

Royal Decree 2606/1996 of 20 December 1996 on deposit guarantee funds for credit institutions¹

(Official State Gazette of 21 December)

Consolidated text, latest version: 07/11/2015

This royal decree lays down the legal regime for guarantee funds for deposits in banks, savings banks and credit cooperatives.

The new regulation taking effect now follows the enactment of Directive 94/19/EC of the European Parliament and of the Council of 30 May 1994 on deposit guarantee schemes, which was already partially transposed into Spanish law, primarily through Royal Decree-Law 12/1995 of 28 December 1995 on urgent budgetary, tax and financial measures, introducing the first important developments such as the obligation of Spanish credit institutions to join a deposit guarantee fund, circumstances in which an institution can be exempt from such an obligation, and grounds for exclusion.

Another development in the aforesaid Royal Decree-Law was to determine the scheme for payment of contributions to such funds and the reduction and suspension of such contributions, to ensure the funds are replenished through annual contributions by member credit institutions and, exceptionally, by the Bank of Spain, stipulating that the amount thereof must be laid down in law.

Additional circumstances in which compensation payments are made were also stipulated (including court rulings on non-payment of deposits in addition to temporary receivership and insolvency). Lastly, the regime for membership of the branches of foreign credit institutions is also set forth.

This royal decree, completing the transposition of Directive 94/19/EC into Spanish law, implements the aforesaid; one of its most notable aspects being that it regulates in one legislative text the different funds that were previously subject to a raft of regulations.

In Spain, deposit guarantee funds have traditionally been known for their two-fold purpose: i) to secure deposits; and ii) to recover and refloat failing credit institutions. This is still true in the current arrangements.

The latest development introduced in the present regulations focuses on the following questions:

First, and regarding the governing bodies of funds, it sets out the regime for the associations representing credit institutions to designate their representatives to serve on the management committees of the respective deposit guarantee funds. The two criteria vis-à-vis these associations' remit concerning representation are: to represent over 80 percent of fund members and over 90 percent of deposits held by the members. If these percentages are not reached, representatives will be designated by direct election by all the members of the fund in question.

¹ Source: Official State Gazette (BOE, www.boe.es)

Second, there are several material aspects of the fund worth noting. Guaranteed deposits are defined using a delimitation which is as much positive as negative, in accordance with the guidelines foreseen in the directive that it implements. Deposits not guaranteed on account of their nature and which, therefore, are not included in the calculation of the contributions, are distinguished from those which, although covered in principle, and so included in the calculation, may be excluded from the obligation to pay under certain circumstances.

On the other hand, the maximum guaranteed amount in relation to deposits is limited to the equivalent in pesetas of ECU 20,000, although until 31 December 1999 this limit remains set at ECU 15,000.

This has given rise to the adoption of the so-called «principle of guarantee by country of origin», which implies obligatory coverage by deposit guarantee funds in the country of origin in the case of branches of Spanish credit institutions located in other European Union Member States. Nevertheless, a limitation known as the «prohibition clause on the export of more favourable regimes» is included, which prevents the level and the scope of coverage exceeding the maximum offered by the guarantee scheme of the Member State in which the foreign institution operates.

The scheme for membership of the Deposit Guarantee Fund for Banks for branches of foreign credit institutions is also defined, and an essential distinction drawn. Institutions based in other European Union Member States are permitted voluntary membership solely so they may offer their depositors a supplementary guarantee in addition to their own.

On the other hand, the obligatory nature of the regime covering branches of credit institutions located in non-European Union countries varies depending on the existence or not of coverage in the country of origin, and whether there is any difference in its level or scope.

Thirdly, the regulation of procedural aspects relating to the causes or circumstances that give rise to a payment obligation and those governing payment itself stand out.

The second traditional purpose of Spanish deposit guarantee funds has been to ensure the stability of the financial system, avoiding a crisis affecting one credit institution spreading to the rest of the institutions operating in the market. Another noteworthy feature of the new regulations is the so-called «Action Plan», which may include both preventive measures and measures for the restructuring of an institution. These measures may entail a range of actions intended to restructure the institution's capital, in particular subscription of capital increases by the fund, and various types of financial assistance and management measures.

The royal decree defines the functions of the Bank of Spain and of the funds' management committees concerning approval of said action plans and adoption of specific executive and recovery measures. This regulation seeks to avoid overlapping competencies and to systematise public or private actions intended to resolve financial crises affecting credit institutions.

By virtue of which, on the proposal of the Second Vice-President of the Government and Minister of Economy and Finance, with the backing of the Spanish Council of State and following consideration by the Spanish Council of Ministers at a meeting on 20 December 1996,

I HEREBY STIPULATE:

Article 1. Purpose and legal personality.

(Revoked)

Article 2. Fund governing bodies.

1. If at the time of electing representatives for the management committees of the respective deposit guarantee funds, the credit institutions that are members of one of the aforementioned associations represent over 80 percent of members of the corresponding fund, and the deposits of member institutions comprise more than 90 percent of those held by them, the representative associations will be responsible for proposing appointments of representatives to the Minister of Economy and Finance. The Bank of Spain will verify compliance with the percentages of representation mentioned above and, in the event of compliance, the association in question will be notified. If the required percentages are not reached, representatives will be designated by direct election by all the fund members who will propose their appointment. Each institution will have as many votes as the value of its deposits expressed in millions of pesetas, and only persons holding 20 percent or more of the votes may be appointed. The Bank of Spain will organise and establish the voting criteria. For the purposes of this article, all liabilities that may be covered by the guarantee provided by the funds, pursuant to current regulations, regardless of the amount owned by each holder, will be considered deposits.

2. The management committees will meet when called by their chairperson, whether on the chairperson's own initiative or as a result of a request by any of the members of the committee. The management committees will also be authorised to establish their own system for calling meetings.

3. The management committees will determine their own rules of procedure and may agree to delegate powers as they see fit to duly perform their functions.

4. Besides the functions stipulated elsewhere in this royal decree, each management committee will have the following functions:

a) To inform and advise the Bank of Spain on matters which fall within the funds' remit.

b) To approve the accounts the funds must provide to their members and to the Bank of Spain each year.

5. The management committees will obtain from the Bank of Spain any information on their respective fund's members they need to perform their functions. In particular, they will be informed by the Bank of Spain of any institutions in economic difficulties that may require action on the part of their respective funds.

6. (Revoked)

7. Management committee members will be required to keep secret all information to which they may be party as a result of their participation in the tasks of the fund, and they may not make use of such information for purposes other than those relating to serving on their respective committees. For these purposes, the provisions of article 6 of Royal Decree-Law 1298/1986 of 28 June 1986 adapting current law governing credit institutions to European Community directives, will be applicable as per the wording thereof stipulated in article 5 of Act

3/1994 of 14 April 1994 adapting Spanish law governing credit institutions to the second Banking Coordination Directive and introducing other modifications concerning the financial system into Spanish law.

Article 3. Equity of the Deposit Guarantee Fund for Credit Institutions

1. Members of the Deposit Guarantee Fund for Credit Institutions are obliged to comply with the economic regime governing annual contributions and special charges laid down in sections 2 and 5 of this article so that the Fund can fulfil its obligations to depositors and investors established in these regulations.

2. The management committee will determine the annual contributions of the members of the Deposit Guarantee Fund for Credit Institutions as per the criteria set forth in article 6 of Royal Decree-Law 16/2011 of 14 October 2011 establishing the Deposit Guarantee Fund for Credit Institutions. To this end, the bases for calculating the contributions institutions are required to make to each compartment of the Fund will be as follows:

a) In the case of contributions to the deposit guarantee compartment, the secured deposits, as defined in article 4.1.

b) In the case of contributions to the securities guarantee compartment, 5 percent of the market value on the last trading day of the year in question on the corresponding over-the-counter market of the covered securities at year-end as defined in article 4.2. When these stocks include securities or other financial instruments that are not traded on an over-the-counter market in Spain or elsewhere, the basis for calculation will be their nominal or redemption amount, whichever is most appropriate for the type of security or financial instrument in question, unless another more significant value has been declared or is given for the purposes of depositing or registering said stocks.

3. Members' annual contributions will be used to cover the needs arising from the fund compartments exercising their function and will be paid into the account designated by the corresponding management committee, following the close of each financial year within the periods set by the relevant management committee. They will comprise one or more payments according to each fund's needs.

Nevertheless and without prejudice to the stipulations in the following section, any annual surplus or other surplus in the Fund's equity over and above what is required to fulfil its functions will be retained as equity and not distributed or refunded to members.

4. When the funds available in one of the Fund's compartments are sufficient for it to be able to fulfil its functions, the Minister of Economy and Competitiveness, if so proposed by the Bank of Spain, may agree to reduce the contributions mentioned in section 1 of this article. In any event, pursuant to article 6.6 of Royal Decree-Law 16/2011 of 14 October 2011, contributions to a compartment will be suspended when the funds available in the compartment equal or exceed 1 percent of the amount secured by that compartment. This will be announced by the management committee in the manner it sees fit.

In spite of the previous paragraph, contributions to the deposit guarantee compartment cannot be suspended when the funds available in this compartment are less than the threshold established in article 6.4 of Royal Decree-Law 16/2011 of 14 October 2011.

5. When there are insufficient funds to make payments to depositors or investors, the management committee may agree to special charges being paid by members. The amount of each member's contribution will be determined in accordance with the basis for calculating contributions set forth in section 1.

Notwithstanding this, the total amount of contributions may not exceed:

a) In the case of the deposit guarantee compartment, 0.5 percent of the secured deposits per calendar year, unless authorised otherwise by the Bank of Spain. The Bank of Spain may also fully or partially postpone when a credit institution is required to pay special charges when such a contribution could threaten the institution's liquidity or solvency. Any such postponement cannot be for more than six months, although it can be rolled over at the institution's request. The Bank of Spain will never authorise a deferral or postponement if it expects the institution will be unable to pay the contributions after the deferral or postponement period.

b) In the case of the securities guarantee compartment, the amount needed to redress the shortfall in funds.

6. Contributions to the deposit guarantee compartment pursuant to section 2 in the last 12 months by a credit institution that relocates its operations to another European Union Member State and is a member of another deposit guarantee scheme will be transferred to said deposit guarantee scheme in proportion to the amount of secured deposits transferred.

Irrespective of the previous paragraph, contributions made to the deposit guarantee compartment pursuant to section 5 will never be transferred.

7. The Fund's uncalled equity must be invested in a diverse manner and in assets in the first and second categories of table 1 in article 336 of Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012, or assets that the management committee deems to be safe and liquid.

8. The Deposit Guarantee Fund for Credit Institutions will notify the European Banking Authority each year, before 31 March, of the value at 31 December of the previous year of the secured deposits and available financial resources in the Fund's deposit guarantee compartment.

Article 3 bis. Allocation of general obligations, expenses and costs to each compartment.

In accordance with article 6.2 of Royal Decree-Law 16/2011 of 14 October 2011, costs, expenses and obligations that have not been allocated to a compartment will be distributed as follows:

a) An amount equal to the total of any such costs, expenses and obligations multiplied by the basis for calculating contributions to this compartment and divided by the sum of the bases

for calculating contributions to the two compartments will be assigned to the deposit guarantee compartment.

b) An amount equal to the total of any such costs, expenses and obligations multiplied by the basis for calculating contributions to this compartment and divided by the sum of the bases for calculating contributions to the two compartments will be assigned to the securities guarantee compartment.

Article 4. Definition of secured deposits.

1. For the purposes of this royal decree, eligible deposits will comprise balances payable held by members, including funds held temporarily in trade operations and excluding any of the deposits stipulated in section 4, which members are required to refund as per applicable contractual and legal terms and conditions, in any currency in which they are denominated, and provided they are established in Spain or another European Union Member State, including fixed-term deposits and savings deposits. Any part of these deposits not exceeding the cover established in article 7 will be treated as secured deposits.

Any of the funds held temporarily mentioned in the previous paragraph will, in any event, include monetary resources deposited with the member to perform any type of investment service, pursuant to the recast text of the Spanish Securities Market Act or deriving from said services or activities.

In any of the following circumstances, balances payable will not be considered deposits for the purpose of the aforesaid royal decree:

a) Their existence can only be proven by way of one of the financial instruments stipulated in article 2 of the recast text of the Spanish Securities Market Act, approved by Royal Decree-Law 4/2015 of 23 October 2015. Repurchase agreements and bearer certificates of deposit will not be considered deposits.

b) If the principal is not repayable at its nominal value.

c) If the principal is only repayable at its nominal value with a special agreement or guarantee from the credit institution or a third party.

2. For the purposes of this royal decree, the negotiable securities and financial instruments specified in article 2 of the Securities Market Act, deposited with the credit institution in Spain or any other country for safeguarding or registration or for the performance of any type of investment service will be treated as covered securities. Covered securities will, in all instances, include any ceded through repurchase agreements that are still booked or registered as being held by the transferor.

Securities or financial instruments will not be secured if they have been deposited with a credit institution to perform investment services and supplementary activities in territories classified as tax havens under prevailing tax laws or in a country or territory that does not have a securities market regulator or, when one does exist, said regulator refuses to exchange information with the Spanish National Securities Market Commission (CNMV).

The countries or territories in the latter case will be specified by the Ministry of Economy based on the proposal of the Spanish National Securities Market Commission.

Securities and financial instruments deposited with branches of Spanish credit institutions located in non-European Union countries that have national investor compensation schemes equivalent to those in Spain will also not be secured.

3. As regards the guarantee referred to in the preceding sections covering investment services or securities depositing or registration activities, the funds will cover the failure to return the securities or other financial instruments belonging to investors who are adversely affected as a result of the situations set forth in article 8.2 of this royal decree. In this particular instance, losses in value of investments or any credit risk will not be covered.

4. The following deposits will not be eligible pursuant to the aforementioned royal decree, and will therefore not be secured by the Deposit Guarantee Fund for Credit Institutions:

a) Deposits by other credit institutions on their own behalf and in their own name, and any by the subjects and financial institutions listed below:

1.º Stock exchange brokers and companies;

2.º Insurance undertakings;

3.º Real estate investment companies;

4.º Undertakings for collective investment in transferable securities and pension fund, securitisation fund and venture capital management companies and the deposits of the entities managed;

5.º Financial advisors and portfolio management companies;

6.º Venture capital companies and the management companies thereof; and

7.º Any other financial institution defined in article 4.1.26) of Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013.

b) The institution's own funds as per the definition in article 4.1.118 of Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013, irrespective of the amount qualifying as such.

c) Debt securities issued by the credit institution in question, including promissory notes and trade bills.

d) Deposits whose holder has not been identified, pursuant to Act 10/2010 of 28 April 2010 on money laundering and the financing of terrorism, or which derive from transactions that resulted in an irrevocable criminal sentence for money laundering.

e) Deposits held by the institution on behalf of public administrations, except for those held on behalf of local authorities with an annual budget of EUR 500,000 or less.

For the purposes of this royal decree, securities held by the persons mentioned in paragraphs a) and e) above will not be deemed to be covered securities.

5. Moreover and irrespective of whether they are included when calculating contributions, the obligation to reimburse secured amounts will not apply for deposits that were made:

a) In breach of prevailing legal provisions, especially those deriving from operations that have resulted in a criminal conviction for money laundering crimes.

b) By clients obtaining, for personal gains, financial conditions that have contributed to worsening the institution's position, provided this has been determined in an outright sentence.

c) By parties acting on behalf of any depositors excluded in accordance with this and the previous section, or jointly with any parties stipulated in paragraphs a) and b) above.

6. Nevertheless, as per the deadlines stipulated in article 9.1 of this royal decree, should the Management Committee decide that circumstances exist demonstrating a relationship with or the involvement of a depositor that give rise to the obligation to indemnify, payment of the corresponding compensation may be suspended while no court ruling is handed down, at the request of a party, stipulating that there is no such relationship or involvement. The funds will have the same powers when a depositor or any other party with entitlement to or interest in the deposit has been indicted or convicted for crimes related with money laundering, should the summary procedure regulated by Title III of Book IV of Spain's Penal Procedural Act have commenced and until completion of said procedure.

The provisions of this and the preceding section will also be applicable to the holders of covered securities.

Article 5. Membership of the Deposit Guarantee Fund for Credit Institutions.

1. Except for Spain's Official Credit Institute (ICO), Spanish credit institutions must be members of the Deposit Guarantee Fund for Credit Institutions compartments.

2. The branches of foreign credit institutions will be governed by the following regime:

a) Branches of credit institutions authorised in other European Union Member States may also join the securities guarantee compartment.

b) Branches of credit institutions authorised in states that are not members of the European Union will be governed by the following regime:

1.º Membership of the deposit or securities guarantee compartments of the Deposit Guarantee Fund for Credit Institutions will be obligatory when the secured deposits or securities established or held by the branch are not guaranteed by insurance schemes in their country of origin.

2.º Such branches must join the relevant compartment of the Deposit Guarantee Fund for Credit Institutions to cover the difference in level or scope, when the guarantee given under the scheme in the country of origin is less than that given in Spain, regarding both secured deposits and securities.

3.º Membership of the relevant compartment of the Deposit Guarantee Fund for Credit Institutions will not be obligatory when the same or a higher level of cover is provided for the secured deposits or securities in the country of origin. Membership of the securities guarantee compartment will also not be obligatory when the institution does not provide investment services in Spain.

For the purposes of determining the circumstances corresponding to each branch, these will provide evidence, where applicable, of the cover given by the insurance scheme in their country of origin.

3. The Deposit Guarantee Fund for Credit Institutions will cooperate with the deposit insurance schemes of other countries in order to organise, where appropriate, payment of the secured amounts. To this end, it may enter into any agreements and collaboration mechanisms it deems appropriate.

The Fund will inform the European Banking Authority of any agreements entered into with deposit insurance schemes in other European Union Member States, and the content thereof. The Fund may also call on the European Banking Authority to help resolve any challenges faced reaching agreements or discrepancies concerning interpretation of such agreements in accordance with article 19 of Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC.

4. Each year, the management committee will publish a list of the members of each of the Fund's compartments in Spain's Official State Gazette.

5. Except where stated otherwise in article 3.6, institutions leaving the Fund for any reason must pay the Fund any outstanding amounts for annual contributions and special charges approved, and will not be entitled to reimbursements of the amounts contributed by them.

Article 5 bis. Information for depositors.

1. Credit institutions operating in Spain must provide the information needed to identify the deposit guarantee fund to which they belong to their existing and potential depositors and investors, at all their branches and on their websites in an easily understandable and accessible. Such information shall include its name, location, phone number, web address and email address, and the provisions applicable to it, specifying the amount and scope of cover offered. The information sheet template attached as an annex to this document will be used to provide information on the deposit guarantee.

Credit institutions operating under different trade names will clearly inform their depositors of this fact and that the level of cover established in article 7.1 applies to the total deposits held by the depositor in the credit institution. This information will be included in the information to depositors described in this article and in the annex.

Institutions must inform their depositors and investors of any deposits or securities not guaranteed under the provisions of article 4.4.

If the depositor or investor so requests, they will also be informed of the necessary conditions that must prevail for the guarantee to be paid and the necessary formalities for payment.

Institutions will also make available to the public information on the characteristics of the funds they are members of and will indicate, where applicable, the cover given by foreign funds or schemes. In particular, they will set out the guarantee regime for securities held by other financial institutions for safekeeping or registration.

Subject to the provisions of the preceding paragraphs of this section, fund members may not use their fund membership for advertising purposes, but may mention this without adding further details or information on the Fund.

2. Before entering into a deposit agreement, institutions will provide depositors the information stipulated in the previous section, and depositors will acknowledge receipt thereof.

3. Depositors will receive confirmation that their deposits are not excluded from cover in their account statements, which will refer to the information sheet attached in the annex. This information sheet will be sent to depositors at least once a year.

4. The Deposit Guarantee Fund for Credit Institutions website will contain all the information needed by depositors, especially the stipulations on the deposit guarantee procedure and conditions.

5. In the case of mergers, spin-offs or transformations of subsidiaries into branches or similar operations, credit institutions will inform depositors at least a month before the operation takes legal effect, unless the Bank of Spain approves a shorter notice period on the grounds of trade secrecy or financial stability.

Depositors will have three months from receiving notification of the merger, transformation or similar operation to withdraw or transfer to another credit institution, free of charge, their eligible deposits, including any interest and returns accrued prior to the operation.

6. If a credit institution withdraws or is excluded from a deposit guarantee scheme, it will inform its depositors of this fact within a month of its withdrawal or exclusion.

7. If a depositor uses online banking, the information that must be provided pursuant to this article may be provided to the depositor electronically, unless the depositor expressly requests hard copies.

Article 6. Exclusion from funds.

1. Credit institutions not paying their contributions to the deposit guarantee fund to which they belong in the due manner, not paying any special charges imposed, or not complying with their obligations pursuant to section 4 of the foregoing article, may be excluded from the fund if, having been required to make good the breach, they have not rectified their situation within a stipulated period (which may not be less than one month). The Minister for Economy, who shall act upon the proposal of the Bank of Spain, will be authorised to exclude any credit institutions following a report from the management committee of the affected fund and after hearing the credit institution's case, pursuant to article 84 of Act 30/1992 of 26 November 1992 on the legal regime of public administrations and common administrative procedure.

2. When the branch of a credit institution in a European Union Member State does not fulfil its duties as a member of the fund, the fund may, through the Bank of Spain, communicate this fact to the supervisory authority in the institution's country of origin such that it may take the appropriate measures. If, despite this, the institution continues to fail to fulfil its obligations, the fund may propose to this authority that the branch be excluded. Once the express permission of the mentioned authority has been obtained, the fund will notify the branch of its expulsion, which shall be effective twelve months after receipt of said notice.

3. Any deposits made with Spanish credit institutions and branch of foreign credit institutions prior to expulsion becoming effective, will continue be protected by the fund until they expire. In the case of current accounts, the protected balance will not exceed that existing

on the date of exclusion, minus any debits between this date and that of the circumstances giving rise to the payment of compensation.

Securities and other financial instruments held by the institution prior to its exclusion coming into effect will cease to be covered by the fund after three months have elapsed since the date of its exclusion.

Depositors will be notified of the withdrawal of cover through Spain's Official State Gazette and notices in two national newspapers.

Article 7. Secured deposit limit.

1. Deposits will be secured up to the limits set in article 10.1 of Royal Decree-Law 16/2011 of 14 October 2011. The guarantee will cover any accrued interest that remains unpaid on the date of the events stipulated in article 8.1, up to the limits set in the aforementioned article 10.1.

2. Balances payable to the credit institutions by depositors will not be included when calculating repayable amounts unless the due date of these debts falls before or on the reference dates specified in the previous section and the legal and contractual terms and conditions of the contract between the credit institution and depositor stipulate this.

Whatever the case may be, credit institutions will duly notify depositors before contracts are signed of when their debts with the institution will or will not be included when calculating secured sums as per the previous paragraph.

3. In the case of non-Euro denominated deposits, the secured amount will be the equivalent at the exchange rate on the day one of the events stipulated in article 8.1 of this royal decree takes place or the next working day if the aforesaid is a public holiday.

4. The guarantees stipulated in this article will be applied by depositor, whether they be a natural or corporate person and irrespective of the number and class of monetary deposits they hold with the same institution. This limit will also be imposed for depositors holding deposits exceeding the maximum guaranteed amount.

5. When an account has more than one holder, the balance thereof will be divided by the number of holders in accordance with the deposit agreement or, otherwise, into equal parts.

6. When the deposit holders act as representatives or agents on behalf of third parties, provided the legal beneficiary has been identified or can be identified before the events described in article 8, the Fund's cover will be proportionally applied to the third-party beneficiaries of the deposit.

Notwithstanding this, when the representative or agent is one of the entities not entitled to the Fund's cover as per article 4.4.a), it will be considered that the deposit belongs to said entity and it will not be secured by the Fund.

7. Any deposits existing when a member of the Fund has its authorisation revoked will continue to be secured until the institution is wound up or liquidated and the institution will still be required to make the legally enforceable contributions. In the case of current accounts, the balance secured will be that existing on the revocation date less any debits between that date and the date on which the event triggering payment of compensation is declared.

Article 7 bis. Covered securities limit.

1. The sum secured for investors depositing securities or financial instruments with a credit institution will be a maximum of EUR 100,000, independent of the limit established in the previous article.

The sum will be calculated at market value of the securities and instruments on the day one of the events stipulated in article 8.2 of this royal decree occurs or on the previous working day if said event occurs on a public holiday, applying the exchange rate for that day if necessary. Secured sums will be reimbursed in their monetary equivalent.

2. If the securities or instruments are not listed on an official over-the-counter market in Spain or abroad, the sum secured should one of the events stipulated in article 8 occur will be calculated as per the following criteria, solely for this purpose:

a) Equity securities: underlying value calculated according to the issuer's last audited balance sheet. If there is no audited balance sheet or a qualified opinion has been issued thereon with adjustments that could result in a lower underlying value than that stated in the accounts, market value will be determined by an expert appraiser.

b) Fixed-income securities: nominal value plus accrued interest when the interest rate is explicit, or discounted redemption value at the implied rate of the issuance in the case of zero-coupon securities or those issued at a discount.

c) Financial instruments: estimated market value calculated using generally accepted measurement procedures for the type of instrument in question.

d) The refundable value of securities or instruments issued by companies that are subject to insolvency proceedings will be determined by an expert appraiser; the valuation may be postponed until the corresponding insolvency proceedings are concluded.

3. The guarantees specified in this article will be applied by investor, whether they be a natural or corporate person and irrespective of the number and class of securities or financial instruments they hold with the same institution.

4. When the securities or financial instruments have more than one holder, the balance thereof will be divided by the number of holders in accordance with the custodian agreement or, otherwise, into equal parts.

5. When the holders of a deposit comprising securities act as representatives or agents of third parties, provided they were so before the circumstances described in article 8 occurred, the cover offered by the Fund will proportionally extend to the third-party beneficiaries of the deposit of securities.

Notwithstanding this, when the representative or agent is one of the entities not entitled to the Fund's cover as per article 4.4.a), it will be considered that the securities deposit belongs to said entity and it will not be secured by the Fund.

6. Should an institution have its authorisation to provide investment services revoked, the securities or financial instruments held by it will no longer be covered by the Fund three months after the revocation date. During this period, the institution will continue to be required to make the legally enforceable contributions.

Article 8. Grounds for execution of guarantees.

1. The Fund will reimburse secured amounts of deposits, with a charge to the deposit guarantee compartment, in the following circumstances:

a) When an institution has been declared insolvent or a request has been filed through the courts for insolvency.

b) When an institution has not been declared insolvent as per the previous paragraph but deposits past-due and callable on demand have not been reimbursed, and the Bank of Spain decides that, in its opinion and for reasons directly associated with the institution's financial position, the institution is unable to repay the deposits and there are no indications that it will be able to do so in the immediate future. After hearing the Fund's Management Committee, the Bank of Spain must decide on the case as soon as possible and, within five working days from first confirming that the institution has been unable to reimburse the deposits past-due and callable on demand, having given the institution an opportunity to be heard, provided the aforementioned deadline is not breached.

2. The Fund will reimburse secured amounts of securities and financial instruments that are eligible for cover, with a charge to the securities guarantee compartment, in the following circumstances:

a) A court judgement has been issued declaring the credit institution insolvent and suspending the return of the securities or financial instruments; however, these amounts will not be paid if, within the stipulated return period, the aforementioned suspension is lifted.

b) The Bank of Spain declares that the credit institution cannot fulfil its obligations to investors because of the events the Bank of Spain has been made aware of or for reasons directly related with the credit institution's financial position.

The following circumstances will need to prevail for the Bank of Spain to issue such as declaration:

a) The investor requested the credit institution return the securities or financial instruments deposited with it but they have not been returned within twenty-one working days.

b) The credit institution is not in the situation described in paragraph a), section 1 of this article.

c) The credit institution has a chance to be heard.

3. When the institution concerned is a branch of a credit institution with headquarters in another EU Member State, the declaration of default shall be made with the cooperation of the competent authority of that state.

Article 9. Payment and its effects.

1. Without prejudice to the stipulation in article 4.4:

a) The deposit guarantee compartment of the Deposit Guarantee Fund for Credit Institutions must settle duly confirmed claims within seven working days from the reference dates established in article 7 bis.1

The exact information on the depositors and secured deposits needed to check claims will be collated and supplied by the credit institutions within the deadlines specified in the previous paragraph.

Reimbursement of the deposits as per the first paragraph of this letter may be postponed in any of the following circumstances:

1.° When it is not clear if a person is legally entitled to receive a payment or when the deposit is being disputed in the courts.

2.° When the deposit is subject to sanctions restricting the powers of its holders to withdraw the deposit.

3.° When no transactions involving the deposit have been performed in the last 24 months.

4.° When, as per the second paragraph of article 10.1 of Royal Decree-Law 16/2011 of 14 October 2011, the reimbursable sum exceeds EUR 100,000.

5.° When, as per section 6, the amount must be paid by the deposit insurance scheme of a European Union Member State to which the branch of a credit institution operating in Spain belongs.

Notwithstanding the stipulations in this point, the deposits specified in article 7.6 will be subject to a payment period of up to three months as from the reference dates stipulated in article 7 bis.1.

The deposit guarantee compartment of the Deposit Guarantee Fund for Credit Institutions will make the necessary payments without depositors having to request them. To this end, credit institutions will provide all the necessary information on deposits and depositors when the Fund so requires. Irrespectively, the deposit guarantee compartment will not make any payments if there have been no transactions related with the deposit in the last 24 months and the value of the deposit is less than the administrative expenses the Fund would incur making payment.

b) The securities guarantee compartment of the Deposit Guarantee Fund for Credit Institutions must also settle investor's claims as soon as possible and no later than three months after determining the investor's position and the value thereof.

When the Deposit Guarantee Fund for Credit Institutions expects it will be unable to make the payments specified in point b) before the established deadline, it may ask the Bank of Spain for an extension of no more than three months, specifying the reasons for the request. The Bank of Spain may authorise an extension when it verifies there are exceptional grounds for the delay, such as a large number of investors, the existence of securities held by the institution in other countries or evidence of extraordinary legal or technical difficulties confirming the actual balance of the secured securities or whether or not to reimburse the secured sum.

2. Payments of the secured sums of deposits of cash or securities or instruments will not include those made after the date on which the events indicated in the previous article have occurred. The same is true for deposits, investments or withdrawals taking place after said date, without prejudice to article 7.1.

3. The Deposit Guarantee Fund for Credit Institutions may not avail of the periods referred to in previous sections to refuse the benefit of a guarantee to a depositor or investor who has not been able to exercise their right in time. Amounts not paid within the prescribed periods or

extensions thereof will remain in the Deposit Guarantee Fund for Credit Institutions available to the holders thereof, notwithstanding the prescription thereof under law. However, if claims by depositors or investors in enforcement of the guarantee are made after any considerations agreed in any insolvency proceedings are paid, the sum to be paid on execution of the guarantee must take into account the amount already received in said proceedings, in order that these depositors or investors do not derive economic benefit or suffer detriment in relation to those who executed the guarantee at an earlier time.

4. Simply by paying the guaranteed amounts, the legal rights of depositors and investors will be surrogated to the Deposit Guarantee Fund for Credit Institutions to the extent of the payments made. The document in which the payment is recorded will be sufficient to accredit this right.

5. In the event that the securities or other financial instruments deposited with an institution are returned by it subsequent to paying a secured sum, the Deposit Guarantee Fund for Credit Institutions may seek reimbursement for the amount paid, in whole or in part, if that amount, valued in accordance with article 7.1 at the time of the payment, is greater than the difference between the value of the securities deposited with the institution, valued at the time the events listed in article 8.2 occurred, and the amount paid to the investor. When the value of the amount returned is greater than that of the securities or instruments, calculated on the date stated in article 8.2., the excess will be divided between the Fund and the investor on a pro rata basis according to their respective credit.

Repayment will be made to the Deposit Guarantee Fund for Credit Institutions, which shall hand over to the investor the sums due in accordance with the provisions of the preceding paragraph. The Fund will be authorised, for this purpose, to dispose of the securities for the sum that is applicable.

6. On behalf of the deposit guarantee scheme of the European Union Member State of origin and in accordance with said scheme's instructions, the Deposit Guarantee Fund for Credit Institutions will make the necessary payments to the depositors of branches of credit institutions of other European Union Member States located in Spain. On behalf of the deposit guarantee scheme of the European Union Member State of origin, the Fund will also notify affected depositors and may receive correspondence from these depositors in the name of the deposit guarantee scheme of the Member State of origin.

Notwithstanding the aforesaid, the Deposit Guarantee Fund for Credit Institutions will not make any payments until it has received the necessary funds from the deposit guarantee scheme of the Member State of origin.

The Fund will also demand compensation from the deposit guarantee scheme of the Member State of origin for any expenses it may incur making payment.

7. The Deposit Guarantee Fund for Credit Institutions will be held harmless for any acts carried out following the instructions of the deposit guarantee scheme of the Member State of origin.

8. The Deposit Guarantee Fund for Credit Institutions will call on the deposit guarantee schemes of the European Union Member States where branches of Spanish credit institutions are located to make the payments corresponding to these branches' deposits.

Vis-à-vis the previous paragraph, the Deposit Guarantee Fund for Credit Institutions will send the funds to the deposit guarantee scheme of the Member State of origin along with any necessary instructions to make the payments, and will compensate the deposit guarantee scheme of the Member State of origin for any expenses incurred during payment.

The Deposit Guarantee Fund for Credit Institutions will also regularly furnish the deposit guarantee scheme of the Member State of origin with the information specified in article 9 bis and the results of the stress tests performed in accordance with article 12 of Royal Decree-Law 16/2011 of 14 October 2011.

Article 9 bis. Information to be provided by credit institutions.

1. Credit institutions will know at all times the aggregate amount of each depositor's eligible and secured deposits.

This information may be requested by the Deposit Guarantee Fund for Credit Institutions at any time.

2. The Deposit Guarantee Fund for Credit Institutions will adhere to data protection and confidentiality rules concerning depositors' accounts. To this end, said information will be handled in accordance with Organic Law 15/1999 of 13 December 1999 on personal data protection.

Article 10. Other actions of the Deposit Guarantee Fund for Credit Institutions.

1. Pursuant to article 11.5 of Royal Decree-Law 16/2011 of 14 October 2011, as an exception, when a credit institution's circumstances, based on information provided by the Bank of Spain, mean that it is likely the Fund will be required to pay compensation for the reasons given in article 8.1.b), the Fund may adopt the preventive and restructuring measures set forth in the following article, with a charge to the deposit guarantee compartment, in order to avoid the institution being wound up. These measures must be included in a plan agreed by the institution and approved by the competent supervisory authority, after consulting the FROB.

Notwithstanding this, the Fund will not adopt these measures if the competent resolution authorities stipulated in Act 11/2015 of 18 June 2015 on the recovery and resolution of credit institutions and investment firms consider that conditions warrant resolution.

2. All plans containing measures that require the approval of the board or general shareholders' meeting of the institution concerned, will be deemed to be conditional and will not be carried out without the pertinent resolutions approving them. Meanwhile, if the institution's situation so requires, the Fund may provide temporary assistance, provided that the management committee deems they are appropriately secured.

3. Any funds used by the Fund pursuant to this article must be provided immediately by the credit institutions that are members of the deposit guarantee compartment in the following circumstances:

a) If, in accordance with article 9.1.a), the deposit guarantee compartment must pay compensation for secured deposits and its funds do not amount to two thirds of the threshold stipulated in article 6.4 of Royal Decree-Law 16/2011 of 14 October 2011.

b) When the deposit guarantee compartment is not required to pay compensation for the secured deposits, provided the funds available in this compartment amount to less than 25 percent of the threshold stipulated in article 6.4 of Royal Decree-Law 16/2011 of 14 October 2011.

Article 11. Restructuring and preventive measures.

1. The Deposit Guarantee Fund for Credit Institutions may adopt any of the following restructuring and preventive measures for an institution, in accordance with the prior article:

- a) Granting of non-repayable bailouts;
- b) Granting of guarantees under favourable conditions or subordinated loans;
- c) Acquisition of doubtful or non-earning assets on the institution's balance sheet;
- d) Subscription of capital increases, pursuant to the provisions in the following sections; and
- e) Provision of any other financial assistance.

2. The Fund may subscribe capital increases that institutions approve to redress their equity position if such capital increases are not subscribed by the institution's shareholders.

The capital increases referred to in the foregoing paragraph will be deemed not to be subscribed by the institution's shareholders when the general shareholders' meeting has voted to fully or partially exclude any preferential subscription right, pursuant to applicable legislation.

The Fund will offer for sale the shares so subscribed during such capital increases as described in the previous section within a maximum period of two years. This offer for sale will be undertaken in such a way as to ensure that at least those credit institutions which are members of the Fund and whose financial capacity, business and other prerequisites are able to ensure the solvency and normal operations of the institution undergoing restructuring, given its relative size and importance, can bid.

If it is not possible within the two-year period stipulated in the previous section to ensure bids are received from institutions able to ensure the solvency and normal operations of the institution undergoing restructuring, the Fund may extend said period by one or several twelve-month periods. The decision to extend the period must be prompted by and include an exhaustive assessment of the situation that justifies the extension, including market conditions and forecasts.

The offer will state the minimum commitments that must be undertaken by the successful bidder.

The Fund will award the shares to the institution that offers the most advantageous purchase conditions. For this purpose, the financial and organisational means and capacity of each bidding institution may be taken into account as well as the economic conditions of the bid.

The offer for sale of the shares and the conditions of sale, as well as the decision as to who to award them, will be published in the Official State Gazette.

3. In order to make it possible to award the shares, the Fund may assume losses, give guarantees and purchase assets that appear on the balance sheet of the affected institutions. It may also assume liability for any costs deriving from cases or proceedings of various types that may be in progress or may be initiated subsequently.

The Fund may also purchase assets of those institutions when, in the opinion of the management committee, this contributes substantially to avoiding the need for other measures to redress the equity position of an institution that is a member of the Fund.

The measures set out in the previous paragraphs will not exempt the institution's administrators from adopting other measures contributing to bolstering the institution's equity and solvency, and those needed to ensure its statement of profit or loss is balanced.

4. The Fund will not be subject to any by-law limitations on voting rights conferred by the shares purchased or subscribed in accordance with this article.

Article 12. Stress tests.

Pursuant to article 12 of Royal Decree-Law 16/2011 of 14 October 2011, the Bank of Spain will subject the Fund to stress tests at least every three years to check the Fund's ability to honour its payment obligations.

These tests must verify the Fund's financial position and the robustness of its operating capabilities and systems.

Article 13. Communications and cooperation.

Without prejudice to articles 82 and 83 of Act 10/2014 of 26 June 2014, the Deposit Guarantee Fund for Credit Institutions may share information and communicate openly with other deposit guarantee schemes, member credit institutions, the Bank of Spain, the FROB and the pertinent authorities in other European Union Member States.

First Transitional Provision. Regime applicable to branches in Spain of credit institutions of other European Union Member States that leave the Fund.

When this royal decree enters into force, the branches in Spain of credit institutions of other European Union Member States may leave the Guarantee Fund for Deposits in Banks, without being entitled to a refund of the contributions already made by them or being required to continue making contributions for any reason.

Second Transitional Provision. Secured sum until 31 December 1999.

The secured sum as per article 7.1 will be the equivalent in pesetas of ECU 15,000 until 31 December 1999.

Third Transitional Provision. Designation and re-appointment of credit institutions' representatives on deposit guarantee fund management committees.

The deposit guarantee funds will designate and re-appoint the credit institutions' representatives on their management committees within three months of this royal decree taking effect. To this end and with regard to paragraph 3 of article 2.1, the following will be considered to be representative associations: Asociación Española de Banca Privada (AEB) for banks; Confederación Española de Cajas de Ahorros (CECA) for savings banks; and Unión Nacional de Cooperativas de Crédito (UNACC) for credit cooperatives.

Fourth Transitional Provision. Treatment of bearer certificates of deposit as secured deposits.

Until their initial expiration, bearer certificates of deposit issued before 2 July 2014 will be treated as secured deposits for the purposes of this royal decree.

Fifth Transitional Provision. Obligation to provide information on deposits that cease to be secured.

Depositors whose deposits cease to be secured after 3 July 2015 because of the amendments to this royal decree by virtue of Royal Decree 1012/2015 of 6 November 2015 implementing Act 11/2015 of 18 June 2015 on the recovery and resolution of credit institutions and investment firms, must be informed of this by their credit institution within two months of this royal decree entering into force.

Sixth Transitional Provision. Payment terms.

1. The maximum payment term of seven working days stipulated in article 9.1.a) will not come into force until 1 January 2024. Until then, the maximum payment terms will be as follows:

- a) Twenty working days, until 31 December 2018.
- b) Fifteen working days, between 1 January 2019 and 31 December 2020.
- c) Ten working days, between 1 January 2021 and 31 December 2023.

2. Until 31 December 2023, when the Deposit Guarantee Fund for Credit Institutions is unable to reimburse the refundable amount within seven working days, it will pay depositors, within five working days from the request, an adequate amount of the depositors' secured deposits to meet their needs. This amount will be deducted from the refundable amount referred to in the first paragraph of article 7.1.

The Deposit Guarantee Fund for Credit Institutions will only provide the adequate amount referred to in the previous paragraph based on the information held by the Fund or provided by the credit Institution.

3. Payments in the previous section may be postponed in any of the circumstances indicated in the third paragraph of article 9.1.a).

Single Repeal Provision. Scope of the repeal of legislation.

On entry into force of this royal decree, all other legal provisions of equal or lesser rank that contradict the content of this royal decree are repealed, in particular:

a) Royal Decree 567/1980 of 28 March 1980 improving and expanding the guarantee fund for deposits in banks.

b) Royal Decree 1620/1981 of 13 July 1981 partially amending Royal Decree 567/1980 and Royal Decree 2860/1980 on guarantee funds for deposits in banks and savings banks, respectively.

c) Royal 2575/1982 of 1 October 1982 on the guarantee fund for deposits in savings banks, implementing Royal Decree-Law 18/1982 of 24 September 1982.

d) Royal 2576/1982 of 1 October 1982 on the guarantee fund for deposits in credit cooperatives, implementing Royal Decree-Law 18/1982 of 24 September 1982.

e) Royal Decree 740/1985 of 24 April 1985 on deposit guarantee funds for banks.

f) Article 2 of Royal Decree 437/1994 of 11 March 1994 amending Royal Decree 1197/1991 of 26 July 1991 on takeover bids and Royal Decree 567/1980 of 28 March 1980 on the guarantee fund for deposits in banks.

g) The single additional provision of Royal Decree 2024/1995 of 22 December 1995 partially amending Royal Decree 1343/1992 of 6 November 1992 implementing Act 13/1992 of 1 June 1992 on own funds and supervision on a consolidated basis of financial institutions, and including a new Title V on special oversight rules applicable to mixed non-consolidable groups of financial institutions.

First Final Provision. Implementing powers.

The Minister of Economy is authorised to issue the necessary regulations to implement this royal decree and, in particular, to update, based on a Bank of Spain report, the stipulated amounts of compensation, in accordance with prevailing European Union legislation. The Minister is also authorised to change the limits established in section 2 bis of article 3 and reduce or increase the weighting stipulated in section 2 ter of the same article, taking into consideration the price of money and average cost of debt of fund members.

The Bank of Spain is authorised to develop the procedure for electing its representatives on the funds' management committees, as well as the technical and accounting rules concerning secured deposits and securities, uncalled equity and the market value of covered securities. The Bank of Spain is also authorised to issue the regulations needed to apply the rules laid down in sections 2 bis and 2 ter of article 3.

Second Final Provision. Basic nature.

The provisions set forth in this royal decree are classed as basic provisions as per article 149.1.11 and 13 of the Spanish Constitution.

Third Final Provision. Entry into force.

This royal decree will take effect the day following its publication in Spain's Official State Gazette (BOE).

Madrid, 20 December 1996.

JUAN CARLOS R.

The Second Vice-President of the Government
and Minister of Economy and Finance,
RODRIGO DE RATO Y FIGAREDO

ANNEX

Information sheet for depositors

Basic information on deposit cover	
The deposits held in [insert credit institution's name] are secured by	[Insert the name of the relevant deposit guarantee scheme](1)
Limit of cover	EUR 100,000 per depositor and credit institution (2) [replace for appropriate amount if the currency is not the euro] [where applicable:] The following trade names are used by your credit institution [insert all the trade names operating under the same licence]:
If you have more deposits in the same credit institution:	All your deposits in the same credit institution are added together and the total is covered up to a limit of EUR 100,000 [replace for appropriate amount if the currency is not the euro] (2).
If you have a joint account with another/other) person(s):	The EUR 100,000 limit [replace for appropriate amount if the currency is not the euro] applies to each depositor separately (3).
Reimbursement period in the event of the credit institution's insolvency:	Seven working days [replace for another period if applicable] (4)
Currency in which reimbursement is made:	Euros [replace for another currency if applicable]
Contact details:	[Insert the contact details of the relevant deposit guarantee scheme (address, telephone number, email address, etc.)]
For more information:	[Insert the web address of the relevant deposit guarantee scheme]
Acknowledgement of receipt from depositor:	
Additional information (all or part of the information shown below)	

(1) Scheme responsible for securing your deposit:

[Only where applicable]: Your deposit is secured by a contractual scheme officially known as the Deposit Guarantee Scheme. Should your credit institution become insolvent, your deposit will be reimbursed to you up to the limit of EUR 100,000 [replace for appropriate amount if the currency is not the euro].

[Only where applicable]: Your credit institution is a member of an institutional protection scheme officially known as the Deposit Guarantee Scheme. This means that all members of the scheme support each other to avoid insolvency. Should your credit institution become insolvent, your deposit will be reimbursed to you up to the limit of EUR 100,000 [replace for appropriate amount if the currency is not the euro].

[Only where applicable]: Your deposit is secured by a deposit guarantee scheme, created pursuant to legal provisions and by a contractual deposit guarantee scheme. Should your credit institution become insolvent, your deposit will be reimbursed in all cases to you up to the limit of EUR 100,000 [replace for appropriate amount if the currency is not the euro].

[Only where applicable]: Your deposit is secured by a deposit guarantee scheme, created pursuant to legal provisions. Your credit institution is also a member of an institutional protection scheme in which all members support each other to avoid insolvency. In the event of insolvency, the deposit guarantee scheme will reimburse your deposit to you up to the limit of EUR 100,000 [replace for appropriate amount if the currency is not the euro].

(2) General limit of protection.

If a deposit cannot be recovered because a credit institution is unable to fulfil its financial obligations, a deposit guarantee scheme will reimburse depositors. Reimbursements will be capped at EUR 100,000 [replace for appropriate amount if the currency is not the euro] per credit institution. This means that all your deposits in the same credit institution are added together to determine the level of cover. If, for example, a depositor has a savings account with a balance of EUR 90,000 and a current account with a balance of EUR 20,000, only EUR 100,000 would be reimbursed to the depositor.

[Only where applicable]: This method will also be used if a credit institution operates under different trade names. [Name of credit institution where deposit is held] also operates under the names [credit institution's other trade names]. This means that deposits in an institution under one or more of these trade names are secured for a total of EUR 100,000.

(3) Limit of protection for joint accounts.

In the case of joint accounts, the EUR 100,000 limit will apply to each depositor.

[Only where applicable]: However, deposits in an account over which two or more persons have rights as partners or members of a company, an association or any similar grouping, with

no legal personality, are aggregated and treated as if they had been made by a sole depositor for the purposes of imposing the EUR 100,000 limit [replace for appropriate amount if the currency is not the euro].

In certain cases [insert such cases stipulated in national law], deposits are secured for amounts over EUR 100,000 [replace for appropriate amount if the currency is not the euro]. Additional information is available at [insert the web address of the relevant deposit guarantee scheme].

(4) Reimbursement.

The responsible deposit guarantee scheme is [insert the name, address, telephone number, email address and web address]. The scheme will reimburse your deposits (up to a maximum of EUR 100,000) [replace for appropriate amount if the currency is not the euro] by [insert the deadline for reimbursement stipulated in national legislation] at the latest and as from [31 December 2023] within [seven working days].

[Add any information on emergency or provisional reimbursements if no amount has been provided within seven working days]. If you have not been reimbursed by this deadline, you must contact the deposit guarantee scheme, as there may be a time limit on when you can lodge a claim for reimbursement. For additional information, please refer to: [insert the web address of the responsible deposit guarantee scheme].

Other important information.

In general, all retail depositors and companies are covered by deposit guarantee schemes. Details of any exceptions applicable to certain deposits are available on the responsible deposit guarantee scheme's website. If requested, your credit institution will also inform you of any products that are secured or not. If deposits are covered, the credit institution will also specify this in the account statements issued.