



THE REPUBLIC OF UGANDA

**THE FINANCIAL INSTITUTIONS
(DEPOSIT PROTECTION FUND)
REGULATIONS, 2019.**

Statutory Instrument No. 96

STATUTORY INSTRUMENTS SUPPLEMENT

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S T A T U T O R Y I N S T R U M E N T S

2019 No. 96.

THE FINANCIAL INSTITUTIONS (DEPOSIT PROTECTION FUND)
REGULATIONS, 2019.

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2019 No. 96.

**Financial Institutions (Deposit Protection Fund) Regulations,
2019.**

(Under section 111G of the Financial Institutions Act, 2004, Act 2 of 2004)

IN EXERCISE of the powers conferred upon the Deposit Protection Fund Board by section 111G of the Financial Institutions Act, 2004, and in consultation with the Minister responsible for finance, these Regulations are made this 18th day of October, 2019.

PART I—PRELIMINARY

1. Title.

These Regulations may be cited as the Financial Institutions (Deposit Protection Fund) Regulations, 2019.

2. Application.

These Regulations apply to all contributing institutions, depositors of contributing institutions, the Board and Management of the Fund.

3. Objectives of Regulations.

The objectives of these Regulations are to provide for—

- (a) the general administration and operations of the Fund;
- (b) contributions to the Fund;
- (c) payout of protected deposits;
- (d) allowable investments for the Fund; and
- (e) penalties applicable to contributing institutions for non-compliance with the Act and these Regulations.

4. Interpretation.

In these Regulations, unless the context otherwise requires-

“Act” means the Financial Institutions Act, 2004;

“Board” means the Board appointed by the Minister to govern the Fund under section 110 of the Act;

“Central Bank” means the Bank of Uganda;

“competent authority” means any person or organisation empowered by any law in force in Uganda to block a bank account including the court, a regulator, Uganda Revenue Authority or the Financial Intelligence Authority;

“contributing institution” means a financial institution or microfinance deposit-taking institution contributing to the Deposit Protection Fund in accordance with section 111 of the Act;

“currency point” has the value assigned to it in Schedule 1 to these Regulations;

“day” means a calendar day;

“Fund” means the Deposit Protection Fund established under the Act;

“Minister” means the Minister responsible for finance;

“significant interests” means a shareholding of at least five percent in a contributing institution;

“substantial shareholder” means any person who holds more than five percent of the shares in a company.

5. Management of the Fund.

The Fund shall be governed by the Board appointed under section 110 of the Act.

6. Duties and powers of the Board.

(1) The Board is responsible for the general direction and supervision of the Fund.

(2) Without prejudice to the generality of subsection (1), the Board shall—

- (a) be responsible for the general management of the affairs of the Fund;
- (b) oversee the operations of the Fund and provide strategic direction to the Fund;
- (c) review and approve operating plans, budgets, reports and financial statements of the Fund;
- (d) ensure prudent management of Fund investments;
- (e) be responsible for the formulation of policies of the Fund;
- (f) appoint the Chief Executive Officer and other employees of the Fund;
- (g) provide guidance to the Chief Executive Officer and other staff of the Fund;
- (h) review and approve rules and procedures for appointment, promotion, termination, discipline and terms and conditions of service of the staff of the Fund;
- (i) be responsible for the public awareness activities of the Fund; and
- (j) do any other thing which may be necessary for the proper management of the Fund.

7. Remuneration of Board members.

The members of the Board shall be paid such allowances, retainer fees and other benefits as may be determined by the Minister.

8. Meetings of the Board.

Schedule 2 to these Regulations has effect in relation to meetings of the Board and other matters provided for in that Schedule.

9. Chief Executive Officer.

(1) The Fund shall have a Chief Executive Officer who shall be appointed by the Board on such terms and conditions specified in his or her instrument of appointment.

(2) The Chief Executive Officer appointed under these Regulations shall hold office for a period of five years and is eligible for re-appointment for one more term.

(3) The Chief Executive Officer shall be the accounting officer of the Fund and a full time employee of the Fund.

(4) The Chief Executive Officer shall be a person of high moral character and proven integrity, and who—

- (a) holds a degree and at least ten years of professional experience in the field of banking, law, finance, accounting, economics or insurance;
- (b) has at least five years experience at management level;
- (c) is a fit and proper person of recognised professional standing;
- (d) is not an undischarged bankrupt;
- (e) was not a director or part of senior management of a closed financial institution or microfinance deposit taking institution;

- (f) is not a member of Parliament or a local government council, a salaried employee of any government entity, a director, officer, employee or significant shareholder of any institution whose deposits are protected by the Fund; and
- (g) has never been convicted of a criminal offence involving fraud or dishonesty.

(5) Where a person referred to in subsection (4) (f) is to be appointed as Chief Executive Officer, the person shall resign his or her office before assuming the office of Chief Executive Officer.

(6) For the purposes of this regulation, “fit and proper person” means a person possessing all the attributes to be taken into account in determining the suitability of a person to be appointed as Chief Executive Officer of the Fund including the person’s general probity, competence and soundness of judgment for the fulfillment of the responsibilities of the office and the diligence with which the person is likely to fulfill those responsibilities.

(7) The Chief Executive Officer shall not, while holding that office, hold any other office or be a director of any other company or other establishment without the prior approval of the Board.

10. Duties of Chief Executive Officer.

(1) Subject to the Act and the general supervision and control of the Board, the Chief Executive Officer shall be responsible for the day to day management of the affairs of the Fund.

(2) Without prejudice to the generality of subregulation (1), the Chief Executive Officer shall—

- (a) initiate and implement the policies and programs of the Fund and submit report to the Board and ensure that agreed objectives, targets and service standards are met;

- (b) organise the activities of the Fund and manage its operations;
- (c) propose internal rules and regulations of the Fund for approval by the Board;
- (d) manage the property of the Fund;
- (e) take appropriate measures to implement the decisions of the Board;
- (f) serve as the accounting officer of the Fund for purposes of the procurement and disposal requirements of the Fund;
- (g) prepare an administrative expenses and budget plan for the Fund;
- (h) execute the budget of the Fund within the limits stipulated by the Board;
- (i) prepare the annual report of the Fund and its annual financial statements;
- (j) organise the payout of insured deposits;
- (k) represent the Fund at various fora as may be required from time to time; and
- (l) perform any other duties as may be assigned by the Board from time to time.

11. Termination of appointment of Chief Executive Officer.

(1) The Chief Executive Officer may, at any time, resign his or her office by giving sixty days notice in writing to the Board.

(2) The Board may terminate the appointment of the Chief Executive Officer—

- (a) if information relating to the conduct of the Chief Executive Officer, which could have precluded his or her appointment if it had been made available to the Board, is brought to the attention of the Board;

- (b) for incompetence or failure to perform his or her duties as specified in the employment contract;
- (c) for misbehavior or misconduct;
- (d) for inability to perform the functions of his or her office arising from infirmity of body and mind;
- (e) if he or she is convicted of an offence involving fraud or dishonesty; or
- (f) for bankruptcy or insolvency.

12. Board Secretary.

(1) The Board shall have a Secretary appointed by the Board on such terms and conditions as the Board may determine.

(2) The Secretary to the Board shall report to the Board through the Chief Executive Officer.

(3) The Secretary to the Board shall—

- (a) arrange for Board meetings;
- (b) keep records of the proceedings of the Board;
- (c) have custody of the seal of the Fund;
- (d) provide legal advice to the Board; and
- (e) perform such other duties as the Board may direct.

13. Seal of the Fund.

(1) The seal of the Fund shall be in a form determined by the Board.

(2) The seal of the Fund shall be authenticated by the signature of the Chief Executive Officer and witnessed by the Secretary to the Board.

(3) An instrument or contract which, if executed or entered into by a person other than a body corporate, would not require to be under seal may be executed or entered into on behalf of the Board by the Chief Executive Officer or by any member of the Board or any other person if that member or other person has been duly authorised by resolution of the Board to execute or enter into the instrument or contract, as the case may be.

(4) A document issued by the Fund and sealed with the seal of the Fund and authenticated in the manner provided under this regulation shall be received and taken to be a true document without further proof, unless the contrary is shown.

14. Staff of the Fund.

The Board may appoint such officers and other staff of the Fund as are necessary for the proper discharge of its functions under the Act and these Regulations, on such terms and conditions of service as the Board may determine.

15. Protection of members of the Board and staff of the Fund.

A member of the Board or an employee of the Fund or a person acting on the directions of the Board or of an officer of the Fund, is not personally liable for any act or omission done or omitted to be done in good faith in the exercise of functions, powers or duties under the Act and these Regulations.

16. Duty not to disclose information.

(1) Subject to the Constitution and the Access to Information Act, 2005, a member of the Board or a member of staff of the Fund shall not—

- (a) disclose any record, document, material or information, which he or she may have obtained or has access to in the course of his or her employment; or
- (b) divulge, publish or otherwise disclose, to any person any document, material or information referred to in paragraph (a) unless the disclosure is required—

- (i) under any law or by an order of court of competent jurisdiction;
- (ii) for the performance of a duty or the exercise of a function under the Act or these Regulations; or
- (iii) upon the written authorisation of the relevant institution or person.

(2) This regulation does not apply to any document, material or information which, at the time of the disclosure, is or has already been made lawfully available to the public from any source.

(3) A person who has any document, material or information which to his or her knowledge has been disclosed in contravention of subregulation (1) shall not, in any manner, disclose it to any other person.

(4) A person who ceases to be a member of the Board or a member of staff of the Fund shall not disclose any information which he or she may have obtained in the course of his or her employment at the Fund for a period of seven years.

(5) Any person who contravenes this provision commits an offence and is liable, on conviction, to a fine not exceeding one hundred currency points or imprisonment not exceeding two years or both.

PART III—OPERATIONS OF THE FUND

17. Determination of protected deposit by the Minister.

The Minister may, in accordance with section 111C (2) of the Act, from time to time by statutory instrument, determine the extent to which deposits are protected.

18. Payment of claims.

(1) The Fund shall make payment in respect of any protected deposit where a contributing institution has been closed and the closure necessitates a pay-out.

(2) All payments made by the Fund in respect of protected deposits and all associated costs shall be borne by the Fund.

(3) Where the Fund is obliged to commence payments under subregulation (1) in respect of a protected deposit, the Fund shall, within ninety days from the date of closure of a contributing institution, make payment to the depositor based on the records of the contributing institution and the opinion of the Fund as regards entitlement of the depositor to the amount claimed.

(4) For purposes of determining a protected deposit under the Act and these Regulations, the amount, being the aggregate credit balance of any accounts maintained by a customer at a financial institution less any liability of the customer to the financial institution, shall be a protected deposit to the extent determined by the Minister under section 111C (2).

(5) The Fund shall consider the Bank of Uganda closing mid exchange rate on the day of closure of the institution to determine the extent to which a foreign currency denominated deposit shall be protected.

(6) The Fund shall not be liable to pay any interest on protected deposits.

(7) The aggregate credit balance of any accounts maintained by a customer referred to under subregulation (4) shall be determined by the Fund taking into account any interest due and owing to the customer at the time of closure of a contributing institution.

(8) For purposes of this regulation, “liability” means any non-performing credit facility under the Act or the Microfinance Deposit-taking Institutions Act, 2003.

19. Lodging of claims.

(1) A customer of a contributing institution may, within ten years from the date on which a contributing institution is closed and placed under liquidation, lodge a claim with the Fund for payment to the customer out of the Fund, of any protected deposit.

(2) The Fund may, before paying any claim lodged under subregulation (1), require the claimant to furnish it with such documentary proof as may be required by the Fund.

(3) The Fund may decline to make any payment to a person who, in its opinion, was responsible for or may have profited directly or indirectly from the circumstances leading up to the closure of the contributing institution.

(4) For purposes of section 111C (6) of the Act and subregulation (3), the Fund may decline to make payment to a person who was a director, a member of senior management or a substantial shareholder of a closed institution within the twelve months immediately preceding the closure of an institution.

20. Blocked or suspended accounts.

No payment shall be made to a customer whose account had been blocked, suspended or subject to an order of a competent authority without proof that the said order has been lifted by the competent authority.

21. Appointment of agent.

The Fund may appoint an agent for purposes of paying protected deposits or executing any of its other functions.

22. Provision of information by liquidator.

The liquidator or receiver shall cooperate with the Fund and shall, within forty eight hours of closure of a contributing institution, provide data and information to the Fund relating to deposits per customer, credit facilities per borrower and whether or not the loan is non-performing.

23. Bank account.

(1) The Board shall maintain an account with the Central Bank in which premiums paid by contributing institutions, investment income, grants and money borrowed by the Fund shall be deposited.

(2) The Fund may open an account with a commercial bank for purposes of defraying the operational expenses of the Fund and payment of protected deposits.

24. Enforcement by the Fund.

Where a contributing institution fails to pay the premium or civil penalty computed in accordance with section 111 of the Act, the whole amount shall become due and owing to the Fund.

25. Deposits with amalgamating institutions.

(1) Where a person has deposits in two or more contributing institutions that amalgamate and continue in operation as one institution, a deposit of that person with an amalgamating contributing institution on the day on which the amalgamated contributing institution is formed, less any withdrawal from the deposit, shall be deemed to be and continue to be separately insured for three months from the date the amalgamating institution becomes part of the amalgamated institution.

(2) Where a contributing institution proposes to acquire the deposits of another institution or amalgamating contributing institution, the deposits of the contributing institution or amalgamating contributing institution, less any withdrawal shall continue to be insured separately until the date of acquisition.

(3) Subject to subregulation (1), where a contributing institution assumes the deposits of another contributing institution, the deposits shall be deemed to be placed with the contributing institution that assumes them as of the day on which they are assumed.

(4) A contributing institution shall maintain records in the format approved by the Board.

(5) For the purposes of this regulation—

- (a) “amalgamated institution” means an institution formed as a result of the merger of two or more contributing institutions; and

- (b) “amalgamating institutions” means any of the contributing institutions that merges with one or more contributing institutions to form one contributing institution, with or without the intervention of the Central Bank.

26. Discharge from liability.

Upon payment of the protected deposit, whether through an agent or otherwise, as provided for in the Act and these Regulations, the Fund or its agent shall be discharged from all liabilities to the customer.

27. Eligible instruments for the Fund portfolio.

(1) The Fund portfolio shall comprise of the following eligible instruments—

- (a) cash and cash equivalents in deposit;
- (b) current accounts held with the Central Bank;
- (c) repo instruments for liquidity management purposes only;
- (d) Government securities issued or explicitly guaranteed by the Government of Uganda; and
- (e) foreign exchange spot transactions in eligible currencies.

(2) Eligible currencies referred to in subregulation (1) (e) shall be Uganda shillings or other freely convertible currencies to which the Fund is exposed by more than five percent of the total amount of protected deposits.

28. Access to information.

(1) The Fund or a person authorised by the Fund may, by notice in writing, require any person to furnish to the Fund or to the authorised person, within the period specified in the notice, returns or information specified in the notice.

(2) The Fund or a member of staff of the Fund, shall not disclose to any person or use any return or information acquired under subregulation (1), except for the purpose of achieving the objectives of the Fund.

(3) The Central Bank shall promptly advise the Fund of any material changes in the deposit liability or any condition of a contributing institution that may cause significant risk to the Fund.

(4) The Central Bank shall, upon request made to it by the Fund, disclose any information provided to it by a contributing institution under section 80 (5) of the Act or any other document relating to the performance of a contributing institution prepared by the Central Bank including—

- (a) on-site examination and off-site financial analysis reports; and
- (b) information required by the Fund to compute protected deposits per customer, including credit facilities per borrower and the performance status of the loans.

(5) The Central Bank shall, before disclosing any information under subregulation (4), satisfy itself that the information is required for the proper discharge of the functions of the Fund.

29. Information to be provided by contributing institutions.

(1) The Fund may, at any time, require any contributing institution to submit such documents and information as the Fund may specify to enable the Fund to—

- (a) ascertain the type, number and value of protected deposits held with the contributing institution;
- (b) pay customers with protected deposits in the shortest possible time; and
- (c) generally, ascertain the financial condition of the contributing institution.

(2) The Fund may carry out inspections of contributing institutions and ascertain the type, number and value of protected deposits which, but for the closure would be payable by the contributing institution

and may, in addition carry out inspections of contributing institutions for purposes of execution of its mandate.

(3) Notwithstanding subregulation (1), the Fund may, from time to time, require any institution to file additional reports as the Fund may deem necessary for purposes of the Act and these Regulations.

(4) Every institution shall, within a period of four months after the end of its financial year, submit to the Fund a copy of its audited statement of accounts, balance sheet, management letter and profit and loss account.

(5) Every contributing institution shall immediately inform the Fund whenever it has reasonable grounds to believe that—

- (a) it will not be in a position to meet its obligations towards its depositors; or
- (b) it intends to suspend payment of its debts to any of its creditors.

(6) A person who contravenes subregulation (1) commits an offence and is liable, on conviction, to a fine not exceeding two hundred currency points or imprisonment not exceeding two years or both; and in case of a continuing breach, is liable to an additional penalty of fifty currency points in respect of each day on which the offence continues.

30. Public awareness.

(1) The Fund shall provide contributing institutions with display material containing the Fund logo.

(2) Every contributing institution shall permanently exhibit the display materials provided under subregulation (1) at its public entrance, exit doors and adjacent to each teller station in its banking hall and in any other conspicuous place.

(3) Every contributing institution shall display the statement “Deposit Protected by the Deposit Protection Fund” on its websites, official stationery and print advertising.

(4) All radio and television adverts made by a contributing institution shall contain a statement that its deposits are protected by the Deposit Protection Fund.

(5) Any institution that contravenes this regulation commits an offence and is liable, on conviction, to a fine not exceeding two hundred and fifty currency points, and in case of a continuing contravention, to a further fine not exceeding fifty currency points for each day on which the contravention continues.

31. Annual report of the Fund.

(1) The Board shall, within four months after the close of each financial year, submit audited financial statements and an annual report of the operations of the Fund to the Minister and all contributing financial institutions and microfinance deposit taking institutions.

(2) The annual report shall include—

- (a) a self-assessment on the performance of the Fund in relation to its statutory duties;
- (b) statistical data on insured institutions and an analysis of potential of future losses;
- (c) details of the operations of the Fund including—
 - (i) the contributions collected;
 - (ii) the management of the Fund;
 - (iii) the deposits paid;

- (iv) investment performance;
- (v) highlights of budget performance;
- (vi) summary of the annual work plan;
- (vii) the remuneration and allowances paid to the Board;
- (viii) the receivership and liquidation activities; and
- (ix) the internal governance and its management.

SCHEDULE 1

CURRENCY POINT

Regulation 4

A currency point is equivalent to twenty thousand shillings.

SCHEDULE 2

Regulation 8

MEETINGS OF THE BOARD.

1. Meetings.

(1) The Board shall meet as often as is necessary for the proper discharge of its functions but, in any event, not less than once a quarter.

(2) The chairperson shall preside at the meetings of the Board and in his or her absence, the members of the Board present shall select one of the members to preside at the meeting.

2. Procedure.

(1) Four members of the Board shall form a quorum at a meeting of the Board.

(2) The Board shall, as much as possible, arrive at its decisions by consensus.

(3) Where there is need to vote at a meeting of the Board, a question proposed at a meeting of the Board shall be determined by a simple majority vote of members present and voting.

(4) Where there is an equality of votes under subparagraph (3), the chairperson shall have a casting vote in addition to his or her deliberative vote.

(5) The Board may co-opt a technical person or expert to attend its meetings, and a person so co-opted shall participate at the deliberations of the Board but shall have no right to vote.

(6) The secretary to the Board shall keep the minutes of each meeting of the Board.

(7) The Board may constitute such committees of the Board as may be necessary to discharge the functions of the Board.

(8) The minutes kept under subparagraph (7) shall be confirmed by the Board at the next meeting and signed by the chairperson of that meeting.

(9) In all matters not provided for under the Act and these Regulations, the Board may regulate its own procedure.

3. Validity of decisions and acts of Board and committees of Board.

No decision made or act done by or under the authority of the Board or any of its committees shall be rendered invalid solely because—

- (a) there was one or more vacancies on the Board or the committee, as the case may be; or
- (b) there were irregularities in the appointment of a member of the Board or a member of the committee, as the case may be; when the decision was taken or the act was done or authorised.

4. Decision by circulation of papers.

Notwithstanding paragraph 2, where the chairperson so directs, a decision may be made by the Board by circulation of the relevant papers among all the members and the expression in writing of their views, but any member shall be entitled to require that any such decision should be deferred until the subject matter is considered at a meeting of the Board.

5. Disclosure of interest.

(1) A member of the Board who has a direct or indirect personal interest in a matter being considered or about to be considered by the Board shall, as soon as possible after the relevant facts have come to his or her knowledge, disclose the nature of his or her interest to the Board.

(2) A disclosure of interest under subparagraph (1) shall be recorded in the minutes of the meeting of the Board and the member making such disclosure shall not, unless the Board otherwise determines in respect of that matter—

- (a) be present during any deliberation on the matter by the Board; or
- (b) take part in the decision of the Board.

(3) When there is no quorum for the continuation of a meeting only because of the exclusion of a member from the deliberation on a matter in which he or she has disclosed a personal interest, the other members present may—

- (a) postpone the consideration of that matter until a quorum, without that member, is realised; or
- (b) proceed to consider and decide the matter as if there was a quorum.

Cross References

Constitution of the Republic of Uganda, 1995.

Access to Information Act, 2005, Act 6 of 2005.

Microfinance Deposit-taking Institutions Act, 2003, Act 5 of 2003.

BEN PATRICK KAGORO,
Chairperson, Deposit Protection Fund.