit Insurance Fund.

Article 21

If a bank fails to fulfill in a timely manner its obligations prescribed hereby or by the DIA's regulation enacted on the basis hereof, the DIA shall notify the National Bank of Serbia thereof, which shall take appropriate measures in accordance with the law.

VI. PENALTY PROVISIONS

Article 22

A bank may be fined from RSD 100,000 to 2,000,000 for an offence if:

- 1) it fails to pay the premium in the manner and within the time frames set by the DIA (Article 8, paragraph 1);
- 2) it fails to submit monthly reports on total and eligible deposits or any other data that the DIA may require to carry out its activities in compliance with the law, in the manner and within the time frames prescribed by the DIA (Article 8, paragraph 4);
- 3) it fails to provide direct insight into to the bank's documentation to the authorized persons of the DIA, for the purpose of verifying the accuracy of the submitted reports and data referred to in Article 8 paragraph 4 hereof or fails to cooperate with those persons (Article 8, paragraph 6);
- 4) it fails to provide the information about deposit insurance to depositors and any other interested parties as prescribed herein, in accordance with the regulation enacted by the DIA (Article 19, paragraph 1);
- 5) it uses the information related to deposit insurance set hereby for advertising purposes in a way that may threaten the stability of the banking system and depositors' confidence (Article 19, paragraph 3).

The responsible person in the bank may also be fined from RSD 50,000 to 500,000 for any of the offences referred to in paragraph 1 of this Article.

VII. TRANSITIONAL AND FINAL PROVISIONS

Article 23

The DIA shall ensure to reach the target level of the Fund of 7.5 per cent of the covered deposits in the banking system by 1 January 2030 and shall set the regular premium rate accordingly.

Article 24

The Deposit Insurance Law ("Official Gazette of the Republic of Serbia", No. 61/05, 116/08 and 91/10) shall cease to apply as from the day of implementation hereof.

Article 25

This Law shall enter into force on the eighth day from the date of its publication in "Official Gazette of the Republic of Serbia", and be applied as from 1 April 2015.

Separate Article of the Law on Supplements to the Deposit Insurance Law

(Official Gazette of the RoS, No. 51/2017)

Article 2

This Law shall enter into force on the eighth day from its publishing in the *Official Gazette of the Republic of Serbia*.

Separate Article of the Law on Amendments and Supplements to the Deposit Insurance Law

(Official Gazette of the RoS, No. 73/2019)

Article 13

DIA shall adopt the methodology referred to in Article 2 hereof within a year from the day this law enters into force.

Article 14

This Law shall enter into force on the eighth day from its publishing in the *Official Gazette of the Republic of Serbia*.