

# Law no. 311/2015 on Deposit Guarantee Schemes and the Bank Deposit Guarantee Fund

*Takes effect on December 14, 2015*

*Published in the Official Gazette, Part I no. 918 of December 11, 2015*

Romania's Parliament adopts the present law.

## TITLE I

### Deposit Guarantee Schemes

#### CHAPTER I

##### Scope and Definitions

#### SECTION 1

##### Scope

**Art. 1. – (1)** The present Title shall regulate the setting up and operation of deposit guarantee schemes as schemes officially recognised within Romania's territory for the purpose of guaranteeing deposits.

**(2)** Official recognition of deposit guarantee schemes shall be granted by law or may be given by the National Bank of Romania, as the designated authority, in compliance with the requirements laid down in the present Title.

**(3)** Within Romania's territory, the National Bank of Romania shall be the designated authority and the administrative authority competent to classify deposits as unavailable according to Article 3 paragraph (6) letter a).

**(4)** Deposits at credit institutions headquartered in other member states and operating in Romania shall be guaranteed according to legislation in the home countries of the respective credit institutions.

**Art. 2. – (1)** The present Title shall apply to the deposit guarantee schemes officially recognised within Romania's territory, as well as to the credit institutions in their membership.

**(2)** The provisions under Article 11 paragraph (1) and Article 82 shall apply correspondingly also to contractual guarantee schemes and institutional protection systems that are not officially recognised according to Article 1 paragraph (2).

**(3)** The provisions under Articles 54 and 56 shall apply correspondingly to credit institutions, including when they are members of contractual guarantee schemes or institutional protection systems that are not recognised officially according to Article 1 paragraph (2).

#### SECTION 2

##### Definitions

**Art. 3. – (1)** For the purposes of the present Title, the terms and phrases below have the following meaning:

**a)** low-risk assets – items falling into the first or second category listed in Table 1 under Article 336 of Regulation (EU) no. 575/2013 of the European Parliament and of the Council of June 26, 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) no. 648/2012, or any assets which are considered to be equally safe and liquid by the National Bank of Romania, as the

competent authority, and are referred to in the regulations issued for the application of the present Title;

**b)** payment commitments – any payment commitments of a credit institution towards a deposit guarantee scheme that are fully collateralised, provided that the collaterals comply with the requirements laid down in paragraph (4);

**c)** designated authority – a public body that administers a deposit guarantee scheme or, if the operation of the deposit guarantee scheme is administered by a private entity, the public authority designated to supervise the respective scheme;

**d)** compensation – the amount of money determined according to the present Title, within the guarantee level, which a deposit guarantee scheme pays to each guaranteed depositor if deposits, no matter their number, become unavailable;

**e)** joint account – an account opened in the name of two or more persons or an account over which two or more persons have rights and in which operations can be made on the signature of at least one of those persons;

**f)** depositor – the holder or, in the case of a joint account, each of the holders of a deposit;

**g)** guaranteed depositor – the holder of an eligible deposit or, in the case of a joint account, the holders of an eligible deposit or, as the case may be, the person entitled to amounts from an eligible deposit;

**h)** deposit - any credit balance, including the due interest, which results from funds left in an account or from temporary situations deriving from normal banking transactions and which a credit institution must repay in the legal and contractual conditions applicable, including term deposits and savings deposits, which is in none of the situations described in paragraph (5);

**i)** covered deposits – the part of eligible deposits which does not exceed the guarantee ceiling laid down in Article 61 paragraph (3) or, as the case may be, in Article 62;

**j)** eligible deposits – deposits that are not excluded from the scope of guarantee, according to Annex no. 1;

**k)** unavailable deposit – the deposit that is due and payable but has not been paid, according to applicable legal and contractual conditions, by a credit institution facing any of the situations described in paragraph (6);

**l)** credit institutions authorised by the National Bank of Romania – credit institutions, Romanian legal persons, and the branches in Romania of credit institutions of third states;

**m)** target level – the amount of available financial resources that the deposit guarantee scheme must hold, according to Article 13, expressed as a percentage of the guaranteed deposits of its member credit institutions;

**n)** guarantee ceiling – the maximum level of coverage per guaranteed depositor per credit institution applicable according to Article 61 paragraph (3) or, as the case may be, to Article 62;

**o)** available financial resources – cash, deposits and other low-risk assets which can be liquidated within a period that should not exceed the time frame stipulated in Article 65 paragraph (1);

**p)** deposit guarantee scheme – the statutory deposit guarantee scheme, set up according to the law, as well as the contractual deposit guarantee scheme and the institutional protection system officially recognised as deposit guarantee schemes;

**q)** institutional protection systems – the institutional protection systems referred to in Article 113 paragraph (7) of Regulation (EU) no. 575/2013

**(2)** For the purposes of the present Title, the terms and phrases: credit institution, home member state, host member state, competent authority and branch have the

meanings assigned to them in Article 4 paragraph (1) of Regulation (EU) no. 575/2013.

**(3)** The terms and phrases used in the present Title, whose definition is not given in paragraphs (1) and (2), have the meanings assigned to them in Article 7 paragraph (1) of Government Emergency Ordinance no. 99/2006 on credit institutions and capital adequacy approved with amendments and completions by Law no. 227/2007, with subsequent amendments and completions, in Article 4 paragraph (1) of Regulation (EU) no. 575/2013, as well as in legislation on the recovery and resolution of credit institutions and investment firms.

**(4)** The collaterals specified in paragraph (1) letter b) should meet the following requirements:

**a)** they should consist of low-risk assets;

**b)** they should be unencumbered by any third-party rights and should be at the disposal of the deposit guarantee scheme.

**(5)** The category of deposits defined in paragraph (1) letter h) excludes a credit balance where:

**a)** its existence can only be proved by a financial instrument, as defined in Article 2 paragraph (1) point 11 of Law no. 297/2004 on capital markets, with subsequent amendments and completions, unless it is a savings product evidenced by a certificate of deposit made out to a named person which exists on July 2, 2014;

**b)** its principal is not repayable at par;

**c)** its principal may be repaid at par only under a particular guarantee or agreement provided by the credit institution or by a third party.

**(6)** The situations paragraph (1) letter k) refers to are the following:

**a)** The National Bank of Romania, as the administrative authority competent to classify deposits as unavailable, has determined that the respective credit institution, for reasons directly linked to its financial situation, is unable to repay the deposit and has no immediate prospects of being able to do so;

**b)** a court decision on the opening of bankruptcy proceedings for the respective credit institution had been issued before the National Bank of Romania could assess the situation described under letter a)

## **CHAPTER II**

### **Minimum Requirements for the Access and Operation of Deposit Guarantee Schemes**

#### **SECTION 1**

##### **General Provisions**

**Art. 4. – (1)** For the purpose of guaranteeing the deposits in Romania there is operating the Bank Deposit Guarantee Fund, as a statutory deposit guarantee scheme set up under Government Ordinance no. 39/1996 on the setting up and operation of the Bank Deposit Guarantee Fund, republished, with subsequent amendments and completions, officially recognised within Romania's territory, whose operation is regulated under Title II of the present law. Without prejudice to Title II provisions, the provisions of the present Title shall apply correspondingly to the Bank Deposit Guarantee Fund, with the exception of Article 33, Article 35 paragraph (1) letters b) and c) and paragraph (3), Article 36, Article 37 paragraph (1) and Article 38 paragraph (2), Article 42 paragraph (5) and Article 82.

**(2)** Within Romania's territory there may be officially recognised contractual deposit guarantee schemes and institutional protection systems. The officially recognised contractual deposit guarantee schemes and institutional protection systems are legal

persons that may not pursue activities other than deposit guarantee, according to the present Title, and, respectively, activities specific to institutional protection systems, according to Regulation (EU) no. 575/2013.

**(3)** Contractual guarantee schemes and institutional protection schemes shall be officially recognised by the National Bank of Romania, as the designated authority.

**(4)** The National Bank of Romania shall officially recognise a contractual guarantee scheme only if that scheme meets the conditions set for its operation in compliance with the requirements laid down in the present Title and the regulations issued for its application.

**(5)** The National Bank of Romania shall officially recognise an institutional protection system only if it trusts that the respective system can operate in compliance with the criteria laid down in Article 113 paragraph (7) of Regulation (EU) no. 575/2013, with the requirements contained in the present Title and in the regulations issued for its application. In officially recognising an institutional protection system, the National Bank of Romania shall combine its function of prudential supervision of credit institutions, as the competent authority, with the function of supervision of the deposit guarantee scheme, as the designated authority.

**(6)** If the guarantee scheme no longer meets the conditions set for its operation in compliance with the requirements laid down in the present Title and with the regulations issued for its application, including the situation in which its size and structure can no longer provide for an adequate operation, the National Bank of Romania may revoke the official recognition granted to the contractual guarantee scheme or the institutional protection system.

**(7)** The National Bank of Romania shall publish on its official website the list of officially recognised deposit guarantee schemes in Romania.

**Art. 5. – (1)** In order to receive official recognition, contractual guarantee schemes and institutional protection schemes shall submit an application for official recognition, along with supporting documents, to the National Bank of Romania.

**(2)** The National Bank of Romania shall issue regulations on the documentation that should support an application for official recognition as a deposit guarantee scheme.

**Art. 6. – (1)** The National Bank of Romania shall reach a decision on the application for official recognition of a contractual guarantee scheme or an institutional protection system within three months of the date it received the application for recognition and the documentation established according to Article 5.

**(2)** Within five working days after receiving the application, the National Bank of Romania shall notify the applicant, where appropriate, of the documents under Article 5 that have not been submitted according to paragraph (1), so that they may be handed in. The applicant shall have three months from the date of receipt of the National Bank of Romania notification to hand in the missing documentation according to Article 5.

**(3)** Within the time frame set in paragraph (1), but not later than 45 days after receiving an application for recognition fulfilling the requirement laid down in paragraph (1), the National Bank of Romania may request, in writing, any additional information or documents if those previously submitted are insufficient or irrelevant for an assessment or if the documentation is otherwise deficient.

**(4)** The applicant shall have one month after receiving the request made according to paragraph (3) to submit the required information and/or documents and to correct the detected deficiencies, a period during which the 3-month deadline set in paragraph (1) shall be suspended. The applicant may voluntarily submit any other information and/or documents deemed relevant, which, however, shall be handed in

at the latest 30 days before the deadline for a decision on recognition by the National Bank of Romania expires.

**(5)** The information and documents submitted after the appropriate deadlines shall not be considered in processing the recognition application and shall be returned to the applicant.

**(6)** Within the time limit stipulated in paragraph (1), the National Bank of Romania shall notify the applicant in writing of its decision, stating the reasons behind it if the recognition application has been denied.

**Art. 7. –** The National Bank of Romania shall reject an application for official recognition as a deposit guarantee scheme if during the assessment of the fulfilment of the requirements laid down in the present Chapter one of the following situations arises:

**a)** the entity is unable to meet set targets in compliance with the requirements laid down in the present Chapter, including in point of its size and structure;

**b)** the organisation of the entity, the management of activities, risk management and monitoring procedures, internal control mechanisms and the systems, IT systems included, which the entity operates are not comprehensive and adequate for achieving the goals for the which the entity was created;

**c)** the administrator of the deposit guarantee scheme fails to meet the requirements laid down in Articles 33-38;

**d)** the members of the supervisory board and of the executive board of the entity that administers the deposit guarantee scheme do not enjoy a good reputation, nor do they have the knowledge and experience needed in their activity;

**e)** the documentation submitted according to the provisions of Article 5 is either incomplete or otherwise deficient or the additional information referred to in Article 6 paragraph (3) was not supplied following the request of the National Bank of Romania.

**Art. 8. – (1)** The merger between a deposit guarantee scheme in Romania and a deposit guarantee scheme in another member state, resulting in a guarantee scheme that operates within Romania's territory, as well as the functioning within Romania's territory of deposit guarantee schemes that operate in other member states too shall be subject to the prior approval of the National Bank of Romania as the designated authority.

**(2)** The approval mentioned in paragraph (1) shall be given based on confirmation that the deposit guarantee scheme to operate within Romania's territory complies with the requirements laid down in the present Title and in the regulations issued for its application.

**(3)** Subsequent to the approval granted by the National Bank of Romania, the deposit guarantee scheme that operates in other member states as well shall carry on its activity within Romania's territory in line with the provisions of the present Title and of the regulations issued for its application.

**Art. 9. –** The changes in the situation of a deposit guarantee scheme officially recognised according to Article 4 paragraph (2), which require the prior approval of the National Bank of Romania, respectively those for which a subsequent notification suffices, shall be established under regulations issued for the application of the present Title.

**Art. 10. – (1)** In exercising its supervisory powers over a deposit guarantee scheme administered by private entities, the National Bank of Romania may conduct on-site inspections and may request the deposit guarantee scheme and its member credit institutions to provide information and data needed to verify their compliance with the requirements laid down in the present Title.

**(2)** The on-site inspections shall be conducted by National Bank of Romania personnel empowered for this purpose.

**(3)** Deposit guarantee schemes shall be under an obligation to allow the National Bank of Romania personnel's inspections and examination of their systems of collecting the information needed to calculate compensations, of their records, accounts and operations and also to supply all the documents and information pertaining to their activity as requested.

**(4)** Deposit guarantee schemes shall provide the National Bank of Romania with any information it has requested to be able to assess their compliance with the requirements laid down in the present Title and in the regulations issued for its application. The internal control mechanisms and the accounting and administrative procedures of deposit guarantee schemes must allow for the verification of compliance with these requirements at all times.

**(5)** Deposit guarantee schemes shall be under an obligation to report to the National Bank of Romania the data and information needed to assess their compliance with the provisions of the present Title and of the regulations issued for its application.

**(6)** The National Bank of Romania shall issue regulations on deadlines and formats for reporting the data and information referred to in paragraph (5).

**(7)** The National Bank of Romania may order measures for deposit guarantee schemes to improve their administrative framework, internal processes of identifying, managing and monitoring risks and their internal control mechanisms and to ensure a proper organisation of their activities. Deposit guarantee schemes shall notify the National Bank of Romania of actions taken to comply with the instituted measures within the time limit it set.

**(8)** In exercising its powers, as laid down in Article 1 paragraph (3), the National Bank of Romania shall combine its functions including prudential supervision, supervision of deposit guarantee schemes, resolution of credit institutions and classification of deposits as unavailable, all while cooperating with other authorities in Romania and other competent authorities and resolution authorities in other states, as well as with designated authorities and administrative authorities in other states which have the power to classify deposits as unavailable.

**(9)** With a view to supervising the cross-border deposit guarantee schemes referred to in Article 8, the National Bank of Romania, as the designated authority, shall exercise due diligence to conclude cooperation agreements with the designated authorities in the other member states where the credit institutions in the membership of the respective schemes have been authorised, in which details shall be offered on modalities of supervising deposit guarantee schemes through the agency of the representatives of the designated authorities in the respective member states.

## **SECTION 2**

### **Financial Resources of Deposit Guarantee Schemes**

**Art. 11. – (1)** The available financial resources of deposit guarantee schemes shall be proportionate to their potential liabilities.

**(2)** To determine those liabilities, deposit guarantee schemes shall operate adequate systems, including IT systems.

**Art. 12. – (1)** The financial resources of a deposit guarantee scheme consist of:

**a)** the annual contributions and the extraordinary contributions of member credit institutions;

**b)** earnings from claims recovered by the deposit guarantee scheme;

c) revenues from investments of available financial resources;  
d) loans taken by deposit guarantee schemes;  
e) payment commitments in the meaning of Article 3 paragraph (1) letter b);  
f) other resources, according to the legal document of establishment of a deposit guarantee scheme.

(2) Deposit guarantee schemes shall have access to adequate alternative financial mechanisms allowing them to get the short-term funding needed to meet their payment commitments according to the present Title.

**Art. 13.** – The available financial resources of a deposit guarantee scheme shall at least reach a target level of 0.8 percent of the amount of the guaranteed deposits of member credit institutions.

**Art. 14.** – (1) Each credit institution affiliated to a deposit guarantee scheme shall pay an annual contribution calculated as a percentage of the value, in its leu equivalent, of the deposits the respective deposit guarantee scheme covers and the credit institution has in its records on December 31 of the contribution assessment year. The respective percentage is set by the deposit guarantee scheme and approved by the National Bank of Romania. In the case of cooperative credit organisations, the value of guaranteed deposits is calculated based on the aggregate value of the guaranteed deposits in the records of their central bodies and of the affiliated central cooperatives. In approving the percentage set by the respective deposit guarantee scheme, the National Bank of Romania shall combine its function of prudential supervision of credit institutions, as the competent authority, with the function of supervision of deposit guarantee schemes, as the designated authority.

(2) Credit institutions pay their contributions to the deposit guarantee scheme in the national currency – the leu.

**Art. 15.** – (1) Starting January 1, 2016, the annual and extraordinary contributions owed to a deposit guarantee scheme shall be calculated on the basis of the amount of covered deposits and the risk associated to each member credit institution.

(2) For the purpose laid down in paragraph (1), deposit guarantee schemes shall use their own methods of calculating risk-based contributions for each credit institution in their membership, duly taking into account the relevant guidelines of the European Banking Authority.

(3) The contributions calculated according to the methods referred to in paragraph (2) shall reflect the risk each member credit institution incurs, taking due account of the risk profiles of various business models.

(4) The methods set out in paragraph (2) may also take into account the level, structure and quality of the asset side of each credit institution's balance sheet, as well as other risk indicators, such as capital adequacy and liquidity.

(5) Each of the methods deposit guarantee schemes use shall be submitted to the National Bank of Romania for approval according to a procedure the National Bank of Romania established through regulations. In approving the methods of calculating risk-based contributions, the National Bank of Romania shall combine its function of prudential supervision of credit institutions, as the competent authority, with the function of supervision of the deposit guarantee scheme, as the designated authority, and shall inform the European Banking Authority of the methods it has approved.

**Art. 16.** – In the case of credit institutions permanently affiliated to a central body, according to Article 10 paragraph (1) of Regulation (EU) nor. 575/2013, risk shall be assessed on a consolidated basis for the central body and its affiliated entities, in line with Article 15

**Art. 17. – (1)** Payment of annual contributions to a deposit guarantee scheme may be suspended only with the approval of the National Bank of Romania and shall resume when available financial resources fall below the target level, at least until that level is reached again. With the approval of the National Bank of Romania or based on its decision, payment of contributions shall be resumed prior to that moment.

**(2)** If the available financial resources decrease to less than two thirds of the target level, the deposit guarantee scheme shall set the annual contribution at a level allowing the target level to be reached again within six years.

**(3)** In fulfilling its duties stated in paragraph (1), the National Bank of Romania shall combine its function of prudential supervision of credit institutions, as the competent authority, with the function of supervision of the deposit guarantee scheme, as the designated authority.

**Art. 18. –** When setting the annual contributions of credit institutions in its membership, a deposit guarantee scheme shall take account of the phase of the business cycle, as well as of the negative impact procyclical contributions might have.

**Art. 19. – (1)** With the approval of the National Bank of Romania, as the designated authority, a deposit guarantee scheme may decide that part of the annual contribution of each credit institution in its membership may consist of payment commitments, within the meaning of Article 3 paragraph (1) letter b), in favour of the respective deposit guarantee scheme. The share of payment commitments shall not exceed 30 percent of the total amount of available financial resources of the respective deposit guarantee scheme.

**(2)** For the purposes of paragraph (1), deposit guarantee schemes shall take due account of the guidelines the European Banking Authority issued in this respect.

**Art. 20. – (1)** If the available financial resources of a deposit guarantee scheme are insufficient to repay depositors when deposits become unavailable, each member credit institution shall pay the respective deposit guarantee scheme an extraordinary contribution, whose level in a calendar year, set by the deposit guarantee scheme with the approval of the National Bank of Romania, cannot exceed 0.5 percent of the guaranteed deposits at the respective credit institution on December 31 of the previous year.

**(2)** By way of exception to the provisions of paragraph (1), in exceptional circumstances and with the consent of the National Bank of Romania, deposit guarantee schemes may require member credit institutions to pay extraordinary contributions higher than the maximum level stipulated in paragraph (1).

**(3)** In fulfilling the duties laid down in paragraph (1), the National Bank of Romania shall combine its function of prudential supervision of credit institutions, as the competent authority, with the function of supervision of the deposit guarantee scheme, as the designated authority.

**Art. 21. – (1)** Upon the request of a credit institution, the National Bank of Romania, as the competent authority, may defer, in whole or in part and for no longer than six months, the payment of the extraordinary contribution stipulated in Article 20 if that payment would jeopardise the liquidity or solvency of the respective credit institution.

**(2)** Following the credit institution's request, the National Bank of Romania may extend the deferment period if the risk referred to in paragraph (1) persists.

**(3)** The respective credit institution shall pay the contributions deferred pursuant to paragraphs (1) and (2) as soon as payment no longer jeopardises its liquidity and solvency.

**Art. 22. – (1)** The National Bank of Romania shall issue regulations for the application of Articles 14, 15 and 20.

**(2)** Credit institutions' contributions to deposit guarantee schemes shall be recognised as fiscally deductible expenses.

**Art. 23. – (1)** If a credit institution ceases to participate in a deposit guarantee scheme and joins another deposit guarantee scheme, in compliance with the provisions of Article 44 paragraph (1), the deposit guarantee scheme of which the credit institution is no longer a member shall transfer to the new deposit guarantee scheme the contributions the credit institution paid over the 12 months preceding the termination of its membership, with the exception of the extraordinary contributions under Article 20, within 15 calendar days after the information under paragraph (3) has been received. This provision shall not apply if a credit institution has been excluded from a deposit guarantee scheme pursuant to Article 85 paragraph (3).

**(2)** If some of the activities of a credit institution are transferred to another entity and, following that transfer, another deposit guarantee scheme assumes responsibility for protecting deposits linked to the respective activities, the deposit guarantee scheme to which the credit institution contributed prior to the move shall transfer to the guarantee scheme that assumes the task of deposit coverage, within 15 calendar days after receiving the information under paragraph (3), a share of the contributions the respective credit institution paid in the 12 months prior to the transfer, with the exception of the extraordinary contributions referred to in Article 20, in proportion to the amount of guaranteed deposits transferred.

**(3)** The credit institutions in one of the situations stated in paragraph (1) or, as the case may be, in paragraph (2) are responsible for providing the two deposit guarantee schemes involved the necessary information allowing them to calculate the amount of transferred guaranteed deposits and the contributions that need to be transferred to the deposit guarantee scheme pursuant to the present Article.

**(4)** The available financial resources of a deposit guarantee scheme whose official recognition has been revoked upon request or as a sanction, according to the present Title, shall be transferred to the deposit guarantee schemes that take over the duty of guaranteeing deposits, in proportion to the amount of covered deposits, which each deposit guarantee scheme accepts to protect.

**(5)** In order to apply the present Article, deposit guarantee schemes shall operate according to the cooperation agreements concluded according to Article 76 paragraph (1).

**Art. 24. –** If a credit institution intends to move from one deposit guarantee scheme to another, in line with the provisions of the present Title, it shall notify the deposit guarantee scheme of which it is a member of its intention at least six months prior to the transfer. Over the period from the date of the notification to the date of the transfer, credit institutions shall remain under the obligation to pay their annual and extraordinary contributions to deposit guarantee schemes according to Articles 14 and 20.

### **SECTION 3**

#### **Use of the Financial Resources of Deposit Guarantee Schemes**

**Art. 25. –** The financial resources built according to Articles 11-24 shall be primarily used to repay guaranteed depositors pursuant to the provisions of the present Title.

**Art. 26. – (1)** The financial resources of a deposit guarantee scheme shall also be used to finance the resolution of the credit institutions in the membership of the respective deposit guarantee scheme in compliance with legislation on the recovery and resolution of credit institutions and investment firms.

**(2)** In the resolution of a credit institution, the deposit guarantee scheme shall be accountable for the amount decided, after prior consultation with the National Bank of Romania, as the resolution authority

**(3)** Where eligible deposits held at a credit institution under resolution are transferred to another entity through the sale of business tool or the bridge institution tool, according to legislation on the recovery and resolution of credit institutions and investment firms, depositors are not entitled to compensations according to the present Title in connection with any part of their deposits at the institution under resolution that has not been transferred provided that the amount of transferred funds is at least equal to the guarantee ceiling stipulated in Article 61 paragraph (3) and, respectively, Article 62. If the value of eligible deposits at a credit institution under resolution is at least equal to the guarantee ceiling and the amount of transferred funds is lower than the coverage level, depositors are entitled to compensations representing the difference between the guarantee ceiling and the transferred amount.

**Art. 27. – (1)** A deposit guarantee scheme may offer loans to another deposit guarantee scheme only if the borrowing scheme meets the following cumulative conditions:

**a)** it is not able to fulfil its obligations pursuant to Article 65 paragraph (1) or, as the case may be, to the national legislation of the relevant member state transposing Article 8 paragraph (1) of Directive 2014/49/EU of the European Parliament and of the Council of April 16, 2014 on deposit guarantee schemes (recast) for lack of available financial resources within the meaning of Article 12 paragraph (1) or, as the case might be, of provisions in the national legislation of the relevant member state transposing Article 10 of Directive 2014/49/EU;

**b)** it has made recourse to the extraordinary contributions referred in Article 20 or, as the case may be, in the provisions under the national legislation of the relevant member state transposing Article 10 paragraph (8) of Directive 2014/49/EU;

**c)** it undertakes the legal commitment to use the borrowed funds solely to pay claims according to Article 65 paragraph (1) or, as the case might be, to provisions under the national legislation of the relevant member state transposing Article 8 paragraph (1) of Directive 2014/49/EU;

**d)** it is not currently subject to an obligation to repay a loan taken pursuant to the present Article and to Articles 28 and 29 or, as the case may be, to the provisions of the national legislation of the relevant member state transposing Article 12 of Directive 2014/49/EU;

**e)** it accurately states the amount of money requested;

**f)** it informs the European Banking Authority without delay and it states the reasons why the conditions set out in the present paragraph are fulfilled, as well as the amount of money requested;

**g)** the total amount lent to the borrowing deposit guarantee scheme does not exceed 0.5 percent of its guaranteed deposits.

**(2)** Loan granting according to paragraph (1) shall be submitted to the National Bank of Romania for prior approval. In exercising its powers according to the present paragraph, the National Bank of Romania shall combine its function of prudential supervision of credit institutions, as the competent authority, with the function of supervision of the deposit guarantee scheme, as the designated authority.

**(3)** The National Bank of Romania shall reject the request under paragraph (2) if the conditions listed in paragraph (1) are not fulfilled and also when it considers that the borrowing scheme's available resources are not enough to meet its potential commitments.

**Art. 28.** – A deposit guarantee scheme may ask for loans from another deposit guarantee scheme provided that as borrowing deposit guarantee scheme it meets the conditions specified in Article 27.

**Art. 29.** – Loan granting between deposit guarantee schemes shall be subject to the following conditions:

**a)** the loan must be repaid within maximum five years. It may be repaid in annual instalments, with interest due only at the time of the repayment;

**b)** the interest rate must be at least equivalent to the marginal lending facility rate of the European Central Bank during the credit period;

**c)** the lending deposit guarantee scheme must inform the European Banking Authority of the initial interest rate and of the duration of the loan.

**Art. 30.** – **(1)** Any loans taken by a deposit guarantee scheme for the purposes set out in Articles 25 and 26 shall be repaid from its financial resources built according to Articles 11-24.

**(2)** If a deposit guarantee scheme takes a loan pursuant to Article 27, it shall set the contributions it levies on member credit institutions at a level sufficient to cover the reimbursement of the borrowed amount and to re-establish the target level as soon as possible.

#### **SECTION 4**

##### **Investment of the Financial Resources of Deposit Guarantee Schemes**

**Art. 31.** – **(1)** Deposit guarantee schemes shall be under the obligation to invest their available financial resources in a sufficiently diversified, low-risk manner.

**(2)** Deposit guarantee schemes in the form of institutional protection systems shall see to it that their accounting records register their operations related to building, investing and using financial resources and their other activities as distinct entries.

**Art. 32.** – Deposit guarantee schemes shall review the investment modalities agreed according to Article 31 paragraph (1) periodically, at least annually.

#### **SECTION 5**

##### **Administration of Contractual Deposit Guarantee Schemes and of Institutional Protection Systems Officially Recognised as Deposit Guarantee Schemes**

**Art. 33.** – **(1)** A deposit guarantee scheme shall be administered by legal persons forming joint-stock companies, according to the Law of Trading Companies no. 31/1990, republished, with subsequent amendments and completions.

**(2)** The sole activity of the companies referred to in paragraph (1), managed based on a two-tier model, shall be the administration of a deposit guarantee scheme.

**(3)** The shareholders of the companies specified in paragraph (1) can only be credit institutions authorised in Romania or in another member state.

**(4)** The members of the supervisory board and of the executive board of the companies administering a deposit guarantee scheme shall be natural persons.

**(5)** The members of the supervisory boards and of the executive board of the companies administering a deposit guarantee scheme shall be appointed for a three-year term and their mandate may be renewed.

**Art. 34.** – **(1)** The members of the supervisory boards and of the executive boards of the companies administering a deposit guarantee scheme shall:

**a)** be residents in Romania;

**b)** hold a degree in economics or law;

**c)** meet the reputation and respectability requirements laid down in Article 35 paragraph (1) letter b).

**(2)** The members of the supervisory boards and of the executive boards of the companies administering a deposit guarantee scheme must not:

**a)** be spouses, relatives or in-laws up to the second degree;

**b)** be a credit institution's shareholder, employee or director, member of the administration board, of the supervisory board or of the executive board, as the case might be;

**c)** be a member of a political party, nor shall they engage in public activities of a political nature;

**d)** have been convicted over the past five years of one of the offences enunciated in the present law or in financial-banking legislation, insolvency or consumer protection legislation;

**e)** have been stripped over the past five years, by the supervisory, resolution or designated authority, of their responsibilities in the administration and/or management of a credit institution, a financial institution, an insurance/reinsurance company, a deposit guarantee scheme or another entity operating in the financial sector, nor shall they have been removed from their positions in such entities for reasons attributable to them;

**f)** have been banned, under a legal provision, a final court order or a decision made by another authority, to exercise their responsibilities in the administration and/or management of an entity such as those listed in letter e) or to work in one of the sectors specific to these entities.

**(3)** The members of the supervisory boards and the members of the executive boards of the companies administering a deposit guarantee scheme may not take part in making decisions concerning a credit institution where a person to whom they are related as shown in paragraph (2) letter a) holds one of the positions stated in Article 108 paragraph (1) of Government Emergency Ordinance no. 99/2006, approved with amendments and completions by Law no. 227/2007, with subsequent amendments and completions.

**(4)** The members of the supervisory boards and the members of the executive boards of the companies administering a deposit guarantee scheme shall have the approval of the National Bank of Romania, as the designated authority, before starting exercising their responsibilities.

**Art. 35. – (1)** Deposit guarantee schemes shall have solid and transparent governance practices taking account of at least the following principles:

**a)** the administrative structure of deposit guarantee schemes, the internal processes of identifying, managing, monitoring and reporting risks, the internal control mechanisms set under the Articles of Association or, as the case may be, under internal regulations shall be comprehensive and adequate for reaching the goal of the provisions of the present Title;

**b)** the members of the supervisory boards and the members of the executive boards of the companies administering a deposit guarantee scheme shall have a good reputation and professional experience and knowledge to match the nature, extent and complexity of their activity and responsibilities so as to secure a prudent and sound management of the respective deposit guarantee scheme;

**c)** the organisational structure of a deposit guarantee scheme shall ensure operational independence, transparency, responsibility and avoidance of conflicts of interest by eliminating political interference and the involvement of the banking industry in its activity.

**(2)** The fulfilment of the requirements for professional experience and knowledge under paragraph (1) letter b) implies that adequate theoretical and practical knowledge shall be demonstrated in connection with the future activities of deposit

guarantee schemes, according to the criteria set under regulations issued by the National Bank of Romania.

**(3)** For the purpose laid down in Article 34 paragraph (4), the National Bank of Romania has the authority to analyse the extent to which the minimum requirements stated in the present Title and in the regulations issued for its application are observed, to assess all circumstances and information related to the activity, reputation, moral integrity and experience of the persons appointed as members of the supervisory boards and of the executive boards of the companies administering a deposit guarantee scheme and to decide if the those requirements are fulfilled both individually and collectively.

**Art. 36.** – The National Bank of Romania shall issue regulations to establish:

**a)** the requirements to be considered to ensure compliance with the principles under Article 35 paragraph (1);

**b)** the changes in the situation of deposit guarantee schemes and of companies administering them for which the prior approval of the National Bank of Romania and, respectively, a subsequent notification are mandatory.

**Art. 37.** – **(1)** Deposit guarantee schemes shall organise and manage their accounting according to the provisions of the Accounting Law no. 82/1991, republished, with subsequent amendments and completions.

**(2)** The annual financial statements of deposit guarantee schemes are subject to statutory audit conducted by an audit firm, a legal person certified by the Chamber of Financial Auditors of Romania.

**(3)** The audit firm auditing the financial statements of deposit guarantee schemes shall meet the requirements and obligations set out in Articles 152-158 of Government Emergency Ordinance no. 99/2006, approved with amendments and completions by Law no. 227/2007, with subsequent amendments and completions, which shall apply correspondingly.

**Art. 38.** – **(1)** Deposit guarantee schemes prepare their annual activity report, which, together with the annual financial statements and the audit report, shall be published on their official websites within 150 days after the end of the fiscal year.

**(2)** Deposit guarantee schemes shall submit their annual activity reports and audit reports to the National Bank of Romania within the time frame set forth in paragraph (1).

## SECTION 6

### Information Exchange and Professional Secrecy

**Art. 39.** – **(1)** Deposit guarantee schemes shall ensure the confidentiality and protection of data pertaining to depositors and member credit institutions, using the information obtained only to fulfil their duties.

**(2)** Deposit guarantee schemes shall process data under paragraph (1) according to Law no. 677/2001 on the protection of individuals with regard to the processing of personal data and on the free movement of such data, with subsequent amendments and completions.

**(3)** When exchanging information with the European Banking Authority, deposit guarantee scheme shall be subject to the requirements of professional secrecy according to Article 70 of Regulation (EU) no. 1.093/2010 of the European Parliament and of the Council of November 24, 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision no. 716/2009/EC and repealing Commission Decision 2009/78/EC.

**Art. 40.** – Deposit guarantee schemes shall have adequate procedures in place allowing them to exchange information and communicate effectively with other

deposit guarantee schemes, with member credit institutions, with the National Bank of Romania and, as the case may be, with relevant authorities, including in other jurisdictions, according to the present Title.

**Art. 41.** – The members of the management of the companies administering deposit guarantee schemes, the staff and any other persons employed by them or by deposit guarantee schemes are bound by professional secrecy for information obtained in the course of their activity except in conditions stipulated under Government Emergency Decree no. 99/2006, approved with amendments and completions by Law no. 227/2007, with subsequent amendments and completions.

## **SECTION 7**

### Testing of Deposit Guarantee Schemes' Own Systems

**Art. 42.** – **(1)** Deposit guarantee schemes shall have in place systems allowing them to collect information needed to calculate compensations, to verify it and to turn it to good account in order to fulfil their obligations within the time limits applicable according to the present Title.

**(2)** Deposit guarantee schemes shall regularly conduct stress simulation exercises to test the capability of their own systems to ensure the fulfilment of the targets stated in paragraph (1).

**(3)** These simulation exercises shall take place at least once every three years or more frequently, when deposit guarantee schemes so consider or the National Bank of Romania, as the designated authority, so requires.

**(4)** The deposit guarantee schemes in operation on the date the present Title comes into force shall conduct their first simulation exercise by July 3, 2017 at the latest.

**(5)** Deposit guarantee schemes shall submit to the National Bank of Romania, as the designated authority, the conclusions of the simulation exercises performed within the time frame and in the form required under the regulations issued for the application of the present Title.

**Art. 43.** – Deposit guarantee schemes shall use the information received according to the present Title to perform stress tests of their own system only to conduct the respective tests and shall not keep such information longer than necessary for that purpose.

## **CHAPTER III**

### Requirements Applicable to Credit Institutions

## **SECTION 1**

### Obligations of Credit Institutions in Their Relationship with Deposit Guarantee Schemes

**Art. 44.** – **(1)** The credit institutions authorised by the National Bank of Romania shall be under the obligation to join a deposit guarantee scheme officially recognised within Romania's territory, including for deposits accepted by their branches abroad.

**(2)** In the case of cooperative credit organisations, the central body shall become a member of a deposit guarantee scheme, including for the deposits taken by the affiliated credit cooperatives.

**(3)** By way of exception to the provisions of paragraph (1), credit institutions, Romanian legal persons, shall not join a deposit guarantee scheme as stipulated under paragraph (1) for the deposits accepted by their branches in third countries that impose mandatory membership of their own deposit guarantee schemes.

**Art. 45.** – In its notifications on authorisations to the European Banking Authority, pursuant to Article 36 of Government Emergency Decree no. 99/2006, approved with amendments and completions by Law no. 227/2007, with subsequent amendments and completions, the National Bank of Romania shall indicate to which deposit guarantee scheme each credit institution is affiliated.

**Art. 46. – (1)** Credit institutions in the membership of a deposit guarantee scheme shall have in place adequate systems, IT systems included, allowing them to have at all times full and accurate records of data on guaranteed depositors, their eligible deposits, including information about the aggregate amount of each depositor's eligible deposits, the credit institution's due claims against them, as well as any other information needed to calculate the value of the compensation due to each guaranteed depositor and to prepare a compensation payment list.

**(2)** Credit institutions shall mark eligible deposits, as well as deposits that have not been used in any transaction over the past 24 months in a way that allows their immediate identification as such.

**Art. 47. – (1)** Within three working days after the end of each semester, member credit institutions shall report to the deposit guarantee scheme to which they are affiliated the information specified in Article 46 paragraph (1) in the format set by the respective deposit guarantee scheme.

**(2)** In addition to the reports referred to in paragraph (1), member credit institutions shall submit the information mentioned in Article 46 paragraph (1) to the deposit guarantee scheme within three working days after its request.

**Art. 48.** – Member credit institutions annually report to the deposit guarantee scheme to which they are affiliated the information needed to calculate their contributions to the deposit guarantee scheme in the format and within the reporting time frame set by the respective deposit guarantee scheme.

## **SECTION 2**

### **Depositors Information**

**Art. 49. - (1)** Credit institutions authorised by the National Bank of Romania shall make available to actual and intending depositors the information needed to identify the deposit guarantee scheme of which a respective institution and its branches are members and also inform them of the categories of deposits excluded from coverage by the deposit guarantee scheme.

**(2)** Before entering a deposit-taking contract, credit institutions shall provide depositors with the information set out in paragraph (1) and shall keep the acknowledgement of information receipt for five years after the termination of the respective contract. To the end of fulfilling the obligations pursuant to the present Article, credit institutions shall use the depositor information template provided in Annex no. 2.

**Art. 50.** – Before the signing of any contract, credit institutions shall inform depositors that their debts to the credit institution will be considered when the compensation due according to the present Title is calculated.

**Art. 51. – (1)** Credit institutions shall confirm for depositors that their deposits are eligible deposits with each statement of account, which shall also include a reference to the depositor information template in Annex no. 2. The depositor information template in Annex no. 2 shall be provided to depositors at least once annually.

**(2)** To inform depositors of member credit institutions, deposit guarantee schemes shall publish on their official websites the information depositors need, including information about legal provisions applicable to the operation of deposit guarantee schemes and deposit-guarantee conditions as they stated in the present Title.

**(3)** Credit institutions shall supply depositors with the information specified in paragraphs (1) and (2) in the language that was agreed upon when the account was opened or, for lack of an agreement, in the official language/languages of the member state in which the branch is established.

**(4)** The information referred to in paragraph (2) and in Article 49 paragraph (1) shall be available in all the units of a credit institution and shall be expressed clearly, fluently and in an easily comprehensible manner, without ambiguity, according to the rules set by deposit guarantee schemes.

**Art. 52.** – Credit institutions operating under different trademarks, as they are defined in Article 2 of Law no. 84/1998 on trademarks and geographical indications, republished, with subsequent amendments, shall clearly inform their depositors about that situation, as well as about the fact that the guarantee ceiling applies to the aggregate deposits a guaranteed depositor holds with a credit institution.

**Art. 53. – (1)** In the case of a merger, conversion of subsidiaries to branches or other similar operations, credit institutions shall notify depositors of their intentions at least one month before the respective operation produces legal effects, unless the National Bank of Romania, as the competent authority, allows a shorter deadline on the grounds of commercial secrecy or financial stability.

**(2)** Depositors whose cumulative eligible deposits may exceed the guarantee ceiling specified in Article 61 paragraph (3) or, as the case may be, in Article 62 as a result of operations of the type specified in paragraph (1), shall have three months after the notification of the merger, conversion or similar operations to withdraw or transfer to another credit institution, without incurring any penalty, the amounts of their eligible deposits, including all accrued interest and benefits, that go over the guarantee ceiling.

**Art. 54.** – Any credit institution that withdraws or is excluded from a deposit guarantee scheme shall inform its depositors in this respect within one month after such withdrawal or exclusion.

**Art. 55.** – If a depositor uses Internet banking, the credit institution may send the information to be supplied pursuant to the present Title by electronic means. Upon a specific request by the depositor, the information shall be provided on paper.

**Art. 56.** – Credit institutions may use the information referred to in Article 49 and Article 51 paragraphs (1) and (2) for advertising purposes only in the form of a factual reference to the deposit guarantee scheme that guarantees the product to which the advertisement refers.

## **CHAPTER IV**

### **Unavailability of Deposits**

**Art. 57. – (1)** A credit institution authorised by the National Bank of Romania that was requested to repay a deposit, which is due and payable, and was not in a position to fulfil its payment obligation according to the contractual and legal provisions applicable shall notify the National Bank of Romania within two working days after receiving the request.

**(2)** The notification shall contain information on the reasons for the failure to pay out and on the immediate prospects of fulfilling that obligation.

**Art. 58. – (1)** The National Bank of Romania shall analyse whether the respective credit institution is in the situation specified in Article 3 paragraph (6) letter a) the soonest possible, but not later than five working days after first becoming satisfied that the credit institution has failed to repay the deposit which was due and payable and, if the fact is confirmed that the credit institution falls within the situation mentioned above, it shall inform, the same day, the respective credit institution and

the deposit guarantee scheme of which the institution is a member about the fact that deposits have become unavailable.

**(2)** For the purpose of applying paragraph (1) the National Bank of Romania is considered to have been first satisfied that the credit institution had failed to repay a due and payable deposit in the following cases:

**a)** the National Bank of Romania was notified by the credit institution according to provisions under Article 57 paragraph (1);

**b)** despite the absence of a notification, in line with provisions under Article 57 paragraph (1), the National Bank of Romania, during its own investigations, notes that the credit institution falls within the situation described in paragraph (1).

**Art. 59. – (1)** The credit institutions whose deposits have become unavailable according to provisions under Article 3 paragraph (6) letter a) or, where appropriate, the liquidator appointed by a court of law shall provide the deposit guarantee scheme responsible for compensation payouts with the information referred to in Article 46 paragraph (1) at the latest the day following the ascertainment of deposit unavailability.

**(2)** Within maximum three working days from the date deposits have become unavailable, the respective credit institution or, as the case may be, the court-appointed liquidator shall provide the deposit guarantee scheme responsible for compensation payments with any corrective or supplementary information able to contribute to the accuracy of the information conveyed according to paragraph (1).

**(3)** The respective credit institution or, where appropriate, the court-appointed liquidator shall send the relevant deposit guarantee scheme the information it had no knowledge of within the time frame stipulated in paragraph (2) as soon as that information becomes known.

**Art. 60. –** To ensure the fulfilment of the legal obligations a deposit guarantee scheme has, the National Bank of Romania, as the competent authority, or, as the case may be, the resolution authority, shall inform the deposit guarantee scheme, as soon as possible, of the situations within a credit institution where it has identified difficulties likely to call for the intervention of the respective deposit guarantee scheme.

## CHAPTER V

### Calculation of Compensations

**Art. 61. – (1)** Deposit guarantee schemes shall cover, within the limits and under the conditions defined by the present Title, the deposits held at member credit institutions, regardless of currency denomination, with the exception of deposits that fall into the categories included in the list of non-eligible deposits in Annex no. 1.

**(2)** In applying paragraph (1), if deposits at a member credit institution become unavailable, deposit guarantee schemes shall make compensation payments, within the guarantee ceiling.

**(3)** The guarantee ceiling is the leu equivalent of 100,000 euros.

**(4)** Deposit guarantee schemes shall pay the compensation in lei.

**(5)** The leu equivalent of the guarantee ceiling and, respectively, of the amounts in foreign currency considered when calculating compensation shall be determined on the basis of the exchange rates of the respective foreign currencies communicated by the National Bank of Romania on the date deposits became unavailable.

**(6)** In the case of deposits denominated in currencies other than those for which the National Bank of Romania communicates exchange rates, the leu equivalent of the foreign-exchange amounts considered when calculating compensation is

determined based on the official exchange rate of the respective currency announced on the date the deposits became unavailable by the central bank that issues that currency, which is pegged to the euro, or, in the absence of an exchange rate against the euro, to the U.S. dollar.

**Art. 62. – (1)** Guaranteed depositors, natural persons, holding deposits that fall into one of the categories listed below, shall enjoy higher coverage by the deposit guarantee scheme, going beyond the standard level stipulated under Article 61 paragraph (3) for a period of 12 months after the amount has been credited to an account with the respective credit institution or from the date such deposits have become legally transferrable to another credit institution:

- a)** deposits resulting from residential real estate transactions;
- b)** deposits resulting from events in a depositor's life such as retirement, dismissal, invalidity or death;
- c)** deposits resulting from receipt of insurance benefits or compensation for criminal injuries or wrongful convictions.

**(2)** The National Bank of Romania shall establish the coverage level laid down in paragraph (1), shall periodically review it based on relevant statistical indicators and shall published it on its official website.

**Art. 63. – (1)** The compensation level shall be calculated by deducting from the total amount of a guaranteed depositor's eligible deposits at the respective credit institution on the date of unavailability the total value of the credit institution's claims over the respective deponent payable on the same date, to the extent to which contractual provisions between the credit institution and the depositor do not stipulate otherwise. The compensation payment shall not exceed the guarantee ceiling laid down in Article 61 paragraph (3) or, where appropriate, in Article 62.

**(2)** To calculate the compensation level, the interest accumulated but not credited up to the date when deposits became unavailable will also be added to the value of the deposit.

**Art. 64. – (1)** In the case of a joint account, the compensation level shall be determined for each guaranteed depositor who holds a share of the joint account, considering the proportion to which that depositor is entitled in line with contractual and/or legal provisions. To calculate compensation levels in the absence of such provisions, the joint account shall be divided equally between the respective depositors.

**(2)** Where a depositor is not entitled to amounts held in an account, the amounts to which that depositor is not entitled shall be included in the calculation of the compensation due to the person entitled to them, provided that such person has been identified or identifiable prior to the date of unavailability. Where several persons are entitled, to calculate the compensation due to each of them the provisions of paragraph (1) shall apply correspondingly.

**(3)** In the case of a joint account to which several persons are entitled as members of a business partnership, an association or a similar group, without legal personality, in order to determine the compensation level the deposit in the joint account shall be considered as held by a single depositor.

## **CHAPTER VI**

### **Compensation Payments to Depositors**

**Art. 65. – (1)** Deposit guarantee schemes shall pay due compensations to guaranteed depositors within at most seven working days of the date deposits became unavailable.

**(2)** If it is uncertain whether a person is entitled to compensation or if the deposit is the subject of litigation, the payout period stipulated in paragraph (1) shall extend until the situation has been clarified or the litigation resolved.

**(3)** Where compensations are paid to depositors at branches affiliated credit institutions opened in other member states, according to Article 71 paragraph (1), the payout period referred to in paragraph (1) may extend according to the European Banking Authority guidelines on cooperation agreements between deposit guarantee schemes.

**(4)** Compensation shall be paid to guaranteed depositors without a request to the deposit guarantee schemes being necessary.

**(5)** Guaranteed depositors' right to compensation payments lapses five years after the date when deposit guarantee schemes made the repayable amounts available to depositors.

**(6)** By way of exception to the provisions of paragraph (5), if bankruptcy proceedings with respect to a credit institution go beyond the time frame set under paragraph (5), the guaranteed depositors' right to receive due compensation lapses on the date the bankruptcy procedure ends.

**Art. 66. – (1)** To fulfil its obligation laid down in Article 65 paragraph (1), within maximum two working days of the date deposits become unavailable, the deposit guarantee scheme shall publish on its official website the information depositors need in order to receive their due compensation and shall also send that information to two national news agencies for publication. Within the same time frame, that information shall be sent also to the credit institution whose deposits have become unavailable to allow it to fulfil the obligation set out in paragraph (2).

**(2)** The credit institution whose deposits are unavailable shall display the information it got from the deposit guarantee scheme according to paragraph (1) in all its units nationwide one working day after receiving it.

**Art. 67. –** By way of exception to the provisions of Article 65 paragraph (1), based on information sent by a credit institution or, as the case may be, by a court-appointed liquidator showing that a guaranteed depositor is on trial for a money laundering offence or an offence relating to money laundering, the deposit guarantee scheme shall suspend any compensation payments until evidence of acquittal or, as applicable, the termination of the criminal proceedings on the cause in question under a final court decision.

**Art. 68. – (1)** There shall be no compensation payments in the case of deposits that cumulatively meet the following conditions: they have not been used in any transaction over the past 24 months and their value is lower than the administrative costs the deposit guarantee scheme would incur when making compensation payments.

**(2)** In applying paragraph (1), deposit guarantee schemes shall set the minimum level of compensation for deposits of that type which they will send to the National Bank of Romania, together with the related rationale, within five working days. Within the same time span, deposit guarantee scheme shall publish the agreed minimum level on their official websites.

**Art. 69. – (1)** Depositors who are dissatisfied with compensation-related issues may notify the deposit guarantee scheme in writing asking for a solution.

**(2)** The deposit guarantee scheme shall answer those notifications within five working days of their receipt.

**(3)** If the persons referred to in paragraph (1) are discontented with the solution the deposit guarantee scheme offered in its reply they might refer the matter to a competent court.

**Art. 70. – (1)** Deposit guarantee schemes shall subrogate to the rights of depositors over the credit institution for an amount equal to the compensation payment.

**(2)** If deposits have become unavailable according to provisions under Article 3 paragraph (6) letter b), deposit guarantee schemes shall register the amount paid out as compensation to guaranteed depositors in the registry of the court, in compliance with the provisions of Law no. 85/2014 on insolvency prevention and insolvency procedures.

**(3)** Where a deposit guarantee scheme makes payments to fulfil its obligation to finance resolution measures according to Article 26, the respective deposit guarantee scheme shall have a claim against the relevant credit institution for an amount equal to its payments. That claim shall rank at the same level as guaranteed deposits according to Law no. 85/2014.

**Art. 71. – (1)** Deposit guarantee schemes in Romania shall make compensation payments to depositors at branches set up by member credit institutions in other member states through the agency of a deposit guarantee scheme in the host member country which shall act on behalf of the deposit guarantee scheme in Romania, in compliance with the European Banking Authority guidelines on cooperation agreements between deposit guarantee schemes.

**(2)** In view of the compensation payouts, the deposit guarantee scheme in Romania shall provide the deposit guarantee scheme in the host member state with the necessary funding and shall compensate it for the all the costs incurred.

**(3)** The deposit guarantee scheme in Romania shall inform depositors referred to in paragraph (1) through the agency of the host member country's deposit guarantee scheme that is also entitled to receive correspondence on its behalf.

**Art. 72. –** Compensation payments to depositors at branches set up in Romania by credit institutions headquartered in another member state on behalf of the deposit guarantee scheme in the home member state shall be made through the Bank Deposit Guarantee Fund, according to the provisions under Title II and with the European Banking Authority guidelines on cooperation agreements between deposit guarantee schemes.

**Art. 73. – (1)** Any correspondence between deposit guarantee schemes and depositors shall be written:

**a)** in the official language the credit institution holding the guaranteed deposit uses to communicate with the depositor; or

**b)** in the official language or languages of the member state where the guaranteed deposit is located.

**(2)** For the purpose set out in paragraph (1), the deposit guarantee scheme shall request the necessary information from the credit institution or from the court-appointed liquidator.

**Art. 74. - (1)** If a credit institution operates directly in another member state without having opened its own branches, the deposit guarantee scheme shall supply information in the language which the depositor chose when opening an account.

**(2)** For the purposes of paragraph (1), the deposit guarantee scheme shall request the necessary information from the credit institution or from the court-appointed liquidator.

## CHAPTER VII

### Cooperation within the European Union

**Art. 75.** – Deposit guarantee schemes in Romania supply the information referred to in Article 46 paragraph (1) and Article 60 to the deposit guarantee schemes in host member states, according to the provisions of the present Title.

**Art. 76. - (1)** In order to facilitate cooperation between deposit guarantee schemes, particularly as regards Article 23, Articles 27-29 and, respectively, Articles 71 and 72, deposit guarantee schemes or, for lack of agreement between them, the designated authority shall sign written cooperation accords with deposit guarantee schemes or, as the case may be, with relevant designated authorities, in compliance with the European Banking Authority's guidelines covering this area. These agreements shall take due account of the requirements laid down in Article 39 paragraphs (1) and (2).

**(2)** The National Bank of Romania, as the designated authority, shall notify the European Banking Authority of the existence and content of such agreements. To this end, deposit guarantee schemes shall duly inform the National Bank of Romania.

**(3)** If designated authorities or deposit guarantee schemes fail to reach an agreement or if there are disputes over the interpretation of an agreement, the National Bank of Romania, as the designated authority, may notify the European Banking Authority in line with Article 19 of Regulation (EU) no. 1.093/2010.

**(4)** The absence of such agreements shall not influence the claims of depositors or of credit institutions as members of a deposit guarantee scheme that makes the repayments.

**Art. 77. - (1)** The National Bank of Romania shall cooperate with the European Banking Authority according to the provisions of the present Title and of Regulation (EU) no. 1.093/2010.

**(2)** The National Bank of Romania shall inform the European Commission and the European Banking Authority of its capacity as designated authority according to the present Title.

## CHAPTER VIII

### Administrative Measures and Sanctions

#### SECTION 1

##### General Provisions

**Art. 78. – (1)** The empowered personnel of the National Bank of Romania shall ascertain the facts set out in Articles 82, 83 and 85 based on reports from the credit institution or from the deposit guarantee scheme according to the law or following an explicit request from the National Bank of Romania or during verification of their headquarters.

**(2)** The documents referring to a credit institution or a deposit guarantee scheme whereby measures are taken and/or sanctions are imposed according to the present Title shall be issued by the governor, the first vice-governor or the vice-governors of the National Bank of Romania except the sanction to revoke the endorsement granted to the persons referred to in Article 108 paragraph (1) of Government Emergency Ordinance no. 99/2006 approved with amendments and completions by Law no. 227/2007, with subsequent amendments and completions, according to Article 85 paragraph (2) letter d), as well as to withdraw the official recognition of a deposit guarantee scheme which shall be imposed by the executive board.

**Art. 79. – (1)** The documents the National Bank of Romania adopts according to the provisions of the present Title and of the regulations issued for its application referring to a credit institution or a deposit guarantee scheme, including to persons mentioned in Article 108 paragraph (1) of Government Emergency Ordinance no. 99/2006 approved with amendments and completions by Law no. 227/2007, with subsequent amendments and completions, may be challenged, within 15 working days from communication, before the Board of Directors of the National Bank of Romania which has 30 days to render a reasoned decision.

**(2)** The decision of the Board of Directors of the National Bank of Romania may be challenged before the High Court of Cassation and Justice within 15 days of the announcement.

**(3)** The National Bank of Romania is the sole authority able to express its opinion on the considerations of opportuneness, assessments and qualitative analyses that make the foundation of the documents it issues.

**(4)** If documents issued by the National Bank of Romania are challenged in court, the court shall rule on the legality of those documents.

**Art. 80. – (1)** Article 79 provisions apply correspondingly also when the National Bank of Romania fails to render a decision, within the timeframe stipulated by the law, on a request formulated according to the present Title which includes all the data and information required in line with legal provisions in force.

**(2)** In the period up to a decision by the Board of Directors of the National Bank of Romania according to Article 79 paragraph (1) and, where appropriate, up to a final court ruling according to Article 79 paragraph (2), the implementation of the documents issued by the National Bank of Romania shall not be suspended.

**Art. 81. – (1)** The application of the measures laid down in Article 82 paragraph (1) and Article 84 may be concomitant with or independent from the imposition of sanctions.

**(2)** The limitation period for the measures and sanctions specified in Articles 82, 84 and 85 is of one year from the date the offence was discovered but not more than three years from the date the offence was committed.

**(3)** The sanctions referred to in Article 82 paragraph (4) letters a), b), c) and d) and Article 85 paragraph (2) shall also be imposed on persons who may be charged with the offence since the respective offence would not have occurred had the respective persons appropriately fulfilled the responsibilities and duties entailed by their position.

**(4)** In order to apply Articles 82 and 84, the National Bank of Romania shall combine its function of prudential supervision of credit institutions, as the competent authority, with the function of supervision of the deposit guarantee scheme, as the designated authority.

**Art. 82. – (1)** If a deposit guarantee scheme under the supervision of the National Bank of Romania does not comply with its obligations according to the provisions of the present Title and of the regulations issued for its application or with the measures ordered according to Article 10 paragraph (7), the National Bank of Romania has the power to restrict the acceptance of new member credit institutions.

**(2)** The National Bank of Romania shall have the power to impose sanctions when it finds a deposit guarantee scheme under its supervision guilty of:

**a)** violation of the provisions calling for a subsequent notification of changes of situation under Articles 32, 38, Article 51 paragraph (2), Articles 67, 68, Article 69 paragraph (2) and Article 87 paragraph (2);

**b)** violation of the provisions imposing the prior approval or agreement of the National Bank of Romania under Article 10 paragraph (4) and (5), Article 23 paragraphs (1) and (2), Article 25, Article 27 paragraph (2), Articles 31, 37, Article 39

paragraphs (1) and (3), Articles 41, 42, 43, Article 65 paragraph (1), Article 66 paragraph (1), Articles 71, 73, 74, 75 and Article 76 paragraph (1);

**c)** violation of provisions under Article 10 paragraph (3), Article 12 paragraph (2), Article 13, Article 17 paragraph (2), Article 26 paragraph (2), Article 42 paragraph (1) and Article 88 paragraph (2);

**d)** non-compliance with the measure ordered by the National Bank of Romania according to paragraph (1).

**(3)** The persons who are in charge of managing and/or administering a contractual deposit guarantee scheme or an institutional protection system without official recognition are responsible for the fulfilment by the respective contractual deposit guarantee scheme or institutional protection system of all the requirements applicable laid down in the present Title and in the regulations issued for its application, in line with their powers and duties as stipulated by the legislation in force and by their internal regulations. In this respect, following the non-compliance with the provisions under Article 11 paragraph (1), Article 23 paragraph (4) or with the reporting requirements set under National Bank of Romania regulations according to Article 89, sanctions may be imposed on the contractual deposit guarantee scheme or the institutional protection system that do not enjoy official recognition and/or on the natural persons who manage and/or administer them. These persons may be charged with the offence since the respective offence would not have occurred had the respective persons appropriately fulfilled the responsibilities and duties entailed by their position.

**(4)** In the cases falling under paragraphs (2) and (3), the National Bank of Romania shall have the power to impose the following sanctions:

**a)** a written warning;

**b)** a public warning indicating the natural person or the deposit guarantee scheme responsible and the nature of the committed offence;

**c)** a fine applicable to a natural person of up to the leu equivalent of 5 million euros at the exchange rate on July 17, 2013;

**d)** the revocation of the endorsement granted to persons referred to in Article 33 paragraph (4);

**e)** the withdrawal of the official recognition of the deposit guarantee scheme.

**(5)** The deposit guarantee scheme whose recognition was withdrawn shall continue to be responsible for compensation payments for the deposits at its member credit institutions up to the moment when they join another deposit guarantee scheme.

## **SECTION 2**

### **Measures and Sanctions Applicable to Credit Institutions**

**Art. 83.** – If a credit institution authorised by the National Bank of Romania fails to comply with its obligations pursuant to the provisions of the present Title and the regulations issued for its application, the deposit guarantee scheme shall notify the National Bank of Romania with a view to imposing compliance through measures and/or sanctions.

**Art. 84.** – In circumstances referred to in Article 83, after consultations with the deposit guarantee scheme, the National Bank of Romania, as the competent authority, shall have the power to order measures to restrict or limit the activity, operations or branch network of the respective credit institution, including by revoking the approval granted for the opening of branches abroad.

**Art. 85.** – **(1)** The National Bank of Romania, as the competent authority, after consultations with the deposit guarantee scheme, shall have the power to impose

sanctions when it determines that a credit institution authorised by the National Bank of Romania is guilty of:

**a)** violation of provisions under Article 47 paragraphs (1) and (2), Articles 48 and 56;

**b)** violation of provisions under Articles 14, 20, Article 23 paragraph (4), Article 46, Articles 49, 50, Article 51 paragraphs (1), (3) and (4), Article 54 and Article 66 paragraph (2);

**c)** violation of provisions under Article 44 paragraph (1), Articles 52, 53, Article 57 paragraph (2), Article 59 paragraphs (2) and (3) and Article 88 paragraph (2);

**d)** non-compliance with the measures the National Bank of Romania has ordered according to Article 84.

**(2)** In cases falling under paragraph (1), the National Bank of Romania shall have the power to impose the following sanctions:

**a)** a written warning;

**b)** a public warning indicating the natural person or the credit institution responsible and the nature of the committed offence;

**c)** a fine imposed on the legal person, of up to 10 percent of the total net turnover of the previous fiscal year, which includes the pre-tax income consisting of interest receivable and similar income, income from shares and other variable- or fixed-yield securities, as well as commissions or fees receivable as they are listed in Article 316 of Regulation (EU) no. 575/2013; in the case where the legal person is a branch of a parent company, the relevant pre-tax income shall result from the previous fiscal year's consolidated financial statements of the parent company of the highest rank, or a fine imposed on the natural person of up to the leu equivalent of 5 million euros at the exchange rate on July 17, 2013;

**d)** the revocation of the endorsement granted to persons referred to in Article 108 paragraph (1) of Government Emergency Ordinance no. 99/2006 approved with amendments and completions by Law no. 227/2007, with subsequent amendments and completions;

**e)** a fine up to twice the gain associated with the offence if it can be assessed.

**(3)** If the measures/sanctions imposed pursuant to paragraph (2) fail to ensure the credit institution's compliance with its obligations, the deposit guarantee scheme, with the express consent of the National Bank of Romania, shall give at least one month's notice of its intention to exclude the credit institution from membership of the deposit guarantee scheme. Deposits made with the credit institution before the lapse of the notice period shall continue to be fully covered by the deposit guarantee scheme. If, at the end of the notice period, the credit institution has not complied with its obligations, the deposit guarantee scheme shall exclude the respective credit institution. For the purpose of the present paragraph, the National Bank of Romania shall combine its function of prudential supervision of credit institutions, as the competent authority, with the function of supervision of the deposit guarantee scheme, as the designated authority.

**(4)** Deposits held on the date a credit institution is excluded from membership of a deposit guarantee scheme shall continue to be covered, according to the present Title, by the respective deposit guarantee scheme up to the moment the credit institution joins another deposit guarantee scheme.

**(5)** If a deposit guarantee scheme which has its head office in a third country and to which a branch of a credit institution, Romanian legal person, is affiliated according to Article 44 paragraph (3) notifies the National Bank of Romania of that branch's non-compliance with its obligations as a member of the respective deposit guarantee scheme, the National Bank of Romania shall have the power to impose on

the credit institution the measures and/or sanctions listed in paragraph (2) and in Article 84, cooperating with the respective guarantee scheme along that line.

**(6)** A credit institution on which the measures and/or sanctions listed in Article 84 and in the present Article were imposed shall not be exempted from its payment obligations for the fiscal year during which the sanctions were enacted, while in the case of its exclusion it shall have to pay its contributions in proportion to the period during which it was a member of the respective deposit guarantee scheme.

## **CHAPTER IX**

### **Offences**

**Art. 86. – (1)** Non-compliance with the provisions of Article 57 paragraph (1) referring to the obligation to notify of the inability to meet reimbursement requirements and, respectively, of Article 59 paragraph (1) referring to the obligation to send information to the deposit guarantee scheme is an offence and shall be punished by imprisonment for a term between six months and three years or a fine.

**(2)** If the offence referred to in paragraph (1) was committed by mistake, punishment shall be a prison term of three months to 2 years or a fine.

## **CHAPTER X**

### **Transitory and Final Provisions**

**Art. 87. – (1)** The National Bank of Romania shall inform the European Banking Authority of the amount of guaranteed deposits within Romania's territory by March 31 each year, as well as of the amount of available financial resources of the deposit guarantee schemes officially recognised in Romania on December 31 of the preceding year.

**(2)** Deposit guarantee scheme shall provide the National Bank of Romania with the information specified in paragraph (1) observing the deadline, format and means stipulated in its regulations. The National Bank of Romania shall inform the Bank Deposit Guarantee Fund of the amount of covered deposits within Romania's territory so that it may fulfil its duties as administrator of the bank resolution fund.

**Art. 88. – (1)** The National Bank of Romania shall take due account of the European Banking Authority's guidelines and recommendations on deposit guarantee and shall issue, as the case may be, regulations, instructions and/or clarifications to establish modalities of applying the respective guidelines and recommendations and, if need be, adapts them to the conditions specific to the banking system in Romania.

**(2)** Credit institutions, Romanian legal persons, as well as deposit guarantee schemes shall aim to comply with the European Banking Authority's guidelines and recommendations, according to the instructions and/or clarifications the National Bank of Romania shall issue where appropriate.

**Art. 89. –** For the application of Article 11 paragraph (1) in the case of contractual deposit guarantee schemes and institutional protection systems that do not enjoy official recognition, the National Bank of Romania shall issue regulations to establish modalities of reporting information on deposit guarantee activities.

**Art. 90. –** The National Bank of Romania shall be empowered to issue the regulations needed to implement the provisions of the present Title.

**TITLE II**  
The Bank Deposit Guarantee Fund

**CHAPTER I**  
General Provisions

**SECTION 1**  
Legal Status

**Art. 91. – (1)** The Bank Deposit Guarantee Fund, set up under Government Ordinance no. 39/1996 on the setting up and operation of the Bank Deposit Guarantee Fund, republished, with subsequent amendments and completions, is a statutory deposit guarantee scheme officially recognised within Romania's territory, a legal person of public interest within the meaning of the Accounting Law no. 82/1991, republished, with subsequent amendments and completions.

**(2)** The organisation and operation of the Bank Deposit Guarantee Fund, hereinafter referred to as the Fund, are outlined in its own statute which was drawn up in compliance with the provisions of the present Title and was approved by the National Bank of Romania following a proposal by the Fund's Supervisory Board.

**(3)** The Fund has its headquarters in the Municipality of Bucharest.

**SECTION 2**  
The Fund's Main Objective and Its Other Powers

**Art. 92. – (1)** The main objective of the Fund, as the statutory deposit guarantee scheme officially recognised within Romania's territory, shall be to guarantee deposits, an activity performed according to the provisions of the present law.

**(2)** The Fund shall be the administrator of the bank resolution fund in compliance with legislation on the recovery and resolution of credit institutions and investment firms and with the present Title.

**(3)** The Fund may operate also as:

**a)** interim administrator, special administrator of a credit institution under resolution, and, where applicable, shareholder of a bridge institution or of an asset management vehicle, according to legislation on the recovery and resolution of credit institutions and investment firms;

**b)** sole liquidator of credit institutions, in line with provisions under Article 256 paragraph (2) of Government Emergency Ordinance no. 99/2006 on credit institutions and capital adequacy approved with amendments and completions by Law no. 227/2007, with subsequent amendments and completions.

**SECTION 3**  
Definitions

**Art. 93. – (1)** For the purposes of the present Title, the terms and phrases payment commitments, compensation, depositor, guaranteed depositor, deposit, guaranteed deposit, unavailable deposit, target level, available financial resources and deposit guarantee scheme have the meaning ascribed to them in Article 3 paragraph (1).

**(2)** For the purposes of the present Title, the terms and phrases credit institution, home member state, host member state, competent authority and branch have the meaning ascribed to them in Article 4 paragraph (1) of Regulation (EU) no. 575/2013.

**(3)** The terms and phrases used in the present Title, whose definition is not given in paragraphs (1) and (2), have the meaning ascribed to them in Article 7 paragraph (1) of Government Emergency Ordinance no. 99/2006 approved with amendments and completions by Law no. 227/2007, with subsequent amendments and completions, Article 4 paragraph (1) of Regulation (EU) no. 575/2013, as well as in legislation on the recovery and resolution of credit institutions and investment firms.

## **CHAPTER II**

### **The Fund's Management and Administration**

**Art. 94. – (1)** The Fund shall be managed by a Supervisory Board including seven members and an Executive Board consisting of minimum three members, appointed according to the present Title.

**(2)** The Supervisory Board shall include:

**a)** five representatives of the National Bank of Romania, of which one shall be appointed Chairperson of the Fund's Supervisory Board;

**b)** two representatives of the Ministry of Public Finance.

**(3)** The members of the Fund's Supervisory Board shall be appointed from among the employees of the institutions they represent, being entrusted a three-year mandate, which may be renewed.

**(4)** Supervisory Board members whose mandates have expired shall stay in office until their successors are appointed.

**(5)** In the event of absence or temporary incapacity to exercise his/her duties, the Chairperson of the Fund's Supervisory Board shall be replaced by a member of the Supervisory Board he/she appoints from among the members designated by the National Bank of Romania or, in the absence of such an appointment, by the oldest of those members.

**(6)** If the mandate of one of the members of the Fund's Supervisory Board ceases before its term, a replacement shall be appointed shortly to serve for the remainder of the term, in compliance with the provisions of paragraph (2).

**(7)** The members of the Fund's Supervisory Board are paid a monthly allowance equal to 20 percent of the Fund's Chief Executive Officer's pay.

**Art. 95. – (1)** The members of the Fund's Supervisory Council shall meet the requirements stipulated under Article 34.

**(2)** The members of the Fund's Supervisory Council shall not be in one of the situations described in Article 6 paragraph (2) of Law no. 31/1990, republished, with subsequent amendments and completions.

**Art. 96. – (1)** A member of the Fund's Supervisory Board shall lose his/her membership:

**a)** upon termination of the mandate, except the case specified in Article 94 paragraph (4);

**b)** upon resignation;

**c)** in cases of incompatibility resulting from failure to meet the requirements pursuant to Article 34 paragraph (1) letter c) and paragraph (2);

**d)** in cases of impossibility to fulfil the mandate for 90 consecutive days;

**e)** upon revocation;

**f)** upon termination of employment with the institution he/she represents.

**(2)** Any member of the Fund's Supervisory Board may be revoked by the institution that designated him/her for non-fulfilment or flawed fulfilment of the mandate, with a replacement being appointed in 10 days at the most.

**Art. 97. – (1)** The Supervisory Board shall meet in ordinary session whenever necessary, but at least once a month. The Chairperson shall convene the Supervisory Board meeting over which he/she shall preside.

**(2)** An extraordinary meeting of the Supervisory Board may be called by the Chairperson on his/her own initiative, at the request of any Supervisory Board member or at the request of the Executive Board.

**(3)** The Supervisory Board shall be convened by written notice at least five working days before the date of the meeting, except under circumstances calling for urgent action, when the time limit may be shortened.

**(4)** The convening notice shall include an agenda, the date of the meeting and a list of topics for discussion along with related documentation, also indicating the location of the meeting.

**(5)** The meetings shall take place at the Fund's headquarters or in any other place agreed upon by the members of the Fund's Supervisory Board.

**(6)** Supervisory Board deliberations shall be valid only if at least five of its members are present.

**(7)** Absent members may attend and vote by proxy given to a member present and members represented by proxy shall be counted when determining the presence of a quorum. No present member may serve as proxy for more than one absentee.

**(8)** Supervisory Board decisions shall be made by a simple majority of votes of the total number of members.

**(9)** The minutes of the meeting, which include deliberations and the order in which they proceeded, decisions made, number of votes obtained and, where appropriate, separate opinions, shall be signed by all the members present at the meeting.

**Art. 98. – (1)** The Fund's Supervisory Board shall supervise the activity of the Executive Board's members and the way in which they fulfil the targets contained in their mandates.

**(2)** The Fund's Supervisory Board shall analyse, express their opinion and submit to the National Bank of Romania for approval:

**a)** the statute of the Fund;

**b)** the policy on staff salaries, including the allowance for the Executive Board's members;

**c)** the revenue and expenditure budget, drawn up as to reflect each of the activities specified in Article 92 paragraphs (1) and (2) distinctly and those mentioned in Article 92 paragraph (3) separately;

**d)** the annual target level of financial resources of the Fund, in its capacity as deposit guarantee scheme, the level of annual contribution of each member credit institution, according to Articles 14 and 15, as well as the proposal that a share of the annual contribution of each member credit institution may consist of payment commitments, including the level of that share, according to Article 19 paragraph (1);

**e)** the suspension and resumption of payments of annual contributions to the Fund, as deposit guarantee scheme, in line with Article 17 provisions;

**f)** the imposition of extraordinary contributions to the Fund, as deposit guarantee scheme, along with their level and payment deadline, according to the provisions laid down in Articles 15, 20 and 21;

**g)** loan granting by the Fund following applications from other deposit guarantee schemes, in line with Articles 27-30, and the Fund's applications for loans in its capacity as deposit guarantee scheme, according to Title I, including for loans from the Government, in keeping with Article 119 paragraph (2), along with the adequate rationale for the necessity of those loans, pursuant to the present Title;

**h)** loan granting by the Fund, as the administrator of the bank resolution fund, according to the procedures and conditions under legislation on the recovery and resolution of credit institutions and of investment firms, following loan applications from resolution financing mechanisms in other member states, as well as loan requests by the Fund, as the administrator of the bank resolution fund, according to legislation on the recovery and resolution of credit institutions and investment firms, which should be accompanied by the adequate rationale for the necessity of those loans, pursuant to the present Title;

**i)** the annual resource investment strategy of the Fund, as deposit guarantee scheme, pursuant to Article 31 paragraph (1), whose mainly targets are the minimisation of risk and the liquidity of investments, as well as yields on investment as an additional goal;

**j)** the annual strategy concerning the investment of bank resolution fund resources in line with legislation on the recovery and resolution of credit institutions and investment firms;

**k)** the difference to be refunded to the Fund when the amount it contributed, upon request from the resolution authority, to finance resolution proceedings at a member credit institution is higher than the maximum level set according to stipulations under legislation on the recovery and resolution of credit institutions and investment firms, along with a supporting rationale;

**l)** the quarterly report on the execution of the revenue and expenditure budget reflecting each of the activities specified in Article 92 paragraphs (1) and (2) distinctly and those mentioned in Article 92 paragraph (3) separately;

**m)** the annual activity report reflecting each of the activities specified in Article 92 paragraphs (1) and (2) distinctly and those mentioned in Article 92 paragraph (3) separately;

**n)** the natural persons designated as members of the Executive Board and, from among them, the person to be appointed Chief Executive Officer; the Fund's proposal shall be accompanied by a rationale on the fulfilment of the requirements stated in Article 100 by the appointees;

**o)** the mandate of each member of the Executive Board, which includes specific targets and duties, as well as deadlines;

**p)** the financial audit firm which conducts the statutory audit of the Fund and which verifies compliance with obligations concerning the investment and use of the resources of the deposit guarantee scheme and, respectively, of the bank resolution fund; the proposal shall be accompanied by a rationale on the fulfilment by the financial audit firm of the requirements incumbent on it according to Articles 152- 158 of Government Emergency Ordinance no. 99/2006 approved with amendments and completions by Law no. 227/2007, with subsequent amendments and completions;

**q)** the natural persons the Fund appoints, according to legislation on the recovery and resolution of credit institutions and investment firms, as special administrator of a credit institution to which resolution measures are applied, as interim administrator during the application of early intervention measures decided by the National Bank of Romania, as the competent authority, as well as members of the management body of a bridge institution; the Fund's proposals shall be accompanied by a rationale on the fulfilment of the relevant requirements set out in Articles 101-110 of Government Emergency Ordinance no. 99/2006 approved with amendments and completions by Law no. 227/2007, with subsequent amendments and completions by the appointees;

**r)** the financial audit firm or, as the case may be, the statutory financial auditor the Fund designates for a bridge institution, as well as the financial audit firm the Fund designates to verify Fund-member credit institutions according to Article 105

provisions; the Fund's proposals shall be accompanied by a rationale on the fulfilment by the financial audit firm or, as the case may be, by the statutory financial auditor of the requirements incumbent on them according to Articles 152- 158 of Government Emergency Ordinance no. 99/2006 approved with amendments and completions by Law no. 227/2007, with subsequent amendments and completions;

**s)** the percentage of the post-tax profit each year allocated to the creation of the annual profit-sharing fund for employees, Executive Board members and members of the Supervisory Board, which cannot exceed one percent;

**t)** the mandate to negotiate the cooperation agreements pursuant to Article 76;

**u)** signing of the cooperation agreements negotiated in line with the mandate specified in letter t);

**v)** the proposal to audit a member credit institution;

**w)** the Fund's regulations on methods to calculate risk-based contributions to the deposit guarantee scheme;

**x)** any Fund-issued regulation for the application of the law enforceable against third parties.

**(3)** The Fund's Supervisory Board shall analyse and approve:

**a)** the ceiling, time limits and conditions for investment of the financial resources of the deposit guarantee scheme, in accordance with the strategy mentioned in paragraph (2) letter i) and with the requirements listed in Article 31 paragraph (1);

**b)** the structure of the organisation, the personnel structure and the salary grid;

**c)** the ceiling, time limits and conditions for investment of the financial resources of the bank resolution fund as per the strategy mentioned in paragraph (2) letter j) and the requirements stipulated in legislation on the recovery and resolution of credit institutions and investment firms;

**d)** the appointment of persons representing the Fund as sole liquidator of credit institutions, according to the provisions of Government Emergency Ordinance no. 99/2006 approved with amendments and completions by Law no. 227/2007, with subsequent amendments and completions, as well as the terms of their mandates;

**e)** the conclusion of services contracts with Romanian or foreign natural and physical persons covering activities pursuant to Article 92, in compliance with public procurement legislation;

**f)** the reports issued by the members of the Fund's Executive Board periodically, at least annually, on the attainment of Fund objectives and on the fulfilment of their duties and responsibilities deriving from their mandates and designed distinctly for each of the activities specified in Article 92 paragraphs (1) and (2) and separately for those mentioned in Article 92 paragraph (3);

**g)** the Fund's own standards on the internal control system, internal audit included;

**h)** the strategy devised to liquidate a credit institution, as the Fund exercises its function as liquidator, which the Executive Board sets forth while observing the legislation in force;

**i)** the procedure of compensation payments to guaranteed depositors, which includes setting deadlines and deciding on the persons in charge of every step to be taken, as the case may be, starting with the date when the National Bank of Romania informs the Fund of the occurrence of circumstances that may trigger unavailability of deposits at a credit institution;

**j)** the procedures of performing stress tests pursuant to Article 42;

**k)** the Executive Board's reports on the results of the stress tests;

**l)** the Fund's internal regulations, other than those specified in letters g), i) and j), detailing the way to perform activities by the three categories of activity listed in Article 92;

**m)** notices and reports on the Fund's activity as sole liquidator, as well as reports drafted during the other activities referred to in Article 92, according to the present law, to legislation on the recovery and resolution of credit institutions and investment firms and to the mandate entrusted by the National Bank of Romania;

**n)** other reports on the Fund's activity;

**o)** the Chief Executive Officer's mandate to annually negotiate the collective labour contract;

**p)** the appointment of the members of the Fund's Audit Committee, according to Article 103 paragraph (3);

**q)** other materials requested by the Fund's Supervisory Board.

**(4)** The Fund's Supervisory Board shall perform any other tasks entrusted by the Board of Directors of the National Bank of Romania in applying legislation on the categories of activities listed in Article 92.

**Art. 99. – (1)** The Chairperson of the Fund's Supervisory Board has the following duties:

**a)** to coordinate the activity of the Supervisory Board;

**b)** to sign mandate contracts with the Executive Board's members who have the approval of the Board of Directors of the National Bank of Romania;

**c)** to inform the Board of Directors of the National Bank of Romania of the way in which the decisions of the Fund's Supervisory Board and, as the case may be, of the Board of Directors of the National Bank of Romania were fulfilled;

**d)** to perform other duties entrusted by the Board of Directors of the National Bank of Romania or by the Fund's Supervisory Board.

**(2)** The Chairperson of the Fund's Supervisory Board and, when appropriate, also the member of the Fund's Executive Board who was appointed Chief Executive Officer, shall submit and present to the Board of Directors of the National Bank of Romania the rationale of the proposals addressing topics under Article 98 paragraph (2).

**Art. 100. – (1)** The Fund's statute, in compliance Article 94 paragraph (1), shall specify the number of members of the Fund's Executive Committee, of which one shall be appointed Chief Executive Officer, as well as the duration of their mandates. Executive Board members shall not be members of the Fund's Supervisory Board, they shall be empowered under their contracts of mandate to ensure the operative management of the Fund, and they shall be accountable for the fulfilment of that task to the Fund's Supervisory Board.

**(2)** The provisions under Article 34 and under Articles 95 and 96 shall apply correspondingly also to the Fund's Executive Board.

**(3)** For the duration of their mandates, Executive Board members cannot sign employment agreements with the Fund. If they have been designated from among the Fund's employees, their individual employment agreements shall be suspended for the mandate period.

**(4)** The salary paid to the members of the Fund's Executive Board and Supervisory Board according to their mandate contracts shall be fiscally assimilated to income from salary, which is taxable according to legislation in force.

**Art. 101. – (1)** The members of the Fund's Executive Board shall run the Fund's current activities and shall take measures to ensure the implementation of the decisions of the Fund's Supervisory Board and by the Board of Directors of the National Bank of Romania adopted according to Article 98 paragraph (2).

**(2)** The Fund's Executive Board shall ensure the fulfilment of the following duties:

**a)** submit the proposals referred to in Article 98 paragraphs (2) and (3) to the Fund's Supervisory Board for endorsement and approval respectively;

**b)** ensure the implementation of the strategy pursuant to Article 98 paragraph (2) letter i) in compliance with the requirements under Article 98 paragraph (3) letter a);

**c)** ensure the implementation of the strategy pursuant to Article 98 paragraph (2) letter j) in compliance with the requirements under Article 98 paragraph (3) letter c);

**d)** execute the approved revenue and expenditure budget, in compliance with legal provisions in force and within the ceiling approved for each of the activities specified in Article 92;

**e)** ensure the application of the necessary procedures so that the Fund can make the payments referred to in the present law and in the legislation on the recovery and resolution of credit institutions and of investment firms;

**f)** ensure the performance of Fund activities as per Article 92 observing the obligation to reflect the revenue and expenditure related to them as distinct items so as to comply with provisions concerning the use of the deposit guarantee scheme's resources as they are laid down in the present Title and with provisions referring to the use of the resources of the bank resolution fund set out in the legislation on the recovery and resolution of credit institutions and investment firms;

**g)** sign, change and terminate Fund employees' individual employment agreements;

**h)** approve the expenditure for the operation of the Fund in each of its capacities referred to in Article 92, within the approved revenue and expenditure budget;

**i)** ensure the organisation of internal control, according to the Fund's rules;

**j)** represent the institution by signing the services contracts related to Fund activities according to Article 92;

**k)** represent the institution in negotiations for the conclusion of the agreements specified in Article 76 paragraph (1), within the mandate approved by the Board of Directors of the National Bank of Romania, inform the Fund's Supervisory Board and the National Bank of Romania of the occurrence of circumstances such as those mentioned in Article 76 paragraph (3) and supply the National Bank of Romania with the information needed to draft the notification pursuant to Article 76 paragraph (2);

**l)** send the reports on the results of stress tests to the National Bank of Romania;

**m)** send the National Bank of Romania the requests specified in Article 117 paragraph (3) and Article 118 paragraph (1), as well as the notification of credit institutions' failure to pay their contributions to the bank resolution fund, according to legislation on the recovery and resolution of credit institutions and investment firms;

**n)** inform the Fund's Supervisory Board of the implementation of the decisions of the Fund's Supervisory Board and of the Board of Directors of the National Bank of Romania adopted in line with Article 98 paragraph (2);

**o)** exercise any other duty under the law for each of the activities stated in Article 92 or assigned by the Fund's Supervisory Board within the mandate.

**(3)** The duties and responsibilities of each of the members of the Fund's Executive Committee shall be laid down in his/her mandate.

**(4)** The Chief Executive Officer shall represent the Fund in relationships with third parties.

**Art. 102. – (1)** The members of the Fund's Supervisory Board and Executive Board, Fund employees as well as the other persons the Fund has signed services contracts with shall be bound by professional secrecy and may not disclose any information revealed to them in the course of their activities unless required by the legislation regulating the respective activities, namely Government Emergency Ordinance no. 99/2006, approved with amendments and completions by Law no. 227/2007, with subsequent amendments and completions or, where appropriate, the requirements under Title I, the legislation on the recovery and resolution of credit institutions and investment firms and Law no. 85/2014.

**(2)** The members of the Fund's Supervisory Board and Executive Board, as well as Fund employees entrusted duties under the present law, the legislation on the recovery and resolution of credit institutions and investment firms and Law no. 85/2014 shall face civil or, as the case may be, criminal liability only for an act or omission that was committed or omitted in bad faith or with gross negligence while exercising their powers as provided by the present law, by legislation on the recovery and resolution of credit institutions and investment laws or Law no. 85/2014.

### **CHAPTER III**

#### **Annual Financial Statements and Internal Control Systems**

**Art. 103. - (1)** The Fund shall be under the obligation to organise and manage its accounting according to the provisions of the Accounting Law no. 82/1991, republished, with subsequent amendments and completions, and of the specific regulations in this respect issued by the National Bank of Romania with the endorsement of the Ministry of Public Finance.

**(2)** The provisions of Government Emergency Ordinance no. 90/2008 on the statutory audit of annual financial statements and of annual consolidated financial statements and on the public supervision of the accounting profession, approved with amendments by Law no. 278/2008, with subsequent amendments and completions, shall apply correspondingly to the Fund, as an entity of public interest.

**(3)** The Fund's Audit Committee consists of three members of the Fund's Supervisory Board.

**Art. 104. -**In order to fulfil its duties, the Fund shall have at its disposal adequate internal control mechanisms set according to its own rules and in line with the provisions of Article 35 paragraph (1) letter a), which shall be subject to annual assessment and, where appropriate, annual revision.

**Art. 105. - (1)** The Fund, in its capacity as deposit guarantee scheme, shall verify within participating credit institutions whether reported data correspond to reality according to Articles 47 and 48 and if the respective credit institutions comply with legal provisions on the information of depositors pursuant to provisions in Articles 49-56. To this end, the Fund may sign contracts with financial audit firms, legal persons, members of the Chamber of Financial Auditors of Romania for the verification of the respective credit institutions' accounting records. The Fund's proposal for a financial audit to be conducted shall be submitted to the Board of Directors of the National Bank of Romania for approval.

**(2)** Verifications at the headquarters of the credit institutions in the membership of the Fund are performed by Fund personnel empowered in this respect or, as the case may be, by the financial audit firm designated in compliance with the provisions of Article 98 paragraph (2) letter r).

**(3)** Fund-member credit institutions shall allow Fund employees and other mandated persons pursuant to paragraph (1) to perform the verification and to examine their records, accounts and operations and they shall also supply all the deposit-related documents and information as requested.

**(4)** During the examination specified in paragraph (1), the Fund or the Fund-mandated person may request the management of the credit institution and the financial audit firm that conducts the statutory audit any information they deem necessary for the verification and relevant for the purpose of the provisions of Title I.

**(5)** The Fund may recommend the credit institution that was verified to remedy the deficiencies found. The credit institution shall inform the Fund of the measures taken within the time frame the Fund established.

**(6)** If deficiencies are not corrected, the Fund shall proceed according to Article 83.

**Art. 106. – (1)** The Fund's financial statements shall be subject to statutory audit, which will also verify compliance with legal obligations concerning the investment and use of the resources of the deposit guarantee scheme and, respectively, of the bank resolution fund. To this end, the Fund shall sign a contract with a financial audit firm, in line with provisions of Article 37 paragraph (2) and (3).

**(2)** The financial audit report drawn up according to paragraph (1) shall be presented to the Fund's Supervisory Board and to the Board of Directors of the National Bank of Romania.

**Art. 107. –** The Fund's fiscal year starts on January 1 and ends on December 31 of each year.

**Art. 108. –** The annual activity report, together with the Fund's annual financial statements, as well as the financial audit report shall be submitted to the National Bank of Romania and shall be published on the Fund's official website within 150 days after the end of the fiscal year.

**Art. 109. –** The Fund shall see to it that the operations related to the building, investment and utilisation of financial resources for the activity specified in Article 92 paragraph (1) and respectively for the activity referred to in Article 92 paragraph (2) are registered as distinct entries in accounting records.

**Art. 110. –** The Fund's expenditure that cannot be allocated specifically to the activity it performs as a deposit guarantee scheme or as the administrator of the bank resolution fund or in exercising its other powers as listed in Article 92 paragraph (3) shall be distributed across the three categories of activities based on the share of the revenue from the respective activity in the total revenue of the fund.

**Art. 111. –** The Fund's direct spending shall be borne as follows:

**a)** for the activity performed as a deposit guarantee scheme, from the financial resources stated in Article 12 paragraph (1) letter c);

**b)** for the activity as the administrator of the bank resolution fund, from revenue resulting from investments of the available financial resources of the bank resolution fund, in compliance with legal provisions on the recovery and resolution of credit institutions and investment firms;

**c)** for the activities under Article 92 paragraph (3), from revenue resulting from the respective activities.

**Art. 112. –** Profit, less the percentage that goes to the creation of the annual profit-sharing fund, according to the provisions of the present Title, shall be used to replenish the resources of each of the activities pursuant to Article 92 paragraphs (1) and (2) and to Article 92 paragraph (3). The share of profit going to each of the three categories of activity shall be set based on the weight of each category of activities in the generation of profit.

## **CHAPTER IV**

### Deposit Guarantee

### **SECTION 1**

#### Financial Resources

**Art. 113.** – The Fund, in its capacity as deposit guarantee scheme, shall operate in compliance with the provisions of the present law and, where appropriate, of legislation on the recovery and resolution of credit institutions and investment firms.

**Art. 114.** – The financial resources of the Fund, in its capacity as deposit guarantee scheme, shall consist of the following:

- a)** accumulated financial resources and financial resources pursuant to Article 12;
- b)** loans from credit institutions, financial companies, other deposit guarantee schemes and other institutions;
- c)** loans from the Government, according to provisions in Article 119 paragraphs (2) and (3);
- d)** other resources – donations, sponsorships, financial assistance.

**Art. 115.** – **(1)** In order to apply the provisions laid down in Article 13, the Fund, with the approval of the National Bank of Romania, shall set the following on a yearly basis:

- a)** the target level of financial resources for the respective year, calculated as ratio between the amount of financial resources the Fund needs and the total amount of covered deposits;
- b)** the percentage share to determine the annual contributions of participating credit institutions pursuant to Articles 14 and 15.

**(2)** Risk-based annual contributions of Fund-member credit institutions shall be calculated according to the regulation the Fund shall issue for the application of the present Title, in compliance with provisions set out in Article 98 paragraph (2) letter w).

**Art. 116.** – The Fund, in its capacity as deposit guarantee scheme, shall finance resolution measures in compliance with Title I and with legislation on the recovery and resolution of credit institutions and investment firms.

**Art. 117.** – **(1)** The Fund shall inform each member credit institution, at the latest by the end of February of the assessment year, of the degree of affiliated risk, determined in line with Article 15 provisions, as well as of the value of the due annual contribution.

**(2)** The annual contribution of each credit institution shall be determined based on the information it supplies to the Fund in the template whose format and reporting deadline shall be set under the Fund's regulation for the application of the present Title.

**(3)** Each member credit institution shall be under the obligation to pay its annual contribution, according to the Fund's notice, by April 30 of the assessment year at the latest. If the annual contribution is not paid within the requested time frame, the National Bank of Romania, upon the Fund's request, shall debit the due amount to the respective credit institution's current account.

**Art. 118.** – **(1)** Upon the Fund's request, the Board of Directors of the National Bank of Romania may give its approval for member credit institutions to pay extraordinary contributions when the Fund's resources need to be replenished or, as the case might be, supplemented in order to create prerequisites allowing the Fund to fulfil its duties as a deposit guarantee scheme, according to the law. Without prejudice to the provisions of Article 21, if a member credit institution fails to pay its extraordinary contribution within the deadline set by the Fund, the National Bank of

Romania, upon the Fund's request, shall debit the due amount to the respective credit institution's current account.

**(2)** Member credit institutions' extraordinary contributions shall be calculated according to the regulation the Fund shall issue for the application of the present Title and in compliance with the provisions of Articles 15 and 20, as well as of Article 98 paragraph (2) letter w).

**Art. 119. – (1)** The Fund may request the Government to guarantee its loans and the Government shall make a decision in this respect within five days from receiving the request.

**(2)** In exceptional circumstances, when the available financial resources of the Fund, as a deposit guarantee scheme, are insufficient to cover compensation payouts or to finance, according to the obligations of a deposit guarantee scheme, the resolution measures applied to participating credit institutions in line with legislation on the recovery and resolution of credit institutions and investment firms, as well as in conditions in which the resources of the Fund-administered bank resolution fund are insufficient to finance resolution measures intended for credit institutions according to legislation on the recovery and resolution of credit institutions and investment firms, the Government, through the Ministry of Public Finance, shall offer the Fund the necessary amounts, as a loan, within maximum five working of receiving the Fund's request. The source of the funds is the privatisation proceeds in lei and in foreign currency recorded in the State Treasury's account. Upon the Fund's request, the Government shall lend it the respective amount based on a loan agreement between the parties, which incorporates the amount and the general terms of granting/repaying the loan given to the Fund.

**(3)** If selloff proceeds are insufficient, the Ministry of Public Finance may launch government securities issues by way of derogation from the provisions of Government Emergency Ordinance no. 64/2007 on public debt, approved with amendments and completions by Law no. 109/2008, with subsequent amendments. The financial terms of the sub-loan the Ministry of Public Finance grants to the Fund shall be set under a loan agreement concluded between the two parties. The necessary amounts shall be made available to the Fund within five working days at the most from the request.

## **SECTION 2**

### **Compensation Payouts**

**Art. 120. – (1)** The Fund shall be under the obligation to take all the necessary measures to pay guaranteed depositors the amounts representing their due compensation pursuant to Article 65 provisions through the agency of the credit institutions mandated according to paragraph (2),

**(2)** In order to fulfil the obligation laid down in paragraph (1), within two working days at the most from the date deposits become unavailable, the Fund shall decide on mandated credit institutions from among those selected according to Article 122, shall set the date for the beginning of repayments, the period during which these repayments are made through the agency of the mandated institutions, as well as the compensation payment methods and shall see to it that the information needed to access compensation are published as per Article 66. Within the same period, the Fund shall also supply the repayment-related information to the mandated credit institutions.

**(3)** The information the Fund shall publish according to paragraph (2), shall include at least the following:

**a)** the credit institutions mandated to make compensation payments, including their units nationwide;

**b)** the date when payouts start and the period over which repayments are made through the units of the mandated credit institutions;

**c)** procedures for depositors who failed to claim their due compensation to be repaid within the time frame specified in letter b);

**d)** methods of payment, the documents and procedures needed to receive compensation.

**(4)** The credit institutions where deposits are unavailable and the credit institutions mandated to make compensation payments shall be under the obligation to display the information referred to in paragraph (3) at the headquarters of all their units nationwide one working day after receiving it. The display of information shall comply with the requirements set out in Articles 73 and 74.

**Art. 121.** – Based on the information supplied by a member credit institution or, where appropriate, the liquidator appointed by a court of law, in line with provisions in Article 59 paragraph (2) and (3), the Fund shall verify the list of compensation claims sent by the respective credit institution or court-appointed liquidator and shall draw up a final list which it shall send to the credit institutions mandated to repay guaranteed depositors, at least 24 hours before the repayment period starts.

**Art. 122. – (1)** The Fund shall select one or several credit institutions to be given mandates for compensation payments according to criteria set under its regulations.

**(2)** By end-February of each year, the Fund's Supervisory Board, with the approval of the Board of Directors of the National Bank of Romania, shall draw up a list of credit institutions selected to be mandated pursuant to Article 120 paragraph (2) for the following 12 months.

### **SECTION 3**

#### The Fund's Cooperation with Other Deposit Guarantee Schemes

**Art. 123. – (1)** The Fund shall make compensation payments to depositors at branches set up in Romania by credit institutions headquartered in other member state, on behalf of the deposit guarantee scheme in the home member country, according to the instructions of the deposit guarantee scheme in the home member state, after it has received the necessary funding. The Fund shall request the deposit guarantee scheme in the home member country to compensate it for the repayment-related costs incurred.

**(2)** The Fund shall in no way be liable for actions taken according to the instructions given by the deposit guarantee scheme in the home member country.

**(3)** By way of derogation from the provisions of Article 61 paragraph (4), the Fund shall make the repayments in line with its obligation laid down in paragraph (1) in the currency in which the deposit guarantee scheme in the home member state has granted the funding.

**Art. 124.** – In order to apply Article 123 provisions, the Fund shall inform depositors concerned on behalf of the deposit guarantee scheme in the home member country and shall be entitled to receive correspondence from those depositors on behalf of the deposit guarantee scheme in the home member state.

### **CHAPTER V**

#### Transitory and Final Provisions

**Art. 125.** – Deposits and other instruments held by a credit union which have predetermined maturity, which were opened or issued before July 2, 2014 and which

mature after the present law will have come into force shall be guaranteed by the Fund to maturity, pursuant to Title I.

**Art. 126.** – Within one month from the date the present law comes into force, Fund-member credit institutions shall provide their depositors with information on deposits or categories of deposits or other instruments, which the Fund no longer covers or it covers only for a limited period.

**Art. 127.** – The Board in office on the date the present law comes into force shall perform the duties of the Supervisory Board until the members of the latter are appointed. Supervisory Board members shall be designated by the authorities they represent within six months of the date the present law comes into force.

**Art. 128.** – (1) The executive management members in office on the date the present law comes into force shall fulfil the duties set out Article 101 paragraph (2) until the requirement under Article 101 paragraph (3) is met. The Fund shall have 12 months after the present law comes into force to implement all the procedures for terminating the labour contracts signed with the members of the executive management, as well as for concluding the mandate contracts with the members of the Executive Board according to the present title. By way of derogation from the provisions of Article 56 paragraph (1) of Law no. 53/2003 – The Labour Code, republished, with subsequent amendments and completions, the labour contracts of the members of the executive management shall terminate ipso jure at the end of a 12-month term. The mandate contracts of the Executive Board shall comply with the requirements laid down in Articles 100 and 101.

(2) Within six months after the present law has come into force, the Fund shall make sure that the persons exercising the powers specified in Article 98 paragraph (2) letter p) and r) fulfil the requirements laid down in Articles 152-158 of Government Emergency Ordinance no. 99/2006, approved with amendments and completions by Law no. 227/2007, with subsequent amendments and completions and the requirements pursuant to the present title and that the persons referred to in Article 98 paragraph (2) letter p) comply with the stipulations of Article 37 paragraphs (2) and (3). Contracts signed before the present law comes into force with persons failing to meet those requirements shall terminate ipso jure once the new contracts are concluded.

**Art. 129.** – The Fund and the National Bank of Romania, as the case may be, shall be empowered to issue the regulations needed to apply the provisions of Fund operation legislation. The regulations of the National Bank of Romania and of the Fund, which are enforceable against third parties, shall be published in Romania's Official Gazette, Part I.

**Art. 130.** – Once it comes into force, the present law shall repeal the following provisions of Government Ordinance no. 39/1996 on the setting up and operation of the Bank Deposit Guarantee Fund, republished in Romania's Official Gazette, Part I, no. 587 of August 19, 2010, with subsequent amendments and completions: Article 1 paragraphs (2) and (3), Articles 2-69 and the Annex.

**Art. 131.** – Annexes no. 1 and 2 shall form an integral part of the present law.

\*

Title I transposes the provisions under Directive 2014/49/EU of the European Parliament and of the Council of 16 April 2014 on deposit guarantee schemes (recast), published in the Official Journal of the European Union, series L, no. 173 of June 12, 2014, with the exception of provisions of Article 19 and, partially, of Article 14 (2) paragraph 1.

Title II transposes the provisions of Article 2 (2), Article 4 (1) paragraph 1, Article 4 (12), Article 10 (9), Article 14 (2) paragraph 1 and Article 19 of Directive 2014/49/EU of the European Parliament and of the Council of 16 April 2014 on deposit guarantee schemes (recast), published in the Official Journal of the European Union, series L, no. 173 of June 12, 2014

This law was adopted by Romania's Parliament in compliance with the provisions laid down in Article 75 and Article 76 paragraph (1) of Romania's Constitution, republished.

PRESIDENT OF THE  
CHAMBER OF DEPUTIES  
VALERIU-ȘTEFAN ZGONEA

PRESIDENT OF THE SENATE  
CĂLIN-CONSTANTIN-ANTON  
POPESCU-TĂRICEANU

Bucharest, December 4, 2015.  
No. 311.

### **ANNEX No. 1**

#### List of Deposits Excluded from Coverage

1. Deposits made by a credit institution on its own behalf and for its own account, in compliance with provisions under Article 64 paragraph (2)
2. Instruments falling within the definition of own funds, as they are defined in Article 4 paragraph (1) point 118 of Regulation (EU) no. 575/2013
3. Deposits arising out of transactions in connection with which there has been a criminal conviction for money laundering according to legislation on preventing and fighting money laundering. Deposit guarantee schemes shall classify deposits as belonging to this category based on information received from competent authorities, from the credit institutions where deposits became unavailable or from court-appointed liquidators, as the case may be.
4. Deposits by financial institutions as defined in Article 4 paragraph (1) point. 26 of Regulation (EU) no. 575/2013
5. Deposits by investment firms as defined in Article 4 paragraph (1) point 2 of Regulation (EU) no. 575/2013
6. Deposits where the identity of the holder has not been verified up to the moment they become unavailable, in line with legislation on preventing and fighting money laundering.
7. Deposits by insurance and by reinsurance undertakings, as they are defined in Article 2 letter a point 5 and 39 in Law no. 32/2000 on insurance undertakings and insurance supervision, with subsequent amendments and completions
8. Deposits by collective investment undertakings, as they are defined in capital market legislation
9. Deposits by pension funds
10. Deposits by central, local and regional public authorities
11. Debt securities issued by a credit institution, as well as liabilities arising out of own acceptances and promissory notes.

## Depositor Information Template

Basic information about deposit protection	
Deposits at (insert name of credit institution) are protected by:	[insert name of relevant DGS] <sup>1</sup>
Guarantee ceiling:	The leu equivalent of 100,000 EUR per depositor per credit institution <sup>2</sup> [where applicable:] The following trademarks are part of your credit institution [insert all trademarks which operate under the same licence]. The minimum compensation level in case of deposits that have not been used in any transaction over the past 24 months is of [insert corresponding minimum level]
If you have several deposits at the same credit institution:	All deposits at the same credit institution are "aggregated" and the total is subject to the guarantee ceiling set at the leu equivalent of 100,000 EUR <sup>2</sup>
If you have a joint account with another person (other persons):	The guarantee ceiling set at the leu equivalent of 100,000 EUR applies to each depositor separately <sup>3</sup>
Due compensation payment period if deposits at the credit institution become unavailable:	7 working days <sup>4</sup> [replace by another deadline if applicable]
Currency of compensation payment:	RON
Contact:	[insert contact data for the relevant DGS (address, telephone, e-mail etc.)]
More information:	[insert the website of the relevant DGS]
Acknowledgement of receipt by depositor:	
Additional information (all or some of the below)	

<sup>1</sup> Scheme responsible for the protection of your deposit

[only where applicable:] Your deposit is covered by a contractual scheme officially recognised as a deposit guarantee scheme. In case deposits at your credit institution become unavailable, your deposits shall be covered up to the guarantee ceiling, which was set at the leu equivalent of EUR 100,000.

[only where applicable:] Your credit institution is affiliated to an institutional protection system officially recognised as a deposit guarantee scheme. This means that all institutions in the membership of this scheme mutually support one another to avoid circumstances that may render deposits unavailable. If unavailability should occur, deposits would be covered within the guarantee ceiling set at the leu equivalent of EUR 100,000.

[only where applicable:] Your deposit is covered by a statutory deposit guarantee scheme and a contractual deposit guarantee scheme. In case of unavailability of deposits at your credit institution, your deposits shall be covered, in any case, within the guarantee ceiling set at the leu equivalent of EUR 100,000.

[only where applicable:] Your deposit is covered by a statutory deposit guarantee scheme. In addition, your credit institution is affiliated to an institutional protection

system whose members mutually support one another to prevent deposits from becoming unavailable. If unavailability of deposits should occur, deposits would be covered within the guarantee ceiling set at the leu equivalent of EUR 100,000.

#### <sup>2</sup> General guarantee ceiling

If a deposit is unavailable because a credit institution is unable to meet its payment obligations, in line with applicable contractual and legal terms, the deposit guarantee scheme shall make compensation payments to depositors. The maximum compensation level is the leu equivalent of EUR 100,000 per credit institution. This means that all deposits at the same credit institution are added up in order to determine the coverage level. If, for instance, a depositor has EUR 90,000 in a savings account and EUR 20,000 in a current account, he/she shall only be repaid EUR 100,000 in its leu equivalent.

[only where applicable:] This method shall apply also if a credit institution operates under several trademarks; [insert the name of the account-holding credit institution] operates also under the following trademarks [insert all the other trademarks of the same credit institution]. This means that all deposits at one or several entities under these trademarks are guaranteed up to the maximum level of EUR 100,000 in its leu equivalent.

#### <sup>3</sup> Guarantee ceiling applicable to joint accounts

In case of joint accounts, the guarantee ceiling set at the leu equivalent of EUR 100,000 applies to each depositor.

[only where applicable:] However, deposits in an account to which two or several persons are entitled as members of a business partnership, an association or a similar group, without legal personality, are aggregated and considered as if made by a single depositor for the purpose of calculating the EUR 100,000 ceiling.

In certain cases [insert cases defined in national legislation] deposits are covered above the leu equivalent of EUR 100,000. You can find more information at [insert the website address of the relevant DGS].

#### <sup>4</sup> Compensation payments

The responsible deposit guarantee scheme is [insert name and address, telephone number, e-mail address and website address]. It will make available the due compensations (up to EUR 100,000 in the leu equivalent) within seven working days of the unavailability date of deposits.

If you did not receive your compensation within this time frame, we recommend that you should contact the deposit guarantee scheme as limits may be imposed on the period during which you can submit compensation claims. Additional information is available at [insert website address of the responsible DGS].

Other important information

---