

Royal Decree-Law 16/2011 of 14 October 2011 establishing the Deposit Guarantee Fund for Credit Institutions¹

(Official State Gazette of 15 October)

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I

Over the last 30 years, deposit guarantee schemes have become established as one of the essential mechanisms in Europe to ensure the confidence of savers and depositors across the banking system. In Spain, the early creation in 1977 of the first guarantee funds for deposits in banks and savings banks, which were subsequently joined by the guarantee fund for deposits in credit cooperatives, through a regime of ex ante contributions was both a symptom of the changing Spanish financial system and a move towards the modernisation thereof against a backdrop of crucial economic, political and social changes in the country's recent history.

Today, the subsequent reforms of that first guarantee scheme introduced over three decades are, from the right perspective, key steps that have accompanied the gradual increase in complexity, capacity and volume of the country's financial system. The scheme was first reviewed at the beginning of the Eighties, shortly after its creation, because while the funds were seen as a valuable tool to tackle problems in the banking system, it was patent that the legal and economic complexity of a crisis in an institution required expanding the funds' scope of action. This entailed the funds' remit not merely involving guaranteeing deposits in the event of an institution entering temporary receivership or becoming insolvent, but also contributing to bolstering institutions' solvency and performance, thereby avoiding in the last instance the potential, and possibly more costly, need to pay compensation for deposits.

Since then, another key feature of the Spanish deposit guarantee funds aside from the ex ante contributions is their two-fold remit or function: on the one hand, to guarantee monetary deposits (and later deposits of securities) held by credit institutions; and, on the other hand, to take any steps needed to bolster the solvency and performance of struggling institutions, protecting the interests of depositors and the Fund itself. In short, this dual function is identified by an immediate and possible objective: securing depositors' savings, and an intermediate and permanent objective: maintaining the stability of the country's financial system, by ensuring the confidence of depositors. Subsequently, off the back of the role the funds played contributing to financial stability during the banking crisis at the end of the Seventies and in the early Eighties, the funds' dual function gained weight as an essential contributor to the robustness of the country's financial institutions, alongside financial sector oversight and regulations.

A second milestone, or rather stage, in the development of the country's deposit guarantee scheme occurred as from the mid-Nineties and was directly related with Spain's involvement in the construction of the European Union and more specifically, the financial integration deemed necessary to develop an internal market. It entailed the enactment of Royal Decree-Law 12/1995 and its implementing regulations, transposing European Community Directive 94/19/EC on deposit guarantee schemes into Spanish law. The key landmark of this was to introduce a standard level of cover for deposits of EUR 20,000 across the European Union. A long while later,

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

in 2009, this minimum and maximum cover for deposits was increased to the current sum of EUR 100,000 for the 27 Member States of the European Union. It can therefore be said that during this second stage of reviewing Spain's guarantee scheme, it appears to be an essential feature in the European context: financial system integration leads inexorably to the gradual integration of the system's safety nets. In conclusion, over the Spanish deposit guarantee scheme's history spanning more than 30 years, of its three characteristic features or distinguishing traits, the first two – its dual function of guaranteeing deposits and bolstering institutions and its composition as an ex ante contribution fund – have been heavily consolidated. Meanwhile, the third feature – its inclusion in a pan-European safety net – appears to be a necessary outcome in the harmonisation process that is still ongoing.

II

Against this historical backdrop, this royal decree-law represents a third milestone in the review in the regulation of the Spanish deposit guarantee scheme. As previously, this review is not in isolation from the prevailing context and changes in the country's financial system; indeed, completely on the contrary, it coincides with the culmination of the most important financial sector restructuring in Spain's democracy history. Following two years of structural reforms, the cornerstones of which are Royal Decree-Law 9/2009 of 26 June 2009 on banking sector restructuring and the bolstering of credit institutions' own funds, Royal Decree-Law 11/2010 of 9 July 2010 on the governing bodies and other aspects of the legal regime of savings banks, and Royal Decree-Law 2/2011 of 18 February 2011 on strengthening the financial system, we find ourselves at a crucial point with this royal decree-law being the final piece in the process ensuring internal coherence of the raft of reforms.

Following completion of the banking sector restructuring as per Royal Decree Law 2/2011 of 18 February 2011 to strengthen the financial system and once the savings bank sub-sector had been restructured (with the number of institutions falling from 45 to 15, the average volume of institutions' assets rising from EUR 28.504 billion to EUR 85.512 billion and their governance structures being brought into line with those of listed banks primarily through statutory transformation into indirect saving banks), the Spanish government considers it is essential to complete the reforms by adapting Spanish deposit guarantee scheme regulations to the sector's current circumstances.

There are two primary objectives of this royal decree-law intended to complete the recapitalisation and restructuring of the financial system while retaining the system's core features:

- Unification of the existing three deposit guarantee funds in one Deposit Guarantee Fund for Credit Institutions, with the same characteristic features and functions as the three funds it replaces; and
- Updating and reinforcement of the scheme's second function: to bolster the solvency and performance of institutions, also known as the resolution function, to ensure the new unified fund can operate in a flexible manner.

Both objectives contribute to the essential principal that both the international financial authorities and the Spanish government have established as the basis for state intervention to tackle the financial crisis, which is that the financial sector itself must assume the costs incurred

restructuring and recapitalising the sector, to ensure the raft of reforms do not impact the public purse; in short, the taxpayer.

III

This royal decree-law has three titles with three articles, a repeal provision, four transitional provisions and three final provisions.

Title I sets out as general provisions the defining features of the new fund, which fundamentally replicate those existing to date for the three separate funds. It basically consists of the specific stipulations for the Fund's establishment and subrogation of the legal position of the funds that have been wound up, the nature and legal regime under private law, and the stipulations on equity and governance, through the Fund's Management Committee comprising representatives of the member institutions and the Bank of Spain.

Meanwhile, Titles II and III respectively set out the Fund's two functions: the guaranteeing deposits of and measures to bolster solvency and restructure institutions. On the one hand, it aims to provide greater legal security for legislation on sensitive matters which had until now encompassed numerous laws; on the other, it is intended to boost the capacity and flexibility of the Fund vis-à-vis bolstering institutions' capital so that the sector is in a position itself to contribute to completing the process as efficiently as possible.

Lastly, the final provisions expressly repeal an excessive number of laws and regulations governing guarantee funds to date, with a view to achieving greater legal security. The transitional provisions, meanwhile, are designed to ensure a straightforward and orderly transition of the previous system of three funds to the new single fund, transitionally regulating the Management Committee's composition and the contributions regime until a new system is established taking into consideration the risk profile of each institution across the European Union. It also explicitly states that Royal Decree 2606/1996 and other implementing legislation and regulations are still valid unless they contradict this royal decree-law.

Adopting the measures set out in this royal decree-law are crucial to bolster confidence in our financial system and complete its recapitalisation and restructuring. In effect, Royal Decree Law 2/2011 of 18 February 2011 to strengthen the financial system has been fully applied, and therefore it is the right moment now for the deposit guarantee scheme to be overhauled to unlock all available financial resources, and this cannot be delayed. Furthermore, the particularly sensitive nature of the matter means any possible uncertainty deriving from amending current legislation, as happened on previous occasions when the deposit guarantee schemes were reformed (1980, 1982 and 1995, respectively) must be avoided. It is for this reason that such measures must be adopted by virtue of a royal decree-law, fulfilling the requirements laid down in article 86 of the Spanish Constitution, given the extraordinary and urgent need for them.

By virtue of which, as authorised in article 86 of the Spanish Constitution, on the proposal of the Vice-President of the Government of Economic Affairs and the Minister of Economy and Finance, and following consideration by the Spanish Council of Ministers at a meeting on 14 October 2011, I hereby decree:

TITLE I

General provisions

Article 1. Purpose.

The purpose of this royal-decree law is to establish the Deposit Guarantee Fund for Credit Institutions.

Article 2. Establishment of the Deposit Guarantee Fund for Credit Institutions.

1. The Deposit Guarantee Fund for Credit Institutions (hereinafter, the “Fund”) is established to guarantee deposits held by credit institutions up to the limit stipulated in this royal decree-law.
2. The Guarantee Fund for Deposits in Savings Banks, the Guarantee Fund for Deposits in Banks and the Guarantee Fund for Deposits in Credit Cooperatives are hereby declared as having been wound up, and their equity will be integrated into the new Deposit Guarantee Fund for Credit Institutions, which will subrogate all their rights and obligations.

Article 3. Nature and legal regime.

1. The Fund will have its own legal personality, with full capacity to execute its duties, under private law and without being subject to the rules regulating public institutions and state-owned enterprises.
2. The Fund will be subject to the following tax regime:
 - a) It will be exempt from corporation tax as per article 9.1.c) of the recast text of the Corporation Tax Act approved by Royal Decree-Law 4/2004 of 5 March 2004.
 - b) It will be exempt from any indirect taxes accrued as a result of its incorporation, operations, and acts or tasks performed to fulfil its functions, including any deriving from the winding up of the three pre-existing funds, integrating their equity into the Fund’s equity, and the Fund subrogating all these funds’ rights and obligations, pursuant to this royal decree-law. The exemptions prevailing when this royal decree-law takes effect on transactions subject to indirect taxes, the amount of which must be passed on to the Fund in accordance with the provisions of domestic or European Union law regulating them, will also apply.

Article 4. Function of the Deposit Guarantee Fund for Credit Institutions.

The Fund’s function is to guarantee deposits as set forth in this royal decree-law and implementing regulations.

Article 5. Members.

1. All Spanish credit institutions will be obligatory members of the Deposit Guarantee Fund for Credit Institutions set forth in this royal decree-law.

Spain's Official Credit Institute (ICO) will not be subject to the obligation stipulated in the previous paragraph.

The Bank of Spain will notify the European Banking Authority as soon as possible when a credit institution joins the Fund.

2. The branches of credit institutions from states that are not members of the European Union operating in Spain will join the Fund in the circumstances and in the manner stipulated in applicable regulations. Irrespectively, when these institutions provide depositors with protection that is equal to or exceeds the protection established in this royal decree-law and the implementing regulations thereof, they may choose not to join the Fund.

3. Any breach of a credit institution's obligations with the Deposit Guarantee Fund for Credit Institutions will be classed as a serious infringement as per Act 10/2014 of 26 June 2014 on the regulation, supervision and solvency of credit institutions, unless such a breach is a one-off or isolated incident or is redressed within a reasonable period of time.

Any such breaches will be reported by the Deposit Guarantee Fund for Credit Institutions to the Bank of Spain who will, after consulting the Fund, take the necessary measures to ensure the institution once again fulfils its obligations.

Credit institutions may be expelled from the Fund if the measures adopted as per the previous paragraph have failed. Competence to decide on expulsion will reside with the Minister of the Economy and Competitiveness, as per the Bank of Spain's proposal and following a report from the Fund's Management Committee.

4. Credit institutions wishing to relocate their operations to another European Union Member State must notify the Fund giving six months' notice. During the period prior to relocation, the institution will contribute to the deposit guarantee compartment as set forth in this royal decree-law and its implementing regulations.

Contributions to the Fund's deposit guarantee compartment by credit institutions that relocate their operations to other European Union Member States and who therefore fall under the auspices of another deposit guarantee scheme will be transferred to said scheme as per the terms set forth in regulations.

Under no circumstances will contributions paid before the 12 months prior to the relocation or any made in accordance with article 6.2.b) be reimbursed. Before relocating its operations, the institution in question must settle any outstanding amounts payable for contributions approved as per the aforesaid article.

Article 6. Equity.

1. In order to perform its functions, the Fund will avail of the following funds:

- a) The annual contributions described in the following sections;

- b) Special charges imposed by the Fund on members, allocated as per the basis for calculating contributions and up to the limits stipulated in applicable regulations. These special charges will be recognised as equity once agreed; and
- c) Funds raised on securities markets, through loans or from any other type of borrowing.

In any event, if the Fund's equity is insufficient for it to fulfil its functions, the Fund will take the necessary steps to redress this.

The deposit guarantee compartment may also be bolstered with payment commitments from members to the Fund, provided such commitments:

- a) Are fully secured by unencumbered, low-risk assets that are freely available to the Fund; and
- b) Do not exceed 30% of the total funds available in the compartment.

2. The aforementioned funds will be allocated to one of the following separately accounted compartments into which the Fund will be divided:

- a) Deposit guarantee compartment; and
- b) Securities guarantee compartment.

Each compartment will cover the costs, expenses and obligations expressly attributed to it under this royal decree-law and implementing regulations.

In any event, the Fund will assign to each compartment the obligations deriving from raising funds in accordance with point c) of the previous section, as per the intended use of the funds raised.

Each compartment's contribution to covering any costs, expenses and obligations not expressly allocated to a specific compartment will be calculated based on the sum of deposits or securities guaranteed by each compartment, as per applicable regulations.

3. The Management Committee will determine the annual contributions payable by members into the deposit guarantee compartment.

Annual contributions will be calculated on the basis of the sum of guaranteed deposits held by each member and its risk profile.

The Bank of Spain will develop the methods needed to ensure contributions are commensurate with members' risk profiles. To this end, it will take the following factors into account:

- a) The difference between the statutory threshold for the key indicators set out in solvency regulations and that actually held by the institution.
- b) The difference between the volume of own funds and liabilities eligible for the minimum requirement of own funds and eligible liabilities to which the institution is subject as per Act 11/2015 of 18 June 2015 on the recovery and resolution of credit institutions and investment firms and that actually held by the institution.
- c) Any guidelines published in this regard by the European Banking Authority pursuant to article 13.3 of Directive 2014/49/EU of the European Parliament and of the Council of 16 April 2014 on deposit guarantee schemes.
- d) The phase of the economic cycle and impact of pro-cyclical contributions.
- e) Credit institutions that are members of one of the institutional protection schemes stipulated in article 113.7 of Regulation (EU) No 575/2013 of the European Parliament and

of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 that has established a fund ex ante guaranteeing the institutional protection scheme has funds directly at its disposal for measures to bolster liquidity and solvency and that contribute to preventing resolution, may make smaller contributions to the Deposit Guarantee Fund.

Concerning the institutional protection schemes referred to in additional provision five of Act 10/2014 of 26 June 2014 on the regulation, supervision and solvency of credit institutions, the central institutions and members of these schemes are globally subject to the risk weight set for calculating contributions to the Deposit Guarantee Fund, for the central institution and the members on a consolidated basis.

4. Funds in the deposit guarantee compartment must amount to at least 0.8 percent of guaranteed deposits.

However, the Fund may ask the European Commission to reduce this requirement to 0.5 percent due to factors such as:

- a) The unlikelihood of a significant part of the funds in the deposit guarantee compartment being used for depositor protection measures other than resolution procedures; and
- b) The probability of credit institutions being subject to resolution procedures in the event of insolvency due to a highly concentrated banking sector and the large volume of assets held by the major institutions.

5. The annual contributions stipulated in section 1.a) to the securities guarantee compartment cannot exceed 0.3 percent of the value of covered securities.

6. Contributions to a compartment will be suspended when the assets not committed to any of the operations proper to the purposes of that compartment are equal to or greater than 1 percent of the total amounts secured by the compartment.

Article 7. Management Committee

1. The Fund will be governed and managed by a Management Committee comprising 11 members: a representative from Spain's Ministry of Economy and Competitiveness, one from the country's Ministry of Finance and Public Administrations, four appointed by the Bank of Spain, and five designated by the associations representing the member credit institutions, under the terms set forth in regulations.

2. The Ministry of Economy and Competitiveness representative will be the General Secretary of the Treasury and Financial Policy, who will act as the Management Committee's Deputy Chairperson, and will stand in for the Chairperson if this post is vacant, or if the individual occupying it is absent or ill.

The Ministry of Finance and Public Administrations representative will be the State General Comptroller.

The Bank of Spain representatives will be appointed by its executive committee, and one of these representatives will be the Deputy Governor of the central bank, who will serve as the Management Committee's Chairperson.

Three of the representatives of the member institutions will be appointed by the associations representing banks, one by those representing savings banks, and one by those representing credit co-operatives, under the terms set forth in regulations.

Individuals designated by member institutions will be of good professional and commercial repute and will have the knowledge and experience needed to fulfil their duties. The criteria set forth in article 2 of Royal Decree 1245/1995 of 14 July 1995 on the founding of banks, cross-border operations and other matters concerning the legal regime of credit institutions will be considered when determining these conditions.

The heads of the relevant ministerial departments will appoint a replacement representative from the Ministry of the Economy and Competitiveness and one from the Ministry of Finance and Public Administrations. The same procedure will also be followed for the appointment of two replacement representatives for the Bank of Spain and one for each representative of the member institutions, who will stand in for the representatives should they be ill or absent or vacate their position. The institutions' representatives may also be replaced as instructed by the Chairman of the Fund's Management Committee should the Management Committee need to discuss any matters directly related with an institution or group of institutions to which the representative is related as a director or executive or under civil, employment or mercantile contract, or through any other relationship that could undermine the objectiveness of their decisions, thereby requiring them to abstain.

3. The term of office of the members of the Management Committee will be four years on a rolling basis.

4. Representatives of credit institutions that are members of the Fund will stand down in the following circumstances:

- a) Should their term of office come to an end;
- b) Should they hand in their notice; and
- c) Should the Management Committee decide to sever the relationship due to a serious breach of a representative's obligations, a persistent inability to perform their duties or because of a lack of honourableness.

5. A quorum of half of the Management Committee must be reached for meetings to be held. Resolutions will be adopted when approved by the majority of members.

Nevertheless, a two-third majority will be needed to agree the imposition of any special charges resulting in payments additional to the ordinary annual contributions to be made or which bring forward payment of the latter, and to implement any of the measures considered in relation to the resolution plans referred to in article 11.

6. The Management Committee will establish its own rules of operation to duly carry out its functions.

7. Members of the Management Committee will not be entitled to any form of financial compensation.

TITLE II

Function of deposit guarantee

Article 8. Deposit guarantee.

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

- a) When an institution has been declared insolvent or a request has been filed through the courts for insolvency.
- b) When deposits have not been reimbursed and the Bank of Spain decides that, for reasons directly associated with the institution's financial position, the institution is unable to repay the deposits immediately. The Bank of Spain will decide on the case as soon as possible and, in any event, within the statutory deadline, having given the institution an opportunity to be heard, after confirming the institution has been unable to reimburse the deposits past-due and callable on demand.

2. The Fund will reimburse holders of securities or other financial instruments deposited with a credit institution for secured amounts, with a charge solely to the securities guarantee compartment, in accordance with the law, in the following circumstances:

- a) When an institution has been declared insolvent or a request has been filed through the courts for insolvency, and these circumstances involve suspending the return of the securities or financial instruments; however, these amounts will not be paid if, within the stipulated return period, the aforementioned suspension is lifted.
- b) When the securities or financial instruments have not been returned and the Bank of Spain decides that, for reasons directly associated with the institution's financial position, the institution is unable to return them immediately. The Bank of Spain will decide on the case as soon as possible and, in any event, must make a decision on the source of any compensation within the statutory deadline.

3. All payments made by the Fund pursuant to the previous two sections will be in euros, either in cash or by another generally accepted means of payment. Securities or other financial instruments will be measured as stipulated in prevailing regulations.

By the mere fact of making payment, the Fund will assume the creditor or investor rights associated with the consideration paid. Proof of payment will be sufficient to accredit this right.

In the event the securities or other financial instruments deposited with the institution are returned by it after payment is made, the Fund may seek reimbursement for the amount paid, in whole or in part, if that amount is greater than the difference between the value of the securities or other financial instruments deposited with the institution and the amount paid to the investor. The Fund will be authorised, for this purpose, to dispose of the securities or other financial instruments for the sum that is applicable, in accordance with the corresponding regulatory measurement and allocation criteria.

Article 9. Other guarantees.

The Fund will compensate investors that have deposited monetary resources, securities or other financial instruments with a member institution for safeguarding and administration or for the

performance of any of the investment services stipulated in Securities Market Act 24/1988 of 28 July 1988, in the circumstances described in the previous article. This cover will be provided in the form and within the time period and scope established in prevailing regulations.

Article 10. Secured sums.

1. Deposits will be secured up to a limit of EUR 100,000 or, in the case of deposits in other currencies, an equivalent sum at the applicable exchange rate, under the terms set forth in regulations.

The following deposits will also be secured, irrespective of their amount, for three months from the moment the funds have been credited or these deposits have become legally transferable:

- a) Deposits from real estate transactions involving private residential properties;
- b) Deposits deriving from payments received by the depositor on a one-off basis in connection with marriage, divorce, retirement, dismissal, disability or death; and
- c) Deposits based on insurance payments or indemnity payments for damages as a result of a criminal act or judicial error.

2. The amount guaranteed to the investors who have entrusted to the credit securities or financial instruments will be independent of the guarantee of the preceding paragraph and will reach a maximum amount of 100,000 euros, in accordance with the law.

Article 11. Assistance for the resolution of a credit institution.

1. In order to perform its role stipulated in article 4 and defending the interests of depositors with guaranteed funds and the Fund itself, the Fund may take the necessary steps to support the resolution of a credit Institution drawing on the funds in the deposit guarantee compartment.

To this end, when a credit institution is in resolution as per Act 11/2015 of 18 June 2015, as part of the approved resolution plan the Fund will contribute to financing the resolution of credit institutions pursuant to article 53.7 of said act.

2. The Fund may call on the FROB's Governing Committee to provide any information on the resolution needed to facilitate its involvement, as stipulated in this article. On receiving any such information, the Fund will be subject to the duty of secrecy established in article 59 of Act 11/2015 of 18 June 2015.

3. The FROB will, after consulting the Fund, determine the sum the Fund will be required to contribute. In any event, the Deposit Guarantee Fund for Credit Institutions will not have to assume any financial costs exceeding the lower of the following amounts:

- a) An amount equivalent to the payment it would have had to make on opting, at the start of the resolution process, to pay the sums secured in the event of the institution's wind-up. If, based on the subsequent evaluation stipulated in article 5.3 of Act 11/2015 of 18 June 2015, it is concluded that the Fund's contribution to the resolution has exceeded the net losses that it would have incurred in case of wind-up as per prevailing insolvency law, the National Resolution Fund will reimburse the difference between the two amounts to the Deposit Guarantee Fund for Credit Institutions.

b) Fifty percent of the threshold set for the deposit guarantee compartment as per article 6.4.

4. When the Fund makes payments as part of a bank resolution, it will be entitled to claim an amount equal to its payments from the credit institution.

5. Exceptionally and provided that no resolution process has commenced, the Fund could use its funds to halt the winding up of a credit institution when:

a) The cost of this intervention is lower than the compensation for secured sums in the event of a wind-up;

b) Special measures are imposed on the credit institution to bring it into compliance with regulation, supervision and conduct rules;

c) The intervention is conditional upon the institution's commitment to guarantee access to the secured deposits; and

d) The Fund considers the cost can be covered by the ordinary and extraordinary contributions of members.

The aforementioned conditions may be specified in regulations.

Article 12. Stress tests.

1. The Bank of Spain will subject the Fund to stress tests at least every three years to check the Fund's ability to honour its payment obligations.

2. The Fund must provide the Bank of Spain with any information needed for the latter to perform its stress tests. The Bank of Spain may only use this information for performing these tests and will not store it for longer than necessary.

First Additional Provision. Division of the Deposit Guarantee Fund for Credit Institutions' equity into compartments.

The rights acquired and obligations assumed by the Deposit Guarantee Fund for Credit Institutions before the effective date of Act 11/2015 of 18 June 2015 on the recovery and resolution of credit institutions and investment firms will be exclusively attributed to the deposit guarantee compartment.

Second Additional Provision. Period for contributing to the Deposit Guarantee Fund for Credit Institutions.

1. The level of own funds the Deposit Guarantee Fund for Credit Institutions is required to have pursuant to article 6.4 must be reached no later than 3 July 2024.

Without prejudice to this, institutions will only be obliged to contribute when the Fund so requests, specifying for each institution the sum of ordinary and extraordinary contributions for each institution. General obligations to contribute cannot arise prior to this.

2. If during the period between the entry into force of Act 11/2015 of 18 June 2015 and the recovery and resolution of credit institutions and investment firms and 3 July 2024, the financial

resources available reach the level stipulated in the previous section but then fall below two-thirds of this level, annual contributions to the deposit guarantee compartment will be adjusted so that the threshold can be reached within a maximum of six years.

3. The period stipulated in section 1 may be extended to 3 July 2028 if between the entry into force of Act 11/2015 of 18 June 2015 and 3 July 2024 payments made by the deposit guarantee compartment exceed 0.8 percent of the deposits secured as at 3 July 2024.

Single Repeal Provision.

All other legal provisions of equal or lesser rank that contradict the content of this royal decree-law are repealed, in particular:

Royal Decree-Law 4/1980 of 28 March 1980 giving the Deposit Guarantee Fund legal personality and other supplementary measures;

Royal Decree 18/1982 of 24 September 1982 on guarantee funds for deposits in savings banks and credit cooperatives; and

Article 1 and sections 1 (aside from paragraph 4) and 6 of article 2 of Royal Decree 2606/1996 of 20 December 1996 on deposit guarantee funds for credit institutions.

First Transitional Provision. Validity of certain provisions.

Any of the provisions of Royal Decree 2606/1996 of 20 December 1996 on deposit guarantee funds for credit institutions that do not contradict this royal decree-law will remain in force until the Government passes the corresponding regulation implementing it.

Ministerial Order ECO/318/2002 of 14 February 2002, Ministerial Order ECO/2801/2003 of 3 October 2003 and Ministerial Order EHA/3515/2009 of 29 December 2009 will remain in force in such circumstances.

Any references to the wound-up funds in prevailing regulations will be understood to mean the new Fund, while any references to the respective management committees will be understood to mean the Fund's new Management Committee.

Second Transitional Provision. Contributions regime.

The regime for contributions to the Deposit Guarantee Fund for Credit Institutions will be that established in this royal decree-law and its implementing regulations until, in accordance with the corresponding European Union regulations, a new contributions regime is implemented in regulations that is calculated according to the volume of deposits and the risk profile of each member.

Third Transitional Provision. Appointment of members of the Management Committee.

The representatives of credit institutions and the Bank of Spain on the Fund's Management Committee will be appointed as per article 7 within two months of this royal decree-law entering into force.

If new members of the Deposit Guarantee Fund for Credit Institutions' Management Committee are not elected within this period pursuant to this royal decree-law, the members' representatives on this committee will be those who sat on the management committees of the three funds wound up when this royal decree-law came into force. They will be assigned 50% of all the committee's votes.

The Bank of Spain's representatives will, in such circumstances, be those sitting on the management committees of the three wound-up funds, and they will have 50% of all votes.

Fourth Transitional Provision. Processes in progress.

The stipulations in Title III of this royal decree-law will be applicable in any processes to restructure and bolster the own funds of credit institutions that have not been completed or are likely to have a judicial impact on entry into force of this royal decree-law.

First Final Provision. Statutory authorisation.

The Government is authorised to pass the necessary legal provisions for the implementation and execution of and compliance with this royal decree-law.

Second Final Provision. Legislative powers.

This royal decree-law is passed in accordance with rules 6, 11 and 13 of article 149.1 of the Spanish Constitution, which grants the State competence over corporate law, the bases for the regulation of credit, banking and insurance, and the basic rules and coordination of general economic planning, respectively.

Third Final Provision. Entry into force.

This royal decree-law will enter into force on the same day it is published in the Official State Gazette.

Issued in Madrid on 14 October 2011.

JUAN CARLOS R.

President of the Government,
JOSÉ LUIS RODRÍGUEZ ZAPATERO