

CROATIAN PARLIAMENT

Pursuant to Article 88 of the Constitution of the Republic of Croatia, I hereby pass the

DECISION

PROMULGATING THE DEPOSIT INSURANCE ACT

I hereby promulgate the Deposit Insurance Act, enacted by the Croatian Parliament at its session on 3 December 2004.

No: 01-081-04-3742/2
Zagreb, 10 December 2004

President of the
Republic of Croatia
Stjepan Mesić, m.p.

DEPOSIT INSURANCE ACT

GENERAL PROVISIONS

Article 1

(1) This Act shall regulate the insurance of bank deposits with the aim of protecting individuals' deposits in the event bankruptcy proceedings are initiated in a bank.

(2) Within the meaning of this Act, deposit insurance shall be performed by the State Agency for Deposit Insurance and Bank Rehabilitation (hereinafter: the Agency).

(3) Within the meaning of this Act, the term "bank" referred to in paragraph 1 of this Article means:

1. any bank duly licensed by the Croatian National Bank, incorporated in the form of a joint stock company and domiciled in the Republic of Croatia,
2. any branch of a foreign bank duly licensed by the Croatian National Bank to the extent that deposits at such branch are not covered by the deposit insurance system in the home country up to the insured amount stipulated in this Act,
3. any building society established in accordance with the provisions of the Building Society Savings and State Incentives for Building Society Savings Act.

DEFINITION OF DEPOSIT

Article 2

Within the meaning of this Act, deposit means individuals' funds denominated in kuna or a foreign currency and deposited into a bank account under a deposit agreement, or a passbook deposit, as well as funds kept in individuals' current or giro accounts.

Article 3

(1) Pursuant to this Act, the following shall not be insured:

1. deposits of the members of a bank's management board or supervisory board or temporary administration kept with the bank in which they hold office, and the deposits of their related persons,

2. deposits of the shareholders holding in excess of 5% of voting shares in the equity capital of the respective bank, and the deposits of their related persons,

3. non-nominative deposits,

4. deposits made on terms and conditions significantly more favourable than standard conditions, or made on such financial terms and conditions as have contributed to a deterioration in the bank's financial standing, where the Agency Administrative Board shall stipulate criteria for the implementation of this provision,

5. individuals' foreign currency deposits converted into the public debt of the Republic of Croatia under the provisions of Article 1 of the Act on Converting Households' Foreign Exchange Deposits into the Public Debt of the Republic of Croatia (Official Gazette No. 106/93),

6. deposits in respect of which the competent authority has ascertained in a final decision that they arise from, or are associated with, transactions and actions that constitute money laundering as defined by the laws governing money laundering,

7. deposits held with savings and loan co-operatives.

(2) The related persons referred to in paragraph 1 of this Article mean immediate family members, and in particular: a spouse or a person with whom [the depositor] has lived for a prolonged period of time in a common household which, according to the law regulating marriage and family relations, has the same legal status as marriage, children or adopted children and other persons under guardianship of the person referred to in items 1 and 2 of paragraph 1 of this Article.

DEPOSIT INSURANCE LIMIT

Article 4

The Agency shall insure 100% of individuals' deposits at any bank up to and including HRK 100,000 (one hundred thousand kuna).

CALCULATION OF THE INSURED DEPOSIT

Article 5

(1) The amount of the individual's insured deposit with a bank shall be calculated as the sum of the individual's deposits as defined in Article 2 above, irrespective of whether they are kept in one or several savings accounts, in a current or giro account, in kuna or a foreign currency, up to the deposit insurance limit referred in Article 4 of this Act, which amount shall include also the interest accrued up to the date of initiation of bankruptcy proceedings in the bank.

(2) In the event bankruptcy proceedings are initiated in the bank, interest on insured kuna or foreign currency deposits shall be accrued at the rate payable by the respective bank on demand deposits, the accrual period lasting from the deposit date or the latest interest capitalisation date until the time of initiation of bankruptcy proceedings.

(3) Foreign currency deposits shall be paid in kuna as per the mean exchange rate of the Croatian National Bank for the respective currency ruling on the date of initiation of bankruptcy proceedings in the bank.

PAYMENT OF INSURED DEPOSITS

Article 6

(1) The Agency shall pay out the insured deposits in the event bankruptcy proceedings are initiated in a bank.

(2) The Agency shall pay the insured deposits directly to depositors of the bank in which bankruptcy proceedings have been instigated either at the Agency counters or via commercial banks authorised to pay the insured deposits on behalf of the Agency, or into the account of the bank assuming savings deposits of the bank in which bankruptcy proceedings have been initiated.

(3) The Agency shall pay the insured deposits no later than 90 days from the initiation date of bankruptcy proceedings in the bank, or by way of exception within an additional 90 days under a special decision of the Agency.

(4) The Agency shall be entitled to reimbursement of the insured deposits paid as part of the bankruptcy proceedings in a particular bank.

Article 7

(1) The Agency shall not recognise the split of deposits, i.e. the transfer of funds from a deposit account to several other persons made at the time when the bank is not able to execute payment orders on grounds of insufficient funds in the bank account, nor shall it recognise any other changes in deposit accounts which may be made with the aim of abusing the right to the payment of insured deposits.

(2) Deposits arising from the split of deposits, i.e. the transfer of funds from a deposit account to several other persons, shall not be included in the calculation basis of the deposit insurance premium.

(3) The Bank shall notify the Agency of the actions referred to in paragraph 1 of this Article immediately upon their occurrence and no later than the end of the quarter for which the deposit insurance premium is calculated.

(4) In the event of initiation of bankruptcy proceedings in a bank, and for the purpose of payment of insured deposits, the Agency shall calculate the amount of

deposits to be paid by taking into account only such balances as were available in deposit accounts prior to the transactions referred to in paragraph 1 of this Article.

DEPOSITS AT BRANCHES OF FOREIGN BANKS

Article 8

(1) Branches of foreign banks shall be included in the deposit insurance system in the Republic of Croatia under this Act up to the same amount and under the same conditions as those stipulated for banks proper, providing that there is no deposit insurance system in place in the foreign bank's country of domicile or the deposit insurance scope is smaller than in the Republic of Croatia.

(2) The amount and scope of insured deposits at a branch of a foreign bank in Croatia may not exceed the amount and scope stipulated by Croatian law and other relevant regulations concerning deposit insurance.

(3) Immediately upon obtaining an operation licence from the Croatian National Bank, the branch of the foreign bank in Croatia shall notify the appropriate Croatian authority for deposit insurance of its own deposit insurance system.

DEPOSIT INSURANCE PREMIUM

Article 9

(1) The deposit insurance premium shall be calculated and paid quarterly based on information of the average deposit balance, as disclosed in the report on the individuals' total and insured deposits (the average balance on the last day of each month in a given quarter) for the preceding quarter, and shall amount to 0.125% of insured deposits.

(2) Banks shall provide the Agency with such reports referred to in paragraph 1 of this Article within 10 days of the last day of the quarter.

(3) Banks shall pay the premium referred to in paragraph 1 of this Article no later than 15 days of receipt of the Agency's invoice.

Article 10

(1) When the funds/resources of the Deposit Insurance Fund maintained by the Agency exceed the amount equalling 2.5% of total insured deposits held with all banks on 31 December of the preceding year, the annual premium for the current year may be determined in an amount lower than that referred to in Article 9, paragraph 1 of this Act, and the decision to such effect shall be made by the Board of the Agency with the prior consent of the Croatian National Bank.

(2) Where necessary, as determined by the Board of the Agency with the prior consent of the Croatian National Bank, deposit insurance premiums for a particular period and for selected banks, or all banks, may be determined in an amount higher than the one referred to in Article 9, paragraph 1 of this Act, and the decision to such effect shall be made by the Board of the Agency with the prior consent of the Croatian National Bank.

(3) The deposit insurance premium referred in paragraph 2 of this Article shall be paid upon special request and within 15 days of the date of invoicing.

RELATIONSHIP BETWEEN PREMIUM AMOUNT AND LEVEL OF RISK

Article 11

(1) The Agency may charge banks different types and amounts of the deposit insurance premium depending on the level of risk associated with business operations of a particular bank (differential premiums), which shall be decided upon by the Administrative Board of the Agency with the prior consent of the Croatian National Bank.

(2) The Administrative Board of the Agency shall determine the methodology to be applied in the calculation of premiums referred to in paragraph 1 of this Article, subject to the prior consent of the Croatian National Bank.

ESTABLISHMENT OF BANKS AND BUILDING SOCIETIES, AND DEPOSIT INSURANCE

Article 12

(1) Prior to commencing business operations, banks shall pay into the Deposit Insurance Fund an amount equalling 0.3% of their equity for the purpose of deposit insurance.

(2) When filing an application for entry of their establishment in the court register, banks shall attach to their application the proof of payment referred to in paragraph 1 of this Article.

KEEPING OF BUSINESS RECORDS AND REPORTING TO THE AGENCY

Article 13

(1) Banks shall organise their business operations, keep business records and other documents and files concerning the deposits insured under this Act in a manner which enables control of the bank's compliance with this Act.

(2) Banks whose deposits are insured under this Act shall provide the Agency with reports on the activities referred to in paragraph 1 of this Article.

(3) The contents of the reports referred to in paragraph 2 of this Article and reporting deadlines shall be determined by the Head of the Agency with the prior consent of the Croatian National Bank.

(4) The Agency shall be authorised to inspect that section of each bank's business records pertaining to the activities referred to in paragraph 1 of this Article.

USE AND PROTECTION OF CONFIDENTIAL INFORMATION

Article 14

(1) The Agency shall treat as confidential all the information concerning the balance of individual deposits included in the deposit insurance system under this Act, as well as all other information, facts and circumstances that have come to its knowledge in the course of performing the powers and duties referred to in Article 15 below.

(2) The Agency may use the confidential information it has learned while performing its powers and duties under this Act solely for the purpose for which such information has been provided and may not disclose it to third persons or enable third persons to learn or use such confidential information except in instances provided for by law.

(3) The provisions of paragraph 2 of this Article shall apply also to the individuals working at the Agency as employees or in some other capacity.

BANK INSPECTION Article 15

(1) The Agency shall inspect bank operations in the segment relating to deposits insured under this Act.

(2) Bank inspection is performed by a specialist within the Agency by virtue of the authority granted by the Head of Agency.

(3) At the request of an authorised person within the Agency, the bank shall enable the Agency to perform inspection of the bank's operations at the bank's offices. To this end, the bank shall enable the inspection and control of its business records, documents and files in the scope necessary to perform the inspection. At the request of the authorised person, the bank shall provide computer printouts, copies of business records, documents or files in hard copy and/or electronic copy.

(4) The bank shall make available to the authorised person of the Agency appropriate office space and equipment and provide other conditions necessary for smooth performance of the on-site inspection, including staff who are to ensure access to and inspection of documentation and co-operation with the authorised personnel of the Agency.

(5) The Head of the Agency shall stipulate detailed conditions and methodology of the inspection referred to in paragraph 1 of this Article.

INSPECTION FINDINGS

Article 16

(1) Following completion of the bank inspection, the authorised personnel of the Agency shall prepare the inspection findings.

(2) A copy of the inspection findings carried out by the Agency shall be delivered to the bank's management board, supervisory board, internal audit and the Croatian National Bank.

(3) Based on the findings of the authorised personnel, the Head of the Agency shall issue a decree ordering the inspected bank to eliminate the illegalities and irregularities found in connection with deposit insurance and defining measures the bank is required to take in follow-up to the findings.

(4) The decree issued by the Head of the Agency shall be final and no administrative proceedings may be instigated against it.

FUNDS/RESOURCES OF THE DEPOSIT INSURANCE FUND

Article 17

(1) The deposit insurance premiums paid under this Act, as well as other proceeds made by the Agency and referred to in paragraph 2 of this Article shall be maintained in a special account and form the Deposit Insurance Fund (hereinafter: the Fund).

(2) The resources of the Fund shall be comprised of:

1. deposit insurance premiums paid by the banks under this Act,
2. funds collected in the course of bankruptcy proceedings against banks in respect of the insurance premium payments and in respect of the receivables of banks in which bankruptcy proceedings have been initiated,
3. proceeds from investment of the Fund's resources,
4. proceeds from bonds issued by the Agency with the government guarantee,
5. proceeds from the central government budget,
6. other proceeds.

(3) The Agency shall use the Fund's resources to pay back the insured deposits to individuals in the event of a bank bankruptcy, i.e. for the purposes provided for in this Act.

(4) In addition to the purpose referred to in paragraph 3 of this Article, the Fund's assets shall also be used for covering:

1. expenses arising in the process of payment of the insured deposits,
2. expenses arising in the process of recovering the Agency's receivables from a bank's bankruptcy estate,
3. expenses arising in connection with the Fund's investments,
4. Agency payroll expenses and other operating expenses in connection with deposit insurance.

(5) The Fund's assets may be invested in:

1. short-term bills and other short-term securities issued by the Croatian Government and the Croatian National Bank,
2. long-term bonds and other long-term securities issued by the Croatian Government or with a Government guarantee.

(6) If the Fund's assets are invested in other securities, such investment is subject to a special decision to be made by the Minister of Finance.

NOTICES TO INDIVIDUALS

Article 18

(1) At all business premises where bank clients are served, banks shall visibly display comprehensible information on deposit insurance under this Act.

(2) The content of the information referred to in paragraph 1 of this Article shall be determined by the Head of the Agency.

PENALTY PROVISIONS

Article 19

(1) A fine of HRK 500,000.00 to HRK 1,000,000.00 shall be imposed on the bank in the following instances:

1. if the bank fails to pay deposit insurance premiums in accordance with the provisions of this Act,
2. if the bank fails to enable the Agency inspection of its business records and other documents pertaining to deposit insurance and fails to provide the Agency with the requested reports and information in compliance with the provisions of this Act,
3. if the bank carries out actions that may lead to, or have led to, the abuse of the right to payment of the insured deposits.

(2) In case of an offence referred to in paragraph 1 of this Article, a fine of HRK 5,000.00 to HRK 15,000.00 shall be imposed upon the responsible member of the bank's management board.

TRANSITIONAL AND FINAL PROVISIONS

Article 20

The Head of the Agency shall enact the instructions for the implementation of this Act within 90 days following the date of its entering into force.

Article 21

On the date of entering into force of this Act, the provisions of Articles 4, 5, 6 and 7 of the State Agency for Deposit Insurance and Bank Rehabilitation Act (Official Gazette Nos. 44/94, 79/98, 19/99, 35/00 and 60/04), the Bylaw on Deposit Insurance (Official Gazette Nos. 65/97, 105/98 and 86/00), and the Decision on the Amount of the Insured Deposits (Official Gazette No. 88/98) shall cease to be valid.

Article 22

This Act shall enter into force on the eighth day following its publication in the Official Gazette.

Class: 450-08/04-01/02
Zagreb, 3 December 2004

THE CROATIAN PARLIAMENT
President of the
Croatian Parliament
Vladimir Šeks, m.p.