

# **LAW ON DEPOSIT INSURANCE IN BANKS OF BOSNIA AND HERZEGOVINA**

**(gazetted clean text of the Law in “Official Gazette of B&H”, No. 20/2, 18/05, 100/08,  
75/09 and 58/13 – unofficial version)**

## **I. GENERAL PROVISIONS**

### **Article 1.**

#### **Scope of Application**

The Law on Deposit Insurance of Bosnia and Herzegovina (hereinafter: the Law) regulates the establishment, status, operations, governance and management, authorization, responsibilities and authorities and financing of the Deposit Insurance Agency of Bosnia and Herzegovina (hereinafter: the Agency).

This Law is intended to provide, within the constraints and limitations of this Law, for the protection of deposits of Natural and Legal Persons in banks licensed either by the Banking Agency of the Federation of Bosnia and Herzegovina (hereinafter: the FBA) or the Banking Agency of the Republika Srpska (hereinafter: the RSBA) or any successor(s) of these agencies and thus contribute to the preservation of the overall financial stability..

### **Article 2.**

#### **Definitions**

The “**Banking Agencies**” are defined for purposes of this Law as the FBA and the RSBA, or their legal successor(s).

The “**Deposit Insurance Fund** “ (hereinafter: the Fund) is defined for purposes of this Law as the account of the Agency that is established pursuant to Article 11 of this Law.

A “**Depositor**” is defined for purposes of this Law as a Natural Person or Legal entity who holds an Eligible Deposit in a Member Bank.

An “**Eligible Deposit**” is defined for purposes of this Law as the aggregate of all assets deriving from deposits, savings accounts or bank certificates deposited by a Depositor in a Member Bank less the exclusions of Article 5 of this Law. Eligible Deposits form the basis of the deposit insurance premium calculation.

An “**Entity**” is defined for purposes of this Law as either the Federation of Bosnia and Herzegovina (hereinafter: the Federation) or the Republika Srpska.

A **“Government Entity”** is defined for purposes of this Law as any domestic or foreign user of government funds, notwithstanding its level of governmental authority, i.e. State, Entity, Cantonal, or municipal authority as well as any legal entity, including pension funds and health insurance funds, that is owned or controlled by such users of government funds.

A **“Group”** is defined for purposes of this Law as a group of companies that directly or indirectly control a Member Bank as well as the subsidiaries of these companies and of the Member Bank.

An **“Insurance Event”** is defined for purposes of this Law as the event that requires the payment of deposit insurance according to the provisions of this Law.

An **“Insured Deposit”** is defined for purposes of this Law as portion of an Eligible Deposit determined by the Management Board’s decision that is covered by insurance through the Deposit Insurance Fund.

A **“Legal Entity”** is defined for purposes of this Law as a business company, enterprise, association, institution or foundation registered in Bosnia and Herzegovina excluding any Government Entity.

A **“Natural Person”** is defined for purposes of this Law as an individual, regardless of his / her citizenship or nationality.

A **“Bank”** is a legal entity who performs the business of receiving money deposits and granting loans and other activities in accordance with the entity laws on banks.

A **“Member Bank”** is defined for purposes of this Law as a bank that is participating in the deposit insurance program of Bosnia and Herzegovina according to the provisions of this Law.

The **“State”** is defined for purposes of this Law as Bosnia and Herzegovina.

## **II. DEPOSIT PROTECTION**

### **Article 3.**

#### **Principle**

The Agency shall insure all Eligible Deposits in the Member Banks within Bosnia and Herzegovina.

In case of an Insurance Event, the Agency shall commit itself to reimburse the Insured Deposit portion of Eligible Deposits to Depositors subject to the limitations of Article 4 and the exclusions of Article 5 of this Law.

## **Article 4.**

### **Limitations**

The maximum amount of an Insured Deposit, including any accrued interest, to be reimbursed by the Agency per Depositor per Member Bank shall be the Eligible Deposit less legal or contractual debt owed to the Member Bank by the Depositor up to the amount determined by the decision of the Management Board of the Agency or whichever is smaller.

The Agency's Management Board, upon the recommendation of the Agency's Director, shall issue a Decision about changes of the level of insured deposit amount and shall publish it in the "Official Gazette of Bosnia and Herzegovina".

Decision of the Management Board about the amount of deposit insurance is an integral part of the contract on deposit insurance.

For purposes of payout, any assets of a Depositor denominated in foreign currency shall be converted into KM based on the average exchange rates of the Central Bank of Bosnia and Herzegovina (hereinafter: the Central Bank) as of the date of the Insurance Event.

Interest accrued on Eligible Deposits is calculated only until the date of the Insurance Event.

If a Depositor is a joint accountholder, the each Depositor's share in the joint account is calculated equally between the accountholders unless proof to the contrary is provided by each and every accountholder. However, the total pay-out for any joint account will be limited to the amount provided by this Law for a single Depositor per Member Bank.

## **Article 5.**

### **Exclusions**

Eligible Deposit shall exclude the following assets:

1. Assets deriving from operations that have been declared illegal by court decision not subject to any further appeal.
2. Assets kept in any account whereby the account title is not transparent as to its ownership or any non-nominative deposit.
3. Assets kept in a bank's safe deposit box.
4. Assets held in any kind of safekeeping custody arrangement with a bank.
5. Assets deposited by other domestic or foreign banks on their own behalf and for their own account.
6. Assets from domestic or foreign Government Entities.
7. Assets from domestic or foreign insurance companies.
8. Assets from domestic or foreign undertakings for collective investment.

9. Assets from domestic or foreign pension and retirement funds not considered as Government Entity.
10. Assets from such Member Bank's own supervisory board members, directors, managers, members of the audit board, shareholders of at least five (5) percent of the Member Bank's capital, persons responsible for carrying out the statutory audits of the Member Bank's accounting documents and Depositors of similar status in other companies in the same Group as such Member Bank.
11. Assets from immediate family, within the third degree of consanguinity or marriage, of persons as referred in above item 10 and from third parties acting on behalf of persons as referred in above item 10.
12. Assets from companies in the same Group as each Member Bank.
13. Assets for which the Depositor has obtained from the same Member Bank rates and / or any other financial concession which may have helped to aggravate the Member Bank's financial condition.
14. Assets from companies, which may be excluded from deposit insurance coverage by any other special law or governmental directive.
15. Debt securities issued by such Member Bank and any other liabilities arising out of such Member Bank's own acceptances and promissory notes.
16. Assets from Micro credit organizations.

## **Article 6.**

### **Membership Participation**

All banks licensed by the Banking Agencies and who meet the Agency's criteria for membership as stated in Article 7 of this Law, shall be required to become a Member Bank.

The Agency must determine that a bank meets all requirements of this Law, as well as those of the Law on Banks, of the Federation of Bosnia and Herzegovina or the Republika Srpska, before issuing a membership certificate to that bank.

A bank, that has been determined by the Agency, as eligible to become a Member Bank will be informed of that fact by the Agency and is required to submit membership application as well as information form, whose contents are determined by the Agency.

In addition to documents from Paragraph 3 of this Article, a Bank shall provide the Agency with a copy of the latest external fiscal year audit of the bank performed on the basis of International Accounting Standards, or an opening balance sheet for a newly established bank.

Newly formed banks are required to submit to the Agency evidence of their ability to meet the membership criteria for deposit insurance for the next three calendar years starting from the day when the bank is granted a banking license.

In the case of status changes in member banks, such as a merger, acquisition or similar, membership in the deposit insurance program to the newly formed bank shall be confirmed by the Management Board with its decision.

In the event of a dispute arising between the Agency and the Banking Agencies in the determination of the eligibility of a bank to be granted or to retain a membership certificate or a banking license, a joint decision on that bank's eligibility must be agreed between these agencies before the membership certificate or the banking license can be issued or revoked.

Final decision about membership is the sole authority of the Agency.

No bank under provisional administration may apply for membership participation.

## **Article 7.**

### **Membership Criteria**

For participation in deposit insurance as a Member Bank, in addition to being licensed by the competent banking agency, or their legal successor(s) and meeting the provisions of this Law, all Member Banks must meet the following criteria:

- a) capital;
- b) liquidity;
- c) asset quality;
- d) governance;
- e) profitability;
- f) accounting standards;
- g) reserve;
- h) market risks.

The Management Board of the Agency shall determine by its decision the quality standards for aforesaid criteria which shall be published in the "Official Gazette of Bosnia and Herzegovina".

A Bank can participate in the deposit insurance program as a Member Bank only if its latest and currently still valid rating on a composite basis given by the competent banking agency or their legal successor(s) is rated 3 or higher and with no individual rating component rated 5.

In addition to aforesaid criteria, a Member Bank must also meet the following criteria:

- a) Financial and other requirements established by the Law on Banks;
- b) Collecting cash deposits

All Member Banks must further meet safety and soundness criteria, established by the relevant Banking Agency.

The Agency shall, on an ongoing basis, monitor the Member Banks' business operations in regard to their compliance with the membership criteria.

If a Member Bank violates membership criteria, the Agency shall undertake actions towards that bank in order to have the Member Bank complied with criteria from this Law.

If criteria from Paragraph 1 and 3 of this Article are violated, the Agency's Management Board shall, by its decision, determine actions to be undertaken toward Member Bank.

In the event that a member bank fails to implement the measures referred to in paragraph 8 of this Article, the Management Board of the Agency shall, on the recommendation of the Director, inform the relevant banking agency that the bank does not meet the criteria for membership in the deposit insurance scheme and propose the revocation of the Member Bank.

The Agency's Management Board shall once a year review this Law in relationship to the Law on Banks of the Federation or the Republika Srpska, in light of the above criteria, to maintain harmony between these laws.

#### **Article 7a.**

Banks are obliged to provide the Agency with reports prescribed by the competent banking agencies or their successors, External Audit Report and reports prescribed by the Agency itself, within set deadlines.

For evaluation of the bank's eligibility to participate in deposit insurance program, the Agency shall conduct its assessment of documents from Paragraph 1 of this Article as well as on-site visitations to a bank to confirm information received or from information received from the FBA or RSAB or their successor(s).

The Agency shall prescribe the manner of keeping records on deposits in Member Banks for the reporting of relevant data to the Agency that shall be regulated by the Membership Contract.

In order to test the accuracy of reporting to the Agency, in accordance with the contract and the annex to the Deposit Insurance Contract, the Agency will carry out external and internal control of the member banks.

Member Bank shall at all times make available to the Agency information on depositors and their deposits, certainly in the form and manner as the Agency requests.

## **Article 8.**

### **Membership Contract and Membership Certificate**

The Agency and each Member Bank will sign a membership contract prepared by the Agency at the time a bank becomes a participant in the Fund.

The membership contract will be identical for each Member Bank and will specify the rights and obligations of the Agency and a Member Bank including the appropriate notification procedures that the Agency must observe in the event of a payout of deposit insurance.

The new Member Bank will pay a one time membership certificate fee at the date the membership contract is signed and the Agency will issue the Member Bank with a membership certificate at the time the membership contract is signed. Both of these actions must occur for a bank to become a Member Bank in the deposit insurance scheme.

The Agency's Management Board, on the recommendation of the Director, will set the level of the membership certificate fee and that decision will be published in the Official Gazette of Bosnia and Herzegovina.

The membership certificate fee will be used to defray the costs involved in its ongoing relationships with the Member Banks and will be the same fee assessed for all Member Banks.

## **Article 9.**

### **Display Material**

Member Bank is obliged to provide information to depositors and other interested parties on deposit insurance under this Law, and in particular information on the amount and manner of payment of insured deposits.

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

The information referred to in Paragraph 1 of this Article, cannot be used by the Bank for advertising purposes, or in a way that threatens the stability of the banking system and the confidence of depositors.

The Agency will provide display material, including the Agency's logo, that must be exhibited prominently and all times by all Member Banks.

The Member Bank may also provide its own display material evidencing its participation in deposit insurance as long as the material's design is compatible with the Agency's official logo.

All display material is to be approved by the Agency as regards design contents and usage.

## **Article 10.**

### **Insurance Premium**

With the exception of item 14 of Article 5 and, after excluding assets as defined by all other items of Article 5 of this Law, average total Eligible Deposits as per the end of each month increased for accrued interest shall be used as insurance premium base for a Member Bank participating in deposit insurance.

The premium shall be paid quarterly in advance by the first day of each quarter, based on the average balance of the eligible deposits in the previous quarter. The quarters begin the first day of January, April, July and October.

The Agency shall bill each Member Bank with an invoice for the deposit insurance premium not later than 10 days before the premium is due for payment.

The membership contract shall define the procedures for the calculation of the premium to be paid by Member Banks.

At a minimum of once a year, the Management Board of the Agency shall determine the level of the insurance premium rate of all Member Banks, based on recommendation provided by the Director of the Agency.

At the beginning of the fourth calendar quarter, the Agency will publish the existing insurance premium rate and the rate that will be effective the following calendar year. The Agency reserves the right to adjust the rate at any time, according to the needs of the Agency, but the new rate will not become effective until the following calendar quarter after notification to the Member Banks.

Decisions regarding the insurance premium rate shall be published in the Official Gazette of Bosnia and Herzegovina before the adjustment to the insurance premium rate becomes effective.

Decision of the Management Board on the amount of insurance premium is an integral part of the contract on deposit insurance.

The Management Board of the Agency shall have the right to establish a system of ranking for the purposes of setting insurance premium rates for individual Member Banks based on that ranking or to accept, for this purpose, any rating system established by the respective Banking Agencies.

In the event that funds the Deposit Insurance Fund are insufficient to pay the insured deposits in case of occurrence of insurance event the additional resources shall be provided by collection of extraordinary insurance premium.

The decision of the extraordinary collection of insurance premium, its amount and modalities of payment shall be issued by the Management Board of the Agency, and it shall be published in the "Official Gazette of BiH".



## **Article 11.**

### **Deposit Insurance Fund**

The Agency shall open the Fund account in the Central Bank and shall deposit the premiums received from Member Banks into said Fund account.

Premium proceeds referred to in Article 10 shall be used exclusively for increasing the capital of the Fund.

The Fund can also include donor funds subject to approval by the Agency's Management Board and capital of the Fund are also proceeds paid on the basis of subrogation from the liquidation and bankruptcy of the bank.

Capital of the Deposit Insurance Fund shall not be subject to execution, except in respect of the obligations of the Agency for payment of insured deposits.

The Agency shall invest the capital of the Fund according to an investment policy that has been approved by the Management Board of the Agency based on the proposal of the Director of the Agency (hereinafter: the Investment Policy).

In accordance with the provisions of this Article, the Agency shall invest the capital of the Fund in fixed income securities issued by, or guaranteed by, member countries of the European Union, European Union governmental agencies, European supranational agencies as well as in fixed income securities issued or guaranteed by the government or governmental agencies of the United States of America.

The Agency may also invest the capital of the Fund in fixed income securities or other debt instruments issued by European Union banks or companies or United States of America based banks or companies with the highest ratings. Such banks or companies must have a minimum quality rating of "A" or "P1" or better, or equivalent thereof, according to an internationally recognized bond-rating agency.

All investments of the Fund, in accordance with the Investment Policy, shall be undertaken with a view of preserving its capital and maintaining liquidity.

## **Article 12.**

### **Membership Cessation with Insurance Payout**

#### **12.1 General provisions for membership cessation with insurance payout**

The cancellation of membership in the deposit insurance program, for any reason other than the situations described in Article 13 of this Law, can only result from an action on the part of the Member Bank's respective banking agency.

After the official notification of the loss of member bank's operating license, the Director of the Agency shall notify the Management Board of the Agency. The subsequent loss of membership in the deposit insurance program, for reasons set out in this section of this

Law, shall be confirmed by the decision of the Management Board on recommendation of the Director. The Agency shall publish the decision in the "Official Gazette of BiH" and further inform the Banking Agencies or their successors.

Upon official notification of the loss of a Member Bank's banking license or upon official notification of the appointment of a Provisional Administrator, the Agency's Management Board is to be notified of such action by the Agency's Director. The subsequent loss of membership in the deposit insurance program, for any reason as described in this Article of this Law, is to be confirmed by a Decision of the Agency's Management Board on the recommendation of the Agency's Director. The Agency must publish this Decision in the Official Gazette of Bosnia and Herzegovina and additionally must inform the FBA or the RSBA, or their successor(s), as appropriate.

If a Member Bank is notified that its participation in deposit insurance is being terminated for reasons as provided for in this Article, the Member Bank is obliged to immediately inform, on an official basis and in written form, all of its existing Depositors of that fact.

In the event of an insurance deposit payout, the rights of the Depositors, limited to the amount of insurance payout, are legally conveyed to the Agency, by way of cessio legis.

## **12.2 The payout of deposit insurance is limited to the following situations:**

### **12.2.1 Loss of the banking license of a Member Bank by action of Banking Agency**

In accordance with the provisions of Article 12, as well as the limitations and the exclusions of Articles 4 and 5 of this Law, the Agency is obliged to pay the insured amount of Eligible Deposits without undue delay and to start the payment process not later than 60 days from the day the license of the former Member Bank was revoked. All payments for reimbursement of Insured Deposits must be completed within 90 days from the day the Member Bank's license is revoked.

### **12.2.2 Loss of banking license of a Member Bank in a voluntary winding-up of bank's operations**

Upon the appointment of a Liquidator by the Banking Agency to manage the process of voluntary winding-up of a Member Bank's operations, the Liquidator shall, within 60 days, pay all Insured Deposits, in full or on a pro rata basis limited only by the bank's available funds. Any shortfall in the payment of Insured Deposits will be made by the Fund according to the process described in Paragraph 2 of Article 12.2.2.

In accordance with the limitations and the exclusions of Articles 4 and 5 of this Law, the Agency is obliged to pay any remaining insured amounts of Eligible Deposits that were not paid in accordance with the provision of Paragraph 1 of Article 12.2.2 without undue delay and to start the payment process not later than 60 days from the day the license of the former Member Bank was revoked in the situation of a voluntary winding-up of a Member Bank's operations according to provisions governed by the Law on Banks. All payments for reimbursement of Insured Deposits must be completed within 90 days from the day the Member Bank's license is revoked.

### **12.2.3 Appointment of Provisional Administrator of a Member Bank**

In accordance with the limitations and the exclusions of Articles 4 and 5 of this Law, the Agency is obliged to pay the insured amount of Eligible Deposits without undue delay. In the case of a Provisional Administrator appointed for a Member Bank, the payment process will be primarily dependent upon the recommendation of that Provisional Administrator and the acceptance of that recommendation by the respective banking agency.

During the first 60 day period after the appointment of the Provisional Administrator of a Member Bank it is to be determined by the Provisional Administrator that, if the resolution of the Member bank's problems is in process, the Agency, with official notification of that situation by the respective banking agency, may delay the starting of the payment process an additional 30 days pending payment by the Provisional Administrator of all Eligible Deposits, in full or on a pro rata basis limited by the bank's available funds. Should it be determined within that 90 day period the banking license is to be revoked, and after the Provisional Administrator has paid all Eligible Deposits, in full or on a pro rata basis limited only by the bank's available funds, any shortfall in the payment of Insured Deposits will be paid by the Fund. All payments for reimbursement of the Insured Deposits must be completed within 60 days from the day the competent banking agency has revoked operating license.

### **12.2.4.**

In order to effectively cover a payment provided for in sections 12.2.1, 12.2.2 and 12.2.3. the competent banking agencies are required to enable the participation of the representative of the Agency in the liquidation proceedings and provisional administration as well as for timely informing.

### **12.3 Obligations of Depositors Natural Persons**

In each of the situations described above, the Depositors shall be obliged to submit, along with the payment request, evidence of their legal ownership of the Eligible Deposit for which reimbursement is claimed.

Irrespective of the reason for the insurance payout at a Member Bank, the requirements for payment of claims of depositors expire within five years from the date of loss of member bank's operating license.

The Agency will pay the depositors who have their rights to payment earned by a final court judgment.

## **Article 13.**

### **Membership Suspension or Termination without Insurance Payout**

#### **13.1 General provisions for suspension or termination of deposit insurance**

The suspension or termination of membership in the deposit insurance program, for any reason other than the situations described in Article 12 of this Law, can only result from a Decision of the Agency's Management Board on the recommendation of the Agency's

Director. The Agency must officially inform the FBA or the RSBA, or their successor(s), as appropriate and publish this Decision in the “Official Gazette of Bosnia and Herzegovina”.

The Member Bank that has been notified that its Member Bank status is being suspended or terminated shall also make a public announcement, by conventional methods of publication and notification, that new deposits accepted by the bank will not be insured.

The Agency shall publish notice by conventional methods of publication and notification ten days prior to the actual suspension or termination of deposit insurance in a Member Bank whose deposit insurance is being suspended or terminated for reasons other than provided for by Article 12 of this Law. This notice shall also be published in the “Official Gazette of Bosnia and Herzegovina”.

In the event of the suspension or termination of a Member Bank’s participation in deposit insurance, the Agency’s decision shall be final and binding and may be disputed only in the proceeding before the Court of Bosnia and Herzegovina.

### **13.2 Suspension of deposit insurance without insurance payout**

The suspension of deposit insurance is limited to the situations of the nonpayment by a Member Bank of any membership fee or the nonpayment of the insurance premium for one quarter.

Deposits of Natural Persons taken before the date of suspension of deposit insurance pursuant to this Article shall continue to be insured according to the following:

- for a period of 90 days beyond the date of suspension of deposit insurance, or
- until maturity of the individual deposit, whichever is longer.

These deposits shall be insured only at the same level as at the date the Member Bank was notified of the suspension of its deposit insurance.

New deposits, or additional funds added to existing Eligible Deposits, taken after the date the Member Bank was notified of insurance suspension will not be insured.

The Member Bank is required to continue its premium payments to the Agency as long as any insurance cover is provided beyond the date of deposit insurance suspension because of the maturity of a deposit and the premium amount will be based only on those Deposits so insured.

The Member Bank must return its original membership certificate to the Agency within five business days of being notified of the suspension of its deposit insurance and within the same time remove from all of its rooms all tags of the Agency as well as promotional material. Should a Member Bank have its participation in deposit insurance restored prior to the termination of its participation in deposit insurance, the original membership certificate will be returned to the reinstated Member Bank without signing a new membership contract or the assessment of a new membership certificate fee.

### **13.3 Termination of deposit insurance without insurance payout**

The termination of deposit insurance is limited to the situation of the nonpayment by a Member Bank of the insurance premium for more than one consecutive quarter.

Deposits of Natural Persons taken before the date of termination of deposit insurance pursuant to this Article shall only continue to be insured according to the provisions and limitations of Paragraph 13.2 of this Article.

Should a Member Bank have its participation in deposit insurance restored, but only after the termination of its participation in deposit insurance, the original membership certificate will not be returned to the reinstated Member Bank but a new membership contract will be signed and a new membership certificate will be issued and a membership certificate fee will be assessed.

### **13.4 Termination of deposit insurance in situations of imposition of external measures**

If a decision rendered or action taken by an international or state institution or body or organization results in the cessation of Member Bank's operation for reasons other than violation of provisions of the applicable Law on Banks or this Law, the Agency will not pay deposit insurance for the Insured Deposit portion of Eligible Deposits of the Member Bank.

## **III. DEPOSIT INSURANCE AGENCY**

### **Article 14.**

#### **Establishment of Agency**

There is hereby established by this Law a Deposit Insurance Agency of Bosnia and Herzegovina that shall consist of an Agency head office and with branches in each Entity. The Agency may open additional organizational units in other towns of the State as appropriate but only if the proposed unit is to be fiscally viable from the date of its opening.

The branches or other organizational units shall have no legal status or authority independent from the Agency. Any additional branch or organizational unit of the Agency can only be established by a Decision made by the Management Board of the Agency and the Agency's Management Board shall appoint Branch Directors for all branches of the Agency.

The Agency is an independent, non-profit legal entity with full authority under the law of the State. In particular, the Agency shall have the capacity to contract, to acquire and to dispose of movable and immovable property, and to be a party to legal proceedings.

The Agency shall have its head office in Banja Luka with a branch in Sarajevo and a branch in Banja Luka. The Agency may allocate its Agency level functions between the branch locations as appropriate.

The Agency shall have a seal, which contains the title of the Agency and the coat of arms of the State. The head office and each branch shall have an identical seal bearing the words “Deposit Insurance Agency of Bosnia and Herzegovina”, with the name and location of that branch being the only difference allowed for the seal’s design. The seals of the Agency and of its branches shall include identical coats of arms in accordance with the Law on Coats of Arms of Bosnia and Herzegovina.

## **Article 15.**

### **Duties and Powers**

The main functions of the Agency are the following:

- (a) insuring Eligible Deposits of Natural Persons and Legal Entities in Member Banks in accordance with this Law;
- (b) issuing Membership Certificates to those banks who qualify for participation in the deposit insurance program;
- (c) revoking, through suspension or termination, Membership Certificates;
- (d) investing the assets of the Deposit Insurance Fund pursuant to the restrictions of the Agency’s Investment Policy and in accordance with this Law;
- (e) paying out deposit insurance in the event of a Member Bank’s cessation of operations according to this Law; and
- (f) enacting bylaws regulating deposit insurance and the operations of the Agency in accordance with this Law.

In the event the Agency and a Member Bank are unable to agree on the accuracy of any report required by this Law or by Decision of the Agency’s Management Board, the Agency shall have right to require an audit of a Member Bank’s business and the Agency has the right to engage an independent auditor to assess accuracy of the reports submitted by a Member Bank to the Agency. Costs of such audit shall be born by the party whose original interpretation was assessed by the independent audit as wrong.

When the Agency determines that a Member Bank does not maintain its obligations for its payment of the insurance premium to the Agency or does not maintain any other of its financial obligations to the Agency, the Agency is authorized to:

- (a) Advise formally the FBA or the RSBA, or their successor(s), as appropriate, that the Agency plans to take measures as regards a Member Bank’s action or condition that may affect the membership of that bank in the Fund.
- (a) File charges with an appropriate court.
- (b) Institute the suspension and termination procedures as provided for by Articles 12 and 13 of this Law.

The Agency shall have the right of inspection of any and all Eligible Deposits in its Member Banks and may request information on Eligible Deposits in writing. The Member

Bank has two business days to acknowledge the receipt of the request and 10 business days to comply with any request for information on Deposits.

## **Article 16.**

### **Independence and Immunity**

Within the scope of its operations, and in accordance with this Law, the Agency manages its operations on an independent basis.

From the establishment of the Agency, the Director of the Agency, its Branch Director(s), and its staff, as well as other individuals recommended or appointed by the Agency to perform certain activities within the scope of this Law, cannot be prosecuted in a criminal or civil law procedure, for any action conducted in good faith, and in accordance with this Law, during the execution or implementation of any task within their authority.

The Agency shall bear the expenses, or reimburse the same, for any of its staff, at whatever level of position, for any legal proceedings initiated against the employee from whatever source for actions conducted in good faith in executing or implementing their duties within the scope of this Law or their delegated authorities if those expenses are not reimbursable from the party(ies) bring suit against the Agency or its staff.

## **Article 17.**

### **The Statute of the Agency**

The Agency's Statute particularly determines:

- (a) the Agency's organization and operational manner;
- (b) the Agency's authorities and working manner;
- (c) the Agency's authorities for all representations;
- (d) the rights, obligations and responsibilities of persons carrying out activities and tasks with special authorizations and responsibilities; and
- (e) all other organizational issues related to the Agency's operation.

Management Board shall obligatorily review the Agency's Statute, on an annual basis, for its harmonization with changes in legislation that affects, either directly or indirectly, this Law.

## **Article 18.**

### **Management Board**

#### **18.1 Composition**

The Management Board is the sole governing body of the Agency.

The Management Board shall consist of five members. This Law prescribes the composition and selection of the membership of the Management Board.

The Governor of the Central Bank, or his / her nominee, is *ex officio* a member of the Management Board and the Minister for Treasury of the Institutions of Bosnia and Herzegovina, or his / her nominee, is *ex officio* a member of the Management Board.

The Governing Board of the Central Bank has the right to appoint one member of the Management Board and, within the limitations of the respective laws of each Entity, the Minister of Finance of the Federation and the Minister of Finance of the Republika Srpska each has the right to appoint one member from their respective entities to the Management Board.

Members of the Management Board, who are not *ex officio* members, must be individuals who have achieved reputations for financial or banking expertise and who also possess reputations for high moral standards by which to perform their entrusted duties.

The Management Board shall elect a Chairman and a Vice Chairman from among its members. The Directors of the Banking Agencies, should they be appointed to this Management Board by one of the appointing authorities, cannot serve as either Chairman or Vice Chairman of the Management Board.

Individuals who are proposed as members of the Management Board must present a written statement as proof of their eligibility and a confirmation of acceptance in case of their appointment.

The mandate of Management Board members, who are appointed by the authority of a position named in this article, other than that of the memberships specifically established on an *ex officio* basis by this Law, shall be five years.

Any person, other than a member who is an *ex officio* member, may be appointed a member of the Management Board of the Agency for two consecutive terms only, so that during the appointing for each next mandate, at least two members from a previous mandate of Management Board shall be appointed.

Management Board members cannot be related to one another, or to the Agency's Director or the Agency's Branch Directors, by blood or marriage, up to the third degree of consanguinity.

Management Board members cannot be executives or members of the supervisory or management board of any Member Bank, or any other bank licensed within the State, during the course of their mandate.

Management Board members cannot own, either directly or indirectly, more than five percent of the equity of any Member Bank and must disclose in writing to the Management Board any equity interest that is held in a Member Bank by themselves or by any one related to them, by blood or marriage, up to the third degree of consanguinity.

Management Board members must provide to the Agency a written disclosure of any and all interests they, or any one related to them, by blood or marriage, up to the third degree of consanguinity, have in any other bank or commercial enterprise in which they own more than five percent of a bank's or an enterprise's equity.



## **18.2 Removal, suspension and release of members**

A majority of the membership of the Management Board has the right to remove a member of the Management Board for criminal or illegal conduct in breach or contravention of duties in connection with serving on the Management Board. The subsequent appointment of an individual to that vacancy shall be in compliance with this Law as to the particular source of membership appointing authority for the member being replaced.

It is the duty and responsibility of the Management Board to inform the Council of Ministers of Bosnia and Herzegovina of any criminal or illegal conduct of any member of the Management Board.

A Member of the Management Board shall be automatically suspended if acting in contradiction with any of the last four paragraphs of Article 18.1. of this Law.

A Member of the Management Board is responsible for notification to the Management Board on his / her status referred to in the last four paragraphs of Article 18.1. of this Law.

During the course of term on the Management Board, Management Board members cannot be prosecuted by a criminal or civil legal process for any action conducted in accordance with this Law and in good faith consistent with their duties as members of the Management Board

A member of the Management Board may be released of his/her function before the mandate expires upon personal request of the Member.

Any person appointed to be, in lieu of a member who has been removed, suspended or released, a member of the Management Board shall perform this duty until the end of mandate of his/her predecessor.

## **18.3 Sessions**

Sessions of the Management Board may be held on an ad hoc basis but must be held at least once each calendar quarter.

The Management Board shall set its meeting schedule to provide that its meetings will be held alternately at each of the locations of the Agency's branches on a regular basis.

The Chairman shall convene sessions of Management Board. The Chairman shall also convene a special session upon the request of the Director of the Agency or upon the request of two members of the Management Board, but no later than 14 days from the day of submission of the request, otherwise the person who submitted the request shall be authorized for convening the special session.

Written invitation for the session of Management Board, in which date, time of its commencement, place and the agenda of session shall be delivered to the members of Management Board no later than 7 days before the date of holding of the session. The materials for each of the items shall accompany invitation for session on the agenda.

Persons who are not members of Management Board may be present at the session only based upon written invitation by the Chairman.

For holding the session of the Management Board, a quorum of majority of the entire number of members is required. The Management Board shall issue its decisions by a majority of votes of the entire number of members.

The Chairman or any member of Management Board shall not vote on the issues that relate to himself/herself personally.

The Agency's Director and Branch Director shall attend each session of the Management Board as non-voting participants.

The Chairman may decide that the Agency's Director and Branch Director(s) may not attend a particular session of the Management Board and must give a reason for the decision to the Director and Branch Director as well as to the Management Board

Each donor agency or nation, domestic or foreign, shall have the right to appoint an advisor to the Agency's Management Board. Rights and liabilities of these advisors shall be regulated by an agreement signed jointly by the Agency's Management Board and those donor agencies or nations.

#### **18.4 Tasks**

The Management Board shall, in particular:

1. Appoint the Agency's Director and the Agency's Branch Directors.
2. Elect the Chairman and Vice Chairman of the Management Board.
3. Approve the Agency's Statute and its other general enactments.
4. Approve all regulations, policies, guidelines and fees for the management and operation of the Agency and its Fund as required by this Law, any law of the State or by sound and prudent management practices.
5. Review annually this Law in relationship to the Law on Banks.
6. Establish and approve appropriate professional qualifications for Agency's Director and Branch Directors.
7. Make decision on criteria for banks' participation in deposit insurance program with Deposit Insurance Agency of Bosnia and Herzegovina.
8. Approve Membership Participation of banks and Membership Cessation of Member Banks upon recommendation of the Agency's Director.
9. Adopt the Agency's financial plan upon recommendation of the Agency's Director.

10. Adopt an Investment Policy for the Fund upon recommendation of the Agency's Director.
11. Make decisions on the insurance premium rate assessed of Member Banks upon the recommendation of the Agency's Director.
12. Make decisions on change in deposit insurance coverage of insured Eligible Deposits upon the recommendation of the Agency's Director.
13. Make decisions on the membership certificate fee assessed of Member Banks upon the recommendation of the Agency's Director.
14. Approve the salaries and benefits for all of the Agency's staff upon the recommendation of the Agency's Director, if not otherwise governed by State law or regulation.
15. Approve all necessary regulations and guidelines for the work of the Management Board itself.
16. Annually approve the appointment of the Agency's external auditors upon the recommendation of the Agency's Director.
17. Make decision on appointment of independent auditor for situations of dispute with a Member Bank over reporting accuracy in accordance with this Law.
18. Establishes and appoints members of the Agency's Violation Committee.

## **18.5 Reporting**

The Management Board is responsible for the activities of the Agency.

The Management Board shall adopt the annual business report and financial plan for the next year and submit it for publication in the "Official Gazette of Bosnia and Herzegovina" within three months from the end of the preceding calendar year.

The Management Board will also provide a copy of its annual business report and its financial plan to the Presidency of Bosnia and Herzegovina for information within three months from the end of the preceding calendar year.

## **Article 19.**

### **Director and Branch Directors**

#### **19.1 Appointment**

The Management Board appoints the Director and Branch Directors of the Agency for a period of five years. The Management Board may reappoint the Director and the Branch

Directors without a limit as to the number of appointments but the confirmation process must be repeated at each appointment.

The Management Board shall be obliged to appoint a Director or Branch Director(s) of the Agency within 60 days after either position becomes vacant.

If a Director or Branch Director(s) is/are not appointed within the required time by the Management Board, the Chairman of the Management Board shall then appoint a Director or Branch Director(s), as appropriate, on a temporary basis until appointment by the Management Board.

The Director and the Branch Directors, appointed under the provision of above Paragraph, shall have the full authority as provided for their respective positions according to the several provisions of this Law.

The Director and the Branch Directors cannot be members of the Supervisory or Management Board of any Member Bank or any other bank by themselves or by any one related to them, by blood or marriage, up to the third degree of consanguinity.

The Director or the Branch Directors cannot own, by themselves or by any one related to them, by blood or marriage, up to the third degree of consanguinity, either directly or indirectly, more than five percent of the equity of any Member Bank.

The Director and the Branch Directors must provide to the Agency a written disclosure of any and all interests they have by themselves or by any one related to them, by blood or marriage, up to the third degree of consanguinity, in any Member Bank and in any other bank or commercial enterprise in which they own of any share of a bank's equity or they own more than five percent an enterprise's equity, or they are members of the supervisory or management boards of any commercial enterprise.

The Director and the Branch Directors shall not accept a position in a Member Bank within two years after their employment with the Agency has ended without the prior written permission of the Agency's Management Board.

## **19.2 Tasks**

The Director of the Agency represents the Agency, manages the Agency's operations and is responsible for the Agency's operations.

The Director of the Agency shall:

- (a) make recommendation to the Management Board regarding Membership Participation of a bank and Membership Cessation of a Member Bank;
- (b) propose to the Management Board all individual enactments regarding specific Member Banks;
- (c) propose to the Management Board all general enactments, regulations and guidelines regarding all Member Banks;
- (d) propose to the Management Board the Agency's financial plan and Investment Policy of the Fund;
- (e) represent the Agency in relations with Member Banks and all other institutions;

- (f) enforce all policies and decisions made by the Management Board;
- (g) establish and approve appropriate professional qualifications for Agency's staff below the level of Branch Directors.
- (h) make decisions in consultation with the Branch Directors on the hiring and firing of all employees below the level of Branch Directors, in accordance with State law or regulation.
- (i) makes recommendation to the Agency's Management Board regarding the salaries and benefits for all of the Agency's staff; in accordance with State law or regulation.
- (j) at least once a year reviews the insurance premium rate assessed of Member Banks and makes recommendation regarding the same to the Management Board:
- (k) makes recommendation to the Management Board for making a decision about issuing of the extraordinary insurance premium;
- (l) make recommendation to the Agency's Management Board regarding the selection of the Agency's external auditor;
- (m) make recommendation to the Agency's Management Board regarding the appointment of independent auditor in situations of disputes with a Member Bank over reporting accuracy as provided for by this Law;
- (n) make initiative to the Management Board regarding a change of the amount of deposit insurance coverage
- (o) make recommendation to the Agency's Management Board regarding the approval of the Decision about criteria for banks' participation in deposit insurance program with Deposit Insurance Agency of Bosnia and Herzegovina.

The Branch Directors of the Agency govern and organize work in the Branches and assist the Director of the Agency in performing his / her duties as described above and one of the Branch Directors is acting Director when delegated this authority by the Director during the official absences of the Director. Any item of above paragraph may be delegated by the Director to the Branch Directors as the Branch Director's individual authority, or with his / her authority shared with the Director.

All delegations given by the Director to the Branch Directors shall be in writing. Any delegation may be withdrawn, with immediate effect, at any time with appropriate written notification. The Director of the Agency may delegate his / her responsibilities only to the Branch Directors.

It is the responsibility of the Director to keep the Branch Directors continually informed of all aspects of the Agency's operations so that the Branch Directors are in the position to assume the duties of the Director as provided by paragraph 4 of this Article.

The Director and the Branch Directors participate in the deliberations of the Agency's Management Board but have no voting rights with the Management Board.

The Director and the Branch Directors are responsible for their work to the Agency's Management Board.

The Director of the Agency consults with the Branch Directors, as well as with other appropriate Agency staff, in forming decisions regarding the Agency's work or in forming

recommendations to the Management Board. All decisions and recommendations are the final authority and responsibility of the Agency's Director.

## **Article 20.**

### **Agency's Business Secrets**

Members of the Agency's Management Board, the Director and the Branch Directors and all staff of the Agency, any persons engaged by the Agency in its work, as well as all other individuals performing any work on a short-term basis, are obligated to keep, as a business secret, all the information that they may have gained in their work.

The secrecy provision of Paragraph 1 of this Article is also applicable after the cessation of the working relation, engagement or membership in the Management Board or employment of any type at the Agency.

Only the Agency may approve disclosure of the business secret in criminal procedure before appropriate court for the person referred to in paragraph 1 of this Article.

## **Article 21.**

### **Financing of the Agency**

The Agency's operational expenses shall be financed from revenues of fees, membership fee and returns on investments of the Fund's capital.

Decision to collect membership fee, its amount and modalities of payment shall be issued by the Management Board of the Agency, and it shall be published in the "Official Gazette of Bosnia and Herzegovina".

Funds from the Agency's operational account can only be utilized for the Agency's operational expenses and the funds that comprise the Fund account can only be utilized for the payment of deposit insurance in the event of an insurance payout.

Donations may be used to finance the operational expenses of the Agency. All donations and any conditions attached thereto, that are not included in the Agency's approved financial plan, shall require the approval of the Agency's Management Board.

Annually, any surplus of the Agency's revenues achieved from sources described in Paragraphs 1 and 3 of this Article over the Agency's expenditures shall be allocated to the Fund upon decision of the Agency's Management Board on the recommendation of the Agency's Director. Surplus of income over expenditures can be used to cover potential losses that may arise in the work of the Agency.

All premiums paid by Member Banks shall be added to the Fund.

In a situation where the utilization of the Agency's revenues, as described in Paragraphs 1 and 2 of this Article, are not sufficient to finance the operational expenses of the Agency, the Management Board, upon recommendation of the Agency's Director, can make a

decision on temporary usage of premium payments to ensure necessary funds. Such decision shall last during for a period determined by the Management Board's Decision, within which period these temporary used funds shall be returned to the Fund, and is conditional on the Agency's having exhausted all practical ways of reducing operational expenses.

In a situation where the Fund is not sufficient to meet the Agency's obligations in connection with paying out Insured Deposits, and all the provisions of this Article have been exhausted, the Agency, within the limitations of the laws of the State, can secure loans and guarantees for the acquisition of necessary funds. In such a situation the Management Board on recommendation of the Agency's Director can approve the usage of future premium claims as security and of future premium payment as source of serving that debt of the Agency.

## **Article 22.**

### **Cooperation with the Banking Agencies**

The Agency is required, upon written request, to provide to the Banking Agencies or any other State agency as appropriate, such information that the Agency obtains pursuant to this Law.

The Agency cannot be held responsible for any action(s) taken by the Banking Agencies, or any other State agency, based on such information provided by the Agency as outlined in Paragraph 1 above.

The Banking Agencies and any other state agency are required, based on mutuality, to provide necessary cooperation to the Agency for the accomplishment of the Agency's responsibilities under this Law, particularly with the purpose of the Agency's obtaining all necessary standardized reports from the Banking Agencies upon written request.

The Agency cannot hold the Banking Agencies, or any other state agency, responsible for any decision made by the Agency that was based on material that was received from these other agencies.

The Agency has legal right to expect that the Banking Agencies will inform it of any action contemplated by the Banking Agencies in response to action planned by the Agency and that was disclosed by the Agency to the Banking Agencies or action planned by the Banking Agencies themselves.

## **Article 23.**

### **Cooperation with the Central Bank of Bosnia Herzegovina**

The Agency is obliged to provide, upon written request, to the Central Bank such information that the Agency obtains within the authorities of this Law.

The Agency cannot be held responsible for any action(s) taken by the Central Bank based on information provided to the Central Bank by the Agency.

The Central Bank shall, upon request of the Agency, provide reports and information it disposes with, that are needed for the Agency to monitor banks' business operations regarding compliance with membership criteria.

## **Article 24.**

### **Sanctions**

The Agency can impose, through its Violations Committee, a monetary fine of KM 1,000 to KM 50,000 to a Member Bank if the latter:

1. Untimely submits reports to the Agency;
2. Does not pay insurance premium as it matures;
3. Does not pay membership certificate fee;
4. Does not display logo of the Agency and promotional material as an evidence of its deposit insurance membership;
5. Declines to accede deposit insurance contract;
6. Deliberately submits inaccurate information to the Agency.
7. Does not conform to any provision of this Law.
8. If the information on deposit insurance specified in this law is used for advertising purposes in a way that threatens the stability of the banking system and the confidence of depositors (Article 9, Paragraph 3)

In case of items 1 and 6 and 7, a monetary fine can be imposed in proportion to the level of created damage or unsettled liability and maximum twenty times of the amount of damage created or unsettled liability that is a subject of the violation. Moreover, the Director of the Member Bank shall be charged with a monetary fine of KM 200 to KM 5,000.

The Agency may impose, through the Violation Committee a monetary fine from KM 1,000 to KM 100,000 to a member bank if, within a deadline set by the Agency, it fails to submit a plan of rehabilitation or does not correct significantly disrupted criteria of capital, liquidity and inadequate ranting.

For the violation referred to in paragraph 3 of this Article a monetary fine from KM 1,000 to KM 10,000 shall be imposed and director of member banks and supervisory board members. "

All monetary fines stipulated in this Article will be paid to the State Budget.

## **Article 25.**

### **Violation Procedures**

The Violation Committee (hereinafter; the Committee) shall be in charge of the violation procedures.



Violation procedures shall be conducted in accordance with the Law on Violation Procedure of Bosnia and Herzegovina. The Management Board shall prescribe conditions for professional qualifications of the Committee members.

In the violation procedures Committee issues a Decision against which it can be appealed to the Court of Bosnia and Herzegovina.

## **Article 26.**

### **Cessation of Agency's Operations**

In the case whereby the Agency shall cease its operations for any reason other than the complete payout of any insurance obligation, any Agency's funds shall be distributed as follows:

- a. Payment of all legal obligations of the Agency, including any outstanding staff salary and benefits.
- b. Up to the amount available, funds must be returned to any donor up to the principle amount contributed or on a pro rata basis if all donor fund principle amounts cannot be returned.
- c. All remaining funds available must be returned to the Member Banks on a pro rata basis of all Member Banks' paid-in premiums.

The Agency's Management Board may take action to reorganize the Agency's organizational and operational arrangements but may do so only by an amendment of this Law in part or in whole. Should this action occur, the Agency will continue its operations as prescribed by this Law and any amendments necessary to be effected because of a change in the Agency's organizational operation shall be submitted to the legislative process of the State by the Agency within six months of the date the Agency's organizational and operational arrangements were approved by the Agency's Management Board.

## **IV. INTERIM AND FINAL PROVISIONS**

### **Article 27.**

#### **Transference of Rights and Obligations**

From the effective date of this Law, the funds, rights and obligations of the Federation Deposit Insurance Agency and the Republika Srpska Deposit Insurance Agency shall be transferred to this Agency that is the legal successor of these pre-existing agencies.

### **Article 28.**

#### **Registration of Agency**

Whenever possible under the laws of the State, the Agency must, within six months of the

effective date of any enabling law, be registered with the appropriate authorities to reinforce its independent legal status.

**Article 29**  
*To be erased*

**Article 30.**  
*To be erased*

**Article 31.**  
*To be erased*

**Article 32.**  
*To be erased*

**Article 33.**  
*To be erased*

**Article 33a.**

Constitutional committee of the House of Representatives and House of People of Parliamentary Assembly of Bosnia and Herzegovina shall be authorized to determine clean text of the Law on Deposit Insurance in Banks of Bosnia and Herzegovina.

**Article 34.**

**Effective Date of New Law**

This Law shall become effective on the eighth day after its publication in "Official Gazette of Bosnia and Herzegovina", and it shall be published in the Official Gazettes of the Entities and of the District of Brcko of Bosnia and Herzegovina.