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CONSOLIDATED TEXT OF THE ACT ON THE BANK GUARANTEE FUND INCLUDING:

- 1) *The Act of 14 December, 1994 on the Bank Guarantee Fund (consolidated text, Journal of Laws of 2009 No. 48 item 711);*
- 2) *amendments in accordance with the Act of 16 July, 2009 amending the Bank Guarantee Fund Act and the Banking Law Act (Journal of Laws No. 144 item 1776);*
- 3) *amendments in accordance with the Act of 10 June, 2010 amending the Bank Guarantee Fund Act (Journal of Laws No. 140 item 943);*
- 4) *amendments in accordance with the Act of 16 December, 2010 amending the Bank Guarantee Fund Act and certain other acts (Journal of Laws No. 257 item 1724);*
- 5) *amendments in accordance with the Act of 10 June, 2011 amending the Bank Guarantee Fund Act and certain other acts (Journal of Laws No. 134 item 781);*
- 6) *amendments in accordance with the Act of 5 November, 2009 on Credit Unions (Journal of Laws of 2012 item 855);*
- 7) *amendments in accordance with the Act of 30 March, 2012 repealing the Act on National Investment Funds and their Privatization and amending certain other acts (Journal of Laws item 596);*
- 8) *amendments in accordance with the Act of 19 April, 2013 amending the Credit Union Act and certain other acts (Journal of Laws item 613);*
- 9) *amendments in accordance with the Act of 26 July, 2013 amending the Bank Guarantee Fund Act and certain other acts (Journal of Laws item 1012).*

Operative provisions of law valid from the day of 29 November 2013.

The Bank Guarantee Fund Act
of 14 December 1994

Chapter 1.

General provisions

Art. 1. The Act specifies:

- 1) the principles of establishing and functioning of systems of obligatory and contractual guaranteeing of funds held in bank accounts or payable on account of claims deriving from banking activities;
- 2) the principles of establishing and functioning of systems of obligatory guaranteeing of funds held in cooperative savings and credit unions, hereinafter „credit unions” or payable on claims deriving from financial settlements carried out by a credit union;
- 3) the types of activities that may be undertaken in order to provide financial assistance to entities covered by the obligatory guarantee system and to credit unions covered by the obligatory guarantee system, up to the guaranteed funds limit, in cases of insolvency threat;
- 4) the principles of collecting and using information about entities covered by the guarantee system as well as credit unions and the National Association of Cooperative Savings and Credit Unions, hereinafter “the National Credit Union”;
- 5) the principles of granting support for the purpose of restructuring credit unions in which insolvency threat has occurred;
- 6) the sources of funding for the stabilisation fund, the types of activities financed from the stabilisation fund and the rules and procedures of deploying the funds held in said fund.

Art. 2. The terms used in the Act shall have the following meaning:

- 1) depositor - a natural person, a legal person as well as an organizational unit without legal personality, provided it has legal capacity, as well as entities stipulated in Art. 49. 3 of the Banking Act of 29 August, 1997 - (Journal of Laws of 2002 No. 72, item 665, as amended), hereinafter referred to as "the Banking Act", being a party to bank account agreement held in the account holder's name or having a claim resulting from banking activities towards the bank covered by the obligatory guarantee system, and persons stipulated in Art. 55. 1 as well as Art. 56. 1 of the Banking Act, subject to Art. 26q, provided that their claim towards the bank had become due before the date the guarantee condition was fulfilled, excluding:
 - a) the State Treasury
 - b) domestic banks, foreign banks and credit institutions, as specified in the Banking Act,
 - c) companies operating exchanges, over-the-counter markets or alternative trading systems, investment companies, foreign investment companies, foreign legal persons conducting brokerage activity as well as the National Depository for Securities as specified in the Trading in Financial Instruments Act of 29 July, 2005 (Journal of Laws No. 211 item 1384 of 2010),

- d) national and foreign insurance institutions, national and foreign reinsurance companies as specified in the Insurance Activity Act of 22 May, 2003 (Journal of Laws No.11 item 66, No. 81 item 530, No.126 item 853, No.127 item 858) as well as the Insurance Guarantee Fund as specified in the Act of 22 May, 2003 on compulsory insurance, the Insurance Guarantee Fund and the Polish Bureau of Motor Insurers (Journal of Laws No.124 item 1152, as amended),
 - e) (repealed),
 - f) investment funds, investment fund companies, foreign funds, managing companies, branches of investment companies as specified in the Investment Funds Act of 27 May, 2004 (Journal of Laws No. 146, item 1546, as amended),
 - g) open pension funds, employee pension funds, general pension societies, employee pension societies as specified in the Act on Organisation and Operation of Pension Funds of 28 August, 1997 (Journal of Laws of 2010 No. 34 item 189, No. 127 item 858 and No. 182 item 1228),
 - h) credit unions, the National Credit Union as specified in the Credit Unions Act of 5 November 2009 (Journal of Laws of 2012, item 855 and 1166 and of 2013 item 613);
 - i) persons holding on the day of fulfilment of the guarantee condition a block of at least 5 per cent of the total number of votes at a general assembly or shares in the share capital, as well as persons being in relation to them parent entities or subsidiary undertakings, as specified in Art. 3 points 16 and 17 of the Act mentioned in subsection c, in case these persons performed their functions on the day of fulfilment of the guarantee condition or within the period of the current financial (accounting) year or that preceding the day of fulfilment of the guarantee condition,
 - j) members of the domestic bank management board and supervisory board and persons holding the functions of directors and deputy directors in the bank's head office as well as directors and deputy directors of branches of this bank, in case these persons performed their functions on the day of fulfilment of the guarantee condition or within the period of the current financial (accounting) year or that preceding the day of fulfilment of the guarantee condition,
 - k) directors and deputy directors of a foreign bank's branch or a credit institution's branch, in case of which the guarantee condition was fulfilled, if these persons performed their functions on the day of fulfilment of the guarantee condition or within the period of the current financial (accounting) year or that preceding the day of fulfilment of the guarantee condition;
- 2) guaranteed funds - funds deposited with a bank by a depositor in accounts held in the depositor's name and the depositor's claims resulting from other bank operations in PLN or foreign currencies as on the date of fulfilment of the guarantee condition, confirmed by documents issued by this bank in the depositor's name or registered depository certificates referred to in Art. 9. 1 of the Trading in Financial Instruments Act of 29 July, 2005, increased by interest due accrued to the day of fulfilment of the guarantee condition, as well as amounts stipulated in Art. 55. 1 and Art. 56. 1 of the Banking Act, subject to Art. 26q, provided they became due prior to the day of fulfilment of the guarantee condition – up to the amount stipulated by the Act, excluding securities other than pecuniary claims or mortgage bonds referred to in the Act on Mortgage Bonds and Mortgage Banks of 29 August, 1997 (Journal of Laws of 2003 No. 99, item 919, as amended), and funds stipulated in Art. 26s. 2;

- 3) entities covered by the obligatory guarantee system - hereinafter referred to as "entities covered by the guarantee system":
 - a) domestic banks as specified in the Banking Act,
 - b) branches of foreign banks as specified in the Banking Act, provided that they do not participate in the funds guarantee system or the guarantee system they participate in fails to ensure guarantees for funds at least in the scope and in the amount stipulated in the Act,
 - 4) fulfilment of the guarantee condition:
 - a) in case of a domestic bank – issuing by the Polish Financial Supervision Authority a decision on the suspension of a bank’s activity and appointing a receiver in the bank, unless one had been appointed previously, as well as filing a petition to declare bankruptcy at a relevant court,
 - b) in case of a credit institution’s branch – the issuance by a foreign court or a foreign authority of a judgement, a provision or decision which deprives or limits the right of an entity covered by the guarantee system to manage its assets or which submits the entity to inspection with the objective of the entity’s reorganisation or liquidation in the course of bankruptcy proceedings in the home country,
 - c) in case of a foreign bank’s branch, the occurrence of one of the following events:
 - issuance by the court of a ruling to recognize foreign bankruptcy proceedings referred to in Art. 379. 1 of the Bankruptcy and Reorganisation Law of 28 February 2003 (Journal of Laws of 2009 No. 175 item 1361 and No. 191 item 1484 and of 2010 No. 155 item 1037 and No. 230 item 1509), initiated against a foreign bank conducting business activity in the Republic of Poland in the form of a branch,
 - initiation of bankruptcy proceedings covering the assets of the foreign bank located within the territory of the Republic of Poland;
- 4a) the day of fulfilment of the guarantee condition:
- a) in case of a domestic bank – the day indicated in the decision of the Polish Financial Supervision Authority as the day of suspension of a bank’s activity and appointing a receiver in the bank, unless one had been indicated previously, as well as filing a petition to declare bankruptcy at a relevant court,
 - b) in case of a credit institution’s branch – the day of announcing in the Official Journal of the European Union of a relevant judgement, provision or decision referred to in point 4 subsection b,
 - c) in case of a foreign bank’s branch, the day of the occurrence of one of the following events:
 - issuance by the court of a ruling to recognize foreign bankruptcy proceedings referred to in Art. 379. 1 of the Bankruptcy and Reorganisation Law of 28 February, 2003 (Journal of Laws of 2009 No. 175 item 1361 and No. 191 item 1484 and of 2010 No. 155 item 1037 and No. 230 item 1509), initiated against a foreign bank conducting business activity in the Republic of Poland in the form of a branch,
 - initiation of bankruptcy proceedings covering the assets of the foreign bank located within the territory of the Republic of Poland;

- 5) unavailability of funds – a situation wherein guaranteed funds cannot be disbursed as at the day of fulfilment of the guarantee condition (funds unavailability date);
- 6) (repealed);
- 7) (repealed);
- 8) takeover of a bank – acquisition of the enterprise of a bank threatened with insolvency or part thereof, as well as takeover of a bank on the basis of a decision of the Polish Financial Supervision Authority issued under the provisions of Art. 147. 1 point 1 or Art. 147.2 or Art. 158. 1, Art. 158.2 or Art. 158.4 of the Banking Act;
- 9) guarantee system- a system created and functioning under this Act;
- 10) officially recognised guarantee system – a system of guaranteeing guaranteed funds, created and officially recognised within the home country of a credit institution’s branch, to which said institution belongs;
- 11) bankruptcy proceedings in the home country – court or administrative proceedings conducted under the provisions of law of another member state of the European Union or of the European Free Trade Association (EFTA), including collateral proceedings, within the framework of which any property of a credit institution is subject to inspection or to judicial management by a court or other authority for the purpose of reorganisation or liquidation of this institution, if the result of such proceedings is the suspension or limitation of performance of obligations towards depositors;
- 12) calculation system – the IT system of an entity covered by a guarantee system that is designated to ensure the possibility of immediately obtaining data allowing identification of depositors and determination of the amount of guaranteed funds that are due to individual depositors;
- 13) list of depositors – collection of data referred to Art. 38g. 1;
- 14) working day – a day which is not a statutory holiday and does not fall on a Saturday.

Art. 2a. 1. Should the bank operate one account for several persons (joint account), each of these persons carries the designation of a depositor - within the limits stipulated in the account agreement, and in the absence of contractual arrangements or relevant provisions - in equal parts.

2. Should the bank hold an account for a civil law partnership, a registered partnership, general partnership, limited partnership or limited joint-stock partnership, the depositor is the partnership.

Art. 2b. 1. A foreign bank’s branch referred to in Art. 2 point 3 b) is covered by the guarantee system in such a scope as the guarantee system in the country of its registered headquarters fails to ensure disbursement of guaranteed funds within the limits stipulated in the Act.

2. A credit institution’s branch, as specified in the Banking Act, in the situation in which the amount of funds guaranteed by the guarantee system of its home country is lower than the amount stipulated in the Act, may join the obligatory guarantee system in order to increase this amount to the limit stipulated in the Act.

3. The conditions for participation of a credit institution's branch, referred to in point 2, in the guarantee system are determined by the Fund Management Board in agreement with the relevant authority in the officially recognised guarantee system, subject to the principles of the guarantee system stipulated in the Act. The conditions for joining are determined in particular by the conditions of access to the calculation system of a credit institution's branch by the Bank Guarantee Fund, referred to in Art. 3, in case of fulfilment of the guarantee condition, as well as by the Polish Financial Supervision Authority. The conditions for participating within the abovementioned scope require obtaining an opinion from the Chairperson of the Polish Financial Supervision Authority.

Chapter 2.

Establishment, organization, tasks, sources of financing and supervision over the operations of the Bank Guarantee Fund

Art. 3. 1. The Bank Guarantee Fund, hereinafter referred to as the Fund, is hereby established.

2. The Fund has legal personality.

3. The registered headquarters of the Fund are in Warsaw.

4. The minister competent for financial institutions, having consulted the President of the National Bank of Poland and the Chairperson of the Polish Financial Supervision Authority, by way of a regulation, taking into consideration efficient operation of the Fund and the specific character of its activities, establishes the statute of the Fund, which details its tasks, organization, types and means of creating its own funds and principles of financial management.

5. The operations of the Fund shall be supervised by the minister competent for financial institutions on the basis of the criteria of legality and compliance with the statute.

6. Should the minister competent for financial institutions discover, while exercising the supervision referred to in section 5, that the tasks of the Fund are carried out in breach of the law, the minister may:

- 1) demand the removal of irregularities within the specified period;
- 2) request the Fund Council to recall the member of the Fund Management Board responsible for the occurrence of irregularities.

Art. 3a. The objective of the Fund is to undertake activities in furtherance of stability of the domestic financial system, as referred to in art. 2 item 1 of the Act on the Financial Stability Committee of 7 November 2008 (Journal of Laws No. 209, item 1317 and 2013, item 1012), in particular by ensuring the operation of the system of obligatory guaranteeing of funds, providing assistance and support and granting or exercising recapitalisation guarantees, pursuant to the rules set out in the present Act.

Art. 4. 1. As regards the functioning of the obligatory and contractual systems of guaranteeing funds, the tasks of the Fund include:

- 1) specifying for a given year, pursuant to Art. 25, the amount of funds pledged by the entities covered by the guarantee system in connection with the obligation to establish a fund for the protection of guaranteed deposits;
- 2) fulfilling obligations relating to the provision of guarantees for funds under the conditions stipulated in the Act;
- 3) (repealed)
- 4) supervision over the contractual funds guarantee system.

1a. The tasks of the Fund within the scope of collecting and analysing information on entities covered by the guarantee system include, in particular, the performance of analyses and forecasts concerning the banking sector.

1b. As regards the functioning of the system of guaranteeing funds in credit unions, the tasks of the Fund include fulfilling obligations relating to the provision of guarantees for funds under the conditions stipulated in the present Act.

1c. The tasks of the Fund within the scope of collecting and analysing information on credit unions include, in particular, the performance of analyses and forecasts concerning the credit union sector.

1d. As regards the restructuring of credit unions in which insolvency threat has occurred, the tasks of the Fund include:

- 1) granting returnable financial assistance in accordance with conditions stipulated in Art. 20c and Art. 20d;
- 2) acquiring the claims of credit unions;
- 3) providing support to entities taking over credit unions, selected property rights and/or selected liabilities of credit unions and/or to acquirers of the enterprise of a credit union in liquidation, organized part thereof, and/or selected property rights in accordance with the principles stipulated in Art. 20g;
- 4) taking up the shares of the acquiring bank and acquiring or taking up the shares of the bank referred to in section 1h;
- 5) controlling the adequate use of assistance and support referred to in points 1 and 3 as well as monitoring the economic and financial situation and management system of a credit union receiving financial assistance and of an entity provided with support by the Fund;
- 6) controlling the implementation of a reorganisation programme by a credit union in situations stipulated in the present Act;
- 7) determining the amount of the mandatory annual contributions referred to in Art. 13c section 1.

1e. The Polish Financial Supervision Authority may, at the request of a bank referred to in section 1d point 4, relieve the entirety of the activity of the bank or portion thereof from the obligation to fulfil some of the requirements and standards referred to in the present Act and in the Banking Act.

1f. The limit of the non-cash contributions to the principal funds of the bank as defined in Art. 128 section 1 point 1 of the Banking Act, shall not apply to the own funds of the bank referred to in section 1h.

1g. In case of a bank referred to in section 1h, the provisions of Art. 128 section 1 point 3, Art. 138 section 3 points 3, 3a and 4 and section 6 point 3, Art. 142-151, Art. 153, Art. 156, Art. 158, Art. 159 and Art. 169 of the Banking Act shall not apply. To the extent to which granting information that is subject to bank secrecy is necessary for the conclusion and execution of the sale agreements of property rights or obligations, the provision of Art. 104 section 1 of the Banking Act shall not apply.

1h. The Fund may acquire and take up shares of a bank in order to take over or acquire the enterprise of a credit union in which the threat of insolvency has occurred, selected property rights or selected liabilities thereof, in order to continue activities related to the taken-over or acquired property rights or taken-over liabilities of the credit union in which the threat of insolvency has occurred and to carry out a restructuring until its disposal to a third party.

1i. The disposal of property rights and assumption of liabilities of a bank referred to in section 1h, shall not require the consent of the debtors and creditors of the bank.

1j. As regards the financial assistance financed from the stabilisation fund, the tasks of the Fund include:

1) extending guarantees to increase the own funds of a domestic bank, hereinafter referred to as a "recapitalisation guarantee" and, if the guarantee is executed - the purchase or take-up of shares, bonds or banking securities of a domestic bank.

2) determining the amount of the prudential contribution referred to in Art. 14a, paid to the Fund by the entities covered by the guarantee system.

2. As regards the provision of assistance to the entities covered by the guarantee system, the tasks of the Fund include:

1) granting returnable financial assistance in accordance with conditions stipulated in Art. 19 and Art. 20 of the present Act in the case of insolvency threat or for acquisition of stocks or shares of banks;

1a) acquiring claims of banks threatened with insolvency;

2) controlling the adequate use of assistance referred to in point 1 as well as monitoring the economic and financial situation and management system of the bank receiving financial assistance;

3) specifying the amount of mandatory annual contributions stipulated in Art. 13 and Art. 14, payable to the Fund by the entities covered by the guarantee system;

4) controlling the implementation of a reorganisation proceedings programme by the entity covered by the guarantee system in situations stipulated in the present Act.

2a. The minister competent for financial institutions shall stipulate, by way of a regulation, the detailed conditions, scope and procedure of the Fund's trading in claims referred to in section 1d point 2 and section 2 point 1a), while ensuring the effectiveness of assistance granted to entities covered by the guarantee system and to credit unions.

3. The minister competent for financial institutions may stipulate, by way of a regulation, having consulted the President of the National Bank of Poland and the Chairperson of the Polish Financial Supervision Authority, additional activities of the Fund in furtherance of the stability of the financial system and the procedure of their execution, having in mind the necessity to ensure the stability of the domestic financial system.

Art. 5. 1. The governing bodies of the Fund shall be: the Fund Council and the Fund Management Board.

2. Persons performing functions in the Fund's governing bodies cannot perform functions in the governing bodies of banks, credit unions or the National Credit Union, nor be employed in banks, credit unions or the National Credit Union, with the exception of the bodies of a bank referred to in Art. 4 section 1d point 4.

Art. 6. 1. The Fund Council consists of the chairperson and seven members.

2. The chairperson and members of the Fund Council have to meet all of the following conditions:

- 1) possess full capacity to perform acts in law;
- 2) have a higher education diploma;
- 3) have no record of conviction for an intentional offence or a fiscal offence;
- 4) possess knowledge and experience in the scope of banking.

3. The chairperson of the Fund Council shall be appointed and recalled by the minister competent for financial institutions, having consulted the President of the National Bank of Poland and the Chairperson of the Polish Financial Supervision Authority.

4. Members of the Fund Council shall be appointed and recalled as follows:

- 1) two of them - by the minister competent for financial institutions;
- 2) two of them - by the President of the National Bank of Poland;
- 3) one of them - by the Chairperson of the Polish Financial Supervision Authority;
- 4) two of them - by the Association of Polish Banks under conditions stipulated in the Fund's statute.

5. The members of the Fund Council are entitled to a monthly remuneration. Said remuneration consists of a fixed part and a variable part based on the participation of a member of the Fund Council in the meetings of the Fund Council as well as on the frequency of the meetings of the Fund Council in a given month.

5a. The amount of monthly remuneration of members of the Fund Council shall be set as a multiple of an average monthly remuneration in the business sector, excluding performance bonuses, in the fourth quarter of the preceding year, published by the President of the Central Statistical Office.

6. The minister competent for financial institutions, having consulted the President of the National Bank of Poland and the Chairperson of the Polish Financial Supervision Authority, shall specify, by way of a regulation, the maximum amount of a monthly remuneration of members of the Fund Council. The maximum amount shall include:
 - 1) the amount of remuneration in the fixed part,
 - 2) the way of setting the remuneration in the variable part - taking into account the scope of tasks performed by the Fund Council, the performed function as well as participation in the meetings of the Fund Council.
7. The term of office of the Fund Council, subject to Art. 17 section 5, shall be 3 years.
8. The term of office of the Fund Council shall be joint for all its members.

Art. 7. 1. The Fund Council shall exercise control and supervision over activities of the Fund.

2. Furthermore, the tasks of the Fund Council shall include:

- 1) supervising activities of the Fund Management Board;
- 2) adopting activity plans and financial plan of the Fund;
- 3) submitting to the Council of Ministers the report on activities of the Fund for the previous year;
- 3a) submitting to the minister competent for financial institutions, the Chairperson of the Polish Financial Supervision Authority and the President of the National Bank of Poland quarterly reports on activities of the Fund, not later than within 40 days as of the last day of the calendar year quarter for which it was prepared;
- 3b) adopting the annual financial statement of the Fund submitted by the Fund Management Board and the activity report of the Fund;
- 4) approving requests of the Fund Management Board concerning taking a loan referred to in Art. 16a. 5;
- 4a) approving requests of the Fund Management Board with respect to taking a short-term loan for the purpose of performing the tasks of the Fund concerning the guaranteeing of funds held in credit unions;
- 5) determining at the request of the Fund Management Board the rates of the mandatory annual contribution and the rates of the prudential contribution for the entities covered by the guarantee system, as well as the rates determining the size of funds for the protection of guaranteed deposits;
- 5a) determining at the request of the Fund Management Board the rates of the mandatory annual contribution for credit unions;
- 6) defining the principles and forms of providing financial assistance to the entities covered by the guarantee system stipulated in Art. 4.2 point 1;
- 7) defining the principles and forms of securing and claiming the reimbursement of funds due to the Fund in relation to the provision of assistance stipulated in Art. 4.2 point 1;
- 7a) taking, at the request of the Fund Management Board, a decision on the transfer of funds between the own funds of the Fund;

- 7b) determining the principles and forms of providing support as well as collateralization and recovery of funds that were extended as support to entities performing a take-over or acquisition in the process of credit union restructuring, referred to in Art. 4 section 1d point 3;
- 7c) determining the principles of granting financial assistance referred to in Art. 4 section 1d, point 1, and the rules and forms of collateralization and recovery of funds that were extended as such assistance;
- 7d) determining the principles of acquiring or taking up shares of banks in relation to the realization of tasks referred to in Art. 4 section 1d point 4, and the principles of management of these shares;
- 7e) determining the principles of granting financial assistance, as referred to in Article 4 section 1j point 1, and the principles of managing the shares, bonds and banking securities of a domestic bank acquired and taken-up as a result of the performance of a recapitalisation guarantee;
- 8) setting the remuneration of members of the Fund Management Board;
- 9) representing the Fund in its legal relations with members of the Fund Management Board, in particular with respect to appointing, suspending and recalling members of the Fund Management Board;
- 10) adopting rules specifying the organization of work as well as principles and procedures relating to the functioning of the Fund Management Board.

3. When setting the rate of the obligatory annual contribution referred to in Art. 13 section 1, and the rate of the prudential contribution referred to in art. 14a, the Fund Council shall take into account, in particular, the situation in the financial sector and its macro-economic environment.

Art. 8. 1. The Council shall adopt resolutions by a majority of votes in the presence of at least four Council members. In case of a tie vote, the vote of the chairperson of the Fund Council shall be decisive.

2. The minister competent for financial institutions, having consulted the President of the National Bank of Poland and the Chairperson of the Polish Financial Supervision Authority, by way of a regulation, sets the rules specifying the organization of work as well as principles and procedures relating to the functioning of the Fund Council, taking into account tasks carried out by the Fund and the specific character of its activities.

Art. 9. 1. The Fund Management Board shall be composed of three to five members, including the president and the vice-president.

2. Each member of the Fund Management Board has to meet all of the following conditions:

- 1) possess full capacity to perform acts in law;
- 2) have a higher education diploma;
- 3) have no record of conviction for an intentional offence or fiscal offence;
- 4) possess at least 5-years of work experience in banking in a managerial position.

3. The Management Board shall be appointed by the Fund Council.

4. The term office of the Management Board shall be 3 years as of the date of its appointment by the Fund Council.
5. The Fund Council shall elect the president and the vice-president of the Fund Management Board from among the members of the Fund Management Board.
6. Any member of the Fund Management Board, including the president or the vice-president, may be recalled from their function at any time by the Fund Council.
7. Mandates of the members of the Fund Management Board shall expire upon the termination of the Management Board term of office or on the day when other circumstances occur that cause expiration of the mandate of the member of the Fund Management Board, subject to Art. 17.5.

Art. 10. 1. The Fund Management Board shall manage the Fund and represent it towards third parties.

2. The tasks of the Fund Management Board shall include:

- 1) drawing up draft activity plans and the financial plan of the Fund;
- 2) managing the resources of the Fund, subject to the powers reserved for the Fund Council;
- 3) submitting quarterly and annual activity reports to the Fund Council;
- 4) submitting to the Fund Council requests concerning matters stipulated in Art. 7 section 2 points 4, 4a, 5, 5a and 7a;
- 5) performing other tasks not reserved for the Fund Council.

Art. 11. Two members of the Fund Management Board acting jointly are authorised to make declarations concerning property rights and obligations of the Fund.

Art. 12. The Fund Council and the Fund Management Board perform their functions with the aid of the Office of the Fund, whose organizational structure and principles of operation are determined by the Fund Management Board in consultation with the Fund Council.

Art. 13. 1. Entities covered by the guarantee system shall pay mandatory annual contributions to the Fund amounting to the product of a rate not exceeding 0.3% and the annual contribution base stipulated in section 1a.

1a. The annual contribution base is the amount equalling 12.5-times the sum total of the capital requirements for individual types of risks and the capital requirements for exceeding the limits and violation of other standards specified in the Banking Act, calculated by the bank according to the principles determined on the basis of provisions of the aforementioned Banking Act.

2. The rate referred to in section 1 for the subsequent year shall be determined and communicated to entities covered by the guarantee system by the Fund Council not later than at the end of the calendar year preceding the year in which the payment is to be made.

3. Subject to paragraph 3c, the entities covered by the guarantee system are obliged to pay the contribution referred to in paragraph 1, on dates specified by the Fund, not later than by 31 of March each year, while contributions due from cooperative banks- affiliated with affiliating banks- shall be made on behalf of those banks by affiliating banks.

3 a. *(repealed)*

3b. *(repealed)*

3c. The entities covered by the guarantee system being domestic banks, established on the basis of Article 42a paragraph 1 of the Banking Law Act, are obliged to pay the contribution referred to in paragraph 1, in full amount for the year in which the bank was entered in the register of entrepreneurs, not later than within 30 days of registering the bank in the register of entrepreneurs. The basis for calculating the first contribution shall be the amount referred to in paragraph 1a, calculated as at the date of registering the bank in the register of entrepreneurs. The provision of paragraph 3 shall apply to making the contribution referred to in paragraph 1 by those entities in the following years.

4. The annual contribution referred to in section 1 shall be deductible for tax purposes as specified in the provisions of the Corporate Income Tax Act of 15 February, 1992 (Journal of Laws of 2000 No. 54, item 654, as amended).

5. As of the day the guarantee condition is fulfilled by an entity covered by the guarantee system, this entity shall be relieved of the obligation to pay annual contributions stipulated in section 1.

Art.13a. A credit union guarantee fund, hereinafter referred to as the "credit union fund", shall be created in the Fund.

2. The credit union fund is the Fund's own fund.

3. The credit union fund is created to provide funds for financing the tasks of the Fund in the area of disbursement of guaranteed funds, as referred to in Art.4 section 1b, and financing the tasks of the Fund concerning the restructuring of credit unions, as referred to in Art.4 section 1d points 1-4.

Art. 13b. 1. For accounting purposes the credit union fund is divided into the available-for-use credit union fund and the deployed credit union fund.

2. The loans extended by the Fund from the credit union fund, executed guarantees, sureties and purchased claims, expenditures to purchase or take-up shares, all reduce the balance of the available-for-use credit union fund while increasing the balance of the deployed credit union fund. Subsidies referred to in Art 20g section 2 point 4, write-downs on assets purchased or taken-up from the credit union fund and reserves for guarantees and sureties reduce the available-for-use credit union fund, taking into account Art 38r section 1.

3. The repayment of loans and proceeds from claims ensuing from executed guarantees and sureties, as well as the sale of previously purchased claims and acquired or taken-up shares, increase the balance of the available-for-use credit union fund and reduce the deployed credit union fund. The release of reserves for guarantees and sureties, the release of write-downs on assets purchased or taken-up from the credit union fund, the repayment of claims referred to in Art. 20j received by the Fund as well as funds transferred to the Fund by the National Credit Union from its stabilisation fund increase the balance of the available-for-use credit union fund, taking into account Art. 13c section 6.

4. In order to secure receivables deemed at risk of default, ensuing from extended loans, guarantees and sureties as well as purchased claims, the Fund performs write-downs that reduce the balance of the available-for-use credit union fund.

5. The release of the write-downs referred to in section 4 adds to the balance of the available-for-use credit union fund.

6. The disbursement of funds from the credit union fund takes place on the basis of a Fund Management Board resolution on granting assistance or support.

7. The increase of value of shares listed on the regulated market, as specified in the provisions of the Trading in Financial Instruments Act of 29 July 2005, purchased or taken-up in due course of fulfilment of the tasks referred to in Art. 4 section 1d point 4, above the purchase price as well as the decrease of value of shares to the level of the purchase price, shall be recorded in the profit and loss account, subject to section 9.

8. The decrease of value of the shares taken-up or purchased below their purchase price (adjusted purchase price) as well as the increase of value of the shares up to the level of the purchase price (adjusted purchase price), shall be recorded as reductions and increase of the credit union fund accordingly, subject to section 9.

9. The revenues ensuing from dividends shall be recorded in the profit and loss account.

10. The provisions of section 7 and 8 shall apply to the profits and losses on the disposal of the shares that were taken-up or purchased.

Art. 13c. 1. Credit unions shall pay mandatory annual contributions to the Fund amounting to the product of a rate not exceeding 0.3% and the value of assets and off-balance-sheet liabilities determined as at a date specified by the Fund Council.

2. The rate referred to in section 1 for the subsequent year shall be determined and communicated to credit unions by the Fund Council not later than at the end of the calendar year preceding the year in which the payment is to be made.

3. Credit unions are obliged to pay the contribution referred to in paragraph 1 on dates specified by the Fund, not later than by 31 March of each year.

4. The annual contribution referred to in section 1 shall be deductible for tax purposes as specified in the provisions of the Corporate Income Tax Act of 15 February 1992.

5. As of the day the guarantee condition is fulfilled by a credit union, it shall be relieved of the obligation to pay annual contributions stipulated in section 1.

6. Mandatory annual contributions referred to in section 1, funds from subsidies granted at the request of the Fund from the state budget under conditions stipulated in the provisions on public finances and funds from subsidies granted by the National Credit Union are allocated to the credit

union fund.

7. Delays in payment of annual contributions stipulated in section 1 entitle the Fund to collect interest payments at a rate of interest charged on tax arrears.

Art. 13d. Statements from the Fund's books pertaining to the credit union fund, signed by authorised members of the Fund Management Board and affixed with its stamp, confirming the existence of a liability towards the Fund by a credit union, in conjunction with a declaration that the claims based thereon are due, shall have the force of a writ of execution without the need to provide enforceability clauses for them. The provisions of Art. 37 sections 2-4 apply accordingly.

Art. 14. 1. Until 31 December, 1999 Bank Polska Kasa Opieki S.A., Powszechna Kasa Oszczędności - Bank Państwowy and Bank Gospodarki Żywnościowej S.A. shall pay mandatory annual contributions calculated at half-rates stipulated in Art.13, subject to section 5.

1a. *(repealed)*

2. The mandatory annual contribution shall not be charged on assets from contractual loan agreements in banks keeping building society accounts in accordance with principles stipulated in separate provisions.

3. Mandatory annual contribution shall not be charged on:

- 1) funds established, entrusted or transferred to Bank Gospodarstwa Krajowego by virtue of separate acts;
- 2) activities of Bank Gospodarstwa Krajowego within a framework of governmental programs, as well as funds accumulated on a State Treasury surety and guarantee reserve account maintained at this bank.

3a. *(repealed)*

3b. *(repealed)*

3c. *(repealed)*

4. In the case of assets derived from mortgage bonds and public bonds, the mandatory annual contribution shall not be charged and the fund for protection of guaranteed deposits shall not be established.

5. In the case of takeover of other banks, the banks referred to in section 1 shall pay mandatory annual contributions for the year 1999 on the sum total of assets and off-balance sheet liabilities stipulated in Art. 13.1, calculated on the basis of the rate stipulated in section 1 solely up to the sum total of their own balance sheet assets and off-balance sheet liabilities as at before the takeover.

Art. 14a. Entities covered by the guarantee system shall pay a prudential contribution to the Fund amounting to the product of a rate not exceeding 0.2% and the base for calculation of the annual contribution, as referred to in Art 13 section 1a. The provisions of Art. 13 sections 2, 3, 3c and 5 and Art 14 sections 2, 3 and 4 apply accordingly.

Art. 15. The financing sources of the Fund are the following:

- 1) mandatory annual contributions referred to in Art. 13 section 1 and Art. 13c section 1 payable by entities covered by the guarantee system and by credit unions;
- 1a) prudential contributions referred to in Art. 14a, payable by entities covered by the guarantee system;
- 2) amounts transferred from the fund for protection of guaranteed deposits stipulated in Art. 25.1 coming from payments by entities covered by the guarantee system, made in accordance with the resolution of the Fund Management Board to a dedicated special account of the Fund in the National Bank of Poland;
- 3) income from interest on loans granted by the Fund and interest income from securities referred to in Art. 16.3;
- 4) funds received as part of non-repayable foreign assistance;
- 5) funds from subsidies granted at the request of the Fund from the state budget under conditions stipulated in the provisions on public finances;
- 5a) funds transferred by the National Credit Union from its stabilisation fund;
- 6) funds from short-term loans granted by the National Bank of Poland in accordance with Art. 16a section 5 and Art. 38r section 4;
- 6a) loans granted from the state budget;
- 7) other income.

Art. 16. 1. The funds of the Fund shall be used for:

- 1) financing the tasks of the Fund relating to the provision of guarantees for funds;
- 2) financing the tasks of the Fund in the scope of providing entities covered by the guarantee system with assistance referred to in chapter 3, and within the scope of restructuring of credit unions referred to in Art 4 section 1d points 1-4, with the reservation that this financing may be granted only from the funds stipulated in Art. 15 points 1, 3, 4 and 7, less the expenses stipulated in section 5;
- 2a) financing the Fund's tasks as regards the granting of assistance referred to in Art. 4 section 1j point 1, with the reservation that this assistance may only be granted from the funds of the stabilisation fund;
- 3) (repealed).

2. The balance surplus of the Fund in a given year increases its own fund, created in order to ensure resources for financing the tasks of the Fund as regards providing assistance to entities covered by the guarantee system, the credit union fund and the stabilisation fund, subject to sections 2a and 2b. The distribution of the balance sheet surplus shall be proportional to the level of such funds participating in their sum, determined as at the balance sheet date of the last approved financial statement.

2a. The balance surplus of the Fund may be allocated to an own fund created in order to ensure resources for purchase of tangible fixed assets of the Fund and disbursement of guaranteed funds - only in order to increase it to the amount equal to its value as at 31 December, 2007.

2b. The balance surplus of the Fund may be allocated to an own fund created in order to ensure resources for coverage of potential balance losses and for fulfilment of statutory tasks -only in order to increase it to the amount equal to 1/3 of the own fund value stipulated in section 2a.

2c. In the event of a loss, the means of its coverage are specified in section 2 and shall be applied accordingly.

3. The Fund may acquire the following, subject to Art. 4 section 1h and Art. 20g section 2 point 1:

1) securities issued, endorsed or guaranteed by the State Treasury or the National Bank of Poland;

2) securities issued, endorsed or guaranteed by governments or central banks of European Union Member States, parties to the agreement on the European Economic Area or members of the Organisation for Economic Co-operation and Development;

3) participation units of a money market fund, as referred to in Art. 178 of the Investment Fund Act of 27 May 2004;

4) as execution of a recapitalisation guarantee – shares, bonds or banking securities of a domestic bank;

5) rights deriving from securities purchased or taken-up in a way specified in point 4, in Art. 4 section 1h or in Art. 20g section 2 point 1.

4. The Fund's funds are held in current accounts, dedicated accounts and overnight deposit accounts and other term deposit accounts with the National Bank of Poland. The Fund may also keep accounts with the National Depository for Securities S.A.

4a. The Fund may participate in trading in treasury securities also through the intermediary of an investment company and have a bank account for settlement of such transactions.

4b. In order to purchase or sell securities referred to in section 3 point 2, the Fund may also hold securities accounts in foreign clearing houses and possess a bank account to carry out the settlement of such securities.

5. The operating costs of the office of the Fund and other expenses related to the performance of the Fund's tasks shall be covered from funds referred to in Art. 15 points 1, 1a and 3-7.

Art. 16a. 1. The disbursement of guaranteed funds is made by the Fund from the following funds, in the order specified below:

1) fund for the protection of guaranteed deposits of the bank with respect to which the guarantee condition was fulfilled;

2) fund for the protection of guaranteed deposits of entities covered by the obligatory guarantee system.

2. In case the amount of the guaranteed funds liability exceeds the sum total of funds referred to in section 1, the Fund shall disburse the guaranteed funds from the assets of the Fund's own fund designated to record funds recovered from banks' bankruptcy estates.

3. In case the amount of the guaranteed funds liability exceeds the sum total of the funds referred to in section 1 and 2, the Fund shall disburse the guaranteed funds from the Fund's own fund created to ensure funds to finance the Fund's tasks in the scope of providing assistance to entities covered by the guarantee system. The amount of disbursements must not exceed the value of the fund reduced by the balance-sheet value of the claims financed from this fund.
4. In case the amount of the guaranteed funds liability exceeds the sum total of funds referred to in sections 1-3, the Fund shall disburse the guaranteed funds from other sources referred to in Art. 15, with the exclusion of Art. 15. 6, and from any remaining assets of the Fund's own funds, excluding:
 - 1) parts of the own fund created to ensure resources for the acquisition of tangible fixed assets;
 - 2) own funds created solely for the purpose of recording funds recovered in accordance with separate acts;
 - 3) funds from revaluation;
 - 4) non-approved profit from previous years;
 - 5) profit for the financial year.
5. After exhaustion of all the funds referred to in sections 1-4, in case of a threat to financial stability and in order to cover urgent needs of the Fund, the National Bank of Poland may, at the request of the Fund Management Board, grant the Fund a short-term loan, referred to in Art. 15. 6, provided that appropriate collateral is established.
6. After exhaustion of all the funds referred to in section 1, the minister competent for financial institutions may, by way of a regulation, having consulted the President of the National Bank of Poland and the Chairperson of the Polish Financial Supervision Authority, increase the rate for creating funds for the protection of guaranteed deposits for the entities covered by the obligatory guarantee system, but not more than to the amount of 0.8 %. The amount and date of the following obligatory payment is determined by the Fund Management Board by way of a resolution.
7. After exhaustion of all the funds referred to in section 1, the minister competent for financial institutions may, by way of a regulation, having consulted the President of the National Bank of Poland and the Chairperson of the Polish Financial Supervision Authority, increase the rate of the annual contribution for the current year, but not more than to the amount of 0.6%. In issuing a regulation the minister competent for financial institutions shall determine the day for the rate of the annual contribution to be calculated and the date of its being made. The provision of Art. 13. 4. applies accordingly.
8. The minister competent for financial institutions, while issuing regulations referred to in sections 6 and 7, shall in particular take into consideration the amounts of unsatisfied liabilities of the Fund on account of guaranteed assets.

Art. 16b. 1. Where there is a necessity to disburse guaranteed funds in the case referred to in

Art. 16a section 3, if a transfer of funds referred to in Art. 18a section 3 has been done, the minister competent for financial institutions shall provide funding to the Fund for the disbursement of guaranteed funds up to the amount of funds transferred from the Fund's own fund, created to provide funds for financing of the Fund's tasks in the scope of providing assistance to entities covered by the guarantee system, to the stabilization fund, within such a timeframe as to enable the Fund to make disbursements of guaranteed funds within the time limit specified in Art. 22 section 3.

2 The funds can be transferred to the Fund in the form of subsidies from the state budget or in the form of treasury securities.

3 The conditions of the issue of treasury securities and of the performance of benefits deriving from them shall be stipulated by the minister competent for financial institutions in a letter of issue.

4 The letter of issue shall contain in particular :

- 1) the date of issue;
- 2) indication of the legal basis for the issue;
- 3) the unitary nominal value;
- 4) determination of the currency in which the issue may occur or method for determining the currency of issue;
- 5) the price or the manner of its determination;
- 6) the interest rate or the method of its calculation;
- 7) the manner and timing of payment of principal and incidental dues;
- 8) the date from which the interest on the issued treasury securities shall commence accruing;
- 9) the redemption date and the possibility of earlier redemption;

5. The issue of treasury securities is completed on the day of registration of these securities in the securities deposit and in the amount equal to the nominal value of the securities being issued.

6. As regards the issue of treasury securities referred to in section 2, the provisions of Art. 97, Art. 98 and Art. 102 of the Act of 27 August 2009 on Public Finances (Journal of Laws of 2013, items 885 and 938) shall not apply.

7. Issues of treasury securities do not count towards the limits specified in the Budget Act.

8 The nominal value of the issued treasury securities count towards the debt of the Treasury in accordance with the Act of 27 August 2009 on Public Finances.

Art. 17. 1. The Fund shall draw up its annual financial statement by 31 March of each year for the preceding financial year.

2. The financial statement of the Fund is subject to audit by an entity authorised under separate provisions and selected by way of tender by the Fund Council. Audit costs shall be incurred by the Fund.

3. By 30 June each year the Fund Council, having received an opinion of the minister competent for financial institutions, shall submit to the Council of Ministers for approval the activity report of the Fund for the preceding year and the financial statement attached thereto with results of the audit stipulated in section 2.

4. The Council of Ministers approves or rejects the documents referred to in section 3 by 31 August each year.

5. Rejection by the Council of Ministers of the activity report of the Fund for the preceding year shall result in the expiration of the mandate of all members of the Fund's governing bodies, with the reservation that they shall continue in office until the appointment of new members of the Fund's governing bodies.

6. The provision of section 5 shall not apply to the members of the Fund's governing bodies whose term of office does not coincide with the report on activities of the Fund stipulated in section 3.

7. In the scope of accounting, the Fund applies provisions of the Accounting Act of 29 September, 1994, subject to section 8.

The minister competent for financial institutions, having sought the opinion of the President of the National Bank of Poland and the Chairperson of the Polish Financial Supervision Authority, shall determine, by way of a regulation, special accounting principles of the Fund, including the scope of information presented in the additional information to the financial statement.

Art. 17a. The Bank Guarantee Fund is not a state legal person and it is not an entity of the sector of public finances.

Art. 18. The Bank Guarantee Fund is exempt from corporate income tax.

Chapter 2a

Stabilisation fund and granting assistance from the funds of this fund

Art. 18a. 1. The stabilisation fund, constituting an own fund of the Fund, shall be established from the proceeds of the prudential contribution referred to in Art. 14a.

2. The Fund Council, at the request of the Fund Management Board and after obtaining the opinion of the minister competent for financial institutions, may transfer all or part of the funds held in the stabilisation fund to an own fund created to ensure funds to finance the Fund's tasks in the scope of providing assistance to entities covered by the guarantee system.

3. The Fund Council, at the request of the Fund Management Board and after obtaining the consent of the minister competent for financial institutions, may temporarily transfer all or part of the funds held in the own fund, created to ensure funds to finance the Fund's tasks in the scope of providing assistance to the entities covered by the guarantee system, to the stabilisation fund.

Art. 18b. Funds held in the stabilisation fund shall be allocated towards:

- 1) financing the assistance referred to in Art. 4 section 1j point 1;
- 2) the disbursement of guaranteed funds in the case referred to in Art. 16a section 4.

Art 18c. 1. In the event that it is necessary during reorganisation proceedings to increase a domestic bank's own funds, the Fund may, having taken into account the activities referred to in Art. 3a, the level of funds in the stabilisation fund and the possibility of granting assistance in the manner referred to in Art. 19 section 1, grant a recapitalisation guarantee.

2. In the case referred to in section 1, as regards the granting of a recapitalisation guarantee, the provisions of Art. 3–8, Art. 9 sections 1, 3 and 4, Art. 12 and Art. 22 of the Act on the Recapitalisation of Certain Financial Institutions of 12 February 2010 (Journal of Laws No 40, item 226 and 2011 No 38, item 196) shall apply accordingly.

3. The Fund may refuse to grant a recapitalisation guarantee, in particular in instances where there is a significant engagement of the Fund's funds in relation to a domestic bank, in respect of the tasks referred to in Art. 4 section 1j point 1 or section 2 point 1 or point 1a.

Art. 18d. 1. The Fund may only grant a recapitalisation guarantee upon the submission of a request referred to in Art. 6 section 2a of the Act on the Recapitalisation of Certain Financial Institutions of 12 February 2010.

2. A recapitalisation guarantee is granted after the domestic bank pays a commission fee to the Fund, calculated according to the level of the liability covered by the guarantee.

3. A refusal to grant a recapitalisation guarantee shall not constitute grounds for any claims on the part of the domestic bank or any third parties against the Fund or its bodies.

Chapter 3.

Provision of assistance to entities covered by the guarantee system

Art. 19. 1. In fulfilment of the tasks stipulated in Art. 4 section 2 point 1, the Fund may, in particular, grant loans, guarantees or sureties to entities covered by the guarantee system.

2. Funds obtained by entities covered by the guarantee system under loans, guarantees or sureties granted by the Fund, stipulated in section 1, may be allocated exclusively for elimination of insolvency risk or acquisition of bank's shares or stocks by new shareholders or stockholders, provided that the conditions stipulated in Art. 20 have been fulfilled.

3. The guarantees referred to in section 1 are subject to relevant provisions concerning guarantees granted by banks.

4. Civil law transactions resulting in the fulfilment of the tasks stipulated in section 1 and in Art. 4.2 point 1a are exempt from stamp duty.

Art. 20. The conditions for provision of assistance stipulated in Art. 4.2 point 1 and 1a by the Fund include, in particular:

- 1) approval by the Fund Management Board of the audit results of a financial statement concerning the operations of an entity covered by the guarantee system and submitted by said entity, and in the case of application for assistance for the purpose of taking over another bank, merger of banks or purchase of stocks (shares) in another bank - the audit results of the financial statements of both banks;
- 2) submission to the Fund Management Board by the entity covered by the guarantee system of a positive opinion of the Polish Financial Supervision Authority on the programme for rehabilitation proceedings or on the purposefulness of takeover, merger of banks or purchase of stocks (shares) of another bank;
- 2a) submission to the Fund Management Board by the bank applying for assistance of a positive opinion of the Polish Financial Supervision Authority on the programme for reorganisation proceedings;
- 3) demonstration that loans, guarantees, sureties and funds requested by the entity covered by the guarantee system, and allocated by the Fund for purchase of claims would not exceed the total maximum amount under guarantee in this entity, calculated as the sum of guaranteed funds in the accounts of the bank's depositors, and in the case of application for financial assistance for takeover or merger with another bank - would not exceed the sum of guaranteed funds held in depositors' accounts with the bank to be taken over;
- 4) using existing own funds of the bank for loss coverage of the bank applying for assistance or to be taken over.

Art. 20a. 1. The Polish Financial Supervision Authority shall immediately notify the Fund Management Board of the necessity to initiate by the management board of the bank reorganisation proceedings stipulated in Art. 142 of the Banking Act.

2. The Fund at its own request submitted to the Polish Financial Supervision Authority shall be appointed a trustee, stipulated in Art. 144 of the Banking Act, for the bank covered by the guarantee system, provided that the Fund granted this bank assistance referred to in Art. 4.2 point 1 and 1a. The Fund shall not be entitled to remuneration stipulated in Art. 144.8 of the Banking Act.

3. Provisions of the Civil Code and other acts stipulating the forms and means of collateralising bank claims shall apply to the claims of the Fund relating to the provision of assistance referred to in Art. 4.2 point 1.

Art. 20b.1. The entity covered by the guarantee system that receives financial assistance from the Fund is obliged to provide at the request of the Fund information necessary for the fulfilment of tasks stipulated in Art. 4.2 point 2 and 4, subject to provisions on information protected by law.

2. The provisions of section 1 shall apply accordingly to the entity whose shares or stocks have been acquired with the use of financial assistance funds provided by the Fund.

Chapter 3a

Provisions of Credit Union Restructuring

Art. 20c. 1. In fulfilment of the tasks stipulated in Art. 4 section 1d point 1, the Fund may grant loans, guarantees or sureties to credit unions covered by the guarantee system.

2. Funds obtained by credit unions covered by the guarantee system under loans, guarantees or sureties granted by the Fund, as referred to in section 1, may be allocated exclusively for the elimination of insolvency threat, provided that the conditions stipulated in Art. 20d have been fulfilled.

3. The Fund may grant a loan to a credit union exclusively for the purpose of allocating the funds thereby obtained to the credit union's own funds.

4. The guarantees referred to in section 1 are subject to relevant provisions concerning guarantees granted by banks.

Art. 20d. The conditions for granting assistance stipulated in Art. 4 section 1d points 1 and 2 by the Fund include, in particular:

1) approval by the Fund Management Board of the audit results of a financial statement concerning the operations of a credit union covered by the guarantee system and submitted by said credit union;

2) submission to the Fund Management Board by the credit union applying for assistance, of a positive opinion of the Polish Financial Supervision Authority on the reorganisation programme;

3) proving that loans, guarantees, sureties and funds requested by a credit union covered by the guarantee system and allocated by the Fund for the purchase of claims would not exceed the total maximum amount under guarantee in said credit union, calculated as the sum of guaranteed funds in the accounts of the credit union's depositors;

4) the existing own funds of the credit union having been used for loss coverage of the credit union applying for assistance;

5) in case of assistance referred to in Art. 4 section 1d point 1, such collateralisation of the liability deriving from the granted assistance as would ensure the full repayment of the assistance, including interest.

Art. 20e. 1. The Polish Financial Supervision Authority shall, without delay, notify the Fund Management Board of the necessity for the credit union management board to initiate reorganisation proceedings stipulated in Art. 72a section 1 of the Credit Unions Act of November 5, 2009.

2. The Fund, at its own request submitted to the Polish Financial Supervision Authority, shall be appointed a trustee, stipulated in Art. 72c section 1 of the Credit Unions Act of November 5, 2009, for the credit union covered by the guarantee system. The Fund shall not be entitled to remuneration stipulated in Art. 72c section 11 of this Act.

3. The provisions of the Civil Code and other acts stipulating the forms and means of collateralising bank claims shall apply to the claims of the Fund relating to the provision of assistance and support referred to in Art. 4 section 1d.

4. Civil law transactions resulting in the fulfilment of the tasks stipulated in Art. 4 section 1d are exempted from stamp duty as well as from the tax on civil law transactions.

Art. 20f. The credit union covered by the guarantee system receiving financial assistance of the Fund is obliged to provide at the request of the Fund information necessary for the fulfilment of tasks stipulated in Art. 4 section 1d points 5 and 6.

Art. 20g. 1. In fulfilment of the tasks stipulated in Art. 4 section 1d point 3, the Fund may provide support to entities taking over credit unions, selected property rights or selected liabilities of a credit union or to acquirers of the enterprise of a credit union in liquidation, organized part or selected property rights thereof. Support may also be provided for a bank referred to in Art 4 section 1h.

2. Support referred to in section 1 may be provided in the form of:

- 1) taking up shares of an acquiring bank;
- 2) granting a loan or guarantee;
- 3) granting a guarantee to cover entirely or partially the loss deriving from risk connected with the taken-over or acquired property rights or assumed liabilities;
- 4) granting a subsidy to cover the difference between the value of taken-over or acquired property rights or assumed liabilities deriving from guaranteed funds in the accounts of a credit union's depositors up to the maximum amount under guarantee in said credit union, calculated as the sum of guaranteed funds in the accounts of the depositors of the credit union, as referred to in Art. 381 point 1, in which an insolvency threat has been identified.

3. In the case referred to in section 2 point 1 the provision of Art 25 section 1 of the Banking Act shall not apply.

Art. 20h. The conditions for providing support stipulated in Art. 4 section 1d point 3 by the Fund include, in particular:

- 1) approval by the Fund Management Board of the audit results of a financial statement submitted by the entity acquiring or taking over [a credit union] concerning its operation;
- 2) submission to the Fund Management Board by the entity taking over or acquiring [a credit union], of a positive opinion of the Polish Financial Supervision Authority on the purposefulness of the take-over and on the lack of danger to the safety of depositors' funds held in the credit union with respect to which the Polish Financial Supervision Authority has taken a decision concerning its take-over or liquidation, as well as the lack of such danger in the bank or credit union performing the take-over or acquisition;
- 3) demonstration that the amount of funds allocated by the Fund for providing support to the entity performing the take-over or acquisition would not exceed the total maximum amount under guarantee in the credit union with respect to which the Polish Financial Supervision Authority has taken a decision concerning its take-over or liquidation, calculated as the sum of guaranteed funds in

the accounts being taken-over of the said credit union's depositors, as referred to in Art. 38l point 1;

4) the existing own funds of the acquired or taken-over credit union having been used for loss coverage;

5) in case of support provided in the form referred to in Art. 20g section 2 point 2, such collateralisation of the claim as would ensure the full repayment of the support, including interest.

Art. 20i. The entity receiving the Fund's support is obliged to provide, at the request of the Fund, information necessary to assess the repayment risk of the support provided or the risk of losses associated with the acquired or taken-over property rights or liabilities.

Art. 20j. On account of the provision of support referred to in Art. 20g section 2 points 3 and 4, the Fund is entitled to a claim against the credit union with respect to which the Polish Financial Supervision Authority has taken a decision concerning the take-over of its selected property rights or selected liabilities or concerning its liquidation, and in case of declaration of bankruptcy of said credit union the Fund is entitled to a claim against its bankruptcy estate.

Chapter 4.

Obligatory guarantee system

Art. 21. The purpose of the obligatory guarantee system is ensuring disbursement to depositors, up to the amount stipulated in the Act, of guaranteed funds in case of their unavailability.

Art. 22. 1. Parties to the guarantee transaction are:

- 1) the Fund;
- 2) the depositor.

2. The object of the guarantee is a depositor's claim by means of which the depositor acquires, on the day of fulfilment of the guarantee condition, the right to receive a disbursement from the Fund under terms stipulated in the Act.

3. The disbursement stipulated in section 2 shall be payable in PLN, within 20 working days from the day of fulfilment of the guarantee condition, subject to section 4.

4. Should circumstances occur that make it impossible to disburse the funds within the period stipulated in section 3, in particular owing to inaccuracies in keeping books of account of the bank or in the functioning of the calculation system of the entity covered by the guarantee system, the Polish Financial Supervision Authority may, at the request of the Fund Management Board, postpone the disbursement date, however by no more than 10 working days, counted from the date stipulated in section 3.

5. The Polish Financial Supervision Authority makes a decision on the request referred to in section 4, within 2 working days from the day it had been made.

6. The Fund does not bear liability for the disbursement of guaranteed funds to unauthorised persons nor for the disbursement of guaranteed funds in an improper amount, performed according to the list of depositors as well as for failing to disburse funds to an authorised person as a result of their being undisclosed on this list.

7. Members of the Fund Management Board exercising due diligence are not liable for damage resulting from the improper disbursement of guaranteed funds.
8. The Fund does not bear liability for failing to disburse guaranteed funds within the time limit specified herein, if the event was due to force majeure.

Art. 23. 1. Guaranteed funds are covered by the obligatory guarantee system as of the day of their deposit into the bank account no later than on the day immediately preceding the day of fulfilment of the guarantee condition, and in the case of claims arising from bank operations, provided that such operations were carried out before the day of fulfilment of the guarantee condition - up to the amount (including interest accruing until the day of fulfilment of the guarantee condition according to the interest rate specified in the agreement, regardless of the maturity date) constituting the PLN equivalent of 100 000 EUR - in 100%.

2. *(repealed)*

3. The average exchange rate published by the National Bank of Poland as on the day of the fulfilment of the guarantee condition shall be used for the purpose of calculating the PLN equivalent of EUR.

4. The amount stipulated in section 1 constitutes the maximum amount of a depositor's claims against the Fund, regardless of the balance and number of accounts in which the depositor kept funds in a given bank or the number of claims said depositor is entitled to with respect to this bank.

5. Claims resulting from the guarantee expire after 5 years from the day of fulfilment of the guarantee condition; the same shall also apply to claims arising before 15 April, 1997.

6. *(repealed)*

Art. 24. The depositor does not forfeit the right to pursue claims against the bank in excess of the amount stipulated in Art. 23 section 1.

Art. 25. 1. The entity covered by the guarantee system is obliged to establish a fund for the protection of guaranteed deposits to satisfy depositors' claims in case of fulfilment of the guarantee condition by any entity covered by this system.

1a. The fund for the protection of guaranteed deposits is created on the last reporting day of the month in which an entity covered by the guarantee system obtained the permit of commencement of activity, whereas in case of a domestic bank established on the basis of Article 42a paragraph 1 of the Banking Law Act- on the last reporting day of the month when the bank was entered in the register of entrepreneurs. In the aforementioned cases, the basis for creating a fund for the protection of guaranteed deposits is the amount of funds referred to in paragraph 2, for the month when, accordingly, the permit of commencement of activity was obtained or the bank was entered in the register of entrepreneurs. In case of a credit institution's branch joining the guarantee system, the day of establishing the fund for the protection of guaranteed deposits shall be specified by the Fund Management Board on the conditions specified in Article 2b paragraph 3.

2. The amount of the fund for the protection of guaranteed deposits in a given year shall be set subject to section 3, not later than by the end of the preceding calendar year, as the product of a rate not exceeding 0.55% and the sum total of funds held in all accounts at the bank, constituting the base of calculating the amount of the obligatory reserve for October, in accordance with Art. 38.2 of the National Bank of Poland Act of 29 August, 1997 (Journal of Laws of 2005 No. 1, item 2, as amended).

3. The size of the fund for the protection of guaranteed deposits with respect to the following banks: Powszechna Kasa Oszczędności - Bank Państwowy, Polska Kasa Opieki S.A., Bank Gospodarki Żywnościowej S.A., until 31 December 1999, shall be set subject to section 4, as the product of half of the rate and the sum total of funds, stipulated in section 2.

4. The banks referred to in section 3, in the event of taking over other banks, shall establish for the year 1999 a fund for the protection of guaranteed deposits, based on the sum total of funds referred to in section 2 of the merging banks, applying the rate stipulated in section 3, only up to the sum total of their own funds before the takeover.

5. The fund for the protection of guaranteed deposits shall be increased or reduced on 1 July each year, correspondingly to the sum total amount stipulated in section 2, constituting the base for calculating the obligatory reserve amount for April each year.

6. On the day of fulfilment of the guarantee conditions, the entity covered by the guarantee system shall be released from the obligation to establish a fund for the protection of guaranteed deposits and to revise its amount as stipulated in section 5.

Art. 26. 1. Banks are obliged to:

- 1) invest assets designated for the fund for the protection of guaranteed deposits in:
 - a) treasury securities,
 - b) bills issued by the National Bank of Poland and bonds issued by the National Bank of Poland - provided they can be traded,
 - c) money market fund shares;
 - 2) deposit the assets stipulated in point 1 a) and b) in an account kept separately for each bank:
 - a) at the National Bank of Poland,
 - b) at the National Depository for Securities,
 - c) at the entity maintaining securities accounts and cash accounts used to service said securities accounts
- and should this be impossible - deposit those assets in an interest-bearing current account with the National Bank of Poland.

2. Cooperative banks - members of affiliations - are obliged to deposit assets designated for the fund for the protection of guaranteed deposits of the affiliation in a dedicated account with the affiliating bank.

3. Assets designated for the fund for the protection of guaranteed deposits may not be pledged or encumbered in any other way and shall not be subject to court or administrative debt collection procedure.

4. Banks covered by the obligatory funds guarantee system shall provide the Fund Management Board with information on the sum of deposits in accounts covered by the obligatory funds guarantee system and the amount of the fund for the protection of guaranteed deposits within the following periods:

- 1) by 15 December each year, according to a balance determined in accordance with Art. 25.2,
- 2) by 15 June each year, according to a balance constituting the base for calculating the obligatory reserve amount for April

- in accordance with a form determined by the Fund Management Board.

5. In the case of cooperative banks referred to in section 2, obligations stipulated in section 4 shall be fulfilled by affiliating banks.

Art. 26a. 1. In case of fulfilment of the guarantee condition, a receiver of a domestic bank or a foreign representative in accordance with Art. 379. 4 of the Bankruptcy and Reorganisation Law, or another authority authorised for representation shall immediately transfer to the Fund the funds from the fund for the protection of guaranteed deposits.

2. The Fund shall notify the entities covered by the obligatory guarantee system, in accordance with the procedure specified in Art. 26l, on the obligation to convey to the Fund funds allocated for the disbursement of guaranteed funds (the sum total of mandatory payments made by entities covered by the guarantee system). In a notification the Fund indicates a bank account to transfer the payments to, as well as a payment title. The mandatory payments for cooperative banks- which are affiliated in affiliating banks- are paid, on behalf of those banks, by the affiliating banks.
3. The amount that every entity covered by the guarantee system is obliged to contribute (mandatory payment made by an entity covered by the guarantee system) shall be determined as an amount remaining in such proportion to the sum total of the mandatory payment of entities covered by the guarantee system, as the ratio of the amount of the fund for the protection of guaranteed deposits of the entity covered by the guarantee system to the sum of funds for the protection of guaranteed deposits of all entities covered by the guarantee system with the exclusion of the entity with respect to which the guarantee condition was fulfilled.
4. The assets from mandatory payments made by entities covered by the guarantee system shall be transferred to the ownership of the Fund.
5. On the day following the day of the mandatory payment, the entity covered by the guarantee system shall reduce the fund for the protection of guaranteed deposits by the amount equal to the payment.

Art. 26b. The mandatory payment made by the entity covered by the guarantee system shall constitute its tax-deductible cost in accordance with the provisions of the Corporate Income Tax Act of 15 February, 1992.

Art. 26c. Provisions pertaining to mandatory payments by the entities covered by the guarantee system shall apply accordingly in case the Fund makes supplementary payments referred to in chapter 4a.

Art. 26d. 1. Due to disbursement of guaranteed funds, the Fund is entitled to a claim against the entity covered by the obligatory guarantee system with respect to which the guarantee condition has been fulfilled, for payment of an amount equal to the sum total of guaranteed funds, with the exclusion of the funds referred to in Art. 16a. 1. 1. The Fund is entitled to a claim also after the declaration of bankruptcy of the entity.

2. The disbursement of guaranteed funds proportionally decreases the individual claims of a depositor. The claims are the basis for calculating the amount of guaranteed funds.

Art. 26e. Assets that constituted the fund for the protection of guaranteed deposits of the entity covered by the guarantee system with respect to which the guarantee condition was fulfilled, are not a component of the bankruptcy estate of the entity covered by the guarantee system.

Art. 26f. 1. The due claims of the depositor in relation to the bankruptcy estate, in the amount of the guaranteed funds, are transferred *ex lege* to the Fund.

2. In case of purchasing the enterprise of a bank in accordance with Art. 437 section 2 and 3 of the Bankruptcy and Reorganisation Law of 28 February, 2003, the liabilities arising from the Fund's claims, referred to in section 1, are not transferred to the purchaser.

Chapter 4a

The manner of conducting the disbursement of guaranteed funds. Supplementary disbursements.

Art. 26g. 1. In case of fulfilment of the guarantee condition, in respect of:

- 1) an entity covered by the guarantee system being a domestic bank- the receiver, after establishing the state of the books of account as of the day of fulfilment of the guarantee condition, draws up a list of depositors on the basis of the calculation system of the bank;
- 2) an entity covered by the guarantee system being a foreign bank's branch or a credit institution's branch- a branch director, a foreign representative referred to in Art. 379. 4. of the Bankruptcy and Reorganisation Law, or any other authority entitled to represent the branch in case of fulfilment of the guarantee condition, hereinafter called an "entity entitled to representation", after establishing the state of books of account as of the day of fulfilment of the guarantee condition, draws up a list of depositors on the basis of the calculation system of the branch.

2. The receiver of the bank or the entity entitled to representation are responsible for drawing up a list of depositors in accordance with the provisions issued under Art. 38j.

3. The management board of the entity covered by the guarantee system shall be responsible for the conformity of data included in the calculation system with the bank's journal entries as well as with the actual legal status. In case of a participant being a foreign bank's branch or a credit institution's branch- persons performing duties of a branch director- in case these persons performed their functions on the day of fulfilment of the guarantee condition or within the period of the current financial (accounting) year or preceding the day of fulfilment of the guarantee condition.

Art. 26h. 1. The Fund Management Board shall exercise ongoing control over drafting of the list of depositors by the receiver or the entity entitled to representation.

2. The control referred to in section 1 shall cover, in particular, the depositors' data from the list of depositors.

3. In order to exercise the control referred to in section 1, the Fund is granted access to the depositors' data, contained in the archives maintained by entities or third parties, in particular the data from registration archives, personal data base PESEL (national identification number) and records of issued and void identity cards, referred to in separate provisions.

4. The Fund shall process the personal data of the depositors within the period necessary to complete the tasks stipulated in the present Act.

5. The Fund shall inform the Polish Financial Supervision Authority about irregularities revealed during the control referred to in section 1, and shall request that the receiver or the entity entitled to representation eliminate these irregularities.

Art. 26i. 1. The receiver of the bank or the entity entitled to representation shall, without delay, but not later than within 3 working days from the day of fulfilment of the guarantee condition, submit the list of depositors to the Fund.

2. In case of reasonable doubt as to the correctness of individual data on the list of depositors, the Fund shall make the requisite disbursements immediately after confirming the correctness of data by the receiver of the bank or by the entity entitled to representation. The order of activating the funds referred to in Art. 16a. 1-4 shall be determined by the procedure referred to in Art. 26p. 2.

Art. 26j. 1. The receiver, the entity entitled to representation or the entity with which the Fund shall conclude an agreement on the disbursement of guaranteed funds, shall disburse the guaranteed funds on behalf of the Fund and on the Fund's account. A decision in this respect shall be made by the Fund Management Board. While choosing a procedure of disbursement of guaranteed funds, the Fund Management Board shall take into consideration the necessity to ensure protection of depositors' interest, including the timeliness of disbursement, and shall take into account the expected costs of disbursement of guaranteed funds.

2. The Fund Management Board shall convey a disbursement list, including data necessary to carry out disbursements, to the receiver, the entity entitled to representation or the entity that shall disburse the guaranteed funds.

3. The Fund Management Board shall exercise ongoing control over the disbursement of guaranteed funds. In case of disbursements made by the receiver of the bank or the entity entitled to representation, the provisions referred to in Art. 26h section 5. apply accordingly.

Art. 26k. In case of declaration of bankruptcy in the course of the receiver's execution of disbursements referred to in Art. 26j section 1 by the receiver, the obligations with respect to the continuity of disbursements are met by the receiver or the insolvency practitioner.

Art. 26l. 1. The Fund Management Board shall determine, by way of a resolution:

- 1) information as to the entity, by means of which the disbursement of guaranteed funds shall be executed;
 - 2) the procedure of making disbursements;
 - 3) the amount constituting the sum of guaranteed funds, conveyed to the entity referred to in section 1, for disbursement of guaranteed funds;
 - 4) the amount of mandatory payments of the entities covered by the guarantee system, referred to in Art. 26a. 2. as well as the dates of making these payments.
2. The Fund Management Board, in determining the procedure of making disbursements on the basis of section 1. 2. shall also determine the rules and procedure of identifying a depositor, in particular:
- 1) a depositor's identification data, the inclusion of which on the list of depositors is necessary to determine the depositor's identity by the entity making disbursements, taking into consideration the degree to which such data is commonly used by depositors, as well as the possibility to unambiguously identify the depositor;
 - 2) the types of documents used for identification, by means of which the entity making disbursements shall identify depositors requesting the disbursement of guaranteed funds.
3. The resolution referred to in section 1, shall be made publicly known by the Fund, by way of announcement in a paper of countrywide circulation and shall be conveyed to the entities covered by the guarantee system and the receiver, the entity entitled to representation or the entity that shall disburse the guaranteed funds.

Art. 26m. Funds for the disbursement of guaranteed funds, conveyed to the entity, referred to in Art. 26l section 1 point 1, by virtue of a resolution of the Fund Management Board, shall not be used for any purpose other than for disbursement of guaranteed funds. Said funds are not included in the bankruptcy estate nor are they subject to judicial nor administrative execution.

Art. 26n. 1. The costs of activities related to the preparation and disbursement of guaranteed funds shall be charged to the entity covered by the guarantee system with respect to which the guarantee condition has been fulfilled.

2. In case an entity with which the Fund had concluded a relevant agreement carries out the disbursements, the Fund shall cover the costs of these activities.

3. The Fund shall be entitled to a claim against the entity referred to in section 1, on account of the costs referred to in section 2.
4. After declaration of insolvency of the entity referred to in section 1, the provision referred to in section 3 applies accordingly.

Art. 26o. After the completion of disbursements, the entity referred to in Art. 26l section 1 point 1, or the receiver or the insolvency practitioner shall carry out a settlement of disbursements within 5 working days of the last day of disbursements, conveying to the Fund:

- 1) the disbursement list, with an indication of executed and pending disbursements;
- 2) documentation confirming the execution of disbursements;
- 3) amounts undisbursed.

Art. 26p. 1. Depositors' claims on account of the guarantee, undisclosed in the list of depositors, shall be satisfied by the Fund within 20 working days of the day of the receipt of an updated list of depositors completed by the receiver or the insolvency practitioner, or after the determination of a list of claims, or after confirmation by a valid court judgment of a claim against the entity covered by the obligatory guarantee system with respect to which the guarantee condition has been fulfilled.

2. In case of disbursement of the guaranteed funds referred to in section 1, the Fund Management Board shall specify the order of activating the funds referred to in Art. 16a. 1-4.
3. In case of disbursement of guaranteed funds referred to in section 1, after declaration of the bank's insolvency, the Fund shall notify the judge-commissioner of the claims due on that account.

Art. 26q. 1. If on the day of fulfilment of the guarantee condition, the rights with respect to guaranteed funds to which a depositor's legal successors as well as persons referred to in Art. 55 section 1 and Art. 56 section 1 of the Banking Law Act were entitled, and- irrespective of an actual or legal reason- were not recorded in the calculation system of the entity covered by the guarantee system as the rights of another person or other persons, the Fund shall be obliged to fulfil only one guarantee disbursement on account of guaranteed funds, to a legal successor or successors or persons referred to in Art. 55 section 1 and Art. 56 section 1 of the Banking Law Act.

2. In the case referred to in section 1:

- 1) the disbursement amount shall be determined without consideration for the guaranteed funds to which the persons referred in Art. 55 section 1 and Art. 56 section 1 of the Banking Law Act may be entitled, on account of activities performed separately from activities that constitute the basis for the guaranteed funds of the legal predecessor;
- 2) entitlement to the receipt of guaranteed funds shall be determined according to general rules, in accordance with the provisions stipulating the consequences of the given type of legal succession, as well as in accordance with the rules of managing the estate that belonged to the legal predecessor.

Art. 26r. If on the day of disbursement of guaranteed funds, only the depositor was entitled to these funds, which subsequently became part of the estate to which the successor or successors and persons referred to in Art. 55 section 1 and Art. 56 section 1 of the Banking Law Act are entitled to, the right to the receipt of guaranteed funds shall be determined according to general rules, in accordance with the provisions stipulating the consequences of the given type of legal succession, as well as in accordance with the rules of managing the estate that belonged to the legal predecessor.

Art. 26s. 1. In case the funds deposited on an account have been blocked in accordance with the provisions on counteracting money laundering and financing terrorism, the disbursement of guaranteed funds shall be suspended for the depositor for the duration of the blockade.

2. In case the funds deposited on an account are declared partially or fully, by a final and legally valid court decision, as coming directly or indirectly from a crime specified in Art. 165a or Art. 299 of the Penal Code or as a benefit from such a crime or have been declared the equivalent of said funds, the funds deposited on that account or part of those funds shall not be taken into consideration while calculating the amount of disbursement due on account of guaranteed funds. That portion of funds with respect to which forfeiture has been declared shall not be covered by the system of protection of guaranteed funds.

3. The minister competent for financial institutions shall determine, by way of a regulation, the detailed conditions and procedure for suspension of disbursement of guaranteed funds to depositors in the case referred to in section 1. The minister competent for financial institutions, issuing a regulation, shall take into consideration the data that should be included in the Fund's notification of the pending criminal proceedings and notification of their termination, the date and manner of sending the notification, the data that should be included in the information about the suspension of disbursements of guaranteed funds sent to the depositor, the date and manner of sending the information as well as data that should be included in the register of suspended disbursements of guaranteed funds operated by the Fund.

Art. 27. *(repealed)*

Art. 27a. *(repealed)*

Art. 28. *(repealed)*

Art. 29. *(repealed)*

Art. 30. *(repealed)*

Art. 31. *(repealed)*

Art. 32. *(repealed)*

Art. 33. *(repealed)*

Art. 34. *(repealed)*

Art. 35. *(repealed)*

Art. 36. Due to delays in payment of annual contributions stipulated in Art. 13 section 1, the prudential contribution stipulated in Art. 14a, and the payments referred to in Art. 26a section 2 and 26c, the Fund shall be entitled to earn interest at a rate of interest charged on tax arrears.

Art. 37. 1. Statements from the Fund's books, signed by authorised members of the Fund Management Board and affixed with its stamp, confirming the existence of a liability towards the Fund by an entity covered by the guarantee system, in conjunction with a declaration that the claims based thereon are due, shall have the force of a writ of execution without the need to provide enforceability clauses for them.

2. Collection of receivables ascertained by the documents enumerated in section 1 shall be executed, depending on the nature of liabilities, in the manner provided for in the Civil Proceedings Code or in provisions on administrative debt collection procedures.

3. The debtor may, by way of legal action, demand the discharge of any or all debt collection proceedings pursued by the Fund, according to the Civil Proceedings Code or provisions on debt collection procedure in the administrative procedure code, if the claim to be satisfied does not exist or exists in a lower amount or if the debtor files counter-claims that may be off-set against the claim to be satisfied.

4. The court may, at the request of the plaintiff, suspend debt collection proceedings by way of a court injunction.

Art. 38. 1. The Polish Financial Supervision Authority at the request of the Fund Management Board shall provide the Fund with information on the standing of entities covered by the guarantee system which submitted to the Fund an application for financial assistance, in the scope necessary to evaluate the plan of using the Fund's assistance in order to rehabilitate the bank's business or to merge with another bank.

2. The Polish Financial Supervision Authority shall provide the Fund with annual financial statements of banks covered by the funds guarantee system within 30 days from the day of their receipt and analyses of the functioning of the banking sector.

3. The National Bank of Poland and the Polish Financial Supervision Authority shall provide the Fund with information on the financial standing of an entity covered by the guarantee system and on actions undertaken towards it pursuant to separate provisions in the case of receiving information on occurrence of loss in the bank, the threat of such occurrence or insolvency threat.

3a. The Polish Financial Supervision Authority shall pass to the Fund any information on the emergence of circumstances that could result in liabilities of the Fund with respect to depositors, on account of guaranteed funds.

4. The Fund is entitled to obtain information concerning entities covered by the guarantee system affecting the implementation of its tasks, held by the National Bank of Poland, the minister competent for financial institutions, the Polish Financial Supervision Authority and the Supreme Audit Office.

4a. The Fund shall convey to the National Bank of Poland any information necessary to assess the stability of and risk to the banking system, including information concerning particular entities covered by the guarantee system, which are subject to protection by virtue of separate acts.

4b. The Fund and the National Bank of Poland shall provide each other with information, including classified information as defined in legal provisions concerning the protection of classified information, to the extent necessary to perform their statutory tasks.

5. The subject matter, scope, procedure and dates concerning the provision of information referred to in section 4 and 4a shall be stipulated in separate agreements concluded between the Fund and the President of the National Bank of Poland, the minister competent for financial institutions and the President of the Supreme Audit Office, as well as the agreement on cooperation and exchange of information between the Fund and the Polish Financial Supervision Authority referred to in Art. 17 of the Financial Market Supervision Act of 21 July 2006 (Journal of Laws No. 157, item 1119 and of 2007 No. 42, item 272 and No. 49, item 328).

6. Banks covered by the guarantee system are obliged to provide the Fund with information other than that provided to the National Bank of Poland, necessary for performance of the Fund's tasks.

7. The scope, procedure and dates concerning the provision of information by the banks referred to in section 6 shall be determined by way of a regulation by the President of the National Bank of Poland at the request of the Fund.

8. In the case of cooperative banks affiliated with other banks, the information referred to in section 6 concerning individual banks shall be provided to the Fund by affiliating banks.

9. *(repealed)*

10. Obtained information concerning entities covered by the guarantee system may be used by the Fund only for the purpose of execution of tasks stipulated herein.

Art. 38a. 1. Information obtained in the manner stipulated in Art. 38 may be used by the Fund to prepare analyses and forecasts concerning the banking sector.

2. The Fund may not disclose the information stipulated in section 1 to other parties, subject to Art 38 section 4a.

3. The analyses and forecasts referred to in section 1 may be published. The Fund may also make them available to interested parties.

Art. 38b. 1. Entities covered by the guarantee system are obliged to inform persons using their services about:

- 1) their economic and financial standing;

- 2) participation in the statutory guarantee system and the principles of its functioning, including the subject and object scope of coverage, indicating in particular:
 - a) the amount that constitutes the upper limit of the guarantee,
 - b) the types of entities which pursuant to this Act may be regarded as depositors entitled to receiving a disbursement of funds.
2. Entities covered by the guarantee system are obliged to inform persons using their services and persons interested in using their services about the lack of deposit guarantee coverage, if:
 - 1) the claim, arising in connection with the performance of banking actions, is not to be protected by the statutory guarantee system, in particular if the persons using or interested in using their services may not be regarded as depositors in the understanding of this Act;
 - 2) in connection with executing an action other than a banking action, the entity covered by the statutory guarantee system shall issue a named document confirming their financial obligations;
 - 3) in connection with the services provided by the entity covered by the statutory guarantee system, in particular consisting in intermediation in concluding agreements, there shall arise or may arise any claims against another entity which are not covered by the guarantee system, for the person using or interested in using their services;
3. Information referred to in section 1 point 2 and section 2 points 1 and 2 shall also be included in agreements between the persons using and interested in using the services and the entity covered by the statutory guarantee system.
4. Information regarding the mode and the conditions of receiving a disbursement of funds pursuant to this Act shall be made available at the request of a person using and interested in using the services.
5. Any information made available to the persons using or interested in using the services according to the provisions of sections 1-3, shall be provided in the manner that:
 - 1) information regarding provided services is provided;
 - 2) is unambiguous and transparent.
6. Information regarding participation in the obligatory guarantee system may not be used for advertising purposes and should be limited exclusively to information stipulated in sections 1 and 2.
7. Prohibition provided for in section 6 shall also be applied to entities not participating in the guarantee system.

Art. 38c. 1. The Fund, by virtue of mutuality, cooperates with entities responsible for the officially recognized guarantee systems in countries, where:

- 1) domestic banks conduct their activity through branches in instances in which said branches were established on the territory of another country constituting a part of the European Economic Area;
- 2) credit institutions conducting their activity on the territory of the Republic of Poland through branches have their registered office.

2. The Fund may conclude agreements determining, in particular, the principles of cooperation, referred to in section 1, the scope of information exchange and the rules for the protection of said information.
3. The Fund is entitled to provide information to entities mentioned in section 1, also information protected by law, provided that during its transfer proper means of protection against its unauthorized disclosure or loss shall be implemented and that the transfer is made in order to determine or verify the due, potential or disputable disbursements for depositors, or in connection with the performance of the obligation to disburse guaranteed funds.
4. The information received by the Fund from the entities mentioned in section 1 by way of cooperation may not be made available to third parties, with the exception of the insolvency practitioner or administrator of the bankruptcy estate of the entity covered by the guarantee system. This restriction does not pertain to cases in which the information is not covered by legal protection on the territory of the Republic of Poland or on the territory of the country in which the guarantee system that transfers information operates.

Chapter 4b

Procedure for obtaining information about guaranteed funds. Calculation systems of entities covered by the guarantee system.

Art. 38d. Guaranteed funds are disbursed on the basis of data included in the calculation system of the entity covered by the guarantee system.

Art. 38e. 1. The management board of a bank shall be responsible for implementing and maintaining a properly functioning calculation system and in the case of a foreign bank's branch or a credit institution's branch – the branch director.

2. The management board or the branch director shall be responsible for transferring to the Fund the data referred to in Art. 38g. 1 included in the calculation system, for the period until the day of fulfilment of the guarantee condition.

Art. 38f. In case of fulfilment of the guarantee condition, in respect of:

- 1) an entity covered by the guarantee system being a domestic bank – ensuring the correct functioning of the calculation system and transferring the data included in the calculation system to the Fund are tasks to be carried out by the receiver;
- 2) an entity covered by the guarantee system being a foreign bank's branch or a credit institution's branch – ensuring the correct functioning of the calculation system and transferring to the Fund the data included in the calculation system are tasks to be carried out by a branch director, a foreign representative referred to in Art. 379. 4 of the Bankruptcy and Reorganisation Law, or any other authority entitled to represent the branch in case of fulfilment of the guarantee condition.

Art. 38g. 1. The calculation system shall ensure readiness for ongoing preparation of data allowing the identification of depositors, their place of residence or headquarters as well as the determination of

the amount of guaranteed funds that are due to individual depositors, hereinafter called “data”, as at the close of each day.

2. An entity covered by the guarantee system shall store data in the calculation system, in a manner that ensures its recovery and access to it by the Polish Financial Supervision Authority and the Fund.
3. The Fund shall have the right to exercise control over the correctness of data contained in the calculation system.
4. Neither the calculation system nor the acquired and processed data may be located outside the territory of the Republic of Poland.
5. An entity covered by the guarantee system shall deploy adequate security measures to ensure the proper functioning of the calculation system.
6. At least once every 6 months each entity covered by the obligatory guarantee system shall carry out a test of the calculation system, in particular to determine if the conditions for performing statutory obligations in case of fulfilment of the guarantee condition have been fulfilled and if the correctness of compiling data on depositors and guaranteed funds is ensured by the entity covered by the guarantee system. The test results in the form of reports shall be stored by the entity covered by the obligatory guarantee system for a period of 3 years from the moment of their preparation and shall be delivered at the request of the Fund or the Polish Financial Supervision Authority.

Art. 38h. 1. An entity covered by the guarantee system shall transfer to the Fund, at the Fund’s request, the data contained in the calculation system allowing identification of depositors as well as the amounts of guaranteed funds due to individual depositors. The Fund shall have the right to exercise control over the received data.

2. In order to exercise the control referred to in section 1, the Fund shall be granted access to depositor data contained in archives maintained by entities or third parties, in particular the data from registration archives, personal PESEL (national identification number) data base and records of issued and void identity cards, referred to in separate provisions.

Art. 38i. 1. Supervision over the proper functioning of the calculation systems shall be exercised by the Polish Financial Supervision Authority.

2. In case of non-performance or improper performance by the entity covered by the guarantee system of obligations relating to the implementation and maintenance of a properly functioning calculation system, the Polish Financial Supervision Authority may apply supervisory measures stipulated in Art. 138 Section 3 points 1-3 and 4 of the Banking Law Act.
3. In case an entity covered by the guarantee system does not have a calculation system or has a malfunctioning calculation system, the Polish Financial Supervision Authority may impose a fine amounting up to 0.4% of the base figure used in calculating the amount of the mandatory reserve of the entity covered by the guarantee system for the month when failure to perform the obligations referred to in section 2 was identified. In case of an entity covered by the guarantee system not required to maintain a mandatory reserve, the fine may amount to the PLN equivalent of 1 million Euros, based on the average exchange rate published by the National Bank of Poland on the date of issuing a decision on imposition of the fine.

4. In case of non-performance or improper performance of the obligations referred to in section 2 by persons responsible for the implementation and functioning of calculation systems, the Polish Financial Supervision Authority may impose pecuniary fines referred to in Art. 141 section 1 of the Banking Law Act. The fine may be imposed on a bank's management board member or a foreign bank's branch director or a credit institution's branch director.
5. The Polish Financial Supervision Authority shall transfer funds acquired as a consequence of the execution of pecuniary fines referred to in sections 3 and 4, to the Bank Guarantee Fund.
6. The entity covered by the guarantee system shall indicate to the Polish Financial Supervision Authority the bank's management board member or about a foreign bank's branch director or about a credit institution's branch director, responsible for implementation and functioning of the calculation system.
7. The Fund may apply to the Polish Financial Supervision Authority to undertake measures within the framework of supervision, within the scope of control over the proper functioning of the calculation system.

Art. 38j. The minister competent for financial institutions, in consultation with the Polish Financial Supervision Authority as well as with the Fund Management Board, shall determine, by way of regulation:

- 1) the minimal requirements that should be met by the calculation system,
- 2) the detailed scope and structure of data included in the calculation system, as well as the technical standard of its preparation and recording,
- 3) the format and procedure of transferring data to the Fund, taking into consideration protection against unauthorised access,
- 4) the manner of identifying guaranteed funds subject to proceedings stipulated in Art. 165a or Art. 299 of the Penal Code,
- 5) the procedure and manner of verification of the correctness of data contained in the calculation system,

–with particular consideration of the Fund's need to receive properly prepared and verified data for the purposes of performance of the statutory tasks of the Fund as well as the conditions of performance of actual activities connected with banking activity.

Art. 38k. At least once a year, at the request of the minister competent for financial institutions, the Fund shall carry out effectiveness tests of its systems, particularly within the scope of disbursements referred to in Art. 22 section 2 on a statutorily determined date. The test results shall be passed on to the minister competent for financial institutions within 14 days of their completion.

Chapter 4c

Obligatory guarantee system for credit unions

Art. 38l. The terms used in this Chapter shall have the following meaning:

1) depositor - a natural person, a non-governmental organization as specified in Art. 3 section 2 of the Act on Public Benefit and Volunteer Work of 24 April 2003 (Journal of Laws of 2010, No 234, item 1536 as amended), an organizational unit of a church or religious association with legal personality, a cooperative that is neither a credit union nor the National Credit Union, a trade union and a condominium, being a party to an account agreement held in the account holder's name or having a claim resulting from financial settlements performed by a credit union against a credit union covered by the obligatory guarantee system, and persons stipulated in Art. 14 section 1 of the Credit Unions Act of 5 November, 2009, subject to Art. 38ze, provided that their claim towards the credit union had become due before the date the guarantee condition was fulfilled, excluding members of the credit union management board and supervisory board and employees being directly subordinated to the members of the management board and persons holding the functions of managers and directors and their deputies in the credit union's branches, in case these persons performed their functions on the day of fulfilment of the guarantee condition or within the period of the current financial (accounting) year or the year preceding the day of fulfilment of the guarantee condition;

2) guaranteed funds - funds deposited at a credit union by a depositor in accounts held in the depositor's name, with the exception of funds paid-in as member shares and contributions, and the depositor's claims resulting from financial settlements performed by the credit union, denominated in PLN or foreign currencies as on the day of fulfilment of the guarantee condition, confirmed by documents bearing the depositor's name issued by the credit union, plus due interest accrued up to the day of fulfilment of the guarantee condition as well as amounts stipulated in Art. 14 section 1 of the Credit Union Act of 5 November, 2009, subject to Art. 38ze, provided they became due prior to the day the guarantee condition was fulfilled – up to the amount stipulated by the Act, excluding funds referred to in Art. 38zg section 2;

3) fulfilment of the guarantee condition – issuing by the Polish Financial Supervision Authority of a decision on the suspension of a credit union's activity, appointing a receiver in the credit union, unless one had been appointed previously, as well as filing a petition to declare bankruptcy of the credit union at a relevant court;

4) the day of fulfilment of the guarantee condition - the day indicated in the decision of the Polish Financial Supervision Authority as the day of suspension of a credit union's activity and appointing a receiver in the credit union, unless one had been appointed previously, as well as filing a petition to declare bankruptcy of the credit union at a relevant court;

5) calculation system – the IT system of a credit union that is designated to ensure the possibility of immediately obtaining data allowing the identification of depositors and the determination of the amount of guaranteed funds that are due to individual depositors.

Art. 38m. Should the credit union operate one account for several persons (joint account), each of these persons carries the designation of a depositor within the limits stipulated in the account agreement, and in the absence of contractual arrangements or relevant provisions - in equal parts.

Art. 38n. The purpose of the obligatory system of guaranteeing funds deposited at credit unions, hereinafter referred as the “credit union guarantee system”, is ensuring disbursement to depositors, up to the amount stipulated in the Act, of guaranteed funds in case of their unavailability.

38o. 1. Parties to the guarantee transaction are:

- 1) the Fund;
- 2) the depositor.

2. The object of the guarantee is a depositor's claim by means of which the depositor acquires, on the day of fulfilment of the guarantee condition, the right to receive a disbursement from the Fund under terms stipulated in the Act.

3. The Fund shall disburse the payments to depositors from the funds stipulated in Art 38r.

4. The disbursement stipulated in section 2 shall be payable in PLN, within 20 working days from the day of fulfilment of the guarantee condition, subject to section 5.

5. Should circumstances occur that make it impossible to disburse the funds within the period stipulated in section 4, in particular owing to inaccuracies in keeping books of account of the credit union or in the functioning of the calculation system, the Polish Financial Supervision Authority may, at the request of the Fund Management Board, postpone the disbursement date, however, by no more than 10 working days, counted from the date stipulated in section 4.

6. As regards the request referred to in section 5, the Polish Financial Supervision Authority makes a decision within 2 working days from the day of its submission.

7. The Fund does not bear liability for the disbursement, performed according to the list of depositors, of guaranteed funds to unauthorised persons nor for the disbursement of guaranteed funds in an improper amount, nor for failing to disburse funds to an authorised person as a result of their being undisclosed on this list.

8. Members of the Fund Management Board exercising due diligence are not liable for damage resulting from the improper disbursement of guaranteed funds.

9. The Fund does not bear liability for failing to disburse guaranteed funds within the time limit specified herein if the event was due to force majeure.

Art. 38p.1. Guaranteed funds are covered by the obligatory credit union guarantee system as of the day of their deposit into an account operated by a credit union, no later than on the day immediately preceding the day of fulfilment of the guarantee condition, and in the case of claims arising from activities referred to in Art. 3 section 1 of the Credit Unions Act of 5 November 2009, provided that such activities were carried out before the day of fulfilment of the guarantee condition - up to the amount (including interest accruing until the day of fulfilment of the guarantee condition according to the interest rate specified in the agreement, regardless of the maturity date) constituting the PLN equivalent of 100 000 EUR - in 100%.

2. The average exchange rate published by the National Bank of Poland as on the day of fulfilment of the guarantee condition shall be used for the purpose of calculating the PLN equivalent of EUR.

3. The amount stipulated in section 1 constitutes the maximum amount of a depositor's claims against

the Fund, regardless of the balance and number of accounts in which the depositor kept funds in a given credit union or the number of claims said depositor is entitled to with respect to this credit union.

4. Claims resulting from the guarantee expire after 5 years from the day of fulfilment of the guarantee condition.

Art. 38q. The depositor does not forfeit the right to pursue claims against the credit union in excess of the amount stipulated in Art. 38p section 1.

Art. 38r. 1. The disbursement of guaranteed funds is made by the Fund from the funds of the available-for-use credit union fund.

2. In case the amount of the liability on account of guaranteed funds exceeds the funds of the available-for-use credit union fund, the Fund shall disburse guaranteed funds from funds transferred by the National Credit Union from its stabilization fund, as referred to in Art. 55 section 1 of the Credit Unions Act of 5 November, 2009, as stipulated in Art. 55 section 1a of the aforementioned Act [*Credit Unions Act*].

3. In case the amount of the liability on account of guaranteed funds exceeds the total sum of funds referred to in sections 1 and 2, the Fund shall cover the missing part of the amount of the disbursement of guaranteed funds by means of a subsidy or loan from the state budget or by means of a subsidy or loan from the National Credit Union, or from any remaining assets of the Fund's own funds, according to the rules defined by the Fund Council, excluding:

- 1) parts of the own fund created to ensure resources for the acquisition of tangible fixed assets;
- 2) own funds created solely for the purpose of recording funds recovered in accordance with separate acts;
- 3) funds from revaluation;
- 4) non-approved profit from previous years;
- 5) profit for the financial year.

4. After exhaustion of all the funds referred to in sections 1-3, in case of a threat to financial stability and in order to cover urgent needs of the Fund, the National Bank of Poland may, at the request of the Fund Management Board, grant the Fund a short-term loan, provided that appropriate collateral is established.

5. The minister competent for financial institutions may, by way of a regulation, having consulted the President of the National Bank of Poland and the Chairperson of the Polish Financial Supervision Authority, increase the rate of the annual contribution for the current year, but not more than to the amount of 0.6%, after the exhaustion of all the funds referred to in section 1, determining the day on which the rate of the annual contribution is to be calculated and the deadline for its payment, in particular taking into consideration the amounts of unsatisfied liabilities of the Fund.

Art. 38s. 1. Due to disbursement of guaranteed funds, the Fund is entitled to a claim against the credit union with respect to which the guarantee condition has been fulfilled, for payment of an amount equal to the sum total of guaranteed funds. The Fund is entitled to a claim also after the declaration of

bankruptcy of the credit union.

2. The disbursement of guaranteed funds proportionally decreases the individual claims of a depositor, which constitute the basis for calculating the amount of guaranteed funds.

Art. 38t. 1. The due claims of the depositor in relation to the bankruptcy estate, in the amount of guaranteed funds, are transferred *ex lege* to the Fund.

2. In case of purchasing the enterprise of a credit union in accordance with Art. 437 section 2 and 3 of the Bankruptcy and Reorganisation Law of 28 February, 2003, the liabilities arising from the Fund's claims, referred to in section 1, are not transferred to the purchaser.

3. The amounts recovered by the Fund from the credit union bankruptcy estate shall be allocated to the credit union fund.

Art. 38u. 1. In case of fulfilment of the guarantee condition, the receiver, after establishing the state of the books of account as of the day of fulfilment of the guarantee condition, draws up a list of depositors.

2. The receiver of the credit union is responsible for drawing up a list of depositors in accordance with the provisions issued under Art. 38zq.

Art. 38v. 1. The Fund Management Board shall exercise ongoing control over drafting of the list of depositors by the receiver.

2. The control referred to in section 1 shall cover, in particular, the depositors' data from the list of depositors.

3. In order to exercise the control referred to in section 1, the Fund is granted access to depositors' data contained in archives maintained by entities or third parties, in particular the data from registration archives, personal PESEL (national identification number) data base and records of issued and void identity cards, referred to in separate provisions.

4. The Fund shall process the personal data of the depositors to the extent necessary to complete the tasks stipulated in the present Act.

5. The Fund shall inform the Polish Financial Supervision Authority about irregularities revealed during the control referred to in section 1, and shall request that the receiver eliminate these irregularities.

Art. 38w. 1. The receiver of the credit union, without delay, but not later than within 3 working days from the day of fulfilment of the guarantee condition, shall submit the list of depositors to the Fund.

2. In case of reasonable doubt as to the correctness of individual data on the list of depositors, the Fund shall make the requisite disbursements immediately after confirming the correctness of data by the receiver of the credit union.

Art. 38x. 1. The receiver or the entity with which the Fund shall conclude an agreement on the disbursement of guaranteed funds, shall disburse the guaranteed funds on behalf of the Fund and on the Fund's account. A decision in this respect shall be made by the Fund Management Board. While choosing a procedure of disbursement of guaranteed funds, the Fund Management Board shall take into consideration the necessity to ensure protection of depositors' interest, including the timeliness of disbursement, and shall take into account the expected costs of disbursement of guaranteed funds.

2. The Fund Management Board shall convey a disbursement list, including data necessary to carry out disbursements, to the receiver or the entity that shall disburse the guaranteed funds.

3. The Fund Management Board shall exercise ongoing control over the disbursement of guaranteed funds. In case of disbursements made by the receiver, the provisions referred to in Art. 38v section 5 apply accordingly.

Art.38y. In case of declaration of bankruptcy in the course of the receiver's execution of disbursements referred to in Art. 38x section 1., the obligations with respect to the continuity of disbursements are met by the receiver or the insolvency practitioner.

Art. 38z. 1. The Fund Management Board shall determine, by way of a resolution:

1) information as to the entity, by means of which the disbursement of guaranteed funds shall be executed;

2) the procedure of making disbursements;

3) the amount constituting the sum of guaranteed funds conveyed to the entity referred to in section 1, for disbursement of guaranteed funds;

2. The Fund Management Board, in determining the procedure of making disbursements on the basis of section 1 point 2. shall also determine the rules and procedure of identifying a depositor, in particular:

1) a depositor's identification data, the inclusion of which on the list of depositors is necessary to determine the depositor's identity by the entity making disbursements, taking into consideration the degree to which such data is commonly used by depositors, as well as the possibility to unambiguously identify the depositor;

2) the types of documents used for identification, by means of which the entity making disbursements shall identify depositors requesting the disbursement of guaranteed funds.

3. The resolution referred to in section 1 shall be made publicly known by the Fund, by way of announcement in a daily newspaper of countrywide circulation and shall be conveyed to credit unions and the receiver, or the entity that shall disburse the guaranteed funds.

Art. 38za. Funds for the disbursement of guaranteed funds, conveyed to the entity referred to in Art. 38z section 1 point 1, by virtue of a resolution of the Fund Management Board, shall not be used for any purpose other than for disbursement of guaranteed funds. Said funds are not included in the bankruptcy estate nor are they subject to judicial nor administrative execution.

Art. 38zb. 1. The costs of activities related to the preparation and disbursement of guaranteed funds shall be charged to the credit union with respect to which the guarantee condition has been fulfilled.

2. In case an entity with which the Fund had concluded a relevant agreement carries out the disbursements, the Fund shall cover the costs of these activities.

3. The Fund shall be entitled to a claim against the credit union referred to in section 1, on account of the costs referred to in section 2.

4. After declaration of bankruptcy of the credit union referred to in section 1, the provision referred to in section 3 applies accordingly.

Art. 38zc. After the completion of disbursements, the entity referred to in Art. 38z section 1 point 1 or the receiver or the insolvency practitioner shall carry out a settlement of disbursements within 5 working days of the last day of disbursement, conveying to the Fund:

- 1) the disbursement list, with an indication of executed and pending disbursements;
- 2) documentation confirming the execution of disbursements;
- 3) amounts undisbursed.

Art. 38zd. 1. Depositors' claims on account of the guarantee, undisclosed in the list of depositors, shall be satisfied by the Fund within 20 working days of the day of the receipt of a list of depositors completed by the receiver or the insolvency practitioner, or after determination of a list of claims, or after confirmation by a valid court judgment of a claim against the credit union with respect to which the guarantee condition has been fulfilled.

2. In case of disbursement of guaranteed funds referred to in section 1, after declaration of the credit union's insolvency, the Fund shall notify the judge-commissioner of the claims due on that account.

Art. 38ze. 1. If on the day of fulfilment of the guarantee condition the rights with respect to guaranteed funds to which a depositor's legal successors as well as persons referred to in Art. 14 section 1 of the Credit Union Act of 5 November, 2009 were entitled and - irrespective of the actual or legal reason- were not recorded in the calculation system of the credit union as the rights of another person or other persons, the Fund shall be obliged to fulfil only one guarantee disbursement on account of guaranteed funds, to a legal successor or successors or persons referred to in Art. 14 section 1 of the Credit Unions Act of 5 November 2009.

2. In the case referred to in section 1:

1) the disbursement amount shall be determined without consideration for the guaranteed funds to which the legal successors and persons referred to in Art. 14 section 1 of the Credit Unions Act of 5 November 2009 may be entitled on account of activities performed separately from the activities that constitute the basis for the guaranteed funds of the legal predecessor;

2) entitlement to the receipt of guaranteed funds shall be determined according to general rules, in accordance with the provisions stipulating the consequences of the given type of legal succession, as well as in accordance with the rules of managing the estate that belonged to the legal predecessor.

Art. 38zf. If on the day of disbursement of guaranteed funds, only the depositor was entitled to these funds, which subsequently became part of the estate to which the successor or successors and persons

referred to in Art. 14 section 1 of the Credit Unions Act of 5 November 2009 are entitled to, the right to the receipt of guaranteed funds shall be determined according to general rules, in accordance with the provisions stipulating the consequences of the given type of legal succession, as well as in accordance with the rules of managing the estate that belonged to the legal predecessor.

Art. 38zg. 1. In case the funds deposited on an account have been blocked in accordance with the provisions on counteracting money laundering and financing terrorism, the disbursement of guaranteed funds shall be suspended for the depositor for the duration of the blockade.

2. In case the funds deposited on an account are declared partially or fully, by a final and legally valid court decision, as coming directly or indirectly from a crime specified in Art. 165a or Art. 299 of the Penal Code or as a benefit from such a crime or have been declared the equivalent of said funds, the funds deposited on that account or part of those funds shall not be taken into consideration while calculating the amount of disbursement due on account of guaranteed funds. That portion of funds with respect to which forfeiture has been declared shall not be covered by the system of protection of guaranteed funds.

3. The minister competent for financial institutions shall determine, by way of a regulation, the detailed conditions and procedure for suspension of disbursement of guaranteed funds to depositors in the case referred to in section 1, taking into consideration the data that should be included in the Fund's notification of the pending criminal proceedings and notification of their termination, the date and manner of sending the notification, the data that should be included in the information about the suspension of disbursements of guaranteed funds sent to the depositor, the date and manner of sending the information as well as data that should be included in the register of suspended disbursements of guaranteed funds operated by the Fund.

Art. 38zh. 1. The Polish Financial Supervision Authority shall provide the Fund with information on:

- 1) the financial standing of a credit union and on actions undertaken towards it pursuant to separate provisions, in the event of receiving information on the occurrence of loss in the credit union, the threat of such occurrence or insolvency threat or the threat of losing payment liquidity, in particular on the credit union's reorganisation programme, its assessment and reports on the implementation of said programme;
- 2) the results of undertaken control activities, issued recommendations, measures that have been undertaken to remove the irregularities detected while exercising supervision, and on their completion by the credit union;
- 3) other circumstances that could result in liabilities of the Fund with respect to depositors, on account of guaranteed funds.

2. The Polish Financial Supervision Authority shall provide the Fund with reporting data obtained from credit unions or from the National Credit Union in accordance with the provisions issued under Art. 62c section 4 of the Credit Unions Act of 5 November 2009.

3. The National Bank of Poland shall provide the Fund with information concerning credit unions, including classified information as defined in legal provisions concerning the protection of classified information, to the extent necessary to perform the Fund's statutory tasks.

4. The Fund is entitled to obtain information concerning credit unions affecting the implementation of its tasks, held by the National Bank of Poland, the minister competent for financial institutions, the Polish Financial Supervision Authority and the Supreme Audit Office.

5. The Fund shall convey to the National Bank of Poland any information necessary to assess the stability and risk of the credit union system, including information concerning individual credit unions covered by the guarantee system, which is subject to protection by virtue of separate provisions.

6. The subject matter, scope, procedure and dates concerning the provision of information referred to in sections 4 and 5 shall be stipulated in separate agreements concluded between the Fund and the President of the National Bank of Poland, the minister competent for financial institutions and the President of the Supreme Audit Office, as well as the agreement on cooperation and exchange of information between the Fund and the Polish Financial Supervision Authority referred to in Art. 17 of the Financial Market Supervision Act of 21 July 2006.

7. The National Credit Union shall convey to the Fund, on behalf of credit unions, information concerning individual credit unions, necessary to perform the Fund's statutory tasks.

8. The obtained information concerning credit unions may be used by the Fund only for the purpose of execution of tasks stipulated in the present Act.

9. The minister competent for financial institutions, having consulted the President of the National Bank of Poland, the Chairman of the Polish Financial Supervision Authority as well as the President of the Fund, with consideration to the necessity to ensure proper performance of the Fund's tasks, may determine, by way of a regulation, the scope, procedure and dates concerning the provision by the National Credit Union of information referred to in section 7.

Art. 38zi. 1. Information obtained in the manner stipulated in Art. 38zh may be used by the Fund to prepare analyses and forecasts concerning the credit union sector.

2. The Fund may not disclose the information stipulated in section 1 to other parties, subject to Art. 38zh section 5.

3. The analyses and forecasts referred to in section 1 may be published. The Fund may also make them available to interested parties.

Art. 38zj. 1. Credit unions are obliged to inform persons using and interested in using their services about:

- 1) their economic and financial standing;
- 2) participation in the statutory guarantee system and the principles of its functioning, including the subject and object scope of coverage, indicating in particular:
 - a) the amount that constitutes the upper limit of the guarantee,
 - b) the types of entities which, pursuant to this Act, may be regarded as depositors entitled to receiving a disbursement of funds.

2. Credit unions are obliged to inform persons using their services and persons interested in using their services about the lack of deposit guarantee coverage, if:

1) the claim, arising in connection with the performance of activities referred to in art 3 section 1 and 1a of the Credit Unions Act of 5 November 2009 by credit unions is not to be protected by the statutory guarantee system, in particular if the persons using or interested in using their services may not be regarded as depositors in the understanding of present Act;

2) in connection with the services provided by credit unions, in particular consisting in intermediation in concluding agreements, there shall arise or may arise any claims against another entity which is not covered by the guarantee system for the person using or interested in using their services.

3. Information referred to in section 1 point 2 and section 2 point 1 shall also be included in agreements between a credit union and persons using its services.

4. Information regarding the mode and the conditions of receiving a disbursement of funds pursuant to this Act shall be made available at the request of a person using and interested in using the services of a credit union.

5. Any information made available to persons using or interested in using the services [of a credit union] according to the provisions of sections 1-3 shall be provided in the manner that:

- 1) information regarding provided services is provided;
- 2) is unambiguous and transparent.

6. Information regarding participation in the obligatory guarantee system may not be used for advertising purposes and should be limited exclusively to information stipulated in sections 1 and 2.

Art. 38zk. Guaranteed funds are disbursed on the basis of data included in the calculation system of a credit union.

Art. 38zl. 1. The management board of a credit union shall be responsible for implementing and maintaining a properly functioning calculation system as well as for consistency of the data included in the calculation system with the records in accounting books and with the real legal situation.

2. The management board of a credit union shall be responsible for transferring the data referred to in Art. 38zn section 1 and included in the calculation system to the Fund, for the period until the day of fulfilment of the guarantee condition.

Art. 38zm. In case of fulfilment of the guarantee condition, ensuring the correct functioning of the calculation system and transferring the data included in the calculation system to the Fund is a task to be carried out by the receiver.

Art. 38zn. 1. The calculation system shall ensure readiness for ongoing preparation of data allowing the identification of depositors, their place of residence or headquarter as well as the determination of the amount of guaranteed funds that are due to individual depositors, as at the close of each day.

2. A credit union shall store data in the calculation system in a manner that ensures its recovery and access to it by the Polish Financial Supervision Authority and the Fund.

3. The Fund shall have the right to exercise control over the correctness of data contained in the

calculation system.

4. Neither the calculation system nor the acquired and processed data may be located outside the territory of the Republic of Poland.

5. A credit union shall deploy adequate security measures that ensure the proper functioning of the calculation system.

6. At least once every 6 months a credit union shall carry out a test of the calculation system, in particular to determine if the conditions for performing statutory obligations in case of fulfilment of the guarantee condition have been fulfilled and if the correctness of compilation of data on depositors and guaranteed funds is ensured by the credit union. The test results in the form of reports shall be stored by the credit union for a period of 3 years from the moment of their preparation and shall be made available at the request of the Fund and the Polish Financial Supervision Authority.

Art. 38zo. 1. A credit union shall transfer to the Fund, at the Fund's request, the data contained in the calculation system allowing identification of depositors as well as the amounts of guaranteed funds due to individual depositors. The Fund shall have the right to exercise control over the received data.

2. In order to exercise the control referred to in section 1, the Fund shall be granted access to depositor data contained in archives maintained by entities or third parties, in particular the data from registration archives, personal data base PESEL (national identification number) and records of issued and void identity cards, referred to in separate provisions.

Art. 38zp. 1. Supervision over the proper functioning of the calculation systems shall be exercised by the Polish Financial Supervision Authority.

2. In case of non-performance or improper performance by a credit union of obligations relating to the implementation and maintenance of a properly functioning calculation system, the Polish Financial Supervision Authority may apply supervisory measures stipulated in Art. 71 section 2 of the Credit Unions Act of 5 November 2009.

3. In case a credit union does not have a calculation system or has a malfunctioning calculation system, the Polish Financial Supervision Authority may impose a fine amounting up to 0.3% of the sum of assets and off-balance-sheet liabilities.

4. In case of non-performance or improper performance of the obligations referred to in section 2 by persons responsible for the implementation and functioning of calculation systems, the Polish Financial Supervision Authority may impose pecuniary fines on said persons amounting up to six times the monthly salary of such person, calculated on the basis of their salary for the six months immediately prior to the imposition of the fine.

5. The Polish Financial Supervision Authority shall transfer funds acquired as a consequence of the execution of the pecuniary fines referred to in sections 3 and 4, to the Fund.

6. The credit union shall indicate to the Polish Financial Supervision Authority the management board member responsible for implementation and functioning of the calculation system.

7. The Fund may apply to the Polish Financial Supervision Authority to undertake control activities or measures within the framework of supervision, within the scope of control over the proper functioning of the calculation system.

Art. 38zq. The minister competent for financial institutions, having consulted the Polish Financial Supervision Authority as well as the Fund, shall determine, by way of a regulation:

- 1) the minimal requirements that should be met by the calculation system,
- 2) the detailed scope and structure of data included in the calculation system, as well as the technical standard of its preparation and recording,
- 3) the format and procedure of transferring data to the Fund, taking into consideration protection against unauthorised access,
- 4) the manner of identifying guaranteed funds that are subject to proceedings stipulated in Art. 165a or Art. 299 of the Penal Code,
- 5) the procedure and manner of verification of the correctness of data contained in the calculation system,

with consideration of the Fund's need to receive properly prepared and verified data for the purposes of performance of the statutory tasks of the Fund as well as the conditions of performance of actual activities connected with the activity of a credit union.

Chapter 5.

Contractual guarantee system

Art. 39. 1. Entities covered by the guarantee system that fulfil the obligations imposed on them in accordance with the provisions hereof may, within the framework of the statutory system of guaranteeing funds, undertake to extend the obligation to guarantee funds beyond the minimum stipulated in the obligatory system of guaranteeing funds.

2. Funds covered by the contractual guarantee system shall be provided to satisfy depositors' claims after the funds from the obligatory guarantee system have been used.

Art. 40. 1. The agreement on establishing a contractual guarantee fund and the principles of its operations should specify the following in particular:

- 1) participants of the fund;
- 2) rules for joining and withdrawal from the fund, including the rate of the contribution to that fund;
- 3) rules governing the use of the funds held in the fund for the protection of bank deposits and term deposits.

2. The agreement on establishing a contractual guarantee fund may also provide for the protection of funds held in bank accounts other than those stipulated in Art. 2 point 2.

Art. 41. The agreement on establishing a contractual guarantee fund and the rules of its operation require, in order to be valid, approval by the Council of the Bank Guarantee Fund.

Chapter 6.

Criminal liability

Art. 42. 1. Whoever, being a member of the Management Board or the Supervisory Board of a Bank covered by the statutory system of guaranteeing funds causes a loss to be incurred by the Fund as a result of the fact that said bank failed to establish a fund for the protection of guaranteed deposits or failed to establish it in an adequate amount or the assets allocated to the fund for the protection of guaranteed deposits were not invested in bills or bonds issued by the National Bank of Poland or deposited in the manner stipulated in Art. 26 section 1 and 2, shall be liable to a fine, restriction of freedom or imprisonment up to 2 years.

2. The same penalty shall be applicable to a member of the Management Board or the Supervisory Board of the Bank covered by the statutory bank deposit guarantee system who causes a loss incurred by the Fund by encumbering assets constituting coverage of the fund for the protection of guaranteed deposits with third parties' rights.

Art. 42a. 1. Whoever, being a member of the Management Board of a credit union covered by the statutory system of guaranteeing funds causes a loss to be incurred by the Fund as a result of the fact that said credit union failed to pay the obligatory annual contribution as referred to in Art. 13c section 1 or failed to pay the contribution in the required amount despite the fact that said credit union had at its disposal funds sufficient to pay this contribution, shall be liable to a fine, restriction of freedom or imprisonment of up to 2 years.

Chapter 7.

Transitional and final provisions

Art. 43. 1. *(repealed)*

2. *(repealed)*

3. In the case of fulfilment of the guarantee condition by entities covered by the statutory system of guaranteeing funds held in bank accounts before having established a fund for the protection of guaranteed deposits, while observing the deadlines stipulated herein, the dates of making disbursements in accordance with the procedure referred to in Art. 27 and 28 shall be counted from the day of establishing funds for the guarantee of assets pursuant to this Act.

Art. 43a. *(repealed)*

Art. 44. *(repealed)*

Art. 45. The National Bank of Poland and the Minister of Finance shall pay 50 000 000 PLN each to the Fund within 14 days from the appointment of the Management Board of the Bank Guarantee Fund.

Art. 46. The responsibility of the State Treasury with respect to deposits held in banks, subject to Art. 47. 3, shall be evaluated in accordance with the provisions in force on the day of declaration of insolvency of a bank.

Art. 47. In the Banking Law Act of 31 January, 1989 (Journal of Laws of 1992, No. 72 item 359, of 1993 No. 6 item 29, No. 28 item 127 and No. 134 item 646 and of 1994 No. 80 item 369 and No. 121 item 591) the following amendments are introduced: (changes omitted).

Art. 48. In the Restrictions with respect to Conducting Business Activity by Persons Holding Public Office Act of 5 June, 1992 (Journal of Laws No. 56 item 274) in Art. 4. 1, after the words “be members” the following words shall be added “of the authorities of the Bank Guarantee Fund and”.

Art. 49. This Act shall enter into force 30 days after the day of its publication.