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# First round of amendments to the Policy Rules for the Deposit Guarantee Scheme

Final adoption – February 2019

**DeNederlandscheBank**

EUROSYSTEEM



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## Summary

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De Nederlandsche Bank N.V. (DNB) administers the Dutch Deposit Guarantee Scheme (DGS). In that capacity, we published two policy rules and an amendment to the Regulation on Statements of Financial Institutions under the Financial Supervision Act 2011 (*Regeling staten financiële ondernemingen Wft 2011*), referred to below as “the Statements Regulation”, in July 2017. This set of rules introduced and clarified the concept of the single customer view (SCV), which will allow payout of deposits within seven working days. It also clarified certain aspects of the rules that have a bearing on the Scope and Execution of the DGS.

This document presents the first round of amendments to the DGS policy rules. The changes and additions result from questions raised by banks and DNB’s insights as they evolved during the transition to SCV based data delivery. There is also a need to clarify a number of specific situations involving the DGS. The consultation responses, that have been submitted by the sector in the final months of 2018, are processed in this final adoption document.

# 1 Introduction

In July 2017, we published the Single Customer View (SCV) Policy Rule, the Policy Rule on the Scope and Execution of the Deposit Guarantee Scheme and the amendments to the Statements Regulation. We did so in compliance with the obligations under Directive 2014/49/EU on deposit guarantee schemes (a recast of the previous Directive), also known as the DGSD. This policy document describes the adopted amendments to the rules referred to above. We made the changes in response to questions raised by banks and our own insights as they evolved during the transition to the SCV. There is also a need to clarify a number of specific situations involving the DGS.

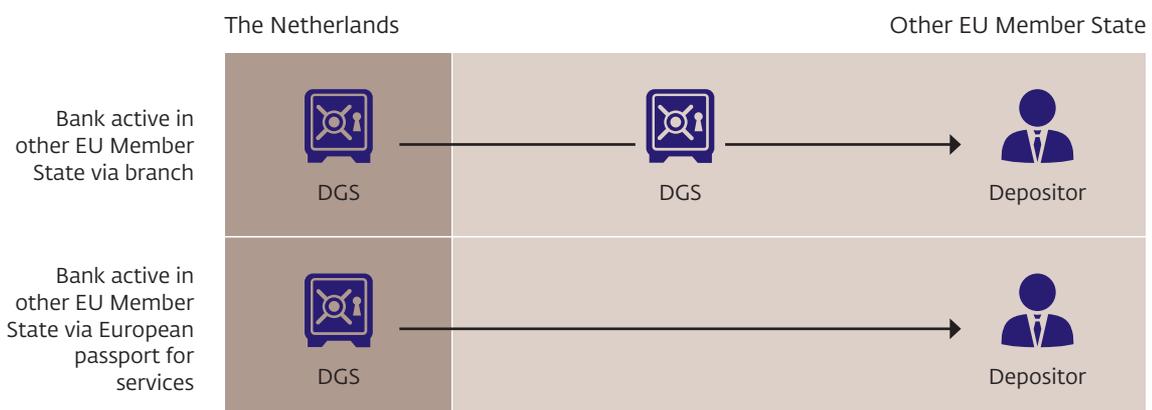
## Single Customer View Policy Rule

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The Single Customer View Policy Rule lays down the requirements with respect to the single customer view. The SCV's introduction will allow payout of deposits covered under the DGS within seven working days. The principal changes are the marking of deposits held on the basis of a European passport for cross-border services and the possibility for providing more accurate estimates of covered deposits within escrow accounts.

The DGSD establishes different payout methods for deposits held abroad through branches and deposits held on the basis of cross-border services. In case of the former, the DGSD provides that the payout must be made by the DGS in the member state in which the branch is established (host DGS), on behalf of the DGS of which the bank is a member (home DGS). In case of the latter, the home DGS must make the payout itself (see Figure 1). In this case it is

Figure 1 Payout process for branches and European services passport



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relevant and mandatory that a DGS has information on deposits held on the basis of a European passport for cross-border services so it can communicate with these depositors in the correct language.

The amendments also enable banks to provide more accurate estimates of eligible deposits held in escrow accounts. One of the purposes for which this information is used is for calculating the banks' quarterly contributions to the deposit guarantee fund. Banks can choose from four methods. Using a more precise calculation method could lower a bank's deposit base and thus result in lower quarterly levies.

Minor changes concern (i) the use of first names of depositors, (ii) exchange rates to be used for foreign currency deposits, (iii) the meaning of the markings of pledged deposits, and (iv) incorrect references.

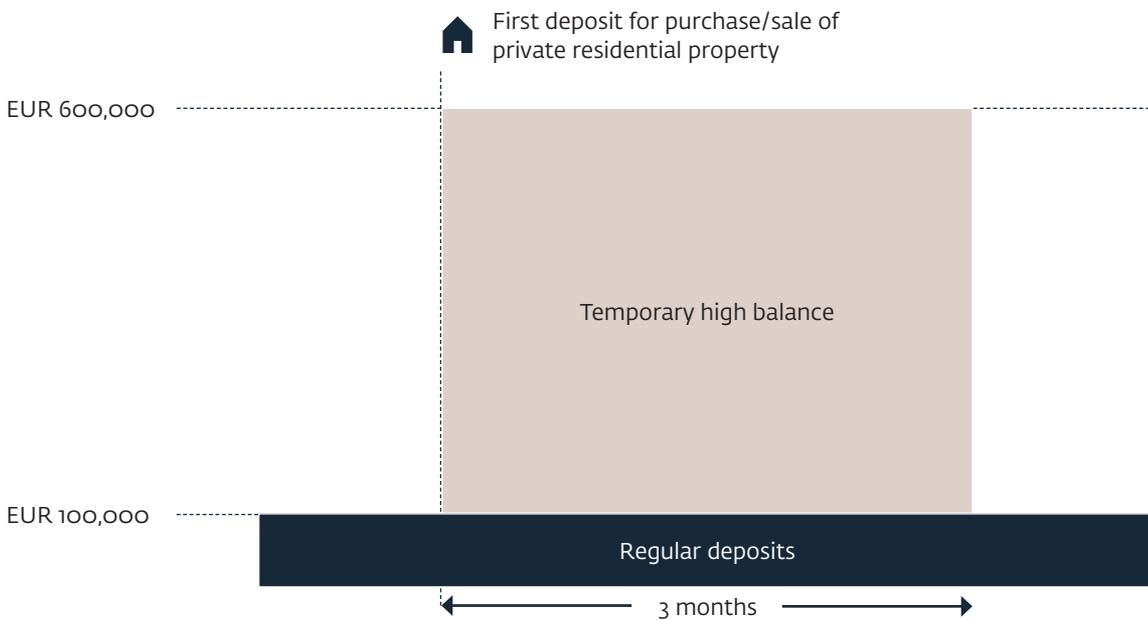
## Policy Rule on the Scope and Execution of the Deposit Guarantee Scheme

The Policy Rule on the Scope and Execution of the DGS sets rules on aspects (i) for which the national rules give DNB discretionary room or (ii) that warrant further clarification. The changes provide certainty to depositors about how several situations will be dealt with that could occur during a DGS payout. The principal additions to the policy rule relate to dealing with temporary high balances, structured deposits, and customers holding deposits in different member states.

The DGS offers an additional three-month protection up to EUR 500,000 in the event of the purchase or sale of a private residential property. Therefore, this temporarily increases the total protection offered under the DGS up to a maximum of EUR 600,000, depending on the amount of the deposit that is related to the transaction (see Figure 2). As temporary high balances cannot be identified from a bank's records, the depositor must notify DNB when the DGS is activated. The addition to the policy rule sets provisions for this claiming procedure and for the way in which we calculate the amount of a temporary high balance.

Figure 2 Functioning of additional protection temporary high balances

Maximum protection per depositor per bank



Another addition to the policy rule relates to structured deposits. The revised Markets in Financial Instruments Directive (MIFID II) defines structured deposits as a special type of deposit that is eligible for the DGS. A structured deposit differs from regular deposits in that creditable interest is not based on an agreed interest rate but on external market factors, such as indices. The policy rule clarifies that there is an investment risk with regard to the creditable interest, as a result of which accrued interest is not deemed part of the covered amount, in contrast to regular deposits.

A further complexity concerns depositors holding deposits with branches in different member states. As a rule, covered deposits held with foreign branches are paid out by the host DGS on the home DGS's behalf. We introduce an exception to this rule in the policy rule. In a situation such as this, having different DGSs making payouts is highly complex and therefore too risky. It is therefore the home DGS that will reimburse the covered amount in these cases.

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The amended policy rule also contains several additions relating to (i) the position of complex accounts in the sequence of priority to eligible deposits, (ii) the exchange rates to be used for deposits in lesser-used currencies, and (iii) dealing with a negative balances.

## The Statements Regulation

The Statements Regulation describes the banks' obligation to supply information on a quarterly basis that we use to calculate the levies they pay into the Deposit Guarantee Fund. The inconsistencies in definition of deposits according to FINREP and the DGSD has lead to a minor amendment of the Statements Regulation.

## Contents of this document

The aim of this document is to supplement the official adoption of the amendments in the Governmental Gazette (*Staatscourant*) by explaining the amendments in greater detail and providing feedback on the submitted consultation responses. No rights can be derived from this English translation. The Dutch version which has been published in the Governmental Gazette is legally binding.

Part 2 of this document describes the outcomes of the consultation. Part 3 presents the changes to the Single Customer View Policy Rule. Parts 4 and 5 present the changes to the Policy Rule on the Scope and Execution of the Deposit Guarantee Scheme and the amendment to the Statements Regulation, respectively.

## Next steps

The adopted amendments of the policy rules have been published in the Government Gazette (*Staatscourant*). Subsequently, the Data Delivery Agreement (*Gegevensleveringsovereenkomst*) and the the DGS Data Delivery Manual (version 3.0) (*Handboek Gegevenslevering DGS*) will be updated where appropriate, to ensure alignment with the amended rules. In addition, the amendments will be incorporated in a new version of the consolidated version of the Pdf-document 'Policy Rules for the Deposit Guarantee Scheme' which will be published on the DNB website.

## 2 Outcome of consultation

The banking sector has taken the opportunity to respond to the public consultation on the first amendments of the DGS regulations. This section describes the most important responses of the sector and the corresponding reaction by DNB. The consultation responses have led to clarification of a number of provisions in the (explanatory notes of the) amended regulation and will be reflected, where applicable in the new version of the DGS Data Delivery Manual.

### Single Customer View Policy Rule

#### **First names as stated in the identity document**

Banks asked for the introduction of the possibility to, supplementing or replacing initials, submit the first names as registered in the identity document of the depositor in the SCV file. This possibility has been added in the Single Customer View Policy Rule by the request of banks, because they are required to administer the first names as stated in the identity document of depositors under the revised Markets in Financial Instruments Directive (MiFID II). The amendment implies that banks are free to either submit the initials of natural persons, the first names, or both. To facilitate this, the datamodel and Data Delivery Agreement (DDA) will be amended. The respective amendment is a structural one, where one or more new data fields with one or more validation rules will be added to the datamodel. Therefore, DNB will publish a new version of the DDA ultimately six months before the respective requirement will enter into force. Herewith, a transitional period of six months after

publication of the amended DDA is guaranteed, in line with for example DNB's approach for Anacredit.

#### **Deposits held on the basis of a European passport for cross-border services**

The sector has submitted questions regarding the requirement to mark deposits under the European passport for cross-border services and include the corresponding country and language of correspondence in the SCV file. This requirement should not be confused with the one-time request of DNB to report aggregated numbers of deposits under the European license for cross-border services per year end 2017. The aim of this one-time request was to investigate the scale of cross-border services in order to prepare the DGS payout organisation.

This requirement for the SCV file is directly linked to the requirement in Article 8(7) of the DGSD. This article requires that DGS's correspond in the language that was chosen by the depositor when the account was opened if a credit institution operates directly in another Member State without having established branches. This ensures that, in case of a DGS payout event, depositors are addressed in the language they have chosen.

Moreover, banks ask to add to the policy rule the possibility to report the language "that is currently being used" as the language that the depositor has chosen at the moment of opening the account. DNB gives banks the opportunity to report the language that is currently used in communication with depositors under the cross-border services passport. This is a pragmatic solution which will not

be explicitly added to the policy rule, but which will be included in the DGS Data Delivery Manual.

#### **Estimating escrow account for calculating deposit base**

Banks filed a number of questions regarding the estimation of escrow (beneficiary) accounts for calculating the deposit base. With regard to the question if the option of four choices precludes a level playing field, it can be answered that a level playing field will actually be enhanced, because it enables banks to select the calculation method that best fits the respective bank. This facilitates a more precise estimation of the covered amount of escrow accounts, which will lead to a more precise calculation of levies.

In addition, banks enquire how to report the method used. Confirming the selected calculation method is not part of regular reporting, but DNB may request this on an Ad-Hoc basis. The external auditor could include the selected estimation method for escrow accounts in the audit report. A bank has to implement processes and controls enabling them to prove which method was used for each individual escrow account, and that the calculation is performed in a reliable manner.

#### **Pledging**

With regards to the addition of the blockage 'pledging', banks argue that this leads to an additional requirement for banks because they have to determine to whom the pledge was made. However, this is not the case. The addition to the policy rule is done in order to clarify the existing requirement, in response to several questions from

banks in which situations a blockage needs to be applied. The addition of 'and for which only the pledgee has the right to dispose of the balance held in the deposit' aims to clarify that the marking for pledging needs to be applied in case the depositor cannot freely dispose of the deposit. When the deposit is pledged, for example to the bank itself, but the depositor can freely dispose of the balance held in the deposit, the marking for pledging may not be applied.

#### **Netting of cashpools with a netting contract**

Banks ask whether or not DNB considers including the netting of cashpools with a netting contract in the amendments. This does not affect the regulations. A further elaboration will be included in the Data Delivery Manual, in which other questions related to products are answered. At all times, the definition of 'deposit' in Article 2(1)(3) of the DGSD applies for such products.

#### **Enforcement date and transitional period**

The sector has submitted several questions regarding the entry into force and transitional period for the amendments.

The Regulation will come into force on the day after its publication in the Government Gazette (*Staatscourant*), with the exemption of article 2(2)(e) (1), on first names as stated in the identity document and the amendment of article 2(4) on deposits held under a European passport for cross-border services. There is a transitional period until 1 January 2020 for these amendments, since they (may) have an impact on the SCV-systems of banks. These amendments will be implemented in the Data

Delivery Agreement (DDA). DNB will ensure that banks get six months to implement the new version of the DDA, in line with the transitional period for structural changes applicable to Anacredit. This means that DNB will publish a new version of the DDA ultimately six months before 1 January 2020.

## 3 Amendments to the Single Customer View Policy Rule

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### Amendment to the Single Customer View Policy Rule (*Beleidsregel Individueel Klantbeeld Wft 2017*).

Amendment by the Nederlandsche Bank N.V. dated 28 January 2019 of the Single Customer View Policy Rule Wft 2017, with the aim to clarify certain aspects relevant for a timely payout by the deposit guarantee scheme.

De Nederlandsche Bank N.V.;

Having regard to Section 3:17(2), opening words and (d), of the Financial Supervision Act (*Wet op het financieel toezicht – Wft*) and Section 26a of the Decree on Prudential Rules for Financial Undertakings (*Besluit prudentiële regels Wft – Bpr*);

Having regard to Section 3:261 of the *Wft*, and Sections 29.05(3) to (5), Section 29.06(1), Section 29.07(4) and Section 29.16(1) of the Decree on Special Prudential Measures, Investor Compensation and Deposit Guarantees under the Financial Supervision Act (*Besluit bijzondere prudentiële maatregelen, beleggerscompensatie en depositogarantie Wft – Bbpm*);

Having regard to Section 212ra of the Bankruptcy Act (*Faillissementswet*);

Having consulted the representative organisations involved and the general public;

Decides as follows:

### Article I

The Single Customer View Policy Rule will be amended to read as follows:

#### **A. First names as stated in the identity document**

Article 2(e)(1) will read as follows: "initials, or first names as stated in the identity document, surname and date of birth".

#### **B. Deposits held on the basis of a European passport for cross-border services**

The following item will be added to Article 2(4), with the full stop at the end of item (n) being replaced by a semicolon:

- o. If this is the case, the fact that the deposit is attracted from another Member State while no branches are established in that Member State and, as well as the respective Member State and the language chosen by the depositor at the time of account opening.

#### **C. Estimating escrow account for calculating deposit base**

1. In Article 4(3)(a) "The aggregate amount of deposits marked in accordance with Article 5(3)" will be replaced by "An estimate of the amount of deposits marked in accordance with Article 5(3), prepared in the manner selected by the bank as referred to in Article 4(3)(e)".

2. The following item will be added to Article 4(3), with the full stop at the end of (d) being replaced by a semicolon:
    - e. To estimate the amount of the deposits marked in accordance with subsection 3, under (a), a bank must choose one of the following four calculation methods:
      - i. The aggregate amount of the deposits marked in accordance with Article 5(3);
      - ii. The number of beneficiaries as referred to in Article 5(3), multiplied by the maximum covered amount as referred to in Section 29.02(1) of the *Bbpm*;
      - iii. The sum of the covered amounts for each individual beneficiary of the deposit as referred to in Article 5(3), taking into consideration the maximum covered amount as referred to in Section 29.02(1) of the *Bbpm*, without necessarily taking into consideration any other accounts which beneficiaries may hold with the bank.
      - iv. Include the eligible amount of each individual beneficiary of the deposit as referred to in Article 5(3) in the covered deposits, taking into consideration the maximum covered amount as referred to in Section 29.02(1) of the *Bbpm*.
  3. The following provision will be added after Article 4(3)(e):
    - f. A bank must be able to demonstrate for each escrow account which of the methods listed under (e) it used to calculate the amount referred to in subsection 1.
- D. Use of exchange rates for calculating deposit base**
- The following subsection will be added after Article 4(3):
4. When calculating eligible and covered amounts as referred to in subsection 1, a bank can use exchange rates published by exchange rate information providers.
- E. Pledging**
- The following phrase will be added to the end of Article 6(1)(e), before the semicolon: “and for which only the pledgee has the right to dispose of the balance held in the deposit”.
- F. Incorrect references**
1. In Article 14(1)(b), the phrase “Article 11(4)” will be replaced by “Article 11(1)(d)”.
  2. In Article 15(4), the phrase “Article 11(4)” will be replaced by “Article 11(1)(d)”.

## Article II

1. This Regulation will come into force on the day after its publication in the Government Gazette (*Staatscourant*).
2. A transitional period ending on 1 January 2020 applies with respect to the amendment of Article 2(2)(e)(1) on first names as stated in the identity document and with respect to the addition of item (o) to Article 2(4) on deposits held under a European passport for cross-border services.

This Regulation and the accompanying explanatory notes will be published in the Government Gazette.

Amsterdam, 29 January 2019

De Nederlandsche Bank N.V.  
Nicole Stolk, Executive Director

## Explanatory notes

### General

DNB has issued the Single Customer View (SCV) Policy Rule to specify in further detail the requirement that banks must be capable of providing DNB, at DNB's request, with the information it requires to administer the deposit guarantee scheme (DGS), in a manner and within a period specified by DNB (Section 26a of the *Bpr*). Each bank must submit this information in the form of an SCV file compiled in accordance with its own procedures and measures (SCV system). This will allow the payout deadline to be shortened to seven working days, which is a requirement in the recast European Directive on deposit guarantee schemes (2014/49/EU, or 'DGSD').

The transition to data delivery based on the single customer view has yielded several insights, for the banks and DNB, which were incorporated into this first round of amendments to the SCV Policy Rule. The purpose of this round of amendments is to reduce ambiguity and correct a number of inaccuracies.

## Explanatory notes by article

### Article I

#### A. First names as stated in the identity document

The policy rule that was published in July 2017 requires banks to submit the initials of natural persons (article 2(2)(e)(1) and article 2(3)(b). Under the revised Markets in Financial Instruments Directive (MiFID II), banks record their customers' first names. Banks have requested DNB to grant the possibility to submit in the SCV-file the first names as stated in the identity document, replacing or in addition to the initials of natural persons. Examples of an identity document are a passport, an ID card or a driving license.

DNB answers this request by amending article 2 of the SCV Policy Rule. This implies that banks can choose whether they will deliver the initials of natural persons or the first names, or both. The data model and Data Delivery Agreement (DDA) will be amended subsequently. Banks get the choice to submit initials, first names or both.

#### B. Deposits held under European passport for cross-border services

Article 8(7) of the DGSD provides that if a credit institution operates directly in another Member State without having established branches, the information must be provided in the language that was chosen by the depositor when the account was opened. Banks operating in another EEA country without having established branches operate under

a European passport for cross-border services. Passporting allows a bank to provide services directly from one EEA country to another without having branches in the host country. If the Dutch DGS should be triggered for a credit institution operating under a European passport for cross-border services, DNB must communicate with the depositor in the language the latter chose when opening the account. DNB will do so based on the information submitted by the bank in the SCV file.

DNB has further specified the DGSD requirement by adding item (o) to Article 2(4). A bank is asked to indicate in the SCV file whether a deposit is held in another Member State without established branches, meaning that it is held under a European passport for cross-border services. If this is the case, the bank must state the country and the language which the depositor has chosen when opening the account. Since banks often do not explicitly ask customers to choose a language, is it allowed that banks submit the language in which the bank corresponds with the depositor in practice.

#### C. Estimating escrow account for calculating deposit base

The proposed amendment to Article 4 enables banks, when calculating the information needed to establish their deposit base for quarterly reporting, to estimate more accurately the covered amount in deposits held for the benefit of beneficiaries (escrow accounts). The addition of item (e) allows the banks to choose between four calculation methods, which are:

- i. The calculation method originally described in the first version of the Single Customer View Policy Rule, meaning that the full amount in deposits held on behalf of beneficiaries by virtue of a contract or statutory requirement is included.
- ii. An estimate of the covered amount held in escrow accounts, based on the number of beneficiaries multiplied by the maximum covered amount.
- iii. An estimate of the covered amount held in escrow accounts, for which the bank establishes the covered amounts for each individual escrow account beneficiary. The bank must take into consideration the maximum covered amount per depositor per banking licence, but it is not required to include any other deposits that beneficiaries may hold.
- iv. The most accurate estimate of the covered amount of beneficiaries, in which the bank, in a depositor's single customer view, takes into consideration the covered amount to which the depositor is entitled in the capacity of beneficiary. The bank must take into consideration the maximum covered amount per depositor per banking licence.

The following example may serve to illustrate this. In this example, a civil-law notary maintains an escrow account with ABC bank. Three beneficiaries hold a total amount of EUR 195,000 in this escrow account. Beneficiaries 1 and 2 also hold regular deposits with ABC bank, and their balances are EUR 90,000 and EUR 30,000 at the time the DGS is activated.

**Table 1 Deposit information for sample calculations on escrow accounts**

	Deposits held in escrow account with ABC bank (EUR)	Deposits directly held with ABC bank (EUR)
Depositor 1	120,000	90,000
Depositor 2	50,000	30,000
Depositor 3	25,000	0

The amendment made to Article 4 gives banks a choice between different methods to calculate the amount in covered deposits in escrow accounts. In calculation 1, the bank adds up the individual balances held in the escrow account, resulting in the full balance of the escrow account. In calculation 2, the bank establishes the number of underlying beneficiaries and applies the maximum covered amount for DGS payout. In calculation 3, the bank calculates and adds up the maximum covered amounts for each individual underlying beneficiary. Calculation 4 is made in the same way as calculation 3, but the bank also considers the deposits that beneficiaries hold directly with ABC bank in establishing the maximum covered amount.

Banks must be capable, on request of DNB, of demonstrating for each escrow account which method it has used.

#### D. Using exchange rates for calculating deposit base

When calculating eligible and covered amounts, a bank must take foreign currencies into consideration and convert the relevant amount to euro amounts. Section 25(2) of the *Bbpm* provides that DNB uses the European Central Bank's reference exchange rates when establishing the amounts of the covered deposits. The added fourth subsection clarifies which exchange rates banks can use in calculating euro amounts. They can use the exchange rates supplied by foreign exchange information providers to match their own current practices. DNB can ask a bank which exchange rate it used and which exchange rate information provider it consulted for its calculation.

#### E. Pledging

By amending the first subsection of Article 6, DNB provides more clarity on the marking banks can attach to deposits pledged to third parties at the banks' request. A bank marks such deposits in its SCV file to enable DNB to not make reimbursements automatically, thereby creating a temporary 'freeze' or 'blockage' on DGS payouts for the deposits.

DNB will then request the required information before deciding on the reimbursement.

A 'blockage' on DGS payouts applies if the pledgee/account holder no longer has the right to dispose of the balance held in the account subject to the pledge. Banks must therefore mark deposits (i) that are subject to a disclosed pledge and (ii) of whose balance the account holder cannot dispose. The addition of the phrase on account holder disposal clarifies which pledged deposits banks must mark as such.

Specifically, this means that deposits pledged to the bank itself without the right to dispose of the account balance having been transferred to the bank must not be marked as pledged.

Deposits pledged with the right to dispose of the account balance having been transferred from the pledgor to the pledgee must be marked as pledged.

Section F deals with a number of incorrect references.

**Table 2 Sample calculations for escrow accounts**

	Calculation 1	Calculation 2	Calculation 3	Calculation 4
Depositor 1	120,000	100,000	100,000	10,000
Depositor 2	50,000	100,000	50,000	50,000
Depositor 3	25,000	100,000	25,000	25,000
Estimate of covered amount in EUR	195,000	300,000	175,000	85,000

## Article II

The following should be noted with regard to the date on which the Regulation comes into force. Article II provides that the Regulation will come into force on the day after its publication in the Government Gazette, with the exception of the amendment of Article 2(2)(e)(1) on first names as stated in the identity document and the addition of item (o) to Article 2(4) on deposits held under a European passport for cross-border services. A transitional period ending on 1 January 2020 applies to these two changes, as they may impact the banks' SCV systems.

These amendments will be implemented in a new version of the Data Delivery Agreement (DDA). DNB will ensure that banks get six months to implement the new version of the DDA, in line with the transitional period for structural changes applicable to Anacredit. This means that DNB will publish a new version of the DDA ultimately six months before 1 January 2020.

Amsterdam, 29 January 2019

De Nederlandsche Bank N.V.  
Nicole Stolk, Executive Director

## 4 Amendments to the Policy Rule on the Scope and Execution of the Deposit Guarantee Scheme

Amendment of the Policy Rule on the Scope and Execution of the Deposit Guarantee Scheme (*Beleidsregel Reikwijdte en Uitvoering Wft 2017*).

Amendment by De Nederlandsche Bank N.V. dated 28 January 2019 of the Policy Rule on the Scope and Execution of the Deposit Guarantee Scheme Wft 2017, with the aim to clarify certain aspects relevant for the execution of the deposit guarantee scheme.

De Nederlandsche Bank N.V.;

Having consulted with representative organisations;

Having regard to Sections 29.02 and 29.06 of the Decree on Special Prudential Measures, Investor Compensation and Deposit Guarantees under the Financial Supervision Act (*Besluit bijzondere prudentiële maatregelen, beleggerscompensatie en depositogarantie Wft – Bbpm*) and Section 26a of the Decree on Prudential Measures under the Financial Supervision Act (*Besluit prudentiële maatregelen Wft – Bpr*);

Having consulted the representative organisations involved and the general public;

Decides as follows:

### Article I

The Policy Rule on the Scope and Execution of the Deposit Guarantee Scheme is amended as follows:

#### A. Definitions

The following definition will be added to Article 1.1:

1. Temporary high balance: a deposit within the meaning of Section 29.02(4) of the *Bbpm*.

#### B. Sequence of priority of eligible deposits

1. One category will be added to the order of priority listed in Article 3.1(3):
  - e. Accounts whose eligible amount DNB cannot establish on the basis of the information submitted by the relevant bank.
2. The following subsection will be added to Article 3.1:
  4. If a depositor has more than one deposit at a bank in a single category referred to in subsection 3 and the eligible amount exceeds the covered level, the amounts of the different eligible deposits determine the order in which they are paid out or protected in the event of a resolution measure as referred to in subsection 1 of this Article. The lowest eligible deposit is first paid out or protected.

**C. Exchange rates**

The following article will be added to Chapter 3, Execution, after Article 3.1:

**Article 3.2**

If deposits are held in a foreign currency for which the European Central Bank does not set a reference exchange rate, DNB sets the reference exchange rate that prevailed on the date referred to in Section 29.06(2) of the *Bbpm*, based on:

1. the reference exchange rate published by the central bank of the currency in which the deposits are held or, if there is no such reference exchange rate;
2. a calculation of a central exchange rate if the relevant central bank publishes buying rates and purchase rates, but no reference rates; or
3. currency exchange rates published by a currency exchange information rate provider if a reference exchange rate cannot be established using either of the methods described in the first and second subsections.

**D. Negative balances**

The following article will be added to Chapter 3, Execution:

**Article 3.3**

When setting the compensation amount under the deposit guarantee scheme within the meaning of Section 3:261 of the *Wft*, liabilities which the depositor owes to the bank are disregarded as follows:

- a. in the event of a negative account balance, DNB deems the balance to be nil for purposes of setting the compensation;

- b. in the event of a negative amount in interest accrued but not yet credited, DNB deems the amount to be credited to be nil for purposes of setting the compensation.

**E. Temporary high balances**

The following article will be added to Chapter 3, Execution:

**Article 3.4**

1. When the deposit guarantee scheme is activated, a depositor must notify DNB of a temporary high balance. DNB will make a form available to that end.
2. If a depositor claims the additional protection referred to in subsection 1, DNB equates the additional protection per depositor per bank to the amount originally deposited, with the provision that:
  - a. the additional protection per depositor per bank cannot exceed EUR 500,000;
  - b. the total covered amount per depositor cannot exceed the combined balance of the deposits which the depositor holds with the bank.
3. If a deposit is transferred within the meaning of subsection 1 to another account, the three-month protection period referred to in Section 29.02(4) of the *Bbpm* commences on the date on which the amount was deposited into the original account.
4. DNB can request a depositor to provide additional information in connection with the temporary high balance for proof of the existence of the temporary high balance.

### **F. Accounts at multiple branches of the same bank**

The following article will be added to Chapter 3, Execution:

#### **Article 3.5**

1. If a depositor holds one or more accounts with a bank established in the Netherlands and one or more accounts with a branch of the same bank in another Member State, DNB pays out the amount awarded to the depositor. The payout is not made through the DGS of the Member State in which the branch is established.
2. If a depositor holds accounts with branches of a single bank in various other Member States, DNB pays out the covered amount to the depositor. The payout is not made through a DGS authority of one of the Member States in which the branches are established.

### **G. Structured deposits**

The following article will be added to Chapter 3, Execution:

#### **Article 3.6**

The calculation of accrued interest as set out in Section 29.06(2) of the *Bbpm* will be applied as follows in the case of a structured deposit within the meaning of Article 4(1)(43) of the Markets in Financial Instruments Directive 2014:

- a. to the extent interest not yet credited on the date referred to in Section 29.06(2) of the *Bbpm* no longer depends on external market factors, it is deemed to be accrued within the meaning of Section 29.06(2) of the *Bbpm*;

- b. to the extent interest or premiums not yet credited on the date referred to in Section 29.06(2) of the *Bbpm* still depend on external market factors, they are not deemed to be accrued within the meaning of Section 29.06(2) of the *Bbpm*.

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## **Article II**

This Regulation will come into force on the day after its publication in the Government Gazette (*Staatscourant*).

This Regulation and the accompanying explanatory notes will be published in the Government Gazette.

Amsterdam, 29 January 2019

De Nederlandsche Bank N.V.  
Nicole Stolk, Executive Director

## **Explanatory notes**

### **General**

The proposed changes to the Policy Rule on the Scope and Execution of the Deposit Guarantee Scheme provide clarity to depositors as to how several situations will be dealt with during a potential DGS payout. The principal additions to the policy rule relate to dealing with temporary high balances, structured deposits, and customers holding multiple deposits in different countries.

## Explanatory notes by article

### Article I

#### A. Definitions

For practical reasons, the definition of a temporary high balance is added to Article 1.1. A temporary high balance is defined as a deposit to the extent directly related to the effectuation of a purchase contract for a private residential property within the meaning of Section 3.111 of the Income Tax Act 2001 (*Wet inkomstenbelasting 2001*) during the first three months after the amount is deposited (Section 29.02(4) of the *Bbpm*).

#### B. Sequence of priority of eligible deposits

One category of accounts is added to those listed in the third subsection of Article 3.1. This category comprises accounts whose eligible amount DNB cannot establish, for whatever reason, on the basis of information submitted by the bank. In that case, additional information must be obtained, and the amount cannot immediately be paid out. If a depositor holds more than one account, such an account ranks last in the order of priority. This addition to the sequence of priority helps DNB establish which eligible deposits must be paid out or protected. It does not require banks to take additional administrative action. The product categories referred to in Article 5(2) of the Single Customer View Policy Rule and, hence, the prescribed data model, will not be expanded as a result of this addition to the sequence of priority.

The newly added fourth subsection of Article 3.1 describes how DNB will handle a situation in which a single depositor has more than one deposit in the same category in the sequence of priority of eligible deposits. In that case, the account holding the lowest eligible balance is paid out first, followed by the account with the second lowest amount and so on, with due consideration being taken of the maximum covered amount per depositor per banking licence. This payout order allows for settling of as many accounts as possible.

#### C. Exchange rates

##### Article 3.2

In accordance with Article 29.06(3) of the *Bbpm*, the value of deposits held in a foreign currency is based, as a rule, on the European Central Bank's reference rate. However, a deposit may be held in a currency for which the European Central Bank does not set any reference rates. In such a case, DNB sets the reference rate. Article 3.2 lists the sources that DNB uses to do so.

The first subsection provides that DNB will, where available, first use the relevant reference rate as set by the central bank that issues the currency in which the deposit is held.

In some cases, foreign central banks do not set any reference rates, but purchasing and selling rates. The second subsection provides that DNB will then use a central rate representing the average of the purchasing and selling rates.

The third subsection provides that DNB can use exchange rates made available by exchange rate information providers, such as Bloomberg or Thomson Reuters, to set a reference rate if the options given in the first and second subsections are unavailable.

#### D. Negative balances

##### Article 3.3

Pursuant to Article 7(4) of the DGSD, any liabilities the depositor has towards the bank are not taken into account when establishing the compensation amount. This means that a depositor's debts are not set off against credit balances when establishing the covered amount, with the exception of bank savings deposits related to the purchase of a private residential property. This is also the central principle of Section 29.07(3) of the *Bpbm*.

An overdraft balance on a payment account qualifies as a depositor's liability towards the bank. DNB will not set off such a liability against the claim which a depositor has on the bank (the deposit) in establishing the compensation amount. This does not change the fact that a depositor will still need to discharge its liability towards the bank or the bank's estate in bankruptcy.

Article 3.3 explicitly provides that this procedure applies to both the account balance and any interest accrued but not yet credited. This is because Section 29.06(2) of the *Bpbm* provides that a deposit is also deemed to include any amount in accrued interest. A negative amount in interest not yet set off against

the deposit also qualifies as a depositor's liability towards the bank.

For example, if a depositor has a payment account with a credit balance of EUR 10 and a negative amount of EUR 30 in accrued but not yet debited interest due to a previous overdraft, DNB deems the amount in interest to be nil, setting the compensation amount at EUR 10. If a depositor has a payment account with a debit balance of EUR 20 and a positive amount of EUR 5 in accrued but not yet credited interest related to a previous credit balance, DNB deems the account balance to be nil, setting the compensation amount at EUR 5.

#### E. Temporary high balances

##### Article 3.4

Deposits held in connection with a contract for the purchase of a private residential property (temporary high balances) are an exception to the coverage level of EUR 100,000 per depositor per bank specified in Article 29.02(1) of the *Bpbm*. This is laid down in Section 29.02(4) of the *Bpbm*. Such a temporary high balance is covered up to an additional maximum of EUR 500,000 per depositor for three months. Article 3.4 sets out how DNB offers this additional protection in practice.

A temporary high deposit cannot be shown in a bank's records, so it will be up to the depositor to notify DNB when the DGS is triggered that he or she holds a temporary high balance resulting from the recent sale under a purchase contract for a private residential property. As set out in Section 29.05(5) of

the *Bbpm*, a longer payout period is allowed for such a deposit.

The first subsection of Article 3.4 describes a procedure for depositors to notify DNB that they are eligible for the additional protection relating to a temporary high balance. DNB will make a form available to that end.

The second subsection describes how DNB factors in the additional protection up to EUR 500,000 per depositor when setting the covered amount. As a temporary high balance is not held separately, DNB cannot use the account balance to distinguish between regular deposits and temporary high balances. In order not to compromise the additional protection offered to depositors, DNB will calculate the amount of the additional protection in the case of a temporary high balance on the basis of the amount originally deposited resulting from a purchase agreement for a private residential property, up to EUR 500,000 per depositor (item a). Naturally, the total amount protected – the sum of the regular protection up to EUR 100,000 euro per depositor per bank and the additional protection related to a temporary high balance – cannot exceed the aggregate balances held by a depositor with a bank (item b).

For example, on 5 January, a depositor deposits an amount of EUR 300,000 related to the sale of her home. The DGS is activated in respect of her bank on 10 January. The protection which the DGS offers her is a maximum of EUR 400,000. Suppose the aggregate balance of her accounts and her shares in any jointly held accounts is EUR 300,000, she

will immediately receive EUR 100,000 and can claim EUR 200,000 in additional payout based on the protection of temporary high balances, using the application procedure. This is because the total covered amount per depositor cannot exceed the combined balance of the deposits which the depositor holds with the bank.

If, in the same example, the aggregate balance of the depositor's account was EUR 600,000 (including the EUR 300,000 sales proceeds), she would receive EUR 100,000 under the regular protection and, following her application, EUR 300,000 under the protection of temporary high balances. This is because the additional coverage cannot exceed the purchase price of a private residential property.

The third subsection covers the situation in which a depositor transfers the temporarily high amount to another account with the bank at which it was originally deposited or with another bank. This could be because a depositor wishes to keep the amount in a savings account that offers a higher rate of interest than the payment account in which it was originally deposited. The third subsection clarifies that the three-month protection period commences when the depositor initially receives the temporarily high amount.

The fourth subsection stresses that DNB may ask a depositor for information in addition to the information provided in the form referred to in the first subsection to gain a better understanding of the purchase agreement that underlies the claim for additional protection. Specifically, this is information

needed to establish the transaction amount, the date of the agreement and the parties involved.

DGS authority, will compensate the respective depositor.

**F. Accounts at multiple branches of the same bank**

**Article 3.5**

Pursuant to Article 14 of the DGSD, a DGS in the host Member State must compensate depositors of a branch established in that Member State on behalf of the DGS in the home Member State. The addition of Article 3.5 clarifies which DGS authority will compensate a depositor holding multiple accounts with a Netherlands-based bank when bankruptcy results in cross-border payouts within the meaning of Article 14 of the DGSD.

If a depositor holds accounts both with the Netherlands-based bank and with a branch abroad, DNB, in its capacity of home DGS authority, will compensate this depositor. Compensation will not be paid out by the DGS in the host Member State.

If a depositor does not hold any accounts with a bank’s main office in the Netherlands, but holds multiple accounts with two or more branches in other Member States, DNB, in its capacity of home

The current DGSD does not provide for a solution for these situations. The solution where the depositor is reimbursed pro rata by the different DGS-authorities in different member states may lead to uncertainty for depositors which is not desirable. The approach where the depositor receives one compensation from one DGS authority is in the interest of the depositor. Multiple DGS authorities in Europe will apply this solution.

The table below provides several examples to clarify this. Depositor 1 is compensated by the Belgian DGS authority under Article 14 of the DGSD. Depositor 2 is compensated by DNB under Article 3.5(1). Depositor 3 is compensated by DNB under Article 3.5(2).

**G. Structured deposits**

**Article 3.6**

The revised Markets in Financial Instruments Directive (2014/65/EU, MIFID II) defines a structured deposit as a deposit within the meaning of the DGSD that is paid out in full upon maturing (in line

	Account held at Dutch main office	Account held at Belgian branch	Account held at German branch	The DGS authority that pays out the compensation
Depositor 1		x		Belgian
Depositor 2	x	x		Dutch
Depositor 3		x	x	Dutch

with Article 2(3) under B, of the DGSD). This means structured deposits are also eligible for protection under the DGS.

A structured deposit differs from regular deposits in that creditable interest is not based on an agreed interest rate but on external market factors, such as indices.

With due observance of Section 29.06(2) of the *Bbpm*, which provides that interest accrued but not credited is deemed part of a deposit – Article 3.6 describes how uncredited interest must be dealt with in the case of a structured deposit when establishing the covered amount.

The provisions of Article 3.6 take account of the fact that structured deposits do not involve any accrued interest before the reference date that is used in the final calculation of interest to be credited. This is because until the reference date, price fluctuations of the external factor that determines creditable interest can still cause upward or downward adjustments. In other words, this is the structured deposit's investment component, which is not protected under the DGS.

The following example may serve to illustrate this. A depositor has contracted a one-year structured deposit whose interest rate is linked to an equity index. The index equals 100 on 1 January. The closing rate of the index on the 28 December reference date is used to establish the amount in creditable interest. Interest is subsequently credited on 31 December. If the closing rate exceeds 105, the

depositor receives interest at 5% on an annual basis. If the closing rate is between 100 and 105 on the reference date, the depositor receives interest equal to the index's increase on an annual basis. If the closing rate is below 100 on the reference date, the depositor receives nil interest on an annual basis.

If in this case the covered amount under the DGS must be established on a date prior to 28 December, there is no certainty on the amount in creditable interest, even if the index equals, say, 120 on that date. This is the risk inherent in the investment component. In this case, the covered amount only covers the deposit's principal amount, without any amount in creditable interest.

If in this case the amount of cover under the DGS that must be established is between the reference date and the date of crediting, for example 30 December, there is certainty on the amount in creditable interest. In that case, the covered amount also covers the amount that will definitely be credited.

## Article II

Article II states that the Regulation will come into force on the day after its publication in the Government Gazette.

Amsterdam, 29 January 2019

De Nederlandsche Bank N.V.  
Nicole Stolk, Executive Director

# 5 Amendments to the Regulation on Statements of Financial Institutions

Amendment of the Regulation on Statements of Financial Institutions under Financial Supervision Act 2011 (*Regeling staten financiële ondernemingen Wft 2011*) in connection with the implementation of the deposit guarantee scheme

Regulation adopted by De Nederlandsche Bank N.V. dated 28 January 2019, amending the Regulation on Statements of Financial Institutions under the Financial Supervision Act 2011

De Nederlandsche Bank N.V.;

Having regard to Article 131 of the Decree on Prudential Rules for Financial Institutions 2011 (*Besluit prudentiële regels Wft 2011*);

Having consulted the representative organisations involved and the general public;

Decides as follows:

## Article I

The Regulation on Statements of Financial Institutions under the Financial Supervision Act 2011 will be amended to read as follows:

### A

In Annex 15 Tables A and B will be replaced by the following two tables.

## A

## Liabilities eligible under deposit guarantee scheme (DGS) - solo

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		Number of accounts (in units) <sup>8</sup>		
		01	02	03
		Number of accounts with Dutch branches	Number of accounts with EEA branches	Total number of accounts
001	Deposits (other than from credit institutions) conform definition DGSD <sup>1</sup>			
002	of which through Dutch branches and EEA branches respectively <sup>2</sup>	V	V	B
Creditors by legal status				
003	- government authorities	V	V	B
004	- other financial corporations <sup>3</sup>	V	V	B
005	- corporate customers other than financial corporations	V	V	B
006	- retail customers	V	V	B
007	Total of lines 003 to 006 (equal to line 001a column 08)	B	B	B
008	of which bank savings deposits for private residential property <sup>4</sup>	V	V	B
010	Total eligible under DGS as shown in this statement (005+006-008)	B	B	B
Total eligible under DGS by account balance (010) and type of account <sup>5</sup>				
017	of which ≤ EUR 100,000	V	V	B
018	EUR 100,000 - EUR 200,000 (accounts held by one beneficiary)	V	V	B
019	EUR 100,000 - EUR 200,000 (joint accounts and other accounts) <sup>6</sup>	V	V	B
020	≥ EUR 200,000 (accounts held by one beneficiary)	V	V	B
021	≥ EUR 200,000 (joint accounts and other accounts)	V	V	B
022	Total of lines 017 to 021 <sup>7</sup>	B	B	B
100	Total covered deposits based on number of deposits and account balances <sup>10</sup>			
200	Deposits (other than from credit institutions) conform FINREP <sup>11</sup>			

Amounts in thousands of euros					
04	05	06	07	08	09
Through Dutch branches	Through EEA branches	Total through Dutch and EEA branches (04+05)	Foreign subsidiaries and non-EEA branches	Total (06+07)	Covered deposits as shown in bank's records <sup>9</sup>
				V	
V	V	B			
V	V	B			
V	V	B			
V	V	B			V
V	V	B			V
B	B	B			B
V	V	B			
B	B	B			
V	V	B			
V	V	B			
V	V	B			
V	V	B			
V	V	B			
B	B	B			
		B			
				V	

## B

### Liabilities eligible under deposit guarantee scheme (DGS) - consolidated

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		Number of accounts (in units) <sup>8</sup>		
		01	02	03
		Number of accounts with Dutch branches	Number of accounts with EEA branches	Total number of accounts
001	Deposits (other than from credit institutions) conform definition DGSD <sup>1</sup>			
002	of which through Dutch branches and EEA branches respectively <sup>2</sup>	V	V	B
Creditors by legal status				
003	- government authorities	V	V	B
004	- other financial corporations <sup>3</sup>	V	V	B
005	- corporate customers other than financial corporations	V	V	B
006	- retail customers	V	V	B
007	Total of lines 003 to 006 (equal to line 001a column 08)	B	B	B
008	of which bank savings deposits for private residential property <sup>4</sup>	V	V	B
010	Total eligible under DGS as shown in this statement (005+006-008)	B	B	B
Total eligible under DGS by account balance (010) and type of account <sup>5</sup>				
017	of which ≤ EUR 100,000	V	V	B
018	EUR 100,000 - EUR 200,000 (accounts held by one beneficiary)	V	V	B
019	EUR 100,000 - EUR 200,000 (joint accounts and other accounts) <sup>6</sup>	V	V	B
020	≥ EUR 200,000 (accounts held by one beneficiary)	V	V	B
021	≥ EUR 200,000 (joint accounts and other accounts)	V	V	B
022	Total of lines 017 to 021 <sup>7</sup>	B	B	B
100	Total covered deposits based on number of deposits and account balances <sup>10</sup>			
200	Deposits (other than from credit institutions) conform FINREP <sup>11</sup>			

Amounts in thousands of euros					
04	05	06	07	08	09
Through Dutch branches	Through EEA branches	Total through Dutch and EEA branches (04+05)	Foreign subsidiaries and non-EEA branches	Total (06+07)	Covered deposits as shown in bank's records <sup>9</sup>
				V	
V	V	B			
V	V	B			
V	V	B			
V	V	B			V
V	V	B			V
B	B	B			B
V	V	B			
B	B	B			
V	V	B			
V	V	B			
V	V	B			
V	V	B			
V	V	B			
B	B	B			
		B			
				V	

## Notes to Tables A and B

- These reports contain a list of deposits as defined in the Wft, Part 1.1.1., Section 1:1, irrespective of whether and to what extent liabilities and clients are or are not eligible for the DGS and are covered after the DGS is activated.
  - Not included are deposits held at the central bank, interbank deposits and deposits held at foreign subsidiaries or a branch in a state that is not an EEA Member State (column 07 is not filled in).
  - Any balances in currencies other than the euro must be converted at the reference rates published by the ECB on the final day of the reporting period. A bank may use exchange rates published by exchange rate information providers for this calculation.
  - All fields marked (v) are to be completed. The fields with a (b) will be calculated.
- 1) Starting point is the total balance of deposits (excluding deposits from credit institutions) conform the DGSD definition. In case the amount deviates from the liabilities reported in FINREP (line 200), the rapporteur may provide DNB, on its request, a quantitative explanation of the difference between line 001 and line 200.
  - 2) Liabilities (numbers and balances) assumed through Dutch-based branches/offices (column 01 and 04), including through the provision of cross-border services, and liabilities assumed through branches located in an EEA country (column 02 and 05).
  - 3) 'Other financial firms' refers to financial firms within the meaning of Article 1:1 of the Wft other than credit institutions.
  - 4) These are bank savings deposits relating to a private residential property to the extent that they are offset against a corresponding property loan, as provided in Article 3:265d of the Wft. These deposits are not covered under the deposit guarantee scheme, in accordance with Article 29.01(2)(e) of the Decree on Special Prudential Measures, Investor Compensation and Deposit Guarantees under the Financial Supervision Act (*Besluit bijzondere prudentiële maatregelen, beleggerscompensatie en depositogarantie Wft*).
  - 5) Account balances must be entered on a single line only. Worked example: if an account holds EUR 110,000, an amount of 110 must be reported on line 018 or 019, rather than 100 on line 017 and 10 on line 018 or 019.
  - 6) 'Other accounts' refers to all other accounts that have more than one beneficiary.
  - 7) The amounts shown on lines 010 and 022 must be the same and comprise both corporate and retail customers.
  - 8) The number of accounts (in units) held with Dutch-based offices/branches must be reported in column 01, and the number of accounts (in units) held with EEA branch offices in column 02, with the related balances to be reported in columns 04 and 05. If an individual account holder holds multiple accounts, neither the number of accounts per account holder nor the balances in those accounts must be aggregated. Worked example: an account holder has three accounts with a balance of EUR 30,000,

EUR 60,000, and EUR 120,000 respectively.

You must enter the account holding

EUR 30,000 in funds and the account holding EUR 60,000 in funds on line 017 (balances of up to EUR 100,000) and enter the number of accounts, i.e. 2, on the same line in column 01 or 02. The account holding EUR 120,000 in funds must be reported on the line for balances > EUR 100,000, with the number of accounts, i.e. 1, being entered in column 01 or 02.

- 9) This represents the aggregate covered amount per depositor, as shown in the single customer view.
- 10) This is an estimate of the total extent of covered deposits on the basis of the numbers of deposits and balances, without taking account of depositors with more than one account.
- 11) The following liabilities shown in FINREP Table 08.01.a. serve as a basis: line 050 -/- 060 -/- 160 (for columns 010 + 020 + 030).

## Article II

The amended format in accordance with this regulation has been applied for the first time to the reports per 30 September 2019.

This Regulation and the accompanying explanatory notes will be published in the Government Gazette.

Amsterdam, 29 January 2019

De Nederlandsche Bank N.V.  
Nicole Stolk, Executive Director

## Explanatory notes

The Regulation was amended on in July 2017, and Annex 15 was added, which comprises three tables. Banks must provide information on the deposits covered under the DGS based on Tables A and B. They comprise a list of the deposits in line with the liabilities shown in FINREP Table 08.01.a, line 050 -/- 060 -/- 160 (for columns 010 + 020 + 030). However, the definition of these liabilities in FINREP differs from the deposits referred to in Article 2(3) of the European directive on deposit guarantee schemes (2014/49/EU, DGSD). This may create discrepancies between the list in FINREP and Tables A en B. The amendments made to Tables A and B aim to provide insight into the difference, if any, between the amounts of the reported deposits that are due to these definition differences.

In Tables A and B, line 001 is moved to the newly created line 200. The accompanying footnote is assigned a new number (11). Line 001 is a new line, in which banks report the total amount in deposits held in accordance with the DGSD's definition of deposits. Footnote 1 has been amended accordingly. If there is a difference between the amounts of the deposits reported in lines 001 and 200, DNB may request a bank to provide a quantitative analysis.

An addition is made in the notes to the tables conform article 4 of the Single Customer View Policy Rule, which enables banks to use exchange rates published by exchange rate information providers when the calculating the eligible and covered amounts (instead of reference exchange rates published by the ECB).

The following should be noted with regard to the date on which the Regulation comes into effect. Article II states that the Regulation will come into effect on 1 July 2019. This means that reporting must be in accordance with the amended Regulation for the period ending on 30 June 2019.

Amsterdam, 29 January 2019

De Nederlandsche Bank N.V.  
Nicole Stolk, Executive Director

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EUROSYSTEEM

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