

Ordinance No 41*
of the BNB
of 25 February 2021
on Determining the Amount of Individual Annual
Contributions by Branches of Third-country Credit
Institutions to the Banks Resolution Fund

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Chapter One

GENERAL PROVISIONS

Article 1. This Ordinance shall establish the terms and procedure for determining the amount of individual annual contributions to the Banks Resolution Fund (BRF) due by branches of third-country credit institutions licensed in the Republic of Bulgaria to operate through a branch.

Article 2. (1) The contributions under Article 1 shall be set annually by the Bulgarian National Bank (BNB) in its capacity as a resolution authority under Article 2 of the Law on the Recovery and Resolution of Credit Institutions and Investment Firms (LRRCIIF) in the form of fixed lump sums.

(2) An individual annual contribution shall be set for each branch of a third-country credit institution by taking into account the amount of covered deposits in branches of third-country credit institutions and available financial resources in the sub-fund under Article 134, paragraph 1, item 1 of the LRRCIIF.

(3) In determining the contributions under Article 1, data as of 31 December of the previous year shall be used.

Article 3. The amount of individual annual contributions under Article 1 shall be determined by a decision of the BNB Governing Council upon a proposal by the Deputy Governor heading the Issue Department no later than 30 April of the current year.

Article 4. The contributions paid by branches of third-country credit institutions to the BRF shall be raised in the sub-fund under Article 134, paragraph 1, item 1 of the LRRCIIF.

* Unofficial translation provided for information purposes only. The Bulgarian National Bank bears no responsibility whatsoever as to the accuracy of the translation and is not bound by its contents.

*Chapter Two***INFORMATION FOR THE PURPOSES OF DETERMINING
THE AMOUNT OF INDIVIDUAL ANNUAL
CONTRIBUTIONS**

Article 5. (1) In calculating the contributions under Article 1, the BNB shall use the information on the amount of covered deposits of branches of third-country credit institutions, as provided by the Bulgarian Deposit Insurance Fund (BDIF).

(2) Each year, upon a request by the BNB, the BDIF shall submit by 31 December of the reference year the most recent information on the amount of covered deposits of each of the branches under paragraph 1.

Article 6. In relation to determination and collection of the contributions under Article 1, the BNB may use information submitted for supervisory purposes by third-country credit institutions and their branches in the Republic of Bulgaria.

*Chapter Three***CALCULATION OF INDIVIDUAL ANNUAL
CONTRIBUTIONS**

Article 7. The total amount of annual contributions under Article 1 shall be calculated by reducing the sum equal to 1 per cent of total covered deposits of branches of third-country credit institutions by the amount of the financial resources available in the sub-fund under Article 134, paragraph 1, item 1 of the LRRCIIF.

Article 8. The individual amount of the annual contribution under Article 1 for each branch of a third-country credit institution shall be calculated by apportioning the total amount of contributions under Article 7 between the branches in proportion to the respective shares of their covered deposits in total covered deposits of branches of third-country credit institutions as of 31 December of the reference year.

Article 9. (1) If the total amount of annual contributions set under the procedure of Article 7 is a negative value, no individual contributions of branches of third-country credit institutions shall be determined and collected.

(2) Determination and payment of contributions under Article 1 shall be resumed when the result of the annual determination of the total amount of contributions under Article 7 is a positive value.

Article 10. (1) In the event that as of 31 December of the reference year the resources available in the sub-fund under Article 134, paragraph 1, item 1 of the LRRCIIF have decreased by more than 30 per cent from the previous year, the BNB Governing Council may determine individual contributions under Article 1 to an amount less than the amount calculated under the procedure of Article 8.

(2) In taking the decision under paragraph 1, the BNB Governing Council shall assess whether the payment of individual annual contributions may threaten the liquid positions of branches of third-country credit institutions and whether thus deter-

mined individual annual contributions exceed the net profit of the relevant branch of a third-country credit institution as of 31 December of the reference year.

(3) The decrease of the contributions under paragraph 1 shall be set so that the total amount of annual contributions under Article 7 be achieved for a period not longer than six years.

Chapter Four

COLLECTION OF INDIVIDUAL ANNUAL CONTRIBUTIONS

Article 11. (1) By 1 May of the current year, the Deputy Governor heading the Issue Department shall notify each branch of a third-country credit institution of the amount of an individual annual contribution to be paid into the BRF.

(2) Branches of third-country credit institutions shall pay individually their annual contributions on the account of the sub-fund under Article 134, paragraph 1, item 1 of the LRRCIF within 30 days from the date of the notification under paragraph 1.

Article 12. (1) In case of non-compliance with the obligation to pay a contribution under Article 1, an interest shall be charged on the due amount for the period of delay to the amount of the statutory interest rate.

(2) The branch of a third-country credit institution shall be notified of the amount of the interest due under the procedure of Article 11, paragraph 1.

Chapter Five

NEW THIRD-COUNTRY BRANCHES AND CHANGES IN THE STATUS

Article 13. The first individual annual contribution of a newly established branch of a third-country credit institution shall be determined in the year following the year in which this branch started to operate the permitted business subject to a BNB licence.

Article 14. In the event of a change in the status of a branch of a third-country credit institution, including liquidation and conversion, no re-calculation or exemption from the obligation to pay a contribution under Article 1 for the year in which the change occurs shall be made.

ADDITIONAL PROVISION

§ 1. Within the meaning of this Ordinance:

1. 'covered deposits' shall be a concept within the meaning of § 1, item 5 of the Law on the Recovery and Resolution of Credit Institutions and Investment Firms.

2. 'branch' shall be a concept within the meaning of Article 4(1)(17) 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.

3. 'reference year' shall be the year provided for under Article 2, paragraph 3.

4. 'available financial resources' shall be the resources of the sub-fund under Article 134, paragraph 1, item 1 of the LRRCIIF, which include annual contributions of third-country credit institutions; income from investment of funds of the sub-fund under Article 134, paragraph 1, item 1 of the LRRCIIF; reimbursement of amounts used for resolution purposes under the terms set for application of relevant resolution tools and related income and compensation; without reductions by the funds granted as loans under Article 142, paragraph 2 of the LRRCIIF.

TRANSITIONAL AND FINAL PROVISIONS

§ 2. The resources allocated in the sub-fund under Article 134, paragraph 1, item 1 of the Law on the Recovery and Resolution of Credit Institutions and Investment Firms as of the date of entry into force of this Ordinance shall be included in the amount of available financial resources under Article 7.

§ 3. This Ordinance is issued on the grounds of Article 139, paragraph 6 of the Law on the Recovery and Resolution of Credit Institutions and Investment Firms and adopted by Resolution No 45 of the BNB Governing Council of 25 February 2021.

§ 4. This Ordinance shall enter into force on the date of its publication in the Darjaven Vestnik.