

## **Regulation on Deposit Guarantees and an Investor Compensation Scheme**

Translation from Icelandic

### **CHAPTER I**

#### *General provisions*

##### **Article 1**

Guarantees in accordance with the Act on Deposit Guarantees and an Investor Compensation Scheme are entrusted to a special institution called the Depositors' and Investors' Guarantee Fund, hereinafter referred to as the Fund. The Fund is a nonprofit organisation that operates in two independent divisions with separate finances and accounting: the Deposit Division and the Securities Division.

### **CHAPTER II**

#### *Payments from the Fund*

##### **Article 2**

Should a member undertaking be unable, in the opinion of the Financial Supervisory Authority, to remit payment, immediately or in the near future, of the value of deposits, securities, or cash that a customer has demanded from the member undertaking in accordance with the applicable terms and conditions, the Fund shall be obliged to pay the customer of the member undertaking the value of the deposit from the Deposit Division, and the value of securities and cash related to securities transactions from the Securities Division, in accordance with further provisions laid down in this Regulation. The opinion of the Financial Supervisory Authority shall have been made available no later than three weeks after the Authority first obtains confirmation that the relevant member undertaking has not rendered payment to its customer or accounted for his securities in accordance with its obligations.

The obligation of the Fund to render payment also takes effect if the estate of a member undertaking is sent into receivership in accordance with the Act on Commercial Banks and Savings Banks and the Act on Securities Trading.

##### **Article 3**

“Deposit” pursuant to Article 2 refers to any credit balance resulting from financial deposits or transfers in normal banking transactions, which a commercial bank or savings bank is under obligation to refund under existing legal or contractual terms. However, this guarantee does not extend to bonds, bills of exchange, or other claims issued by a commercial bank or savings bank in the form of securities.

“Securities” pursuant to Article 2 refers to investment instruments that are either in the custody of or under the administration or supervision of a member undertaking, and that undertaking is obliged by law or contractual agreement to refund or return the said

instruments in accordance with the terms and conditions applying to the interactions between the undertaking and the customer.

“Cash” pursuant to Article 2 refers to cash deposited by an investor with a member undertaking in connection with securities trading.

Deposits, securities and cash owned by member undertakings, their parent and subsidiary companies for their own account, and deposits, securities and cash connected with convictions of money laundering are not covered by the guarantee described in Article 2.

#### **Article 4**

If payments are to be disbursed from the Fund, the Board of the Fund shall determine the payment arrangements and shall decide whether customers of member undertakings shall be required to file their claims against the Fund in writing. The Fund shall provide customers of member undertakings with information on the disbursement procedure.

The Fund is authorised to contract with a third party concerning the administration of disbursements from the Fund, allocation of capital upon disbursement, and notifications to customers of member undertakings.

The Fund shall decide, in consultation with the Financial Supervisory Authority, on the deadline for the submittal of claims by customers of member undertakings. The deadline may not be less than five months, however, in instances where customers of a member undertaking have a claim against the Fund in relation to securities trading, but no more than two months in instances where deposit owners have a claim against the Fund. However, the Fund may not reject a claim for payment from the Fund with reference to the specified deadline if the customer of the member undertaking was verifiably unable to present his claim against the Fund prior to the deadline.

The Fund is authorised to solicit information from the member undertaking concerned, or its estate, concerning the assets of the undertaking’s customers on the date that the Financial Supervisory Authority published its decision pursuant to Article 2, or the date that a ruling was rendered on sending the estate of the member undertaking into receivership.

If the estate of the member undertaking is sent into receivership, its customers shall file claims against the estate before filing claims against the Fund in accordance with Paragraph 1.

#### **Article 5**

The claim shall be calculated based on the assets of the member undertaking’s customers on the date that the Financial Supervisory Authority publishes its opinion in accordance with Article 2, or the date that a ruling is rendered on sending the estate of the member undertaking into receivership, whichever is earlier.

The Fund is authorised to deduct the relevant member undertaking's claims against a customer from the payment of the customer's deposit balance.

#### **Article 6**

In the event that the assets of either Division of the Fund are insufficient to pay the total amount of guaranteed deposits, securities and cash in the member undertakings concerned, payments from each Division shall be divided among the claimants as follows: all claims up to ISK 1.7 million shall be paid in full, and any amount in excess of that shall be paid in equal proportions, depending on the extent of each Division's assets. This amount shall be linked to the EUR exchange rate of 5 January 1999. No further claims can be made against the Fund at a later stage even if losses suffered by the claimants have not been compensated in full.

Should the total assets of the Fund prove insufficient, the Board of Directors may borrow funds in order to compensate losses suffered by claimants if it considers that there are compelling reasons to do so.

#### **Article 7**

If the Fund is obligated to remit payment to deposit owners, payment shall be made no later than three months after the date the Financial Supervisory Authority opinion was published, cf. Article 2, or the date that a ruling was rendered on sending the estate of the member undertaking into receivership.

If the Fund is obligated to remit payment to customers of a member undertaking in connection with securities transactions, payment must be made no later than three months after the lawfulness and the amount of the claim have been established.

It is possible to delay payment in accordance with Paragraphs 1 and 2 until a Court judgment has been rendered in cases involving money laundering pursuant to Article 3, Paragraph 4.

Under special circumstances, the Minister of Commerce may, upon obtaining the opinion of the Financial Supervisory Authority, grant the Fund an additional extension of up to three months beyond the deadline according to Paragraphs 1 and 2. Upon obtaining the opinion of the Financial Supervisory Authority, the Minister of Commerce is authorised to grant the Fund one or two additional extensions of a maximum of three months each.

The Fund shall notify claimants in writing of its conclusions concerning the Fund's obligation to remit payment. Notification by a third party as provided for in Article 4, Paragraph 2, shall be deemed the equivalent of notification by the Fund

#### **Article 8**

Before payment of claims will be made from the Fund, the Fund shall verify whether payment of the claim has been remitted, in whole or in part, from the member undertaking. Any such payments shall be deducted in full from the payment remitted by the Fund.

In the event that payment is remitted from the Fund, the claims made on the member undertaking or bankruptcy estate concerned will be taken over by the Fund.

#### **Article 9**

If a deposit account or a customer account for securities trading is a joint account, the share owned by each claimant shall apply to the calculation of the payment.

#### **Article 10**

Should a deposit owner or a customer of a member undertaking in connection with securities trading not have an unequivocal right to deposits, securities, or cash on account, the party that has the unequivocal right shall receive payment from the Fund, provided that the party concerned is found or can be found before the date that the Financial Supervisory Authority publishes its opinion according to Article 2 or the date that a ruling is rendered on sending the member undertaking's estate into receivership. If more than one party has an unequivocal right to deposits, securities, or cash, the proportion belonging to each of them shall be considered in calculating the payment.

#### **Article 11**

The Board of the Fund shall rule on all matters of dispute concerning the obligation to remit payment.

### **CHAPTER III**

#### *Foreign branches*

#### **Article 12**

Branches of foreign commercial banks, savings banks, companies trading in securities, and credit institutions other than commercial banks and savings banks that operate in Iceland but are established in another state within the European Economic Area may become members of the Fund with respect to deposits, securities and cash not guaranteed in a comparable manner in the European Economic Area.

The provisions of this Regulation shall apply to the branch's payments to the Fund and the Fund's payments to claimants, as applicable.

The branch shall inform its customers of the investor compensation scheme to which the branch is a party.

#### **Article 13**

Foreign branches seeking membership to the Fund in accordance with Article 12 shall submit a written application for membership to the Board of the Fund. The Board of the Fund shall evaluate the supplemental compensation schemes to which the branch is a party and the fees that it is required to pay, as well as handling the preparation of collaboration agreements that may be necessary between the Fund and foreign compensation schemes.

The Fund may require that the branch submit any sort of information relevant to its membership to the Fund. Collaboration agreements between the Fund and foreign investor compensation schemes shall contain provisions on, among other things, information disclosure, co-operation so as to guarantee that deposit owners and customers engaged in securities trading receive payment quickly and securely, and the effects of counterclaims requiring netting by either the Fund or the foreign investor compensation scheme on compensation that deposit owners or customers engaged in securities trading receive from either system.

The Fund shall require that the branch pay a fee for supplemental guarantees. In assessing the payment of fees, the Fund shall take the view that its guarantees are limited to the protection it grants in excess of that provided by the foreign investor compensation scheme, irrespective of whether that scheme actually pays for deposits, securities, and cash that are inaccessible in its territory. The assessment of fees in accordance with the Paragraph shall assume that they are comparable to the fees of member undertakings pursuant to the Act on Deposit Guarantees and an Investor Compensation Scheme, considering the protection provided.

#### **Article 14**

Payment shall be remitted from the Fund to deposit owners in branches pursuant to Article 12 or to branch customers engaged in securities trading when it has been ascertained that the deposit owners or branch customers engaged in securities trading are entitled to supplemental guarantees and the competent authorities of the EEA Member State concerned have submitted a statement to the effect that the deposits, securities, or cash are inaccessible.

#### **Article 15**

Foreign branches that are established outside the European Economic Area and operate in Iceland shall be members of the Fund, provided that they are not members of a comparable investor compensation scheme in their home country. The arrangements for guarantees of deposits and cash owned by customers engaged in securities trading shall be the same as those of member undertakings established in Iceland.

Foreign branches seeking membership to the Fund in accordance with this Article shall submit a written application for membership to the Board of the Fund. The Board of the Fund shall evaluate the compensation schemes to which the branch is a party and the fees that it is required to pay, as well as handling the preparation of collaboration agreements that may be necessary between the Fund and foreign compensation schemes. The assessment of fees in accordance with the Paragraph shall assume that they are comparable to the fees of member undertakings pursuant to the Act on Deposit Guarantees and an Investor Compensation Scheme, considering the protection provided.

Foreign branches shall inform their customers of the investor compensation schemes of which they are members.

## **CHAPTER IV**

*Miscellaneous provisions*

**Article 16**

The Fund's capital shall be invested so as to maximise the Fund's ability to carry out its task. At a minimum, one-fourth of the Fund's capital shall be invested in securities carrying a Treasury guarantee.

**Article 17**

This Regulation is set in accordance with the authority contained in Article 18 of the Act on Deposit Guarantees and an Investor Compensation Scheme, no. 98/1999. It shall enter into force immediately. At the same time, the Regulation on the Commercial Banks' Insurance Fund and the Arrangements for Payments from the Deposit Money Banks' Insurance Funds, no. 21/1997, shall be repealed.

Ministry of Commerce, 21 February 2000  
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