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SATURDAY 23RD OCTOBER, 2021

THE OFFICIAL GAZETTE 23RD OCTOBER, 2021
LEGAL SUPPLEMENT — B

GUYANA No. 11 of 2021

REGULATIONS
Made Under
THE DEPOSIT INSURANCE ACT
(Act No. 15 of 2018)

IN EXERCISE OF THE POWERS CONFERRED UPON THE DEPOSIT INSURANCE CORPORATION BY SECTIONS 3 AND 53 OF THE DEPOSIT INSURANCE ACT, THE DEPOSIT INSURANCE CORPORATION ACTING AFTER CONSULTATION WITH THE MINISTER MAKES THE FOLLOWING REGULATIONS:-

ARRANGEMENT OF REGULATIONS

REGULATION

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12. Removal of references to membership.
13. Administrative sanctions.

Citation.

1. These Regulations may be cited as the Deposit Insurance (Provision of Information to Depositors) Regulations 2021.

Scope.

Act No. 15 of 2018.

2. These Regulations apply to all member financial institutions pursuant to section 3 (2) of the Deposit Insurance Act.

Objective.

3. The objective of these Regulations is to provide guidance to member financial institutions on their responsibility to provide information pertaining to the coverage of deposits to their clients.

Interpretation.

Act No. 15 of 2018.

4. In these Regulations-

"Act" means the Deposit Insurance Act;

"client" means current and prospective deposit customers;

"Corporation" means the Deposit Insurance Corporation established under section 5 of the Act;

"front-line staff" means staff of the member financial institutions who regularly interact with clients as part of their duties or responsibilities;

"insured limit" means the maximum amount that is reimbursable in respect of an insured deposit.

Responsibility to provide information to clients.

5. (1) In accordance with section 51 (4) of the Act, the member financial institutions shall inform their clients on the coverage of deposits.

(2) The information presented by member financial institutions to their clients, in accordance with paragraph (1), shall be accurate and presented in a format that is easily understood.

Modes of communication.

6. The member financial institution shall provide information on deposit insurance to its clients using the following modes-

(a) dissemination of brochures, with content provided or approved by the Corporation;

(b) verbally, by the front-line employees of the member financial institution who shall inform clients on the coverage of deposits as prescribed in the brochure provided by the Corporation;

(c) display of decals or stickers provided or approved by the Corporation, in a conspicuous manner on or near the front entrance of the member financial institution; and

(d) any other media prescribed by the Corporation from time to time.

Information to new clients.

7. Without limiting Part V of the Act, member financial institutions shall inform all new clients of deposit insurance and the types of deposits which would be covered by deposit insurance in accordance with the definition of deposit in section 2 (1) of the Financial Institutions Act.

Cap. 85:03

Responsibility to provide training.

8. (1) The Corporation shall provide regular training to member financial institutions on the features, benefits and limitations of the Deposit Insurance Scheme.

(2) The member financial institution shall be responsible for training its staff, especially front-line employees to provide sufficient and accurate information on deposit insurance to clients.

Limits of advertising.

9. (1) Member financial institutions may refer to their membership in the Deposit Insurance Scheme, in advertisements by displaying the logo of the Corporation, and using any of the following representations-

(a) "a Member of the Deposit Insurance Scheme";

(b) "[name of member financial institution] – a

Member of the Deposit Insurance Scheme"; or

(c) "[name of member financial institution] is a Member of the Deposit Insurance Scheme".

(2) A member financial institution shall use any of the representations described in paragraph (1), provided that the representation does not give the impression that a product which is not insured is covered by the Scheme.

Caution statement for trust, joint and nominee deposits.

10. In providing information to clients concerning the coverage of insured deposits, member financial institutions shall have regard for the following-

(a) funds held by a nominee for the benefit of a principal, ward, minor or patient and deposited in one or more deposit accounts shall be added to any individual accounts of the principal, ward, minor or patient in applying the insured limit;

(b) funds held in trust accounts shall not be combined with the individual accounts or the trustee, settlor or beneficiary under the trust, in applying the insured limit;

(c) funds held in a joint account shall be considered one account in applying the insured limit.

Client request for information.

11. (1) If a client requests information on Deposit Insurance which is beyond the scope of the material provided by the Corporation to the member financial institution, or which the member financial institution is unable to answer with sufficient certainty, the member financial institution shall refer such clients to the Corporation.

(2) In providing contact information of the Deposit Insurance Corporation, the member financial institution shall be deemed to have satisfied its obligation under paragraph (1).

Removal of references to membership.

12. (1) When a member financial institution ceases to use a branch or place of business, it shall remove from the location all references to its status as a member institution and to the deposit insurance provided by the Corporation, including displays of the membership sign, brochure and logo at that branch or place of business.

(2) When a financial institution ceases to be a member of the Corporation, it shall immediately remove from each of its places of business all references to its status as a member institution and to the deposit insurance provided by the Corporation, including displays of the membership sign, brochure and logo.

Administrative sanctions.

13. In accordance with section 50 (1) and (2) of the Act, member financial institutions may be sanctioned for failure to comply with these Regulations.

Made this 6th day of October, 2021.

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Dr. Gobind Ganga

Chairman

Deposit Insurance Corporation

GUYANA **No. 12 of 2021**

REGULATIONS
Made Under
THE DEPOSIT INSURANCE ACT
(Act No. 15 of 2018)

IN EXERCISE OF THE POWERS CONFERRED UPON THE DEPOSIT INSURANCE CORPORATION BY SECTIONS 3 AND 53 OF THE DEPOSIT INSURANCE ACT, THE DEPOSIT INSURANCE CORPORATION ACTING AFTER CONSULTATION WITH THE MINISTER MAKES THE FOLLOWING REGULATIONS:-

ARRANGEMENT OF REGULATIONS

REGULATION

1. Citation.
2. Applicability.
3. Objective.
4. Objective of the Deposit Insurance Scheme.
5. Interpretation.
6. Notification of liquidation.
7. Trigger event and timeframe for reimbursement of insured depositors.
8. Communication with depositors.
9. Deposit insurance limit and calculation of reimbursement.
10. Excluded deposits.
11. Deposits pledged as collateral.
12. Reimbursement through Paying Agent Bank.
13. Receiving reimbursement: identification and ownership.
14. Unclaimed deposits.
15. Disputes.

Citation.

1. These Regulations may be cited as the Deposit Insurance (Reimbursement of Insured Deposits) Regulations 2021.

Applicability.

2. These Regulations apply to all member financial institutions pursuant to section 3 (2) of the Act.

Objective.

3. The objective of these Regulations is to provide guidance on the reimbursement process and conditions for payment of insured depositors when there is an insured event.

Objective of the Deposit Insurance Scheme.

4. The objective of the Deposit Insurance Scheme shall be to foster the stability of the financial sector of Guyana by protecting the depositors of the member financial institutions operating in Guyana, and by contributing resources to the resolution of member financial institutions.

Interpretation.

5. In these Regulations-

Act No. 15 of 2018

"Act" means the Deposit Insurance Act;

"Bank" means the Bank of Guyana;

"Board" means the Board of Directors of the Deposit Insurance Corporation established by section 12 of the Act;

"Corporation" means the Deposit Insurance Corporation established under section 5 of the Act;

"deposit" means a deposit within the meaning of section 2 (1) of the Financial Institutions Act;

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"depositor" means a natural or legal person who owns a deposit;

"excluded deposits" means deposits that are not insured as per section 36 of the Act;

"financial institution" means a bank or a financial institution engaged in the business of receiving deposits from the public licensed under the Financial Institutions Act;

"Fund" means the Deposit Insurance Fund established under section 26 (1) of the Act;

"insured deposit" means a deposit or any part of a deposit which is insured under the Act;

"insured depositor" means a depositor who holds an insured deposit;

"insured event" means the entry into liquidation of a member financial institution under Part VIII of the Financial Institutions Act;

"insured limit" means the maximum amount that is reimbursable in respect of an insured deposit;

"liquidation" means the wind-down of all or part of the business of a financial institution under Part VIII of the Financial Institutions Act;

"liquidator" means the person appointed by the Bank to manage the day-to-day affairs. take control or possession of the deposit-taking financial institution;

"Paying Agent Bank" means a member financial institution. operating in Guyana and selected by the Board of the Corporation for the execution of the reimbursement

process in the name of and for the Corporation as its payout agent;

"resolution" means the resolution of a financial institution under Part VIII of the Financial Institutions Act;

"Scheme" means the deposit insurance scheme established under the Act to insure depositors;

"trustee" means a person who holds the title to property for the benefit of a third party.

Notification of liquidation.

6. (1) Once the Bank has, in accordance with section 37 (1) of the Act, notified the Corporation that the liquidation of a member financial institution is imminent the Corporation shall begin preparations for the payout of the insured deposits.

(2) On the occurrence of an insured event, the priority is to quickly and accurately reimburse depositors.

(3) Upon public notification by the Bank of the insured event the Corporation shall –

(a) as soon as possible make a public announcement informing the depositors when and under what conditions the reimbursement process shall start, the time frame and the applicable coverage limit i.e. maximum reimbursable amount and notice to the public through media outlets shall serve as initial notice to the public and the Corporation shall be deemed to have satisfied such obligation once such notice is issued;

(b) notify each depositor of this event in writing at the address shown on the records of the member financial institution and shall indicate that all deposit accounts at the member financial institution have been frozen and that interest has ceased to accrue from the time of the insured event.

(4) The Corporation shall also provide information relating to the designated Paying Agent Bank and its branches and all other relevant information.

Trigger event and timeframe for reimbursement of insured depositors.

7. (1) The reimbursement of the insured depositors shall begin as soon as possible and shall be completed within thirty calendar days after the insured event.

(2) For deposits above the insured amount, the depositors shall be advised to contact the liquidator of the failed member financial institution as soon as possible, to make the claim regarding their uninsured deposits in accordance with liquidation proceedings as defined in the Financial Institutions Act.

Cap. 85:03.

(3) The Corporation shall not be liable to depositors whose claims are not submitted within the prescribed time to the liquidator.

Communication with depositors.

8. (1) The Corporation may make available to the public a phone line, email address, website or other communication channel to ensure general and instant information on the reimbursement process.

(2) The Corporation shall make public in the *Gazette*, in newspapers of general circulation, on its website and via other

communication channels including press releases and social media such information as may be necessary for the timely and efficient payout of the insured deposits and shall inform the public at regular intervals on the development and progress of the reimbursement process.

Deposit insurance limit and calculation of reimbursement.

Act No. 15 of 2018.

9. (1) In the case of an insured event, the Corporation shall reimburse each eligible insured depositor up to the maximum insured amount as established in section 35 (1) of the Act or the amount set by the Corporation and approved by the Minister and the Bank as provided in section 35 (3) of the Act-

(a) in accordance with section 35 (1) of the Act insured deposits shall cover every depositor, including principal and interest, held at a member financial institution to an amount not exceeding two million dollars;

(b) according to section 39 (1) of the Act, the Corporation shall reimburse the combined amount of insured deposits of each natural or legal person at a member financial institution, including interest accrued until the time of the insured event, up to the insured limit.

(2) The liquidator and the Corporation shall work together to calculate the reimbursement amounts and shall conduct the following activities-

(a) apply all interest accruals up to the close of business of the date of the insured event;

(b) aggregate the deposit accounts of the depositors;

(c) aggregate joint accounts with the funds reallocated equally between or among joint holders:

(d) consider a beneficiary of a trust as a depositor and the funds held in a trust account shall not be combined with the individual accounts of a trustee, settlor or beneficiary under the trust;

(e) in determining the reimbursement amount of the trustee, if a depositor is a trustee for the account of a beneficiary, any deposits held for the beneficiary shall not be taken into account:

(f) in the case of funds held by a nominee on behalf of a principal, ward, minor or patient the funds so held by a nominee shall be added to all other deposit accounts in the name of the principal, ward, minor or patient in applying the deposit coverage limit, i.e., the insured limit:

(g) identify the amount of the eligible deposits owed by the depositor to the member financial institution which are past due or non-performing;

(h) identify and quantify uninsured deposits;

(i) identify deposits that require additional information before payment.

(3) The liquidator and the Corporation shall reconcile all deposit accounts to the failed member financial institution's general ledger as well as the insured and uninsured deposits to ensure financial integrity of the reimbursement process.

Excluded deposits.

10. The following accounts shall be considered as excluded deposits and shall not be reimbursed under the Scheme-

(a) deposits above the insured limit;

(b) deposits of financial institutions, including insurance companies and pension funds;

(c) deposits of central and local government authorities;

(d) deposits of branches of financial institutions which operate outside Guyana;

(e) deposits of members of the Supervisory Board or the Executive Board of a financial institution under resolution or liquidation, or their relatives, or third parties acting on their behalf;

(f) deposits of shareholders, their relatives, or third parties acting on their behalf, owning at least five percent of the capital of a financial institution under liquidation or resolution;

(g) deposits of persons under criminal investigation or who are suspected of being involved in money laundering or terrorist financing.

Deposits pledged as collateral.

11. (1) Depositors who have pledged their deposit as collateral for a loan, overdraft, receivable or other extension of credit or who have other deposits where there are disputes or legal issues shall not be paid until the depositor has met with the liquidator to clarify the status of the depositor's financial relationship with the failed member financial institution.

(2) Insured deposits held as collateral for loans, overdrafts, receivables and other extensions of credit shall not be released to the depositor until the obligation has been satisfied.

(3) Insured depositors with performing loans, overdrafts, receivables and other extensions of credit may choose to offset their deposit up to the insured amount only against these obligations.

(4) Insured depositors who have obligations with the failed member financial institution which are past due or non-performing as defined by Supervision Guideline Number five: Credit Exposure Review, Classification, Provisioning, and Other Related Requirements may be subject to offset of their insured deposit.

(5) These borrowers shall meet with the liquidator, who will determine whether the borrower has the ability to bring the past due or non-performing obligation to current, pay the past due or non-performing obligation off or make other satisfactory arrangements, before payment of the insured deposit can be resolved.

(6) Insured depositors with unauthorised overdrafts or other unauthorised obligations to the failed member financial institution may be subject to offset of their insured deposit and the depositor shall meet with the liquidator, who will determine whether the deposit shall be released to the depositor.

Reimbursement through Paying Agent Bank.

12. (1)The Corporation may execute the reimbursement process through a Paying Agent Bank.

(2) To ensure prompt reimbursement of the insured depositors the Corporation shall maintain a list of eligible Paying Agent Banks that have been approved by the Bank.

(3) The Paying Agent Bank responsible for the payment of reimbursement shall validate the ownership for each depositor

based on the payment list prepared by the Corporation and presented ownership and identification documents.

Receiving reimbursement: identification and ownership.

13. (1) An insured depositor, for the purposes of identification, shall submit his or her national identification card or passport.

Cap. 89:01.

(2) In the case of an organisation incorporated under the Companies Act or any equivalent legislation in another jurisdiction, the depositor shall also submit one of the following-

(a) the taxpayer's identification number (TIN) certificate of the business;

(b) the Business Registration Certificate or Articles of Incorporation where applicable.

(3) The Corporation shall have the discretion to request additional documents from a depositor for the purpose of verifying identification and ownership of the deposit account and such documents shall include, but are not limited to, taxpayer's identification number (TIN) certificate, driver's licence and account statement from the failed member financial institution in the depositor's name.

(4) The insured depositor may authorise a representative to receive the reimbursement amount only with written and notarized authorisation by the insured depositor.

Unclaimed deposits.

14. (1) If there are unclaimed deposits two years after public notifications and written notification to the depositor at the last address on the failed member financial institution's records, the liquidator and the Corporation shall consider the claim abandoned.

(2) The Corporation shall develop procedures governing the processing of abandoned claims.

Disputes.

15. (1) In case the insured depositor is disputing the determined reimbursement amount, or any other information needed for validation of the reimbursement process, the insured depositor can file a reclamation form.

(2) The complaint shall be filed within seven days from the occurrence of the fact against which the depositor files the complaint.

(3) The Corporation and the liquidator shall investigate the claim to determine the insured amount or ownership and shall, within a reasonable timeframe, inform the depositor in writing of the final decision regarding ownership, amount or other dispute.

(4) The depositor's reimbursement shall remain unpaid during the dispute process.

(5) The failed member financial institution's records are the "official records" of the reimbursement process and the liquidator and the Corporation shall use the failed member financial institution's records as the source materials and in the event the dispute cannot be resolved by the liquidator and the Corporation, the depositor shall be required to initiate litigation.

Made this 6th day of October, 2021.

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Dr. Gobind Ganga

Chairman

Deposit Insurance Corporation