

THE BANK DEPOSIT GUARANTEE FUND

## Order No 1/2011

### approving the Statute of the Bank Deposit Guarantee Fund

*Published in Monitorul Oficial, Part I No 499 of 13/07/2011*

This act entered into force on 13 July 2011

*Having regard to the provisions of Article 1(2) of Government Ordinance **No 39/1996** regarding the setting up and the operation of the Deposit Guarantee Fund in the banking system, republished, as subsequently amended and supplemented,*

*under Article 48 of Government Ordinance No 39/1996, republished, as subsequently amended and supplemented,*

The Chairman of the Administrative Board of the Bank Deposit Guarantee Fund hereby issues this order:

**Article 1.** - The Statute of the Bank Deposit Guarantee Fund, as laid down in the annex which is part of this order, shall be approved under the law.

**Article 2.** - On the date of the entry into force of this order, the Chairman of the Administrative Board of the Bank Deposit Guarantee Fund **No 1/2004** on the Statute of the Bank Deposit Guarantee Fund, published in Monitorul Oficial al României, Part I, No 844 of 15 September 2004, as subsequently amended and supplemented, shall be repealed.

**Article 3.** - This order shall enter into force on the day of its publication in Monitorul Oficial al României, Part I.

The Chairman of the Administrative Board of the Bank Deposit Guarantee Fund, **Lia Rodica Tase**

Bucharest, 30 June 2011.

No 1.

## **The Statute of the Bank Deposit Guarantee Fund**

### **CHAPTER I General provisions**

**Article 1.** - The Bank Deposit Guarantee Fund, hereinafter referred to as the Fund, shall be established and shall operate under the provisions of Government Ordinance No 39/1996 regarding the setting up and the operation of the Deposit Guarantee Fund in the banking system, republished, as subsequently amended and supplemented, hereinafter referred to as the Ordinance, under the rules laid down for the implementation of the Ordinance, as well as under the provisions of this Statute.

**Article 2.** - The activity of the Fund shall be harmonised with the provisions of Directive 94/19/EC of the European Parliament and of the Council of 30 May 1994 on deposit-guarantee schemes, published in the Official Journal of the European Union L 135 of 31 May 1994, and of Directive 2009/14/EC of the European Parliament and of the Council of 11 March 2009 amending Directive 94/19/EC on deposit-guarantee schemes as regards the coverage level and the payout delay, published in the Official Journal of the European Union L 68 of 13 March 2009. The Fund shall also be concerned with ensuring compliance with the fundamental principles of good governance and international best practice developed by the International Association of Deposit Insurers together with the Basel Committee on Banking Supervision, that are implemented in the organisation and operation of the Fund, being adapted to national legislation.

### **CHAPTER II Legal status**

**Article 3.** - The Fund shall be a legal entity governed by public law and its office shall be located in Bucharest.

**Article 4.** - The Fund shall be the guarantee scheme for deposits lodged with credit institutions, officially recognised in Romania.

### **CHAPTER III Purpose and tasks**

**Article 5.** - The purpose of the Fund shall be to guarantee deposits and payouts to covered depositors, contributing, through its activity, to the stability and credibility of the banking system.

**Article 6.** - Under the conditions and within the limits laid down in the Ordinance, the Fund can also exercise other tasks in order to ensure financial stability, as follows:

a) it shall finance transactions involving the transfer of covered deposits, under the conditions set out in the Ordinance;

b) it shall carry out an activity of special administrator, interim administrator or liquidator of credit institutions, under the conditions of Government Emergency Ordinance No 99/2006 on credit institutions and capital adequacy, approved with amendments and supplements by Law No 227/2007, as subsequently amended and supplemented, and under the conditions of Government Ordinance No 10/2004 on the bankruptcy of credit institutions, approved with amendments and supplements by Law No 278/2004, as subsequently amended and supplemented;

c) it shall administer the Special Compensation Fund set up to reimburse persons affected by the measures ordered and implemented during the special administration;

d) it shall administer other funds created for purposes related to ensuring financial stability.

**Article 7.** - The Fund shall be responsible for:

- a) the payment of compensations for covered deposits, declared unavailable, of the other amounts owed, under the conditions and within the limits laid down in the Ordinance, including those for financing the transfer of covered deposits within the framework of measures designed to restructure credit institutions;
- b) ensuring the necessary financial resources, according to the legal provisions;
- c) managing the financial resources by taking into account the principle of minimizing the risk and of liquidity and efficiency of the investments;
- d) ensuring a distinct accounting of the operations related to the establishment, investment and use of the amounts accumulated in the deposit-guarantee fund, respectively of the amounts in the Special Compensation Fund or in other funds provided for by law;
- e) the activities carried out in case of its assignment as special administrator, interim administrator or liquidator of credit institutions;
- f) the drawing up and execution of its own revenue-expense budget;
- g) preserving professional secrecy and protecting personal data in the activity carried out in accordance with the applicable legal provisions;
- h) the recovery of its debts, including by subrogation in the rights of the covered depositors, within the limits and under the conditions of the law;
- i) permanently informing the public about the deposit liabilities-guarantee scheme, including on all the adjustments of coverage levels and guarantee conditions, when necessary;
- j) controlling credit institutions regarding the reality of the data appearing in the statements concerning the calculation and payment of the subscription owed, of the contributions due and of the compensations owed to covered depositors, as well as regarding the compliance with the legal provisions on the information which shall be provided to depositors by credit institutions;
- k) issuing its own regulations for implementing legal provisions in force regarding its activity. The Fund's regulations, effective as against the third parties, shall be endorsed, approved, signed and published according to the legal provisions. Regulations related to its internal activity shall be approved by the Fund's Administrative Board, shall be signed by its Director and shall not be published;
- l) the collection of information necessary for the proper conduct of its activity.

#### **CHAPTER IV**

##### **Administration and management**

**Article 8. - (1)** The administration of the Fund shall be ensured by the Administrative Board.  
**(2)** The Director and Deputy Directors ensure the executive management of the Fund.

**Article 9. - (1)** The appointment of the executive management is made by the Fund's Administrative Board, according to the organisational and personnel structure approved by the National Bank of Romania's Board.  
**(2)** The Administrative Board can make the above mentioned appointments for a limited period, according to the regulations in force. Upon the expiry of this period, the persons who were members of the executive management shall resume their previously held offices or shall take over an office in accordance with their qualification.

**Article 10. - (1)** The composition of the Fund's Administrative Board, the conditions that must be met by the persons appointed as members of the Administrative Board, the appointment, the cease and the revocation of membership are laid down in the Ordinance and in the regulations issued for its implementation.  
**(2)** The tasks and the amount of the allowance of the members of the Fund's Administrative Board shall be established according to the Ordinance.

**Article 11. -** The Fund's Director shall manage at an operational level, its current activity, ensure the application of the decisions issued by the Fund's Administrative Board and by the National Bank of Romania's Board, inform about how they shall be applied and shall have tasks provided for by the Ordinance.

#### **CHAPTER V**

##### **Internal organisation**

**Article 12. -** The Fund's Director shall propose the organisational structure, the necessary personnel and the wage policy, which shall be submitted for approval according to the Ordinance.

**Article 13.** - The tasks of specialised departments are laid down in the Fund's Organisation and Functioning Regulation.

**Article 14.** - The activity of the Fund's employees shall be carried out under individual employment contracts to which the job description shall be annexed, which shall contain a detailed description of their tasks.

## **CHAPTER VI** **Own permanent bodies**

**Article 15.** - (1) The Fund's Resource Management Committee shall be a permanent body carrying out its activity according to its own regulations and shall have the objective of ensuring financial resources management in accordance with the requirements of minimizing the risk, liquidity of the investments and efficiency.

(2) The members of the Fund's Resource Management Committee shall be appointed by order of the Fund's Director.

**Article 16.** - The Director can submit for approval to the Fund's Administrative Board the setting up of other own permanent bodies, as well as regulations for their functioning, depending on the needs of carrying out new activities within the Fund.

## **CHAPTER VII** **Good governance principles within the activity of the Fund**

**Article 17.** - (1) The Fund shall be an independent institution whose activity shall not be subject to influences from the political or banking field.

(2) The members of the Fund's Administrative Board should not be an employee or director, member of the Administrative Board, the Supervisory Board or Board of Directors of a credit institution.

**Article 18.** - The Fund shall have autonomy and financial independence:

a) the financing necessary to perform the Fund's tasks shall be ensured according to the provisions of the Ordinance;

b) the Fund shall cover its current expenses related to the activities carried out under the conditions and within the limits laid down in the Ordinance;

c) the Fund shall use its profits for financing its tangible and intangible investments, according to the provisions of the Ordinance.

**Article 19.** - The current activity of the Fund shall be managed based on internal regulations, according to the Ordinance.

**Article 20.** - The transparency of the Fund's activity shall be ensured by:

a) the Fund's accounts shall be subject to external financial audit, being submitted, together with the audit reports, to the Fund's Administrative Board, to the National Bank of Romania's Board and to the Ministry of Public Finance;

b) the Fund shall publish the annual activity report, which includes the annual accounts and the opinion of the external auditor;

c) the Fund shall inform the public about its activity, using specific communication channels.

**Article 21.** - The activity of the specialised departments of the Fund shall be subject to internal control and internal audit.

**Article 22.** - When performing its activity, the Fund shall apply the principle of dual control of transactions performed.

## **CHAPTER VIII**

### **The legal protection of the institution, of its personnel and of its administrative and management bodies**

**Article 23.** - The Fund and its employees shall not be liable for the potential damages caused by the accomplishment or the failure to accomplish any act or fact related to the fulfilment, according to the law, of the tasks conferred on the Fund as special administrator, according to Article 240<sup>6</sup> paragraph (2) of Government Emergency Ordinance **No 99/2006**, approved with amendments and supplements by Law **No 227/2007**, as subsequently amended and supplemented, unless it is proved that they have acted in bad faith or with gross negligence.

**Article 24.** - According to the legislation, the Fund shall conclude civil liability insurance for the members of the Administrative Board and of the executive management, as well as for the delegated personnel of the Fund as liquidator, interim administrator or special administrator.

### **Chapter IX International relations**

**Article 25.** - The Fund shall establish relations of co-operation with deposit-guarantee schemes in other states, international professional associations, as well as multinational or regional bodies in the banking sector.

**Article 26.** - The Fund can conclude bilateral and/or multilateral agreements and arrangements.

### **CHAPTER X Final provisions**

**Article 27.** - The dissolution and the closure of the Fund or the amendment of the Fund's objects can only be made by law.