

Ordinance No. 32

on Reporting Requirements and Assignee's in Bankruptcy Budget

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Chapter One

General Provisions

Article 1. This Ordinance shall establish the procedure, form and terms of:

1. keeping the assignee's journal under Article 32, para. 1 of the Law on Bank Bankruptcy;
2. preparing and submitting to the Deposit Insurance Fund (hereinafter referred to as 'the Fund') the reports provided for in the Law on Bank Bankruptcy;
3. presenting the bankruptcy expenses budget and requests for granting permission to incur extraordinary expenses in the bankruptcy proceedings to the chairman of the Fund's Management Board for approval;
4. allowing bank creditors to review the assignee's journal and the reports under item 2.

Chapter Two

Assignee's in Bankruptcy Journal

Obligations for Keeping the Journal

Article 2. (1) An assignee in bankruptcy shall record daily, at the end of the respective business day, in a special journal with pages numbered serially and kept together by string and seal, as well as on electronic media, each of his actions relating to management, preservation or liquidation of the bankruptcy estate rights, and to distribution of collected cash funds.

(2) At least the following actions of the assignee in bankruptcy shall be mandatorily recorded in the assignee's journal:

1. decisions made and transactions carried out by the assignee in bankruptcy regarding rights included in the bankruptcy estate;
2. meetings with debtors or creditors of the bank in bankruptcy resulting in submitted or received proposals regarding rights included in the bankruptcy estate;
3. transaction negotiations relating to rights included in the bankruptcy estate;

4. actions related to liquidation of property or rights included in the bankruptcy estate, such as drawing up a list and giving an appraisal, publishing a notice on a public sale, conducting an auction or using another method for liquidation, issuing an assignment order, reviewing an appeal against a liquidation action;

5. actions relating to collection of claims of the bank in bankruptcy;

6. filing claims or other actions to judicial authorities regarding rights included in the bankruptcy estate;

7. payments to creditors holding claims accepted in the bankruptcy proceedings;

8. extraordinary expenses incurred in the bankruptcy proceedings;

9. disputes on issues arising between the persons appointed as assignee in bankruptcy, as well as other actions relating to management, preservation and liquidation of the bankruptcy estate.

(3) Actions concerning labor and social security relations of the bank's in bankruptcy employees, as well as technical and organizational activities shall not be recorded in the journal unless they are directly related to actions under paras. 1 and 2.

(4) The assignee's journal shall be preserved and kept in the building of the head office of the bank in bankruptcy and it may be moved to another place following the permission in writing of the chairman of the Fund's Management Board (the chairman).

(5) Provided a person appointed as assignee in bankruptcy may not make an entry in the journal until the end of the respective business day owing to his absence from the town where the bank's in bankruptcy head office is based, the obligation under para. 1 shall be performed until the end of the first business day following the assignee's return to the address of the bank's in bankruptcy head office. In this case the reasons for delayed entry shall be expressly stated.

(6) Actions under paras. 1 and 2 shall be recorded in the journal setting out:

1. the date of the entry;

2. the number of the action for the respective day;

3. the date and time of performance;

4. the place of performance – town, address;

5. the type and contents of the action and the participating persons;

6. the result;

7. the documents drawn up for the action.

(7) Entries in the journal for the respective day shall be certified by the signatures of the persons appointed as assignee in bankruptcy.

(8) Entries in the journal shall provide a clear, sufficient and accurate information on the action reported by the assignee.

Procedure for Reviewing the Assignee's Journal

Article 3. (1) Any creditor with a claim to the bank in bankruptcy, accepted by the assignee in bankruptcy, shall have the right to review the contents of the assignee's journal. Creditors who do not meet the requirements of the previous sentence but whose claims are recorded in the commercial books of the bank in bankruptcy shall also have this right.

(2) The right under para. 1, second sentence shall be cancelled provided the claims of the respective creditor are not accepted in the bankruptcy proceedings pursuant to the procedure provided for in Article 69 of the Law on Bank Bankruptcy.

(3) Within a seven-day period after the assignee takes over, he shall determine by an order in writing the procedure, time, building and premises of the bank in bankruptcy where the creditors shall be allowed to review the contents of the assignee's journal. The order shall not contain any terms that might seriously obstruct creditors in exercising their rights under para 1.

(4) The order under para. 3 shall be approved by the chairman.

(5) Any creditor of a bank in bankruptcy may file an appeal to the chairman provided he is not allowed by the assignee to review the assignee's journal. The appeal shall contain:

1. the name and the personal identity number – for physical persons, or the name and the unified identification number under BULSTAT – for legal entities, and the correspondence address of the claimant;

2. the bank in bankruptcy;

3. evidence establishing that the claimant is operating in the capacity as a creditor of the respective bank in bankruptcy under para. 1.

(6) Within a ten-day period after the appeal has been filed, the chairman shall undertake actions against the assignee for execution of creditor's rights under para. 1 provided it has been established that the claimant is operating in the capacity as a creditor under para. 1.

Chapter Three

Assignee's in Bankruptcy Reports

Types of Reports

Article 4. (1) The assignee in bankruptcy shall once prepare and submit to the Fund the following documents:

1. an initial liquidation balance sheet under Article 52, para. 3 of the Law on Bank Bankruptcy – within a 14-day period after the date of completion of the inventory and appraisal procedure under Article 52, para. 1 of the Law on Bank Bankruptcy;

2. a liquidation plan – within the time limit under Article 78, para. 1 of the Law on Bank Bankruptcy;

3. an assignee's report upon removal from office – within the time limit under Article 36, para. 1 of the Law on Bank Bankruptcy.

(2) The assignee in bankruptcy shall prepare and submit to the Fund the following monthly reports and information sheets:

1. an income statement;
2. a monthly liquidation balance sheet;
3. a cash flows statement;
4. a securities information sheet;
5. a credit portfolio information sheet;
6. an information sheet of concluded contracts;
7. an information sheet of the employees of the bank in bankruptcy;
8. an information sheet of the bank's in bankruptcy offices;
9. an information sheet of liquidated property from the bankruptcy estate and of collected claims in the respective month;
10. a report on implementation of the bankruptcy expenses monthly budget and of the liquidation plan;
11. an information sheet of the remuneration subject to receipt by the assignee in bankruptcy – upon expiry of six months after the assignee in bankruptcy has been appointed.

(3) Each report shall be signed by the persons appointed as assignee in bankruptcy.

(4) Documents under para. 2 shall be attached to the report on the assignee's in bankruptcy activities for the respective month. The chairman may request submission of an explanatory report attached to a particular report of the assignee in bankruptcy.

Form and Structure of Reports

Article 5. (1) The form and the structure of reports under Article 4, para. 2 shall be established by a decision of the Fund's Management Board and sent to the assignees of the banks in bankruptcy.

(2) The Management Board of the Fund shall issue methodological instructions for preparation and submission of assignee's reports.

(3) Amendments to the form, structure and instructions under the previous paragraphs shall be made by a decision of the Management Board of the Fund and the assignees in bankruptcy shall be notified of these decisions at least one month prior to the deadline for submission of the respective reports affected by these amendments.

Submission Deadlines

Article 6. (1) Monthly reports under Article 4, paras. 2 and 4 shall be submitted within a ten-day period as from the first business day of the month following the reporting month.

(2) Upon occurrence of a cogent reason the chairman may extend the term for submitting a specific report on the basis of the assignee's grounded request under Article 4 but by no more than 14 days.

Submission of Reports

Article 7. (1) Reports under Article 4 shall be prepared in duplicate on paper and electronic media, one of which shall be sent to the Fund and the other shall be preserved in the building of the head office of the bank.

(2) Reports under Article 4 shall be submitted either in person or through a person authorized by the assignee at the record office of the Fund. The assignee in bankruptcy of a bank whose headquarters are different from those of the Fund may send reports by registered mail with advice of delivery.

Review of Reports

Article 8. Any person operating in the capacity as a creditor under Article 3, para. 1 of a bank in bankruptcy shall be entitled to review assignee's monthly reports in accordance with the procedure under Article 3.

Chapter Four

Assignee's Monthly Budget and Request for Extraordinary Expenses

Assignee's in Bankruptcy Monthly Budget

Article 9. (1) Each month the assignee in bankruptcy shall submit to the Fund for approval the bankruptcy expenses draft budget under Article 55 of the Law on Bank Bankruptcy.

(2) The bankruptcy expenses budget shall be drawn up in a form approved by the Fund's Management Board. The assignees of the banks in bankruptcy shall submit an explanatory report attached to the draft budget together with the respective evidence establishing the necessity for incurring expenses of extraordinary amount and type in the bankruptcy proceedings.

(3) The bankruptcy expenses draft budget shall be submitted to the Fund on paper in duplicate within the time limit under Article 55, para. 3 of the Law on Bank Bankruptcy.

(4) Within a three-day period upon receipt of the draft budget the chairman shall issue an order whereby he may:

1. approve the budget;
2. refuse to approve the submitted budget and give instructions to the assignee in bankruptcy as to the required amendments.

(5) The order under para. 4 shall be announced immediately to the persons appointed as assignee of the respective bank in bankruptcy.

(6) In the cases under para. 4, item 2 the assignees shall submit on paper in duplicate a new draft budget in compliance with the instructions within the time limit set under Article 55, para. 6 of the Law on Bank Bankruptcy.

(7) The provisions of paras. 1–6 shall also apply to the cases under Article 55, para. 9 of the Law on Bank Bankruptcy.

Request for Extraordinary Expenses

Article 10. (1). Where any extraordinary expenses, unplanned in the budget, become necessary, the assignee in bankruptcy shall make a request to the chairman for approval until the end of the business day following the day on which it became known that they had to be incurred.

(2) Upon incurring urgent extraordinary expenses under Article 55, para. 7, second sentence of the Law on Bank Bankruptcy, the assignee shall make a request for approval by the chairman until the end of the business day following the day on which the urgent expenses were incurred.

(3) The request under para. 1 or 2 shall specify:

1. the reasons which make or have made necessary the incurring of extraordinary expenses;

2. the reasons which have prevented the provision of the expenses as of the time the draft monthly budget has been submitted for approval;

3. in case urgent expenses have already been incurred – the reasons that prevented the assignee from requesting prior permission.

(4) All evidence concerning the circumstances under para. 3 shall be attached to the request.

(5) When giving permission for, or approval of the expenses under para. 1 or 2, Article 9 shall apply.

(6) Within the meaning of this Ordinance extraordinary expenses shall also be the expenses which necessitate the use of cash funds from the bankruptcy estate for purposes other than the ones planned in the respective bankruptcy expenses budget approved by the Fund.

Nonfeasance

Article 11. In case of a failure or improper performance of obligations pursuant to this Ordinance, measures under Article 41, para. 2 and sanctions under Chapter Ten of the Law on Bank Bankruptcy may be imposed on the assignee in bankruptcy.

Transitional and Final Provisions

§ 1. This Ordinance is issued pursuant to § 3 in relation to Articles 32 and 55 of the Law on Bank Bankruptcy.

§ 2. This Ordinance shall also apply to bankruptcy proceedings of banks incumbent upon the entry of the Law on Bank Bankruptcy into force.

§ 3. The Management Board of the Deposit Insurance Fund shall issue methodological instructions to the assignees of the banks in bankruptcy relating to the enforcement of this Ordinance.

§ 4. This Ordinance is adopted by Resolution No. 84 of 23 October 2003 of the BNB Governing Council .