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### Law 3746/2009

Greece: Hellenic Parliament

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**GOVERNMENT GAZETTE  
OF THE HELLENIC REPUBLIC**

**Vol. 27/A**

**16 February 2009**

**LAW 3746**

*Hellenic Deposit and Investment Guarantee Fund (in Greek: Tameio Engyisis Katatheseon kai Ependyseon), incorporation of the Directive 2005/14/EC on insurance against civil liability in respect of the use of motor vehicles and Directive 2005/68/EC on reinsurance and other provisions*

**THE PRESIDENT  
OF THE HELLENIC REPUBLIC**

We hereby enact the law set forth hereinbelow and passed by the Hellenic Parliament:

**CHAPTER A  
HELLENIC DEPOSIT AND INVESTMENT GUARANTEE FUND (HDIGF)**

**Article 1: Purpose**

The provisions of this law replace Articles 1-17 of Law 2832/2000 (Government Gazette 141/A) codifying and supplementing the provisions of Law 2324/1995 (Government Gazette 146/A), which incorporated Directive 94/19/EC of the European Parliament and of the Council of 30 May 1994 on “deposit guarantee schemes”; and codify provisions regarding schemes for compensating depositors and investors/customers (hereinafter simply “investors”) of credit institutions.

**Article 2: Establishment of the “Hellenic Deposit and Investment Guarantee Fund” (HDIGF)**

1. A fund by the name of the “Hellenic Deposit and Investment Guarantee Fund” (hereinafter the “HDIGF”), a legal entity governed by private law, and successor in interest to the Hellenic Deposit Guarantee Fund established by virtue of Article 2 of Law 2832/2000, is hereby established. The Fund shall be based in Athens and supervised by the Minister of

Finance (ex Economy and Finance). The HDIGF shall not be a public entity and shall not belong to the broader public sector, as stipulated from time to time.

In its dealings with foreign bodies and organisations, the name “Hellenic Deposit and Investment Guarantee Fund” (HDIGF) shall be used.

2. The HDIGF’s purpose is to:

(a) pay compensation to depositors in the event that deposits in any of the credit institutions listed in Article 3 below become unavailable,

(b) pay compensation to investors in the event that credit institutions, as listed in Article 3 below, are unable to pay their obligations to investors stemming from guaranteed investment services, these being, for the purposes herein, investment services as per Article 4 of Law 3606/2007 (Government Gazette 195/A), paragraphs 1(a) – (d), (f) and (g), and the service specified in paragraph 2(a) of the same Article, with a view to ensuring stability in the credit system.

3. If a customer has a claim against a credit institution and it is not possible to classify the claim as belonging clearly to either case 2(a) or (b) above, the HDIGF’s Board shall, in its judgment, classify it in whichever of the two cases it considers to be more appropriate, since double compensation shall not be allowed for the same claim.

4. Especially, in the case of credit institutions whose head offices are located in Greece, the HDIGF covers also deposits and claims of investors vis-a-vis guaranteed investments with those institutions’ branches situated in another EU Member State; it also covers branches in non-EU countries, in the event that they are not already covered by an equivalent system in host countries. The Bank of Greece, following the recommendation by the HDIGF’s Board, shall decide whether such other schemes, as the participating credit institutions may belong to, are equivalent to its own cover, determining in each and every case the terms and conditions of cover by the HDIGF.

5. The initial capital of the HDIGF, as successor in interest to the Hellenic Deposit Guarantee Fund as per paragraph 6 of Article 27, amounts to eight million eight hundred four thousand one hundred nine euro (EUR 8,804,109) (equivalent to pre-euro GRD3 billion) from the following sources:

a) Bank of Greece: 60 per cent, and

b) Hellenic Bank Association: 40 per cent.

6. The assets of the HDIGF available for meeting the needs of case 2(a) above (the Deposit Cover Scheme of the HDIGF) is clearly distinct from the assets which are destined to serve the purpose of 2(b) herein (the Investments Cover Scheme of the HDIGF), as specified herein.

**Article 3: Mandatory participation of credit institutions in the HDIGF**

1. All those credit institutions specified in para. 1(a), Article 2 of Law 3601/2007 (Government Gazette 178/A), which have obtained their business authorization in Greece, shall participate in the HDIGF, with the exception of those cases specified in para. 2, Article 3 of the same law. Credit institutions shall not accept deposits if they do not participate in the Deposits Cover Scheme of the HDIGF, as set out herein.
2. Subject to the provisions of para. 4, Article 27, with the exception of the Consignment Deposit and Loans Fund (“Tameio Parakathathikon kai Daneion”), all credit institutions specified in para. 1(a), Article 2 of Law 3601/2007 (Government Gazette 178/A), which have obtained their business authorization in Greece and which provide at least one of the covered investment services in the sense set out in para. 2(b), Article 2 herein, shall participate in the Investment Cover Scheme of the HDIGF.
3. Optionally, and upon request, and in accordance with the provisions of Articles 9 and 10 herein, branches of a credit institution whose head office is located in another European Union Member State may participate in the HDIGF for supplementary cover (whether on the Deposits or the Investments Cover Scheme) in addition to the cover provided in their home State, both in respect of the amount and/or the categories of deposits and/or investments covered.
4. Participation whether on the Deposit or the Investment Cover Scheme of the HDIGF is mandatory for branches of credit institutions whose head office is located outside the EU in the event that these branches are not already covered by an equivalent to HDIGF deposit-guarantee or investment compensation schemes operating in their home States. The Bank of Greece, following recommendation by the HDIGF’s Board shall decide whether such other schemes, as the participating credit institutions may belong to, are equivalent to its own cover or, if not deemed equivalent, shall determine in each and every case the terms and conditions of cover by the HDIGF.
5. The level and scope of the cover provided by the HDIGF to depositors and investors of branches of credit institutions headquartered outside the EU shall not exceed the level and scope of the cover stipulated in Articles 9 and 10 herein.
6. For the purposes of the present chapter, a branch shall mean a business unit of a credit institution which does not enjoy independent legal status in its own right and provides some or all of the services held to be an inseparable part of the activities of the credit institution including covered investment services. Any number of branches set up in the same Member State by a credit institution having its headquarters in another Member State shall be regarded as a single branch.

**Article 4: Assets of the Deposit Cover Scheme of the HDIGF**

1. The HDIGF assets placed at the disposal of the Deposit Cover Scheme are earmarked solely for meeting the claims of depositors of credit institutions participating in the HDIGF's Deposit Cover Scheme (hereinafter "Deposit Cover Scheme Assets"). The entire assets of the former Hellenic Deposit Guarantee Fund come into the possession of the Deposit Cover Scheme Assets as at the time this law comes into effect.

2. The sources of the Assets of the Deposit Cover Scheme derive from:

a) Regular annual contributions levied from the credit institutions participating in the HDIGF's Deposit Cover Scheme in accordance with Article 3 herein. Annual contributions are calculated on the basis of the average balance of deposits in euro and foreign exchange held in the month of June each year, with the exception of

i) the corresponding tax due on those deposits,

ii) the balance of those categories of deposits listed in Article 11 below, apart from cases 3 and 10- 13 therein,

iii) the balance of deposits held by branches established in non-EU states by participating credit institutions, provided such deposits are covered by an equivalent deposit protection scheme in the host state, and

iv) the HDIGF's deposits.

In order to find the average balance of deposits in foreign exchange, the daily balances will be calculated on a euro basis throughout the month of June using the corresponding fixing rate. If there is no fixing rate, the reference rate will be used for the same purpose.

A credit institution participating in the HDIGF's Deposit Cover Scheme shall pay the regular contribution for the calendar year in which it joins the Scheme proportionate to the length of time it operated in the year in question. Any credit institution that joins the Deposit Cover Scheme after the month of June shall pay regular contribution for the year it joins, which is calculated as a percentage of the average balance of deposits in the month of December and added to the contribution for the following year.

In the event that the credit institution ceases its operations or is liquidated it shall pay its regular contribution for the calendar year in which it shuts down proportionate to the length of time it operated in the year in question. If the credit institution ceases its operations or is liquidated before the end of June, the average balance of deposits of the last thirty-day period prior to cessation of operations (which balance shall be communicated immediately to the HDIGF) shall be used as the basis for calculating contributions. For the implementation of this article's provision, cessation of operations of a credit institution

shall additionally mean the termination of participation in the HDIGF's Deposit Cover Scheme and its deposits cease to be under guarantee.

b) Supplementary contribution, beyond the regular annual contribution, levied in the event that the resources of the HDIGF's Deposit Cover Scheme are insufficient to compensate depositors, as specified in Article 9 hereinbelow. Such contribution, whose payment is obligatory, is determined by decision of the HDIGF's Board and may be up to a maximum of three times the regular annual contribution of participating institutions paid in the year immediately prior to the specific activation of the said Scheme, and are offset against the regular contributions of the following years, as set out in the decision of the HDIGF's Board.

c) Donations.

d) Revenue deriving from liquidation of the HDIGF's claims, as well as from management of the assets of the HDIGF's Deposit Cover Scheme.

3. a) In the event that the funds of the HDIGF's Deposit Cover Scheme, as described in paragraph 2 hereinabove, are insufficient to meet deposit compensation payments, the HDIGF may, by decision of its Board, borrow the required level of funds from the credit institutions participating in the scheme and/or from other sources. The levels of these loans are guaranteed by the credit institutions participating in the HDIGF's Deposit Cover Scheme. The terms of the said loans and guarantees shall be determined by the HDIGF's Board, in line with the percentage participation of each credit institution in the annual contributions of the previous year.

b. Credit institutions participating in the HDIGF for supplementary cover, in line with the guiding principles of Article 26 below, may also be required to pay obligatory contributions according to the provisions of 2b and 3a herein, should the Board deem this necessary.

4. a) The regular annual contribution of each participating credit institution is calculated on the basis of the deposit thresholds scale below, as per Article 6 of Law 3714/2008 (Government Gazette 231/A):

<b>Deposit thresholds scale</b>	<b>Percentage contribution rate</b>
<b>(€ millions)</b>	0.625
0 – 600	0.6
600.01 – 2,990	0.5875
2,990.01 – 8,843	0.1025
8,843.01 – 20,940	0.0125
over 20,940	

The ratio of the total regular annual contribution to the deposits that form the basis for calculating contributions in 2008 shall remain unchanged.

b) The deposit thresholds are adjusted each year by the HDIGF's Board so as to keep the contribution ratio in the table above unchanged. These adjustments are made by super majority decision of the HDIGF's Board; if a super majority is not obtained, the adjustments are applied proportionately in order to maintain the above ratio.

i) The contribution rate, as set out in the above table, of each credit institution is adjusted, as of 1 January 2009, at a rate ranging between 0.90 to 1.10, by decision of the HDIGF's Board depending on the class to which the credit institution belongs, in accordance with the provisions set out immediately hereinbelow, without altering the ratio specified in subsection (a) above.

ii) Credit institutions are classified in one of at least three classes by, solely for the purposes of this Law, decision of the Bank of Greece, which is published by the end of June each year, taking into consideration a number of criteria of a regulatory nature, such as capital adequacy, liquidity and the effectiveness of internal control systems.

c) When a reasonable ratio between the HDIGF's Deposit Cover funds and total deposits covered has been achieved, the contributions are henceforth adjusted to correspond only to variations in the levels of the credit institutions' deposit balances. The precise level of the ratio, any increases or decreases in the average contribution level, any interruption or new commencement of annual contribution payments, and possible reimbursement of contributions, which derive from possible miscalculation are decided by super majority decision of the Board.

d) The participating credit institutions have to pay half their annual contribution on the first business day of October of each calendar year, after written notification to the HDIGF of the deposit base of the contribution, in line with the present Law. The other half is paid on the first business day of April of the following calendar year. The method and content of the notification is determined by resolution of the HDIGF's Board.

e) In the event that the credit institution ceases operations or is liquidated before the month of June, it shall pay its contribution dues immediately following determination by the HDIGF of the thresholds and contributions, as per the present Article. If the credit institution ceases operations or is liquidated subsequent to determination of thresholds and contributions, it shall pay the contribution owed on the day of cessation of operations. The Bank of Greece shall monitor the data submitted for the purpose of calculating

contributions, whether in its capacity as Regulator or upon request by the President of the HDIGF's Board.

f) The payment of contributions due by each credit institution is made by crediting the HDIGF's Deposit Cover Scheme accounts, as follows:

i) 20% of the contribution is paid to the HDIGF by crediting its Deposit Cover Scheme account with the Bank of Greece. The amount that corresponds to this percentage may be invested, in whole or in part, in Greek government securities denominated in euro or in foreign exchange, as well as in equivalent foreign securities, of up to 12 months' maturity; such contribution may alternatively remain, in whole or in part in HDIGF's account for the purpose of covering operating costs and other current needs of the Deposit Cover Scheme, according to para 4 of Article 24 therein, as the Board finds appropriate.

ii) The remaining balance of 80% of the contribution shall be deposited in a 3-month time deposit account held in HDIGF's name with the credit institution paying the contribution, at an interest rate equivalent to that borne by Hellenic Republic 3-month Treasury bills of the latest issue prior to the date above. The interest rate on such deposits shall be adjusted every three months in line with the 3-month T-bill rate applicable on the date of adjustment, while interest accrued shall be capitalized. In the event that 3-month T-bills are no longer issued or the interest rate borne by such bills is no longer suitable, the 3-month reference rate of the euro interbank market will be applied.

By resolution of the HDIGF's Board a part of the said amount may be held with the credit institutions in foreign exchange deposits earning interest that applies to placements of equivalent duration, liquidity and security.

iii) In the event that the Scheme, in accordance with the provisions of Article 13 hereinbelow, is activated, those Deposit Cover Scheme funds which are deposited with participating credit institutions, the interest earned thereon, and any other amount owed by the participating credit institutions to the Deposit Cover Scheme of the HDIGF, shall be paid directly to the HDIGF by the management of the credit institutions concerned, notwithstanding any other provisions of substantive or procedural law and prior to any other claims.

iv) The HDIGF's Board, by a super majority decision in accordance with Article 23 para. 8 hereinbelow, and on explaining fully the reasons for the decision, may decide to place its Deposit Cover funds in securities, notwithstanding the provisions of f(i) above, if, according

to its judgement: a) these placements are of equivalent risk, and b) they can be liquidated immediately.

g) The HDIGF may assign placement of funds as per the provisions of f(i) above to a manager, by virtue of a fund management contract. During the period of time that must intervene between the placements made by the HDIGF or the fund manager in implementation of this provision, the said funds can be held, as the HDIGF's Board sees fit, for a reasonable length of time in accounts with a credit institution, provided the two conditions set out in f(iv) are met.

5. a) Credit institutions that have obtained their business authorization in Greece, and branches established in Greece by credit institutions headquartered in non-EU countries that are obliged to participate in the HDIGF as per the provisions of para. 4, Article 3 herein, shall pay within one month of commencing operations or joining the Deposit Cover Scheme, besides their respective annual contribution, an initial contribution equal to the amount arising from the product of the level of accumulated resources of the Deposit Cover Scheme, multiplied by the ratio of the new credit institution's own funds to the total own funds of those credit institutions already participating in the Scheme. The date used for the calculation of the credit institutions' own funds and the HDIGF's resources shall be 31 December of the immediately preceding calendar year. For credit institutions headquartered in Greece and for branches of credit institutions headquartered outside the European Union "own funds" are understood to be own funds as defined in Bank of Greece Governor's Acts 2461/2000 (Government Gazette 123/A) and 2587/2007 (Government Gazette 1738/B), as amended.

b) By decision of the HDIGF, the payment of the initial contribution, described in the preceding paragraph, may be made in equal 6-monthly instalments over a maximum period of 3 years.

Payment and investment of initial contributions are carried out in accordance with the provisions of paragraph 4(f) of this Article.

6. In the event that a branch that participated in the Deposit Cover Scheme is acquired by another credit institution that is not a member of the Scheme, it is not required to pay again the initial contribution for the branch in question, provided that the Bank of Greece approves the continuation of the initial business authorization of the branch under its new ownership.

7. Cooperative banks (as defined by Law 1667/1986) shall pay an initial contribution that is equal to 50% of the amount resulting from implementation of the provisions of para 5(a) above. The initial contribution is paid at the commencement of their operations. By decision of the HDIGF's Board, the payment of the initial contribution by a cooperative bank can be made in equal six-monthly instalments over a period of no more than four years.

8. Revenues arising from investments by HDIGF shall be disposed of in the following order of priority:

a) repayment of loans,

b) deposits into HDIGF's Deposit Cover Scheme accounts with the Bank of Greece (20%) and with all the participating credit institutions (80%), in proportion to the annual contributions paid by them to the said Scheme.

9. In the case of branches of credit institutions headquartered in another EU Member State and which have supplementary deposit cover with HDIGF, issues relating to the level of the annual and initial contributions and to compensation payments are determined by the HDIGF' Board and the respective deposit - guarantee scheme of the home State of the credit institution concerned, according to the level and scope of the supplementary cover and according to the guiding principles set out in Article 26 below. The agreements established in accord with this paragraph are announced to the Bank of Greece, the Ministry of Finance (ex Economy and Finance) and the Hellenic Bank Association.

10. Subject to the provisions of paras. 11-16 hereof and the following Article 4a, contributions to the initial capital of HDIGF, and any other form of contribution by a credit institution to the Deposit Cover Scheme of the HDIGF, are not assets of the said credit institutions and cannot be refunded on any grounds whatsoever .

11. The additional amount, resulting from implementation of the provisions of para. 2, Article 6 of Law 3714/2008 (Government Gazette 231/A), in the annual contribution paid by credit institutions falls within a special group of assets destined exclusively for meeting claims of depositors of those credit institutions participating in the Deposit Cover Scheme (the "Supplementary Deposit Cover Fund"), in line with the special terms set out herein. The assets of the Supplementary Deposit Cover Fund are not included in the assets of the Deposit Cover Scheme (of para. 1 herein) in accordance with the issues set forth in the immediately ensuing paragraphs and Article 4a below.

12. The Supplementary Deposit Cover Fund is a group of assets whose various components belong pro-indiviso to the participating credit institutions, proportionate to their rate of

participation in the Fund, and is managed by the HDIGF in line with the provisions herein. It is formed on the basis of the contributions, as per para. 11, by credit institutions participating in the Deposit Cover Scheme.

The HDIGF's Board decides on the payment of contributions, the placement of funds as per para. 11 above and, in general, the management of the assets of the Supplementary Deposit Cover Fund. Earnings made on the assets will increase the Supplementary Deposit Cover Fund.

13. The contributions, as per para. 11 above, to the Supplementary Deposit Cover Fund, besides the revenues earned on the assets of the Fund, constitute the individual account of each credit institution participating in the Fund. Each credit institution participating in the Supplementary Deposit Cover Fund has its own account with the Fund. The individual accounts correspond to the percentage participation of each member in the Supplementary Deposit Cover Fund. To facilitate accounting procedures and more easily determine the value of the individual accounts, the assets of the Supplementary Deposit Cover Fund can be divided into equal shares or fractions of a share, of which the individual accounts of the participating credit institutions are formed.

14. The individual accounts of the credit institutions that compose the Supplementary Deposit Cover Fund may not be seized or forfeited validly vis-à-vis the the HDIGF. Seizure or forfeiture is possible only on, and up to the amount of, the individual account reimbursable, as per the provisions of Article 4a, to the credit institution, in the event that the credit institution ceases to participate in the Deposit Cover Scheme.

15. In the event of payment of compensation to depositors as per the provisions herein, use is made first of the individual account of the credit institution participating in the Supplementary Deposit Cover Fund, until the account is exhausted. If the account is insufficient to effect due compensation, the Supplementary Deposit Cover Fund shall be used, as determined by the HDIGF's Board and only after funds equivalent to at least 5% of the assets of the Deposit Cover Scheme have been released, as such stand on the day of the last approved balance sheet.

16. The HDIGF's Deposit Cover Scheme acquires ipso jure claims against a credit institution that becomes unable to pay its depositors for amounts paid to depositors/customers of the said credit institution from the Assets of the HDIGF's Deposit Cover Scheme, and from the Supplementary Deposit Cover Fund above and beyond the individual account of the failed credit institution, and for any other expense or amount charged to the Deposit Cover

Scheme and associated with the payment of compensation. Any amounts received, as per the above, by the HDIGF are distributed between the Assets of the Deposit Cover Scheme and the assets of the Supplementary Deposit Cover Fund, depending on the order and percentage by which the paid amounts burdened the Assets of the Deposit Cover Scheme and the assets of the Supplementary Deposit Cover Scheme.

**Article 4a: Withdrawal from participation in the HDIGF's Deposit Cover Scheme**

1. If a member credit institution of the Deposit Cover Scheme ceases, for whatever legal reason, to participate in it, it shall be paid the value in cash of its individual account in the Supplementary Deposit Cover Fund, at the value applicable at the time of its withdrawal from the Scheme, as specified by ad hoc decision of the HDIGF's Board.
2. In calculating the assets of the Supplementary Deposit Cover Fund and, likewise, the value of its own account of the credit institution withdrawing from the Scheme, the claims of depositors of Deposit Cover Scheme member credit institutions that are unable to pay up deposits are also taken into account, if a) the credit institution's inability to pay occurs within 3 months of its departure from the Scheme, and b) the customers' claims are on deposits guaranteed up to the time of the credit institution's departure from the Scheme. In the case of dilatory exception of payment of the relevant amounts to depositors, they shall be deducted from the value of the Supplementary Deposit Cover Fund.
3. Payment of the share due by the departing credit institution shall be made in the first calendar month after the lapse of one year following departure from the Deposit Cover Scheme.
4. The amount claimed for return by the departing credit institution is set off against any claims of the Deposit Cover Scheme against the said credit institution, including any contributions dues or other amounts that the HDIGF has paid or will pay in order to meet obligations of the credit institution withdrawn from the scheme as regards deposits under guarantee.
5. The HDIGF withholds from the individual account to be returned to the departing credit institution the amounts corresponding to the likely claims of depositors against the Deposit Cover Scheme vis-à-vis guaranteed deposits of the credit institution withdrawn from the scheme.

6. The amounts withheld as per para. 5 above are not rendered to the departing credit institution until the affair has been irrevocably approved and, depending on the outcome, the HDIGF then pays such to the depositors/customers or to the departing credit institution.

7. The amounts withheld shall be deemed to be offset against the claim of the member credit institution as payment for its individual account, under the conditions that an irrevocable court ruling is issued, which recognizes that there is no related obligation on the part of the departing credit institution vis-à-vis depositors.

#### **Article 5: Assets of the Investment Cover Scheme of HDIGF**

1. The assets of the Investment Cover Scheme, as distinguished from the assets set out in Article 4, are destined solely for meeting the claims of investors of institutions participating in the Investment Cover Scheme.

2. The assets of the Investment Cover Scheme comprise a group of assets whose components belong pro indiviso to the member institutions, at a ratio corresponding to their participation in the Scheme, and which are managed by the HDIGF in line with the provisions herein.

3. The assets of the Investment Cover Scheme are comprised of the contributions of its member institutions and other sources, as per the provisions of Article 6 herein.

4. The contributions of the credit institutions participating in the Investment Cover Scheme, as well as revenues deriving from the contributions, plus other resources of the Investment Cover Scheme, comprise the individual accounts of the credit institutions in the Scheme. Each participating credit institution has its own account in the Investment Cover Scheme. The individual accounts are at a level corresponding to the participation rate of each credit institution in the assets of the Investment Cover Scheme. To simplify the accounting calculation of the value of the individual accounts, the assets of the Investment Cover Scheme can be subdivided into equal parts or fractions of a part, out of which the individual accounts of the participating credit institutions are formed.

5. The individual accounts of the credit institutions that go to make up the assets of the Investment Cover Scheme may not be seized or forfeited validly vis-à-vis the HDIGF. Seizure or forfeiture is only possible in the case of the refundable value, as per the provisions of Article 8 herein, of the individual account of a credit institution, in the event that the said institution withdraws from participation in the Investment Cover Scheme.

**Article 6: Asset Resources of the HDIGF's Investment Cover Scheme**

1. The resources of the Investment Cover Scheme of the HDIGF are earmarked solely for meeting the claims of investors against participating credit institutions arising from the provision, on their part, of guaranteed investment services, and are comprised of:

- a) the initial contribution of the participating credit institutions,
- b) the annual contribution of the participating credit institutions,
- c) the supplementary contribution, as per the provisions of Article 7 hereinbelow,
- d) the revenues and income arising from management of the Assets of the Investment Cover Scheme, and
- e) the proceeds from the liquidation of claims of the Assets of the Investment Cover Scheme.

2. The assets of the Investment Cover Scheme cover all kinds of operating expenses of the HDIGF's Investment Cover Scheme, as set out in the decision of its Board of Directors, as per para. 4, Article 24 below.

3. Credit institutions providing, on the basis of the Investment Cover Scheme, investment guarantees for the first time shall pay a one-off initial contribution of five hundred thousand euro (EUR 500,000).

4. Credit institutions that have obtained their business authorization in Greece, and branches operating in Greece of credit institutions registered outside the EU, which are obliged to become members of the HDIGF, as per para. 4 of Article 3 hereinabove, and participate in the Investment Cover Scheme following the first publication of the HDIGF balance sheet to include the assets and liabilities of the Investment Cover Scheme, shall pay, besides their respective annual contributions, an initial contribution equal to the amount arising from the total of the accumulated sources of the assets of the Investment Cover Scheme as a percentage of the ratio of their own funds to the total own funds of the credit institutions already participating in the HDIGF Investment Cover Scheme. The date taken as the basis for calculating credit institutions' own funds and the accumulated sources of the assets of the Investment Cover Scheme is 31 December of the year immediately prior to the credit institution joining the Scheme. The own funds of the credit institutions registered in Greece and branches of credit institutions headquartered in non-EU countries are own funds as defined in Bank of Greece Governor's Acts 2461/2000 (Government Gazette 123/A) and 2587/2007 (Government Gazette 1738/B), as amended. The initial contribution, as specified herein, cannot be less than five hundred thousand Euro (EUR 500,000).

5. Credit institutions in the form of cooperative banks, under Law 1667/1986, pay an initial contribution equivalent to 50% of the amount arising from the implementation of the provisions of para. 3 and 4 herein.

6. If a credit institution is to participate for the first time in the Investment Cover Scheme and acquires a branch which was already participating independently in the Scheme at the time the initial contribution of the new member is calculated, the already existing individual account of the said branch is also taken into account.

7. The HDIGF's Board of Directors determines the dates and procedures for payment of initial contribution, as provided for in para. 3, 4, 5 and 6 herein.

8. The member credit institutions of the HDIGF's Investment Cover Scheme also pay an annual regular contribution, the level of which is determined each year by the HDIGF's Board of Directors, and announced in the month of June. The criteria for defining how the annual contribution is calculated and allocated, as well as its level, are determined by decision of the Minister of Finance (ex Economy and Finance), which is announced following recommendation by the Bank of Greece and the Capital Market Commission. This decision also settles any other issues and technical details regarding how the annual contributions are determined and allocated. Criteria for determining the annual contributions include, specifically, the number of investors of each credit institution participating in the Investment Cover Scheme, the total value of the assets owned by each of the participating credit institutions during the year prior to membership in the Scheme at the predetermined reference dates for the account of their investors in the context of provision of guaranteed investment services, and any other matters that the decision may settle. If the value of the assets held by the credit institution for the account of a customer in the context of providing him with guaranteed investment services exceeds the amount of thirty thousand euro (EUR 30,000) the value of the assets of the customer, as per the provisions of the previous Article, shall be considered to be thirty thousand euro (EUR 30,000). As regards the branches in Greece of credit institutions headquartered outside the EU, the aforesaid criteria concerning the guaranteed investment services provided by them in Greece are specifically taken into account.

9. A credit institution that joins the Investment Cover Scheme subsequent to the commencement of the financial year or that withdraws, for whatever reason, from the Scheme during the year shall pay the annual contribution for the calendar year in which it

joins or withdraws in an amount corresponding to the length of time in that year that it was a member.

10. The exact time and procedure concerning the payment of annual contributions are determined by the HDIGF's Board of Directors.

11. If the HDIGF's Board deems that a reasonable ratio between Investment Cover Scheme funds and the total estimated obligations arising from guaranteed investment services has been reached, it may recommend to the Minister of Finance (ex Economy and Finance) adjustments with regards to the level and the mode of calculation of the annual contribution, as per para. 8 herein. The decision regarding the said recommendation shall be taken by super majority as per para. 8, Article 23.

12. Payment of initial and annual membership fees for the Investment Cover Scheme by the participating credit institutions is effected by crediting special accounts of the Investment Cover Scheme held with the Bank of Greece and with the participating credit institutions, which are kept completely separate from the accounts relating to the Deposit Cover Scheme, as set out below:

a) 20% of contributions is deposited in a special Investment Cover Scheme account held with the Bank of Greece.

b) The remaining 80% is deposited in a special 3-month Investment Cover Scheme time deposit account held with the credit institution paying the said contribution. The time deposits are computed on a calendar quarterly basis. In the case of deposits of money during the course of a calendar quarter the amounts earn interest, initially, for a period that lasts up to the end of the current calendar quarter.

Interest accrues on these accounts at the rate stated in para. 4.f.ii of Article 4 hereinabove.

13. Revenues deriving from the liquidation of claims under HDIGF's Investment Cover Scheme shall be released in the following order for:

a) repayment of loans,

b) deposit in the special accounts of the HDIGF's Investment Cover Scheme held with the Bank of Greece at a rate of 20%, and in the member credit institutions at a rate of 80%, corresponding to the credit institution's annual contributions as a proportional rate of the total Investment Cover Scheme participating credit institutions.

14. Regarding new fees, whether initial contributions or annual contributions, the basis for calculating the value of the individual account of each Investment Cover Scheme member credit institution is the net assets of the Investment Cover Scheme as at 31 December of the

immediately preceding year, or the official valuation (approved by the Board of Directors) of the net assets as at the end of the calendar year immediately prior to the time at which the membership fees are payable.

15. The Bank of Greece controls the data submitted to the HDIGF by its member credit institutions, which comprise the basis for calculating their contributions, either at its own discretion within the framework of its supervisory role or upon request by the President of the HDIGF's Board.

#### **Article 7: Extraordinary supplementary contributions to the Investment Cover Scheme**

1. If the HDIGF is required to pay compensation to investors within the context of the protection afforded by the Investment Cover Scheme, the individual account of the participating credit institution is used first, until it has been exhausted. If this account is not sufficient to pay all the claims of investors, it shall use the balance of assets of the Investment Cover Scheme, which belongs to the other member credit institutions of the Scheme, as per the provisions herein, depending on the value of their individual account of each institution as a percentage of the assets of the Investment Cover Scheme. The Investment Cover Scheme acquires ipso jure claims against credit institutions that fail, for amounts paid to investors of the said institutions from the funds of the Assets of the Investment Cover Scheme above and beyond the individual account of the credit institution that has failed, as well as for all other expenses and amounts that burden the Investment Cover Scheme and are associated with the compensation payment process, as per the provisions set out in para. 3, Article 20 hereinbelow, including expenses for the appointment of experts and advisers for assessing the claims of investors and ascertaining the amounts to be paid to each claimant, as per the provisions of para. 4, Article 24 hereinbelow.

2. If the compensation to be paid is in excess of a specific percentage of the value of the Assets of the Investment Cover Scheme, as defined by decision of the HDIGF's Board, the credit institutions participating in the said Scheme shall be required to pay extraordinary supplementary contributions.

3. The HDIGF's Board shall determine the amount from the Assets of the Investment Cover Scheme that will be used to meet the claims of investors, as well as the level and payment date of extraordinary supplementary contributions. The value of these supplementary

contributions cannot be more than three times the regular annual contribution of the immediately preceding year.

4. The extraordinary supplementary contributions are paid into a special investors' compensation account, which is opened for this purpose with the Bank of Greece, allowing funding of the Investment Cover Scheme by credit institutions and/or other sources, by decision of the Board, specifically for the purpose of securing the cash required for payment of compensation. These loans are guaranteed by law by the credit institutions participating in the Investment Cover Scheme, depending on the ratio of the value of their individual accounts to the Assets of the Investment Cover Scheme at the time the guarantee is provided, without taking into account the individual account of the failed credit institution. The terms of the said loans and guarantees are determined by decision of the HDIGF's Board, which defines the contributions to be paid by each participating credit institution and the exact amount guaranteed for each.

5. The extraordinary supplementary contribution to be paid by each credit institution vis-a-vis the compensation that the HDIGF must pay out and which is met by supplementary contributions is determined by taking into consideration the participation share of each credit institution in the annual regular contribution of the previous year, as determined by ministerial decision published as per para. 8, Article 6 hereinabove.

6. Until the exact level of the extraordinary supplementary payment has been determined, the HDIGF can request from the participating credit institutions concerned that they make similar advance payments into the special investors' compensation account of the Investment Cover Scheme held with the Bank of Greece, so that compensation is duly paid to investors, specifically if the funds of the Assets of the Investment Cover Scheme are not sufficient to meet such payments.

7. Obligations for credit institutions, stipulated in para. 2 and 6 herein, may, by decision of the HDIGF's Board of Directors, also be borne by credit institutions participating in the Investment Cover Scheme for supplementary cover on the basis of the guiding principles set out in Article 26 hereinbelow.

8. Within a reasonable period of time following final determination of the compensation payments to be made to investors, the HDIGF's Board shall decide on the share of compensation to be borne by each credit institution participating in the Investment Cover Scheme, as well as the level of the extraordinary supplementary contribution to be paid by each one, as per the provisions of para. 5 herein.

9. Any advance payment made by a credit institution against extraordinary supplementary contributions that exceeds the percentage level due by the said institution is reimbursed within 6 months following the date of the final determination of the percentage shares due from participating institutions. By decision of the HDIGF's Board a portion of the extraordinary supplementary contributions may be used to supplement or enhance the Assets of the Investment Cover Scheme, thereby augmenting the individual account of the credit institution.

10. On activating the investor compensation procedure, in accordance with the provisions of Article 13, the funds of the Investment Cover Scheme which are deposited with the credit institution concerned, the interest accrued, and any contribution owed to the Investment Cover Scheme, are rendered immediately to the last management of the said credit institution, before any other material or judicial ruling, and prior to satisfying any other claim.

11. In the case of Greek branches of credit institutions headquartered outside the EU, which are protected on a supplementary basis by the Investment Cover Scheme, matters relating to the scale of initial contribution and regular annual contributions, and payment of compensation, are determined by the HDIGF's Board and the corresponding deposit – guarantee scheme of the home country of the credit institution, as the case may be, on the basis of the level and extent of the supplementary cover and in line with the guiding principles of Article 26 herein. Any agreements hereof are notified to the Bank of Greece, the Ministry of Economy and Finance, the Hellenic Bank Association and the Association of Co-operative Banks of Greece.

#### **Article 8: Withdrawal from participation in the Investment Cover Scheme**

1. In the event that a credit institution ceases, for whatever legal reason, from participating in the Investment Cover Scheme, it shall be paid in cash the value of its individual account as at the time of its withdrawal from the Scheme, as determined by decision of the HDIGF's Board.

2. In calculating the Assets of the Investment Cover Scheme and, likewise, the value of the participation amount of the credit institution withdrawing from the Scheme, the claims of investors of member credit institutions that are unable to repay their investors are taken into account if, both a) failure to pay occurred within three months of withdrawing from the Scheme, and b) customers' claims are based on guaranteed investment services

provided up to the time of the credit institution's withdrawal from the Scheme, and as long as such claims are made within six months from the credit institution's withdrawal from the Scheme. In the case of dilatory exception of payment of the corresponding amounts to customers, these shall be deducted from the Assets of the Investment Cover Scheme.

3. Payment of the value of the account of the departing credit institution shall be made in the first calendar month after the lapse of one year from the time of its withdrawal from the Scheme.

4. Any claims that the Investment Cover Scheme may have against the credit institution withdrawn from the scheme, including any contributions owed to the HDIGF, or any other amounts that the HDIGF has paid or shall pay in honouring obligations of the departing credit institution vis-a-vis the provision of guaranteed investment services, shall be set off against the value of the said credit institution's individual account to be reimbursed.

5. The HDIGF withholds from the reimbursable value of the departing credit institution's individual account amounts corresponding to the level of likely claims of investors against the Investment Cover Scheme of the HDIGF vis-a-vis the provision of guaranteed investment services by the credit institution, which may derive from:

(i) a compensation claim submitted during the year following withdrawal of the credit institution from the Scheme, provided that the claim against the credit institution originates from the time it was a member of the Scheme, or

(ii) compensation claim submitted prior to the withdrawal of the credit institution from the Scheme, whose consideration is still pending.

6. The amounts withheld under para. 5 above shall not be paid to the departing credit institution until the case has been irrevocably approved and, depending on the outcome, the HDIGF pays such amounts either to the investors or to the departing credit institution.

7. The amounts withheld shall be considered to be set off against the claim of the member credit institution for the value of its individual account, on condition that an irrevocable court decision recognizing that there is no relevant liability on the part of the departing credit institution vis-a-vis investors has been issued.

#### **Article 9: Deposits covered by the guarantee scheme – Guarantee limit**

1. For the purposes of this chapter, 'deposit' shall mean any credit balance which results from funds left in an account or from temporary situations deriving from normal banking transactions and which a credit institution must repay under the legal and contractual

conditions applicable, and any debt evidenced by a certificate issued by a credit institution. This definition of 'deposit' does not include repos, whose claims are covered by the provisions of Article 10 herein.

2. a) The aggregate deposits of each depositor at a credit institution are guaranteed up to the amount of one hundred euro ( EUR 100,000) in accordance with Article 6 of Law 3714/2008 (Government Gazette 231/A).

b) The compensation is paid in euros and applies to the aggregate deposits of each depositor at the credit institution concerned, irrespective of the number of deposits, the currency and the location abroad. For the conversion of compensation received by depositors, whether this concerns deposits in foreign currency held in Greece or abroad, the legal provisions regarding foreign exchange and capital movements shall apply. The above mentioned limit includes also any interest accrued up to the date on which the deposit became unavailable.

c) If the level of cover is increased, as a result of change in the law, the HDIGF's Board decides by super majority, as specified in para. 8 of Article 23 below, on the adjustment of annual contributions.

3. In calculating compensation, the credit balance of the deposit accounts are set off against any counterclaims the credit institution may have against its depositors, in compliance with the conditions of Articles 440 et seq. of the Civil Code, according to data supplied to the HDIGF by the official liquidator of the credit institution. In the event of payment of supplementary compensation to depositors of branches of credit institutions headquartered in the EU Member States the guiding principles of Article 26 below shall apply.

4. a) In the case of accounts that have been opened jointly in the name of two or more persons, as defined by Law 5638/1932 (Government Gazette 307/A), the part that corresponds to each depositor of the joint account shall be considered a separate deposit and is entitled to cover up to the limit prescribed in paragraph 2 of this Article in aggregate with his or her other deposits. In the event that the relative proportions of joint account holders in an account have not been specified, for the purposes of compensation, each joint account holder is considered as having an equal share of the value in the account.

b) The deposit of a group of persons without legal personality shall be aggregated and treated as if made by a single depositor for the purpose of calculating the limits provided for in paragraph 2 of this Article.

5. The person who is absolutely entitled to compensation shall be covered by the guarantee, provided that the identity of the said person has been ascertained or can be ascertained before the date on which a deposit is deemed to have become unavailable, as per Article 13 below. If there are several persons who are absolutely entitled, the share of each under the arrangements subject to which the sums are managed shall be taken into account when the limits provided for in paragraph 2 above are calculated.

**Article 10: Investment services covered by the guarantee scheme –Guarantee limit**

1. a) The HDIGF also covers all investors of credit institutions participating in its Investment Cover Scheme, apart from those listed in Article 12 below, for investment services up to the amount of thirty thousand euro ( EUR 30,000). This amount concerns the aggregate investments of an investor of a credit institution participating in the Scheme, irrespective of the investment services covered, the number of accounts, the currency, and place where the services are provided.

b) If the level of cover is increased as a result of change in the law, the HDIGF's Board decides by super majority, as specified in para. 8 of Article 23 below, on a corresponding adjustment in annual contributions, in line with the provisions of paragraph 8, Article 6 above.

2. In the case of those investors of HDIGF member credit institutions who are co-beneficiaries of the same claim to guaranteed investment services, the part of the claim corresponding to each investor shall be considered to be a separate claim and is entitled to cover up to the limit prescribed in paragraph 1 of this Article in aggregate with his or her other investment claims. If the part of the claim corresponding to each co-beneficiary is not specified in the agreement signed by the co-beneficiaries and the HDIGF member credit institution, for the purposes of compensation each co-beneficiary is considered as having an equal share in the investment. For the purposes of compensation, the claim of a group of persons without legal personality shall be treated as if made by a single investor.

3. The compensation is paid to the absolutely entitled beneficiary of the funds or financial instruments, provided that the identity of the said beneficiary has been ascertained or can be ascertained before the date on which the investment is deemed to have become unavailable, as per Article 13 below. If there are several beneficiaries who are absolutely entitled, the share of each one, under the legal or contractual arrangements subject to which

the said funds or financial instruments are managed, shall be taken into account when calculating the limits provided for in paragraph 1 above.

**Article 11: Deposits excluded from cover by the deposit-guarantee scheme**

The following categories of deposits are excluded from cover by the HDIGF:

1. Deposits held by other credit institutions in their own name and for their own account, as per the definition given in para. 1 of Article 2 of Law 3601/2007.
2. All instruments falling within the category of credit institutions' 'own funds' as defined in Bank of Greece Governor's Act 2587/2007.
3. Deposits arising from transactions in connection with which there has been a criminal conviction for money laundering or funding of terrorism, as defined by current legislation or the corresponding legislation of other States.
4. Deposits by Investment Service Providers for their own account, as defined in Article 2.1 of Law 3606/2007.
5. Deposits by financial institutions, as defined in Article 2.11 of Law 3601/2007.
6. Deposits by insurance companies, as defined in Codified Law 400/1970, as amended.
7. Deposits by undertakings for collective investments in transferable securities (Ucits), as defined in Law 3283/2004, as amended, including the companies by which they are managed.
8. Deposits by legal entities that are affiliated, in the sense specified in para. 5 of Article 42e of the Companies Act 2190/1920, as amended, with the HDIGF member institution that has become unable to pay.
9. Deposits by central government (ministries and decentralized government agencies), supranational organizations, federal, prefecture and local government authorities, and local government agencies.
10. Deposits by the members of the credit institution's Board of Directors (including at least two responsible persons, as per legal requirements, for determining the course of its business activities), and by its senior management.
11. Deposits by shareholders whose stake, whether direct or indirect, in the credit institution amounts to at least 5 per cent of the credit institution's capital or voting rights, as well as deposits by the persons responsible for auditing the said credit institution's financial statements.

12. Deposits by persons who hold positions or act in a capacity, such as those listed in paras. 10 and 11 above, in companies of the same group (as per the definition given in para. 5, Article 42e of the Companies Act 2190/1920, as amended).

13. Deposits by relatives up to and including the second degree by blood or marriage, spouses of the persons listed in 10, 11 and 12 above, or by third parties acting on their behalf.

14. Bonds issued by credit institutions and liabilities arising from own acceptances or promissory notes.

15. Negotiable certificates of deposit (CDs).

#### **Article 12: Investments excluded from cover by the guarantee scheme**

Excluded from cover by the guarantee scheme are also those types of investments which correspond to those listed in 1 and 3 to 13 of Article 11 herein.

#### **Article 13: Activation of the deposit and investment guarantee scheme**

1. The HDIGF pays compensation to depositors if a deposit becomes unavailable. This happens when it is due and payable but has not been paid by a Deposit Cover Scheme member credit institution under the legal and contractual conditions applicable thereto, and when one of the conditions listed in para. 4 below applies.

2. The HDIGF pays compensation to investors for claims arising from covered investment services, in the event that an Investment Cover Scheme member credit institution becomes unable, as per the provisions of para. 4 below, to fulfil either of the following conditions:

a) to pay its investors the funds it owes them or such funds of theirs that are in its possession, whether directly or indirectly, within the context of the provision, by it, of covered investment services; or

b) to deliver to its investors financial instruments, as defined in Article 5 of Law 3606/2007, which belong to them and which the credit institution holds, manages or has in its custody on their behalf, despite the fact that it is under legal and contractual obligation to do so, and irrespective of whether this obligation is grounded on the contract or law.

3. The extension, as provided for in Article 63, para. 1 of Law 3601/2007, of the deadline for fulfilling obligations that have fallen due does not of itself imply inability on behalf of the credit institution to meet its obligations, as defined in this Article.

4. The HDIGF activates the compensation payment procedure when:

- a) the Bank of Greece has notified to HDIGF its determination that the credit institution participating in the Scheme, for reasons directly related to its financial circumstances, is unable to repay its depositors or investors and has no current prospect of doing so; or
- b) a judicial authority has made a ruling based on reasoning that is directly related to the credit institution's financial circumstances, which has the effect of suspending depositors', investors' or creditors' ability to make individual claims against the credit institution, should that occur before (a) above.

In the case of activation of the compensation payment procedure for depositors, the Bank of Greece shall make its decision, as per (a) above, within 21 calendar days following the moment it was proved that a credit institution has failed to repay deposits which are due and payable.

The said decision of the Bank of Greece shall be published in the Government Gazette.

#### **Article 14: Deadlines for depositors' and investors' compensation - payment procedure**

1. a. The HDIGF, on notification of the determination of the Bank of Greece or the judicial authority, as per the provisions of para. 4 of Article 13 above, or the competent authority of the home EU Member State, as per Article 26 (b) below, of the credit institution operating a branch in Greece and enjoying supplementary cover by HDIGF, in accordance with Article 3 herein, shall draw up a list of depositors on the basis of data provided by the credit institution concerned and, after setting off depositors' claims against any counterclaims of the credit institution, as described in para. 3 of Article 9 herein, shall pay the relevant compensation within 3 months following the day on which deposits became unavailable.
  - b. The HDIGF pays compensation to investors within 3 months following the day on which the official notice by the HDIGF listing those entitled to compensation, as per Article 18 herein, is sent to the Bank of Greece.
  - c. The compensation paid to depositors and investors is exempt from any fee, tax or charge.
2. In exceptional circumstances, and after special request by the HDIGF, the Bank of Greece may approve:
    - a) at most, two extensions to the initial deadline, as specified in para. 1.a. above, of payment to depositors, each of which cannot exceed 3 months,
    - b) a 3-month extension to the initial deadline, as specified in para. 1. b. above, of payment to investors.

3. The HDIGF is under no obligation to pay interest on the compensation amount as long as payment is effected within the deadlines specified in paras. 1 and 2 above.

4. HDIGF cannot invoke the deadlines of paragraphs 1 (a) and 2 (a) above in order to refuse payment to a depositor who evidently was not in a position to make a claim for compensation in time, by virtue of the present provisions.

5. The HDIGF shall announce through the press the procedure by which compensation payments will be carried out, as per para. 2 of Article 15 hereinbelow.

**Article 15: Procedure by which investors are invited to submit applications for compensation**

1. Within a reasonable period of time following the announcement of the decision, as per para. 4 of Article 13 herein, the HDIGF shall publish an invitation to all investors to make a written application stating their claims against the Investment Cover Scheme member credit institution, and shall specify the procedure and deadline by which applicants should file their claims.

2. The publication of the invitation, as per para. 1 above, shall be effected through at least two (2) daily newspapers of wide circulation and through at least two (2) financial newspapers, on at least two (2) leaves of each newspaper, separated in time from each other by between five and ten days.

3. The invitation published shall contain at least the following:

a) the name and address of the registered head office of the credit institution regarding to which the compensation process has been activated by HDIGF,

b) the deadline by which applications for compensation should be submitted, which cannot be less than six months or more than nine months from the date of the last publication, as per para. 2 above,

c) the address to which applications should be made, the method by which they should be submitted, and the precise content of the applications, set out in a relevant form supplied the HDIGF.

4. In exceptional circumstances, the HDIGF may, through an announcement which is subject to the publication requirements set out in para. 2 above, extend the deadline for submitting applications for compensation to investors up to 3 months.

5. The HDIGF cannot invoke the deadlines of paragraphs 3(b) and 4 hereinabove in order to refuse payment to an investor who can demonstrate that he was not in a position to make a claim for compensation in time.

**Article 16: Procedure for enumerating and assessing investors' compensation applications**

1. The HDIGF can appoint capital market experts to assist its relevant units in calculating the compensation to be paid to investors.

2. In order to assess the compensation applications, the relevant units of the HDIGF and the Bank of Greece, and the capital market experts:

a) may request from the credit institution concerned the following:

(i) to provide an opinion regarding the validity of the applications made, and

(ii) in the event that the validity of an application is doubted, to provide the relevant supporting documentation; and

b) shall consider the validity of the applications on the basis of available data, determining the compensation amount for each applicant.

3. Apart from the Bank of Greece officers assigned to the task, the competent employees of the HDIGF and the capital market experts that may be appointed to the purpose shall have the required powers of access to the books held by the credit institution concerned, and shall be bound by absolute confidentiality against third parties regarding the information that may come to their attention in the course of their duties.

4. Subject to the provision of para. 4 of Article 24 hereinbelow, the expenses associated with the experts appointed within the purview of this Article shall be borne by the Investment Cover Scheme member credit institutions providing covered investment services, on a pro rata basis according to their share in the annual membership contributions, as per Article 6 hereinabove.

**Article 17: Determination of the level of the compensation to be paid to investors**

1. In establishing the claims of each investor who has submitted an application for compensation to the HDIGF, as per the provisions of Article 15 hereinabove, as well as any counterclaims of the credit institution against the applicant, the books held by the credit institution concerned and the data supplied to the HDIGF by the said credit institution shall

be taken into consideration, as per current legislation, as well as the supporting documentation supplied by the applicant to the HDIGF.

2. The level of the compensation to be paid to each investor is computed in accordance with the rules of law and the terms governing the contractual relationship of the investor with the credit institution, while observing the provisions regarding set-off of similar claims between the investor and the participating credit institution.

3. If the investor has a materially confirmed legal claim to receive financial instruments which the credit institution is unable to deliver or return to him, the basis of the valuation of the said financial instruments will be their value as at the date of:

a) publication of the decision by the Bank of Greece, as per para. 4(a) of Article 13, in the Government Gazette, or

b) publication of the judicial ruling, as per para. 4(b) of Article 13, in accordance with the legislation governing the issue of the said ruling.

4. In calculating the compensation to be paid to each investor who has applied to the HDIGF for compensation in respect of claims against the member credit institution, the valid claims of the applicant are aggregated from among all the covered investment services provided him by the said credit institution, irrespective of the number of accounts held by him, the currency of the investments and the place where the said services were provided.

#### **Article 18: Announcement of the HDIGF's decision regarding compensation of investors**

Once the HDIGF has finished assessing and valuing the compensation applications, it shall:

a) release an official memorandum listing the investors entitled to compensation and the relevant amounts, which memorandum shall be copied to the Bank of Greece and the credit institution concerned within five working days of its initial release, and

b) announce to each applicant individually the outcome of its compensation assessment within 15 days of the release of the memorandum of para. (a) hereinabove, specifying the total amount of compensation to which the applicant is entitled.

#### **Article 19: Investigating cases where compensation has been wrongly paid to depositors and investors**

The HDIGF is entitled to demand from a depositor or investor to return the compensation payment made to them if it is found, after the event, that there was a reason why the

application of a particular depositor or investor should have been rejected, in accordance with the provisions hereof, any time within five years following the payment of the compensation.

**Article 20: Lapse of claims – Suspension of payment of compensation – Subrogation of rights of depositors and investors**

1. The claims of depositors and investors against the HDIGF are subject to a statute of limitations, in this case five years after the lapse of the final extension provided for in Article 14 hereinabove.
2. In the event that criminal proceedings regarding money laundering and the financing of terrorism have been initiated against a depositor or investor or true beneficiary or other person with an interest in amounts deposited in an account or which arise from the provision of covered investment services, the HDIGF shall suspend any payment, until final judgement has been issued by the courts concerned, irrespective of the deadlines set out in Article 14 hereinabove.
3. Subject to the provisions of para. 4.f.iii of Article 4 and para. 10 of Article 7 hereinabove, the HDIGF is subrogated to the rights of depositors and investors for an amount equal to the compensation payments to them, and is classified in the same category as the depositors during the liquidation of the credit institution concerned. In the event of execution, the HDIGF shall be classified in the place of priority provided for by legislation on requirements of the ATHEX Members Guarantee Fund, as per Law 2533/1997, as amended.

**Article 21: Information to depositors and investors of credit Institutions participating in HDIGF**

1. HDIGF member credit institutions shall inform their depositors and investors of the cover provided by the HDIGF, the extent and maximum level of the cover, and the conditions and formalities for payment of compensation.
2. The information provided to customers shall be free of charge and available at the head offices and the branches of the member credit institution in the form of detailed brochures that shall present information in a clear and easily intelligible way, in the Greek language, or, in the case of branches of Greek credit institutions abroad, in the official language of the host country where they are operating.
3. The information brochure shall contain, at the least, the following information:

- i) the maximum levels of cover,
  - ii) the currencies covered,
  - iii) categories that are excluded from cover,
  - iv) the requirement to set off any counterclaims of the credit institution, and
  - v) the time limits for the payment of compensation and relevant statute of limitations.
4. Upon request by depositors and investors, the HDIGF member credit institution shall provide additional information regarding the formalities and conditions for compensation payment.
5. Member credit institutions shall not use the fact that they participate in the HDIGF for advertising purposes, whether in printed material or any other kind of advertising or promotional material distributed in whatever way. Only simple reference to membership of the HDIGF, for information purposes, is allowed.
6. The information brochure must be published and distributed by the member credit institutions within 3 months after joining the HDIGF and by the Branches of foreign credit institutions within 3 months after their setting up in Greece.

**Article 22: Noncompliance by credit institutions with their obligations toward the HDIGF**

1. a) If a credit institution whose head office is located in Greece, or the branch in Greece of a credit institution whose head office is located outside the European Union and which is obliged to participate in HDIGF, does not comply with the obligations incumbent on it as a member, the HDIGF shall notify the Bank of Greece, which, within its authority, shall take appropriate measures including the imposition of sanctions prescribed in Article 55A of its Articles of Association (Law 3424/1927, Government Gazette 298/A) to ensure that the credit institution complies with its obligations.
- b) If those measures fail to secure compliance on the part of the credit institution, the HDIGF may, with the consent of the Bank of Greece, give not less than 12 months' notice of its intention of excluding the credit institution from membership of the Fund. Claims arising from the balance of guaranteed deposits and investments made in participating credit institutions or branches before the expiry of the notice period, occasionally, shall continue to be fully covered by the HDIGF . If, on the expiry of the notice period, the credit institution or branch has not complied with its obligations, the HDIGF may, again having obtained the consent of the Bank of Greece, proceed to exclusion. In this case, the Bank of Greece can take

the measures provided for in paras. 2-7 of Article 8 hereinabove, and in Articles 8 and 63 of Law 3601/2007.

2. If the branch of a credit institution whose head office is located in a European Union Member State and which enjoys supplementary cover by the HDIGF does not comply with the obligations incumbent on it as a member of the scheme, the HDIGF notifies the Bank of Greece accordingly, which then informs the competent authority of the country where the authorization was issued and, in collaboration with the guarantee scheme concerned, shall take all appropriate measures to ensure that the obligations are complied with. If these measures fail to secure the branch's compliance with the said obligations, after an appropriate period of notice of not less than 12 months the HDIGF may, with the consent of the competent authority of the Member State where authorization was issued, and after notifying the Bank of Greece, exclude the branch. Deposits made before the date of exclusion shall continue to be covered on a supplementary basis by the HDIGF until the dates on which they fall due. In addition, customers' claims, as existing at the same time, arising from the provision of investment services by the branch shall be covered on a supplementary basis by the HDIGF. The HDIGF shall inform depositors and investors of the withdrawal of the supplementary cover and the date on which it begins to produce results.

3. Depositor and investor cover is granted for deposits received and for covered investment services provided up to the time that the credit institution's business permit is withdrawn.

### **Article 23: HDIGF Management - Powers of the HDIGF's Board of Directors**

1. HDIGF shall be managed by a Board consisted of nine members. The Board shall be chaired by one of the Deputy Governors of the Bank of Greece. The other eight (8) members shall be selected from the Ministry of Economy and Finance (1), the Bank of Greece (3), the Hellenic Bank Association (3) and the Association of Co-operative Banks of Greece (1).

2. The Board, consisted of members proposed by the agencies noted in paragraph 1, is appointed by the Minister of Finance (ex Economy and Finance) and has 5-year tenure.

3. The agencies specified in para. 1 above shall, within a month from receiving the relevant notice from the Minister of Finance (ex Economy and Finance), designate from their ranks the persons to be on the HDIGF's Board. In the event that the deadline is not complied with, or there is disagreement by the said agencies, appointment of members from these agencies to the Board shall be made by the Minister.

4. The Vice-President of the Board shall be elected by the members of the Board. The Director of the Department for the Supervision of Credit and Financial Institutions of the Bank of Greece may, even if not appointed as member to the Board, attend meetings of the Board, though without the right to vote. The members of the Board shall be persons of recognized standing and possess specialized knowledge and experience on matters relating to the banking sector. More precisely, the member drawn from the Bank of Greece shall be a qualified legal expert and the member drawn from the Hellenic Bank Association shall be a specialist in matters relating to banking accountancy.

5. The tenure of office of Board members may be renewed once and for the same duration, and may be extended for a period of no more than three months until a new Board of Directors is appointed.

6. Besides resignation, the tenure of office of a member may be terminated only if, according to substantiated decision of the Minister of Finance (ex Economy and Finance), by his acts or negligence, the competence or appropriateness of that member to perform his duties is placed in doubt, or if he is unable to exercise his duties due to ill health. In the event that a Board position is vacated, in any other reason besides the abovementioned, a new member is appointed for the remaining period of office of the Board as a whole, in the manner prescribed in this Article.

7. In the event of absence or hindrance of the President of the Board, he shall be replaced in all his powers by the Vice-President.

8. The Board has quorum and validly meets when at least six (6) members are present. Those present must include the President or the Vice-President of the Board of Directors. In the event that the number of votes cast for a decision are divided equally for and against, the view supported by the President or the Vice-President shall prevail.

9. A super majority of the HDIGF's Board is achieved when votes cast in favour of a decision are at least seven (7) in number.

10. The President's, the Vice-President's and the Board members' remuneration shall be determined by the Minister of Finance (ex Economy and Finance) after a proposal by the Board, and they shall be paid by the HDIGF.

11. The HDIGF's Board shall be competent for any matter relating to the administration and representation of the HDIGF in Greece and abroad, the collection of funds, the management of its assets, and generally for any matter relating to its purpose and objectives.

12. The President of the Board shall represent the HDIGF before any authority and any third party, he shall be present and represent the HDIGF in court, and he/she shall supervise and ensure the proper implementation of the Board's decisions, the proper execution of the HDIGF's plans and budget within the framework of the task it has been set to perform, and the observance of the proper organization and conduct of the HDIGF's services, and of the proper operations of the Board. He shall call the Board to meetings, chair its sessions and determine the items to be included in the agenda. With the consent of the Board, the President may assign the representation of the HDIGF before any authority and any third party, as well as its judicial and extra-judicial presence and representation, to another member of the Board or to the Director of the HDIGF, who shall be appointed by resolution of the Board.

13. a) The HDIGF may request credit institutions to submit, and the credit institutions are obliged to submit to the HDIGF, data and information necessary for HDIGF to carry out its objective, such as, specifically:

(i) Balance sheet data and profit and loss account data, (ii) information concerning the basis for calculating contributions, and deposits and investments eligible or not eligible for cover, and (iii) data regarding the availability of its resources as described in Articles 4 and 6 hereinabove.

b) The credit institutions shall deploy systems that ensure proper monitoring of each customer's accounts for the purpose of submitting data to the HDIGF.

14. a) The HDIGF's Board members and personnel, experts who may be appointed as per the provisions of Article 16, and the auditors of its annual accounts shall maintain strict professional confidentiality with regard to the information at their disposal and with regard to confidentiality of bank deposits.

b) The prohibition on the passing of information that comes to their attention during the course of carrying out their professional duties does not apply in the case where those persons or authorities are:

(i) The Bank of Greece. The right of the Bank of Greece to release relevant information as provided for in para. 5(c) of Article 60 of Law 3601/2007 is extended also to the HDIGF.

(ii) The Minister of Finance (ex Economy and Finance).

(iii) The President and Secretary General of the Hellenic Bank Association.

(iv) The special Parliamentary committees of inquiry in the course of exercising their duty as set out in Parliamentary Regulations.

c) It is permitted, and does not constitute a breach of professional secrecy with regard to confidentiality of bank deposits, for information to be exchanged between the HDIGF and the authorities responsible for the supervision of the credit institution in another Member State of the European Union, as well as the deposit and investment guarantee schemes operating in another Member State, provided such information is deemed necessary for the exercise of their responsibilities regarding the protection of deposits and the compensation of investors.

The HDIGF may conclude agreements with the respective authorities of countries outside the European Union under the abovementioned terms and conditions.

d) In the event that the provisions of this paragraph are breached, the sanctions contained in Article 371 of the Penal Code and, likewise, of Article 2 of Legislative Decree 1059/1971 (Government Gazette 270/A) shall apply. Irrevocable conviction for breach of para. 1 of Article 2 of Legislative Decree 1059/1971 ipso jure implies the person's immediate removal from the post he or she holds in the HDIGF.

15. The HDIGF's Board shall be responsible for appointing the management of its component units and shall define their powers and other matters concerning the internal organization of its activities.

#### **Article 24: HDIGF personnel**

1. The operational structure of the HDIGF shall be determined by decision of the Minister of Finance (ex Economy and Finance), after a proposal by the HDIGF's Board.

2. The HDIGF's personnel shall be composed of specialized individuals, and assistant staff, and will be employed under fixed-term and indefinite-term contracts of private law. The terms and conditions of employment of HDIGF personnel shall be governed by the provisions regarding grades and salary scales of Bank of Greece employees, and shall be applied accordingly. The employment of clerks coming from the Bank of Greece, the Hellenic Bank Association, the Association of Co-operative Banks of Greece or member credit institutions shall continue to be governed by the employment status (insurance and promotion) applying in the agency of their origin, with the exception of the hierarchical incorporation of the employees, which shall be determined in accordance with regulations governing the status of HDIGF personnel.

3. Matters concerning regulations governing the manning, organization and operation of the HDIGF, the mode of hiring HDIGF personnel, and the official status of HDIGF personnel shall be settled by decision of the Board.

4. The HDIGF's Board shall determine each year the operating costs of the Deposit Cover Scheme and the Investment Cover Scheme. The costs incurred by the Investment Cover Scheme shall be spread across the participating credit institutions pro rata according to the value of their participation. In the absence of a decision to the contrary by the HDIGF's Board, relevant withdrawals shall be made through the corresponding account of the Investment Cover Scheme held with the Bank of Greece. The operating costs shall not include the expenses of para. 4 of Article 16, which concern the cover for claims of investors of a specific credit institution, which are to be incurred by the said credit institution but increase the operating expenses of the Investment Cover Scheme only insofar as the credit institution is unable to meet such expenses; they nevertheless continue to constitute claims of the Investment Cover Scheme against the said credit institution.

#### **Article 25: Regular Audit - Balance Sheet - Publications**

1. The audit of the HDIGF's financial affairs and its balance sheet shall be assigned by the Board to chartered accountants or an authorized auditing firm that shall file a relevant report to the Committee of Economic Affairs of the Hellenic Parliament, the Minister of Finance (ex Economy and Finance), the Bank of Greece, the Hellenic Bank Association, the Association of Co-operative Banks of Greece, and the HDIGF's Board.

2. The fiscal year begins on 1 January and expires on 31 December of each year. At the latest, at the end of October, the budget for the following fiscal year shall be drawn up, while within the first 3 months of the fiscal year the annual report for the previous fiscal year must be drawn up, submitted for approval, together with the balance sheet and auditor's report, to the Minister of Finance (ex Economy and Finance), and distributed to the persons and agencies listed in paragraph 1 above. The annual report shall contain a list of the credit institutions or branches participating in the HDIGF. Amendments to the list shall be announced to the persons and agencies noted in paragraph 1 above, at the latest, within a month after the date the amendment is made.

**Article 26: Guiding Principles**

In the case of supplementary cover for branches of credit institutions whose head office is located in another European Union Member State, the HDIGF enforces, bilaterally with the home Member State's guarantee scheme, appropriate rules and procedures for the payment of compensation to that branch's depositors and investors. In implementing these procedures and in determining the conditions for participation by the branch, the following guiding principles shall apply:

- a) The HDIGF shall maintain fully the right
  - (i) to impose the participation terms and conditions applying to the other credit institutions, and
  - (ii) to require the provision of all such information it deems necessary to carry out its task and to verify this information with the supervisory authorities of the home Member State of the branch in question.
- b) The HDIGF shall meet claims for supplementary compensation upon a declaration from the home Member State's competent authorities regarding the issue of a decision corresponding to that of para. 4 of Article 13 hereinabove. The HDIGF retains full rights to verify that the depositor and/or investor is entitled according to its own basic rules and procedures before paying out supplementary compensation.
- c) The home Member State guarantee scheme and the HDIGF shall cooperate fully with each other to ensure that the depositors receive compensation promptly and in the correct amounts. In particular, they shall agree on how the existence of a counterclaim which may give rise to set-off under either scheme, will affect the compensation that is paid to the depositor and/or investor by each scheme.
- d) The HDIGF shall be entitled to charge the branch for supplementary cover on an appropriate basis which takes into account the guarantee provided by the home Member State scheme. To facilitate charging, the HDIGF shall consider that its liability is in all circumstances be limited to the excess of the guarantee it offers over the guarantee offered by the home Member State of the branch, regardless of whether the home Member State actually pays any compensation for the deposits held and/or covered investments within the territory of Greece.

**Article 27: Transitional provisions**

1. Subject to the provisions of para. 4 hereinbelow, cover for investment services provided by credit institutions, is governed exclusively by the provisions of the present chapter.
2. Credit institutions that provide investment services and are obliged to participate in the Investment Cover Scheme, as per the provisions herein, shall have completed the process of joining the HDIGF within 3 months following the date this legislation comes into effect, observing the procedures determined by the HDIGF's Board.
3. Subject to the provisions of para. 4 hereinbelow, credit institutions providing covered investment services at the time the legislation herein comes into force, and credit institutions providing covered investment services that are established or installed in Greece after the legislation herein comes into force, shall be obliged to participate exclusively in the Investment Cover Scheme, as per the provisions of Article 3 hereinabove; however, they are not liable for any obligation vis-a-vis the ATHEX Members Guarantee Fund of Law 2533/1997, as amended.
4. Credit institutions which at the time the legislation herein comes into force are members of the ATHEX Members Guarantee Fund of Law 2533/1997, as amended, shall continue to be members of the said Fund and are not obliged to join the HDIGF Investment Cover Scheme.
5. In the event that a credit institution participating in the Investment Cover Scheme absorbs a member of the ATHEX Members Guarantee Fund, the credit institution shall thenceforth participate solely in the Investment Cover Scheme of the HDIGF. If a member of the ATHEX Members Guarantee Fund absorbs a credit institution that participates in the Investment Cover Scheme of the HDIGF, the absorbing company shall participate solely in the ATHEX Members Guarantee Fund. The claims of the member of the ATHEX Members Guarantee Fund against the latter, including its claims arising from payment of contributions in accordance with Law 2533/1997, as amended, are not affected by the absorption of this member by a credit institution that participates in the HDIGF Investment Cover Scheme. Similarly, the claims of the member credit institution of the Investment Cover Scheme of the HDIGF against the latter as regards its individual account are not affected by its absorption by a member of the ATHEX Members Guarantee Fund. The procedure for payments by the ATHEX Members Guarantee Fund or the HDIGF and all other related issues, such as determination of the precise amount to be paid, the deadline for

payment and so on, are set out by decision of the Board of the ATHEX Members Guarantee Fund or of the HDIGF, respectively.

6. Articles 1-17 of Law 2832/2000, as amended, are hereby abrogated and henceforth every reference in legislation to the said Articles or to the former Hellenic Deposit Guarantee Fund (HDGF) shall be understood to be a reference to the legislation herein or to the Hellenic Deposit and Investment Guarantee Fund (HDIGF), which being the successor in interest to the HDGF inherits the rights and obligations of the HDGF against third parties, including its personnel.

***[Articles 28 to 90 concern other legislation unrelated to the HDIGF]***

**Article 91: Enactment of the law**

The provisions herein shall come into force as of the day on which they are published in the Government Gazette, unless otherwise stated in the provisions.

We request and require the publication of the law herein in the Government Gazette and its execution as a law of the State.

Athens, 12 February 2009

President of the Hellenic Republic  
KAROLOS G. PAPOULIAS

Ministers:

P. Pavlopoulos, Minister of Interior

I. Papathanasiou, Minister of Economy and Finance

K. Chatzidakis, Minister of Development

F. Palli-Petralia, Minister of Employment and Social Protection

A. Samaras, Minister of Culture

Validated and stamped with the Great Seal of the State

Athens, 13 February 2009

N. G. Dendias, Minister of Justice