

BANK GUARANTEE FUND LAW

dated December 14, 1994

on the Bank Guarantee Fund

(uniform text)*

Chapter 1

General

Article 1¹

This Law lays down:

- 1) principles for establishment and operation of the mandatory and contractual systems of guarantees for the assets held in bank accounts or payable under claims confirmed with documents issued by banks;
- 2) types of activities that may be taken in order to provide assistance to entities covered by the mandatory system of guarantees for the assets in cases of threatening insolvency; and
- 3) rules of gathering and use of information about the entities covered by the guarantee system.

Article 2

Whenever used in this Law, the following terms shall mean:

- 1)² depositor - an individual, legal entity, non-corporate organizational unit provided it has legal capacity as well as entities referred to in Art. 50.1 of the Banking Law of 29 August 1997 (Dz.U. No. 140 item 939, of 1998 No. 160 item 1063 and No. 162 item 1118, and of 1999 No. 11 item 95 and No. 40 item 399), hereinafter referred to as the "Banking Law", being parties to bank account agreements made in the accountholders' names

* uniform text of the Law dated December 14, 1994 on the Bank Guarantee Fund (Journal of Laws, Dz. U. of 2000 No. 9 item 131) with the consideration of changes introduced by:

- 1) The Law dated October 26, 1995 on Certain Forms of Promoting Housing Constructions and Amendment of Certain Laws (Dz. U. no. 133 item 654), valid as of December 28, 1995;
- 2) The Law dated February 20, 1997 on the Amendment of the Law on the Guarantee Fund and Changes of the Law - Banking Law (Dz. U. No. 24 item 119), valid as of April 15, 1997;
- 3) The Law dated May 8, 1997 on Sureties and Guaranties of the State Treasury and Certain Legal Persons (Dz. U. No. 79 item 484) valid as of August 18, 1997;
- 4) The Law dated June 5, 1997 on Saving and Construction Associations and Promotion by the State of Savings for Housing Purposes (Dz. U. No. 85 item 538) valid as of November 29, 1997;
- 5) The Law dated June 6, 1997 - Regulations Introducing the Penal Code (Dz. U. No. 88 item 554) valid as of January 1, 1998;
- 6) The Law dated August 29, 1997 on Mortgage Bonds and Mortgage Banks (Dz. U. No. 140 item 940) valid as of January 1, 1998;
- 7) The Law dated July 17, 1998 on Student Loans and Credits (Dz. U. No. 108 item 685), valid as of September 5, 1998;
- 8) The Law dated December 18, 1998 on Supporting Thermo - modernization Projects (Dz. U. No. 162 item 1121), valid as of January 14, 1999;
- 9) The Law dated April 9, 1999 on the Amendment of the Law on the Guarantee Fund and Certain Other Laws (Dz. U. No. 40 item 399), valid as of May 21, 1999;

¹ as worded in Art. 1.1 of the Law Amending the Law on the Bank Guarantee Fund and Certain Other Laws of 9 April 1999 (Dz. U. No. 40 item 399) which entered into force on 21 May 1999.

² as worded in Art. 1.2a) of the Law mentioned in Footnote 1.

or having a claim arising from banking operations on a bank covered by the guarantee system, as confirmed with a document issued to the name of depositor by that bank, save for:

- a) State Treasury,
- b) banks,
- c) entities existing on the basis of the Law on Public Trading in Securities of 21 August 1997 (Dz.U. No. 118 item 754 and No. 141 item 945, and of 1998 No. 107 item 669 and No. 113 item 715);
- d) entities existing on the basis of the Law on Insurance Activity of 28 July 1990 (Dz.U. 1996 No. 11 item 62, 1997 No. 43 item 272, No. 88 item 554, No. 107 item 685, No. 121 items 769 and 770 and No. 139 item 934, of 1998 No. 155 item 1015 and of 1999 No. 49 item 483, No. 101 item 1178 and No. 110 item 1255);
- e) bank's shareholders holding, on the day of filing a bankruptcy petition, a block of shares entitling them to exercise more than 5% of votes at the general meeting of shareholders, as well as persons being their parent companies or subsidiaries in the meaning of Art. 4.16 of the Law referred to in letter c);
- f) members of management board, bank council (supervisory board) and persons executing the offices of directors and deputy directors of departments, as well as directors and deputy directors of branches of that bank, provided that such persons fulfilled their functions on the day the bank's operations were suspended or the guarantee condition was fulfilled, or during the current financial (accounting) year or the year preceding the suspension of the bank's operations or the day on which the guarantee condition was fulfilled;

2)²⁾ guaranteed assets - money deposited with a bank by the depositor in accounts held in his name, and his claims arising out of banking operations, as confirmed with documents issued in the depositor's name by the bank, save for securities other than for money claims only, as well as letters of hypothecation referred to in the Law on Letters of Hypothecation and Mortgage Banks of 29 August 1997 (Dz.U. No. 140 item 940 and of 1998 No. 107 item 669, and of 2000 No. 6 item 70), in Polish currency or in foreign currencies, as at the day on which the bank's operations were suspended, plus interest accruing of the day on which the guarantee condition was fulfilled, up to the limit provided for in the law;

3) entities covered by the obligatory system of guarantees for the assets held in bank accounts, hereinafter referred to as the entities covered by the guarantee system:

- a)³⁾ banks in the meaning of the Banking Law, save for cooperative banks affiliated in regional associations as referred to in the Law on Restructuring of Cooperative Banks and Bank Gospodarki Żywnościowej and Amendment on Certain Laws of 24 June 1994 (Dz.U. No. 80 item 369, of 1995 No. 142 item 704, of 1996 No. 106 item 496 and of 1997 No. 121 item 770 and No. 140 item 939), as of the day of consolidation of their financial statements;

³⁾ As worded in Art. 1.2.b) of the Law mentioned in Footnote 1.

- b) regional associations referred to in the Law on Restructuring of Co-operative Banks and Bank Gospodarki Żywnościowej and Amendment on Certain Laws of 24 June 1994, as of the day of consolidation of their financial statements;
- 4) day on which the guarantee condition is fulfilled:
 - a) day on which the bank's bankruptcy was declared;
 - b) validation day of the decision on dismissal of the bankruptcy petition in view of the fact that the bank's assets are obviously insufficient even to cover the costs of bankruptcy proceedings;
 - c) in case of the regional association referred to in Art. 2.3.b), the day of discovering the impossibility to meet the obligation to cover the risk associated with debts and liabilities incurred by cooperative banks on the basis of the Law on Restructuring of Cooperative Banks and Bank Gospodarki Żywnościowej and Amendment on Certain Laws of 24 June 1994, with respect to a cooperative bank affiliated in the regional association affected by the situation referred to in Point 4.a) and b);
- 5)⁴ sum of risk-weighted assets - the sum of assets and off-balance sheet liabilities that were assigned the percent risk weight by the Commission for Banking Supervision;
- 6)⁵ takeover of a bank - acquisition of a whole or a part of a banking business.

Article 2a⁶

1. When the bank maintains one account in favor of several persons (joint account), each of these persons shall be a depositor, to the extent laid down in the account agreement or arising out of the laws.

2. When the bank maintains an account for a general or limited partnership, the said partnership shall be a depositor.

C h a p t e r 2

Establishment, Organization, Tasks and Sources of Financing of the Bank Guarantee Fund.

Article 3

1. The Bank Guarantee Fund, hereinafter referred to as the "Fund", is hereby established.

2. The Fund has legal identity.

3. The seat of the Fund is in Warsaw.

4. The Council of Ministers, on request agreed between the minister responsible for financial institutions and the President of the National Bank

⁴ As worded in Art. 1.2.c) of the Law mentioned in Footnote 1.

⁵ Added by Art. 1.2.c) of the Law Amending the Law on the Bank Guarantee Fund and Amendment of the Banking Law of 20 February 1997 (Dz.U. No. 24 item 119) which entered into force on 14 April 1997.

⁶ Added by Art. 1.3 of the Law mentioned in Footnote 5.

of Poland, shall define the by-laws of the Fund setting out in detail its tasks, organization and principles of financial management.

5. The Fund's operations shall be supervised by the minister responsible for financial institutions⁷ based on the criteria legality and compliance with the by-laws.

Article 4

1. As regards the functioning of the mandatory and contractual systems of guarantees for the assets held, the Fund's tasks shall be as follows:

- 1) specifying, for a given year, pursuant to Art. 25, the amount of assets to be separated by the entities covered by the guarantee system in connection with the obligation to establish a fund for protection guaranteed assets;
- 2) fulfilling obligations arising from provision of guarantees for the assets, subject to the terms laid down in the law;
- 3) gathering and analysis of information about entities covered by the guarantee system; and
- 4) supervision over the contractual system of guarantees for the assets.

2. As regards the provision of assistance to the entities covered by the guarantee system, the Fund's tasks shall be as follows:

- 1)⁸ provision of repayable financial assistance, subject to the terms defined in Art. 19 and Art. 20 of the Law, in case of threatening insolvency or for acquisition of bank shares or stocks;
 - 1a)⁹ acquisition of debts of the banks that are threatened by insolvency;
 - 2) control of correct application of the assistance money referred to in Point 1;
 - 3) specification of mandatory annual contributions referred to in Art. 13.1 and Art. 14, payable to the Fund by entities covered by the guarantee system; and
 - 4)¹⁰ control of implementation of the rehabilitation program by an entity covered by the guarantee system, in cases provided for in the Law.

2a.¹¹ The Council of Ministers, on request agreed between the President of the National Bank of Poland and the minister responsible for financial institutions⁷, shall specify in a regulation the form of legal organization and the detailed rules, extent and procedure of the Fund's trading in the debts referred to in 2.1.a).

3. The Council of Ministers, on request agreed between the President of the National Bank of Poland and the minister responsible for financial institutions⁷, may specify in a regulation additional tasks of the Fund in the area of assisting entities covered by the guarantee system and the form of provision of such assistance.

⁷ Pursuant to Art. 4.1 and 4, Art. 5.7 and Art. 94 of the Law on Departments of the Government Administration of 4 September 1997 (Dz.U. of 1999 No. 82 item 928) that entered into force on 1 April 1999.

⁸ As worded in Art. 1.3.a) of the Law mentioned in Footnote 1.

⁹ Added by Art. 1.4.a) of the Law mentioned in Footnote 5, and as worded in Art. 1.3.b) of the Law mentioned in Footnote 1.

¹⁰ As worded in Art. 1.3.c) of the Law mentioned in Footnote 1.

¹¹ Added by Art. 1.4.b) of the Law mentioned in Footnote 5.

Article 5

1. The Fund's authorities include: Fund Council and Fund Management Board.

2. Persons executing offices in the Fund's authorities cannot be officers nor be employed by banks (regional associations).

Article 6

1.¹² The Fund Council shall consist of its chairman and nine members having appropriate university degrees and professional experience.

1.¹³ The Fund Council shall consist of its chairman and ten members having appropriate university degrees and professional experience.

2. The chairman of the Fund Council shall be appointed and removed by the Prime Minister, on recommendation agreed between the minister responsible for financial institutions⁷ and the President of the National Bank of Poland, having received the opinion on their recommendation from the relevant Sejm commission.

3. The members of the Fund Council shall be appointed and removed as follows:

- 1) three of them - by the minister responsible for financial institutions⁷;
- 2)¹⁴ three of them - by the President of the National Bank of Poland;
- 2)¹⁵ four of them - by the President of the National Bank of Poland; and
- 3) three of them - by the Polish Banking Association, pursuant to the rules laid down in the Fund's by-laws.

4. The rules and level of remuneration of persons being members of the Fund Council shall be specified by the President of the National Bank of Poland in consultation with the minister responsible for financial institutions⁷.

5. The term of office of the Fund Council shall be four years.

Article 7

1. The Fund Council shall exercise control and supervision over the Fund's operations.

2. Furthermore, the responsibilities of the Fund Council shall include:

- 1) supervision of the Fund Management Board's activity;
- 2) adoption of activity plans and financial plan for the Fund;
- 3) submission of the report on the Fund's activity during a previous year to the Council of Minister;
- 4) approval of the Fund Management Board's proposals as to taking the loan referred to in Art. 34.3;

¹² In the wording ruling until the effective date of the amendment referred to in Footnote 13.

¹³ As worded in Art. 1.4.a) of the Law mentioned in Footnote 1 which enters into force on 1 January 2001.

¹⁴ In the wording ruling until the effective date of the amendment referred to in Footnote 15.

¹⁵ As worded in Art. 1.4.b) of the Law mentioned in Footnote 1 which enters into force on 1 January 2001.

- 5)¹⁶ setting, on request of the Fund Management Board, the rates of mandatory annual contribution and the fund for protection of guaranteed assets;
- 6) defining the principles and forms of providing financial assistance to the entities covered by the guarantee system referred to in Art.4.2.1;
- 7) defining the principles and forms of security and seeking reimbursement of monies payable to the Fund with respect of the assistance referred to in Art. 4.2.1;
- 8) fixing emoluments of the members of the Fund Management Board;
- 9)¹⁷ representing the Fund in legal transactions with members of the Management Board, in particular with respect to appointment, suspension and removal of the members of the Management Board; and
- 10) adoption of the rules specifying the organization of work and the procedures and proceedings of the members of the Fund Management Board.

Article 8

1. The Council shall adopt resolutions by the majority of votes in the presence of at least seven persons being members of the Fund Council. In case of a tie vote, the chairman of the Fund Council shall have the casting vote.

2. The minister responsible for financial institutions⁷, having consulted the President of the National Bank of Poland, shall define the rules specifying the organization of work and the procedures and proceedings of the Fund Council.

Article 9

1. The Fund Management Board shall consist of five members, including the President and his deputies.

2. The Management Board shall be appointed by the Fund Council from among persons having the appropriate university degree and five years of service in the banking industry.

3. The Fund Council shall elect the President of the Management and his/her deputy from among the members of the Management Board.

4.¹⁸ The term of office of the Fund Management Board shall be three years of the appointment of the Management Board by the Fund Council.

5. A member of the Fund Management Board, including the President or his deputy, may be removed from the office at any time by the appointing body.

6.¹⁹ The mandates of the Management members shall expire upon termination of the term of office of the Management Board or on a day on which other circumstances occur and cause expiration of the mandate of the Board member, save for Art. 17.4.

¹⁶ As worded in Art. 1.5 of the Law mentioned in Footnote 1.

¹⁷ As worded in Art. 1.5 of the Law mentioned in Footnote 5.

¹⁸ As worded in Art. 1.6.a) of the Law mentioned in Footnote 5.

¹⁹ As worded in Art. 1.6.b) of the Law mentioned in Footnote 5.

Article 10

1. The Fund Management Board shall manage the Fund and represent it vis-a-vis third parties.

2. The responsibilities of the Fund Management Board shall include:

- 1) preparation of draft activity plans and financial plan for the Fund;
- 2) management of the Fund's resources, save for the powers reserved for the Fund Council;
- 3) submission of quarterly and annual activity reports to the Fund Council;
- 4) submission to the Fund Council of proposals in matters referred to in Art. 7.2.4; and
- 5) performance of other activities that are not reserved for the Fund Council.

Article 11

Two members of the Fund Management Board acting jointly shall be authorized to make declarations concerning the financial rights and obligations of the Fund.

Article 12

The Fund Council and the Fund Management Board shall fulfill their functions with assistance of the Fund Office, whose organizational structure and proceedings shall be defined by the Fund Management Board in consultation with the Fund Council.

Article 13

1.²⁰ The entities covered by the guarantee system shall pay mandatory annual contributions to the Fund, being the sum of the following products:

- 1) rate not exceeding 0.4% and total balance sheet assets and risk-weighted guarantees and endorsements;
- 2) rate not exceeding 0.2% and the sum of the remaining risk-weighted off-balance sheet liabilities, save for promised loan facilities where this rate is 0; promised loans shall be understood as the amount of commitment specified in the relevant contract less the amount advanced.

2.²¹ The rates referred to in Section 1 shall be defined for the next year and communicated to the entities covered by the guarantee system by the Fund Council, at the latest by the end of the calendar year immediately preceding the year during which that contribution is to be made.

3. The entities covered by the guarantee system shall be obligated to pay the contribution referred to in Section 1 on dates specified by the Fund, at the latest on 31 March of each year.

3a.²² As of 1 January 1998, the contributions determined pursuant to Section 1 shall be reduced by 30%. The amount of reduction shall be paid to the Fund by the National Bank of Poland.

²⁰ As worded in Art. 1.7.a) of the Law mentioned in Footnote 5.

²¹ As worded in Art. 1.7.b) of the Law mentioned in Footnote 5.

²² Added by Art. 1.7.c) of the Law mentioned in Footnote 5.

²³ Added by Art. 1.6.a) of the Law mentioned in Footnote 1.

3b.²³ As of 1 January 1999, the contributions determined pursuant to Section 1 shall be reduced by 40%, and as of 1 January 2001 by 50%. The amount of reduction shall be paid to the Fund by the National Bank of Poland.

4.²⁴ The annual contribution payment as referred to in Section 1, shall be deductible for tax purposes in the meaning of the Corporate Income Tax Law of 15 February 1992 (Dz.U. of 1993 No. 106 item 482, No. 134 item 646, of 1994 item 1 No. 2, No. 43 item 163, No. 80 item 368, No. 87 item 406, No. 90 item 419, No. 113 item 547, No. 123 item 602 and No. 127 item 627, of 1995 No. 5 item 25, No. 86 item 433, No. 96 item 487, No. 133 item 654 and No. 142 item 704, of 1996 No. 25 item 113, No. 34 item 146, No. 90 item 405, No. 137 item 639 and No. 147 item 686, of 1997 No. 9 item 44, No. 28 item 163, No. 79 item 484, No. 96 item 592, No. 107 item 685, No. 118 item 754, No. 121 item 770, No. 123 items 776 and 777, No. 137 item 926 and No. 139 items 932-934, No. 140 item 939 and No. 141 item 945, of 1998 No. 60 item 383, No. 108 item 685, No. 17 item 756, No. 137 item 887, No. 144 item 931 and No. 162 item 1112 and item 1121, and of 1999 No. 49 item 484, No. 62 item 689 and No. 95 item 1101).

5. On the day on which the guarantee conditions are fulfilled by the entity covered by the guarantee system, that entity shall be released from the obligation to pay annual contributions referred to in Section 1.

Article 14²⁵

1.²⁶ Bank Polska Kasa Opieki S.A., Powszechna Kasa Oszczędności - Bank Państwowy and Bank Gospodarki Żywnościowej S.A. shall pay, until 31 December 1999, mandatory annual contributions calculated at half-rates referred to in Art. 13, save for Section 5.

1a.²⁷ In case of building societies operating on the basis of the Law on Building Societies and State Support to Housing-Oriented Savings, the mandatory annual contribution referred to in Art. 13.1 shall be assessed up to 0.1% of their total balance sheet assets and risk-weighted guarantees and endorsements.

2.²⁸ The mandatory annual contribution shall not be charged on the assets from contract credits agreements at banks keeping housing credit associations pursuant to the regulations laid down in the separate provisions.

²⁴ As worded in Art. 1.7.d) of the Law mentioned in Footnote 5, and Art. 1.6.b) of the Law mentioned in Footnote 1.

²⁵ As defined in Art. 41 of the Law on Certain Forms of Supporting Housing Construction and Amendment of Certain Laws of 26 October 1995 (Dz.U. No. 133 item 654) which entered into force on 28 December 1995.

²⁶ As worded in Art. 1.8 of the Law mentioned in Footnote 5, and Art. 1.7.a) of the Law mentioned in Footnote 1.

²⁷ Added by Art. 18 of the Law on Building Societies and State Support for Housing-Oriented Savings of 5 June 1997 (Dz.U. No. 85 item 538) which entered into force on 29 October 1997.

²⁸ Added by Art. 41 of the Law mentioned in Footnote 25.

3.²⁹ The mandatory annual contribution shall not be charged on the assets of the National Housing Fund, the National Fund for Credit Endorsements and the Thermo-modernization Fund established at Bank Gospodarstwa Krajowego, nor on the assets held in the account for provisions for endorsement and guarantees kept by the State Treasury with that Bank.

3a.³⁰ The mandatory annual contribution shall not be charged on the assets of the Student Loans & Credits Fund established at Bank Gospodarstwa Krajowego.

4.³¹ Assets derived from issuance of hypothecation letters and public debentures shall not be subject to the mandatory annual contribution nor the fund for protection of guaranteed assets.

5.³² In case of takeover of other banks, the banks referred to in Section 1 shall pay mandatory annual contributions for 1999 on the total sum of assets and off-balance sheet liabilities referred to in Art. 13.1, at the rate specified in Section 1, however solely up to the sum of their own balance sheet assets and off-balance sheet liabilities as at before the takeover.

Article 15

The sources of financing of the Fund shall be:

- 1) mandatory annual contributions referred to in Art. 13.1 payable by the entities covered by the guarantee system;
- 2) sums transferred from the fund for protection of guaranteed assets referred to in Art. 25.1 coming from deposits paid by the entities covered by the guarantee system, and made, pursuant to the Fund Council's resolution, to a dedicated account of the Fund with the National Bank of Poland;
- 3) interest income from loans extended by the Fund and interest income from securities referred to in Art. 16.3;
- 4) funds received as non-repayable foreign assistance;
- 5) funds from subsidies granted, on request by the Fund, from the state budget subject to the terms laid down in the Budget Act;
- 6) funds from a credit facility extended by the National Bank of Poland on the conditions agreed with the Fund; and
- 7) other receipts.

²⁹ Added by Art. 54 of the Law on Endorsements and Guarantees Extended by the State Treasury and Certain Other Legal Entities of 8 May 1997 (Dz.U. No. 79 item 484 and No. 80 item 511) which entered into force on 17 July 1997, and as worded in Art. 16 of the Law on Supporting Thermo-modernization Projects of 18 December 1998 (Dz.U. No. 162 item 1121) which entered into force on 14 January 1999.

³⁰ Added by Art. 19 of the Law on Student Loans and Credits of 17 July 1998 (Dz.U. No. 108 item 685) which entered into force on 5 September 1998.

³¹ Added by Art. 41 of the Law on Hypothecation Letters and Mortgage Banks of 29 August 1997 (Dz.U. No. 140 item 940) which entered into force on 1 January 1998.

³² Added by Art. 1.7.b) of the Law mentioned in Footnote 1.

Article 16

1. The Fund's money shall be allocated to:

- 1) financing of the Fund's tasks related to provision of guarantees for the assets; and
- 2)³³ financing of the Fund's tasks with respect to provision to the entities covered by the guarantee system, of assistance referred to in Chapter 3, however provided that this assistance may be only given from the funds referred to in Art. 15.1, 3, 4 and 7 less expenses referred to in Section 5.

2. The Fund's balance sheet surplus for a given year shall be added to its capital.

3.³⁴ The Fund may only purchase securities that are issued or fully guaranteed by the State Treasury or the National Bank of Poland.

4.³⁴ The Fund's money shall be accumulated in current accounts, dedicated accounts and term deposit accounts with the National Bank of Poland. The Fund may also keep accounts with the National Depository for Securities.

4a.³⁵ The Fund may also participate in trading in treasury securities, also via a brokerage house, and have a bank account for settlement of such transactions.

5. The operating costs of the Fund's office and other expenses associated with the fulfillment of the Fund's tasks shall be covered from the funds referred to in Art. 15.1 and 3-7.

Article 17

1.³⁶ The Fund shall prepare its annual financial statements by 31 March of each year, for the preceding financial year.

2.³⁷ The Fund's financial statement shall be audited by an authorized, under separate regulations, entity selected through tender by the President of the National Bank of Poland, having sought the opinion of the Fund Council. The costs of audit shall be borne by the Fund.

3. The Council of Minister shall submit to the Sejm, for its review, by 31 May of each year, the Fund's activity report for the preceding year and the financial statement attached thereto, and the findings of the audit referred to in Section 2.

4.³⁸ The Sejm's rejection of the Fund's activity report for the preceding year shall be equal to the expiration of the mandate of all members of the Fund's authorities, however provided that they shall continue in the office until appointment of new members of the Fund's authorities.

5.³⁹ The provision of Section 4 shall not apply to members of the Fund's authorities whose term of office does not coincide with the report referred to in Section 3.

³³ As worded in Art. 1.9.a) of the Law mentioned in Footnote 5.

³⁴ As worded in Art. 1.9.b) of the Law mentioned in Footnote 5.

³⁵ Added by Art. 1.9.c) of the Law mentioned in Footnote 5.

³⁶ As worded in Art. 1.8.a) of the Law mentioned in Footnote 1.

³⁷ As worded in Art. 1.10.a) of the Law mentioned in Footnote 5.

³⁸ As worded in Art. 1.10.b) of the Law mentioned in Footnote 5.

³⁹ Added by Art. 1.8.b) of the Law mentioned in Footnote 1.

6.³⁹ The minister responsible for financial institutions⁷, having sought the opinion the President of the Commission for Banking Supervision, shall define, in a regulation, special accounting principles for the Fund.

Article 18

The Bank Guarantee Fund shall be exempted from the corporate income tax.

Chapter 3

Provision of Assistance to the Entities Covered by the Guarantee System.

Article 19

1. In fulfillment of the Fund's tasks referred to in Art. 4.2.1, the Fund may, without limitation, extend to the entities covered by the guarantee system, loans, guarantees or endorsements on conditions that are better than generally offered by the banks.

2.⁴⁰ The funds obtained by the entities covered by the guarantee system under loans, guarantees or endorsements extended by the Fund as referred to in Section 1, may be exclusively allocated for elimination of the danger of insolvency or for acquisition of the bank's shares or stocks by new shareholders of stockholders, provided that the conditions laid down in Art. 20 have been met.

3. The guarantees referred to in Section 1 shall be accordingly governed by the regulations regarding guarantees extended by banks.

4.⁴¹ Civil law transactions resulting in the fulfillment of the tasks referred to in Section 1 and in Art. 4.2.1a) shall be exempted from stamp duty.

Article 20⁴²

The condition for provision of the assistance referred to in Art. 4.2.1 and 1.a) by the Fund shall be, without limitation:

1) acceptance by the Fund Management Board of the audit findings from the financial statement pertaining to its activity that were presented by the entity covered by the guarantee system and applying for assistance, and in case of application for assistance for the purpose of taking over another bank, merger of banks or purchase of shares (stocks) in another bank - audit findings of financial statements of both banks;

2)⁴³ submission to the Fund Management Board by the entity covered by the guarantee system, of a favorable opinion from the Commission for Banking Supervision on the rehabilitation program or the advisability of takeover, merger of banks or purchase of shares (stocks) of another bank;

⁴⁰ As worded in Art. 1.11 of the Law mentioned in Footnote 5 and in Art. 1.9.a) of the Law mentioned in Footnote 1.

⁴¹ As worded in Art. 1.9.b) of the Law mentioned in Footnote 1.

⁴² As worded in Art. 1.12 of the Law mentioned in Footnote 5.

⁴³ As worded in Art. 1.10.a) of the Law mentioned in Footnote 1.

2a)⁴⁴ submission to the Fund Management Board by the bank applying for assistance, of a favorable opinion on its rehabilitation program delivered by the Commission for Banking Supervision;

3) proving that the amount of loans, guarantees, endorsements and funds to be spent by the Fund for the buy-out of debts, as applied for by the entity covered by the guarantee system, would not exceed the aggregate sum of guarantees therefor, to be calculated as the sum of guaranteed assets held in accounts of the depositors with the bank referred to in Art. 2.3.a), or with cooperative banks affiliated in the regional association referred to in Art. 2.3.b), and in cases when application is made for financial assistance for the purpose of takeover or merger with another bank - this amount cannot exceed the sum of guaranteed assets held in accounts of the depositors with the bank to be acquired; or

4) application of the bank's existing capital toward covering any losses of the bank that applies for assistance or is to be taken over.

Article 20a⁴⁵

1.⁴⁶ The Commission for Banking Supervision shall advise the Fund Management Board without delay of the necessity of opening rehabilitation proceedings as referred to in Art. 142 of the Banking Law, by the management board of the bank.

2.⁴⁷ The Fund, on its request filed with the Commission for Banking Supervision, shall be appointed the curator referred to in Art. 144 of the Banking Law, for the bank covered by the guarantee system, provided that it rendered to that bank the assistance referred to in Art. 4.21. and 1a. The Fund shall not be entitled to remuneration referred to in Art. 144.8 of the Banking Law.

3. The Fund's claims connected to the provision of assistance referred to in Art. 4.2.1 shall be governed by the provisions of the Civil Code and other statutes regulating the types and methods of securing bank claims.

C h a p t e r 4

Mandatory System of Guarantees for the Assets Held In Bank Accounts

Article 21

The purpose of the obligatory system of bank deposit guarantee is to guarantee to the depositors the payment of funds deposited in their accounts up to the amount provided by the law in the event that the entity covered by the guarantee system becomes incapable of repaying them.

⁴⁴ Added by Art. 1.10.b) of the Law mentioned in Footnote 1.

⁴⁵ Added by Art. 1.13 of the Law mentioned in Footnote 5.

⁴⁶ As worded in Art. 1.11 of the Law mentioned in Footnote 1.

⁴⁷ Added by Art. 1.14 of the Law mentioned in Footnote 5.

Article 22

1. The parties to the guarantee transaction shall be:

- 1) the Fund; and
- 2) the depositor.

2. The subject matter of guarantee shall be the depositor's claim whereby it acquires, on the day the guarantee condition is fulfilled, the right to receive payment in cash from the Fund, subject to the conditions laid down in the Law.

3.⁴⁷ The payment in cash referred to in Section 2 shall be payable in accordance with the payment schedule established pursuant to Art. 28.3, at the latest within 30 days after having received from the bank's trustee in bankruptcy the sum provided by the Fund for disbursement of guaranteed assets.

Article 23

1. The assets held in bank accounts shall be covered by the mandatory guarantee system:

- 1) in case of the assets held in bank accounts - on the effective date of the Law; and
- 2) in case of the assets deposited in bank accounts after the effective date of the Law - on the day they were deposited in the bank account.

2. The mandatory system of guarantees for the assets shall cover the guaranteed assets capped at (including interest accruing until the day on which the guarantee conditions were fulfilled):

- 1) PLN equivalent of 1,000 EUR⁴⁸ - 100% of value of the guaranteed assets; and
- 2)⁴⁹ in excess of the PLN equivalent of 1,000 EUR, however no more than the PLN equivalent of 4,000 EUR - 90% of value of the guaranteed assets.

2a.⁵⁰ As of 1 January 1998, the upper limit of the assets guaranteed in 90% of their value as defined in Section 2.2, shall be increased up to the PLN equivalent of 5,000 EUR.⁴⁸

2b.⁵¹ The upper limit of the guaranteed assets as defined in Section 2.2, shall be increased up to:

- 1) PLN equivalent of 8,000 EUR as of 1 January 1999;
- 2) PLN equivalent of 11,000 EUR as of 1 January 2000;
- 3) PLN equivalent of 15,000 EUR as of 1 January 2001;
- 4) PLN equivalent of 17,000 EUR as of 1 January 2002; and
- 5) PLN equivalent of 20,000 EUR as of 1 January 2003.

3.⁵² The PLN equivalent in EUR shall be calculated by accepting the average rate of the National Bank of Poland as per the exchange table published by the National Bank of Poland and ruling on the day on which the guarantee condition is fulfilled.

⁴⁸ Pursuant to Art. 30 of the Foreign Exchange Law of 18 December 1998 (Dz.U. No. 160 item 1063) which entered into force on 1 January 1999.

⁴⁹ As worded in Art. 1.15.a) of the Law mentioned in Footnote 5 which entered into force on 1 July 1997.

⁵⁰ Added by Art. 1.15.b) of the Law mentioned in Footnote 5.

⁵¹ Added by Art. 1.12 of the Law mentioned in Footnote 1.

⁵² As worded in Art. 1.15.c) of the Law mentioned in Footnote 5.

4. The amounts referred to in Section 2 shall cap the depositor's claims on the Fund, irrespective of the balance and the number of accounts in which the depositor kept assets in a given bank.

5.⁵³ Claims under guarantee shall become extinct after five years of fulfillment of the guarantee conditions.

Article 24

The depositor shall not forfeit the right to seek his claims against the bank in excess of the amount specified in Art. 23.2.

Article 25

1. The entity covered by the guarantee system shall be obligated to establish the fund for protection of guaranteed assets in order to satisfy claims of the depositors in the event the guarantee conditions are met by any entity covered by this system.

2.⁵⁴ The size of the fund for protection of guaranteed assets during a given year shall be determined, save for Section 3, at the latest by the end of the preceding calendar year, as being the product of the rate of 0.4% and the sum of cash held at the bank (regional association) in all accounts, being the basis for calculation of the amount of mandatory reserve as per Art. 38.2 of the Law on the National Bank of Poland of 29 August 1997 (Dz.U. No. 140 item 938, and of 1998 No. 160 item 1063) for October.

3.⁵⁵ The size of the fund for protection of guaranteed assets with respect to the following banks: Powszechna Kasa Oszczędności - Bank Państwowy, Polska Kasa Opieki S.A. and Bank Gospodarki Żywnościowej S.A. shall be determined, until 31 December 1999, save for Section 4, as the product of one half of the rate and the sum of the cash referred to in Section 2.

4.⁵⁶ The banks referred to in Section 3, in case of taking over other banks, shall establish the 1999 fund for protection of guaranteed assets on the total sum of cash referred to in Section 2 of the merging banks, at the rate specified in Section 3, however capped at the sum of their own cash before takeover.

5.⁵⁷ The fund for protection of guaranteed assets shall be increased or reduced on 1 July of each year in proportion to the sum referred to in Section 2 as being the basis for calculation of the mandatory reserve for April of each year.

6.⁵⁷ On the day of fulfillment of the guarantee conditions, the entity covered by the guarantee system shall be released from the duty to establish the fund for protection of guaranteed assets and to revise its size as referred to in Section 5.

⁵³ As worded in Art. 1.15.d) of the Law mentioned in Footnote 5.

⁵⁴ As worded in Art. 1.16.a) of the Law mentioned in Footnote 5 and in Art. 1.13.a) of the law mentioned in Footnote 1.

⁵⁵ As worded in Art. 1.16.b) of the Law mentioned in Footnote 5 and in Art. 1.13.b) of the law mentioned in Footnote 1.

⁵⁶ As worded in Art. 1.13.c) of the Law mentioned in Footnote 1.

⁵⁷ As worded in Art. 1.16.c) of the Law mentioned in Footnote 5.

Article 26

1.⁵⁸ The banks are under obligation to invest the assets allocated as contribution to the fund for protection of guaranteed assets in treasury securities and money bills of the National Bank of Poland, and to deposit them in a deposit account kept separately for in each bank at the National Bank of Poland or the National Depository for Securities, and if this is not possible - to deposit these assets in an interest-bearing current account with the National Bank of Poland.

2. The cooperative banks, save for the banks referred to in Art. 1.3 of the Law on Restructuring of Cooperative Banks and Bank Gospodarki Żywnościowej and Amendment of Certain Laws of 24 June 1994, shall have to deposit the assets allocated as contribution to the fund for protection of guaranteed assets of their regional association in a dedicated account with relevant regional banks.

3.⁵⁹ The assets covering the fund for protection of guaranteed assets cannot be pledged or encumbered in any way whatsoever, and shall not be subject to court or administrative debt collection procedure.

4.⁵⁹ The banks covered by the mandatory system of guarantees for the assets shall advise the Fund of the sum of deposits in the accounts covered by the mandatory system of guarantees for the assets, and of the size of the fund for protection of guaranteed assets on the following dates:

- 1) until 15 December of each year of the figure determined pursuant to Art. 25.2; and
- 2) until 15 June of each year of the figure being the basis for calculation of the size of mandatory reserve for April;
- specifically in the form prescribed by the Fund Management Board.

5. In case of the cooperative banks referred to in Section 2, the obligation mentioned in Section 4 shall be fulfilled by the relevant affiliating bank as per the Law on Restructuring of Cooperative Banks and Bank Gospodarki Żywnościowej and Amendment of Certain Laws of 24 June 1994.

Article 27⁶⁰

1. The trustee in bankruptcy shall have to determine on the basis of the bank's books and present to the Fund in writing within 30 days after the bank was declared bankrupt:

- 1) list of depositors and detailed listing of the amounts of guaranteed assets, to be made in the form prescribed by the Fund Management Board;
- 2) amount of the bank's liquid assets included in the estate in bankruptcy, as at the day on which the bank was declared bankrupt;
- 3) amount of the fund for protection of guaranteed assets established by that bank and the amount of the outstanding portion of that fund as at the day on which the list of depositors was made; and

⁵⁸ As worded in Art. 1.17.a) of the Law mentioned in Footnote 5.

⁵⁹ As worded in Art. 1.17.b) of the Law mentioned in Footnote 5.

⁶⁰ As worded in Art. 1.18 of the Law mentioned in Footnote 5.

4) amount of expenses related to the payment of salaries to employees of the bankrupt bank and the amount of current expenses associated with the costs of bankruptcy proceedings as incurred until the list of depositors was made, plus the amount of necessary expenses associated with the disbursement of guaranteed assets and the current amount of liquid assets of the bank that are at the trustee's disposal.

2. If the guarantee condition is met on the day referred to in Art. 2.4.b) or c) and also if the bankruptcy proceedings are finally discontinued in consideration of the fact that the bank's assets are not sufficient to cover the costs of bankruptcy proceedings, where the trustee failed to fulfill his statutory obligations:

- 1) activities referred to in Section 1 and also in Art. 27a, Art. 28 and Art. 31 to be performed by the trustee in bankruptcy shall be performed by the management board of the entity covered by the mandatory system of guarantees for the assets held in bank accounts;
- 2) provision of Section 1, Art. 27a, Art. 28, Art. 29.3, Art. 30 and Art. 31 shall apply accordingly;
- 3) if the circumstances referred to in Art. 27a.2 occur, the Fund Management Board shall apply to registering authority having jurisdiction over the entity covered by the mandatory system of guaranteeing assets.
- 4) Fund Management Board shall notify the applicable registering authority of the occurrence of circumstances referred to in Art. 27a.3 and Art. 28.7.

Article 27a⁶¹

1. The Fund Management Board shall verify, within 15 days, the list of deposits presented by the trustee in bankruptcy and the calculation of the amounts of guaranteed assets as to their compliance with the Law and the requirements laid down in Art. 27.1.1.

2.⁶² In the event of reasonable doubts arising as to the level of expenses referred to in Art. 27.1.4 that was communicated by the trustee in bankruptcy, the Fund Management Board shall approach the judge commissioner for approval of these expenses pursuant to Art. 99 of the Regulation of the President of the Republic of Poland of 24 October 1934 - the Bankruptcy Law (Dz.U. of 1991 No. 118 item 512, of 1994 No. 1 item 1, of 1995 No. 85 item 426, of 1996 No. 6 item 43, No. 43 item 189, No. 106 item 496 and No. 149 item 703, of 1997 No. 28 item 153, No. 54 item 349, No. 117 item 751, No. 121 item 770 and No. 140 item 940, and of 1998 No. 117 item 756), however this shall not stop adoption by the Fund Management Board of a resolution of provision of assets for disbursement of guaranteed assets.

3. If the Fund Management Board decides that the list of deposits does not comply with the conditions laid down in Section 1, it shall refuse to accept it and return it to the trustee in bankruptcy notifying the judge commissioner thereof without delay.

4. The trustee in bankruptcy shall have to rectify the defects pointed out by the Fund Management Board, however not later than within seven days.

⁶¹ Added by Art. 1.19 of the Law mentioned in Footnote 5.

⁶² As worded in Art. 1.14 of the Law mentioned in Footnote 1.

Article 28⁶³

1. Following the acceptance of the list referred to in Art. 27.1.1., however not later than within seven days, the Fund Management Board shall adopt and publicize by means of announcement in a nation-wide publication, and deliver to the entities covered by the guarantee system, its resolution on provision of assets for disbursement of guaranteed assets to the trustee.

2. The resolution referred to in Section 1 shall define:

- 1) amount of assets transferred to the trustee for disbursement of guaranteed assets, being the difference between the sum of guaranteed assets and the bank's liquid assets less expenses specified in Art. 27.1.4;
- 2) share in the amount referred to in Section 1 of individual entities covered by the guarantee system, pro rata to the size of the fund for protection of guaranteed assets established by a given entity, however provided that the unutilized portion of the fund for protection of guaranteed assets of a bank in bankruptcy shall be fully included in that amount;
- 3) detailed rules of disbursement of guaranteed assets made by the trustee in bankruptcy; and
- 4) level of payments made by the entities covered by the guarantee system to a dedicated special account of the Fund with the National Bank of Poland.

3.⁶⁴ The trustee in bankruptcy shall have to disburse the guaranteed assets subject to the conditions laid down in the Law and in the Fund's resolution referred to in Section 1, taking into account the amounts payable to persons specified in Art. 57.1 of the Banking Law, pursuant to the schedule of payments that was prepared by it and approved by the Fund Management Board.

4. After the termination of payments, the trustee in bankruptcy shall make settlements regarding the amounts paid and draft a report thereon, and deliver it to the Fund within 21 days after the termination of payments.

5. Within the period specified in Section 4, the trustee in bankruptcy shall return to the Fund any amounts that were not disbursed to the depositors, as well as interest accrued on the amount provided by the Fund for disbursement of the assets guaranteed by the bank keeping the account in which that amount was deposited.

6. The Fund Management Board shall exercise current control of adherence, by the bank's trustee in bankruptcy, to the conditions for disbursement of guaranteed assets as laid down in the Law and in the Management Board's resolution referred to in Section 1.

7. The Fund shall advise the judge commissioner of any irregularities revealed in the course of control, requesting their rectification by the trustee.

⁶³ As worded in Art. 1.20 of the Law mentioned in Footnote 5.

⁶⁴ As worded in Art. 1.15 of the Law mentioned in Footnote 1.

Article 29

1.⁶⁵ The contributions of assets allocated for disbursement of guaranteed assets that are made by the entities covered by the guarantee system, in the amount determined pursuant to Art. 28.2.2, shall have to be made by these entities to the dedicated special account of the Fund with the National Bank of Poland within seven days after publication of the Management Board's resolution by means of announcement in a nation-wide publication.

2. The funds coming from the contributions referred to in Section 1, made to the dedicated special account of the Fund with the National Bank, shall become the Fund's property.

3.⁶⁶ The contributions referred to in Section 1 shall reduce the fund for protection of guaranteed assets of the entities covered by the guarantee system, until the cancellation of that fund in connection with the bank's bankruptcy and provision of sums for disbursement of guaranteed assets by the Fund.

Article 30⁶⁷

By virtue of provision of the assets to the trustee in bankruptcy, the Fund shall have a claim on the estate in bankruptcy for reimbursement of the sums provided, to be satisfied in the first place after the discharge of current costs of bankruptcy proceedings, remuneration payable to employees of the bank (regional association) and other claims of the employees referred to in Art. 204 § 1.1 of the Regulation of the President of the Republic of Poland of 24 October 1934 - the Bankruptcy Law.

Article 31

The assets for disbursement of the deposits that were provided to the trustee in bankruptcy on the basis of the Fund Management Board's resolution shall be excluded from the estate in bankruptcy and may not be applied by the trustee to any purpose other than disbursement of guaranteed assets.

Article 32

The amount allocated for disbursement of guaranteed assets that was provided on the basis of the Fund Management Board's resolution referred to in Art. 28, to the dedicated special account of the Fund with the National Bank of Poland, shall be deductible for tax purposes for the entity covered by the guarantee system, in the meaning of the provisions of the Corporate Income Tax Law of 15 February 1992.

Article 33

1.⁶⁸ After the list of claims have been determined by the judge commissioner or after the claims have been confirmed with final decisions of

⁶⁵ As worded in Art. 1.21.a) of the Law mentioned in Footnote 5.

⁶⁶ As worded in Art. 1.21.b) of the Law mentioned in Footnote 5.

⁶⁷ As worded in Art. 1.22 of the Law mentioned in Footnote 5.

⁶⁸ As worded in Art. 1.23 of the Law mentioned in Footnote 5.

the court, the list of depositors' claims that were not on the list referred to in Arr. 27.1.1. shall be added to the list of depositors.

2. After additions to the list of depositors, the entities covered by the guarantee system shall make additional payments to the dedicated special account of the Fund with the National Bank of Poland. The provisions of Art. 28 shall accordingly apply, provided that payments shall be made to the depositors in the first place from current receipts increasing the bankruptcy estate.

Article 34

1. If the amount of claims under guaranteed assets is in excess of the amount referred to in Art. 15.2, the Fund shall discharge these claims from other sources referred to in Art. 15.

2. After the exhaustion of the Fund's money, disbursements under the depositors' claims shall be satisfied from the Fund's capital as referred to in Art. 45.

3. After the exhaustion of the funds referred to in Art. 45, the President of the National Bank of Poland may extend a credit facility to the Fund, on conditions agreed with the Fund. The credit amount cannot exceed the amount equal to one half of the Fund's receipts from annual contributions payable by the entities covered by the guarantee system.

4. After the exhaustion of the funds referred to in Sections 1 and 2, the Council of Ministers, in a regulation, having sought the opinion of the President of the National Bank of Poland, may increase the charges referred to in Art. 13.1, Art. 14 and Art. 25.2, 3 and 4 by applying the rate up to 0.8%.

Article 35

1. Any claims that the depositor may have against the estate in bankruptcy shall devolve to the Fund in the amount equal to the sums disbursed under the guarantees for the assets.

1a.⁶⁹ In case of acquisition of a bank business under Art. 165.3 of the Banking Law, any liabilities arising from the Fund's claims referred to in Section 1 shall not devolve to the acquiring party.

2. Any amounts recovered by the Fund from the estate in bankruptcy shall be applied in the first place towards the repayment of the loan referred to in Art. 34.3 and making up the Fund's assets referred to in Art. 45.

3.⁷⁰ The Fund shall apply any remaining amounts for purposes related to the implementation of its tasks as regards the disbursement of guaranteed assets only, namely:

1) uses them in cases when a need arises to increase the assets provided to the trustees on the basis of resolutions adopted under Art. 28.1.; and

⁶⁹ Added by Art. 1.16 of the Law mentioned in Footnote 1.

⁷⁰ As worded in Art. 1.24.a) of the Law mentioned in Footnote 5.

2) taken into account when adopting subsequent resolutions on providing the trustee with the amounts for disbursement of guaranteed assets.

4.⁷¹ The Fund Management Board's resolutions on matters described in Section 3.1 shall not be governed by the provision of Art. 28.1.

Article 36

The Fund shall be entitled to earn interest at the rate of interest charged on tax arrears, for any delay in payment of the annual contributions referred to in Art. 13.1 and the disbursements referred to in Art. 29 and Art. 33.2.

Article 37

1. Extracts from the Fund's books that are signed by the authorized members of the Fund Management Board and affixed with its stamp, confirming the existence of an liability vis-a-vis the Fund by the entity covered by the guarantee system, and appended with a statement saying that any claims based thereon are due and payable, shall have the force of debt collection orders with no need to apply for enforcement clauses therefor.

2. The collection of debts confirmed with the documents mentioned in Section 1 shall be enforced, depending on the nature of such liabilities, according to the procedure defined in the Code of Civil Procedure or in regulations on debt collection procedure in administration.

3. The debtor may, in a suit, demand discontinuation of any or all debt collection activities pursued by the Fund under the Code of Civil Procedure or regulations on debt collection procedure in administration, if the debt to be enforced does not exist or exists in a lesser amount, or if the debtor lodges counter-claims that can be off-set against the debt to be enforced.

4. The court may suspend debt collection proceedings on request of the plaintiff by way of injunction.

Article 38

1. The National Bank of Poland shall provide the Fund, if so requested by the Fund Management Board, with information about the standing of the entities covered by the guarantee system, who applied to the Fund for financial assistance, to the extent necessary to evaluate the plan of applying the Fund's assistance towards recovery of the bank's business or merger with another bank.

2. The National Bank of Poland shall provide the Fund with annual balance sheet of the banks covered by the system of guarantees for the assets within 30 days after receiving them, and the quarterly analysis of the banking sector operations.

3.⁷² The National Bank of Poland shall provide the Fund with information about the financial standing of the entity covered by the

⁷¹ Added by Art. 1.24.b) of the Law mentioned in Footnote 5.

⁷² As worded in Art. 1.17 of the Law mentioned in Footnote 1.

system of guarantees for the assets and any measures taken vis-a-vis it on the basis of the Banking Law if it comes to its notice that the bank incurred a loss or there is a threat or danger of the bank's insolvency.

4.⁷³ The Fund has the right to obtain information concerning the entities covered by the guarantee system that affect the implementation of its tasks, as held by the National Bank of Poland, the minister responsible for financial institutions⁷, and the Supreme Audit Chamber.

5.⁷⁴ The subject matter, scope and dates of providing information referred to in Section 4 shall be determined in separate agreements to be made between the Fund and the President of the National Bank of Poland, the minister responsible for financial institutions⁷ and the Supreme Audit Chamber.

6.⁷⁴ The banks covered by the guarantee system shall be obligated to provide the Fund with information other than provided to the National Bank of Poland, as necessary for fulfillment of the Fund's tasks.

7.⁷⁴ The scope of the information referred to in Section 6 shall be defined by the President of the National Bank of Poland, on request of the Fund.

8.⁷⁴ In case of cooperative banks affiliated to other banks, the information referred to in Section 6 and referring to individual banks, as well as associations, respectively, shall be provided to the Fund by the affiliating banks.

9.⁷⁴ The entities specified in Sections 4, 6 and 8 shall be obligated to provide the Fund with information without unreasonable delay.

10.⁷⁴ The information received concerning the entities covered by the guarantee system may be only used by the Fund in furtherance of its tasks contemplated hereby.

C h a p t e r 5

Contractual System of Guarantees for the Assets Held in Bank Accounts

Article 39

1. The entities covered by the guarantee system, who fulfill their obligations as imposed on them in accordance with provisions of this Law, may, within the framework of the statutory system of guarantees for the assets, undertake to extend the guarantee cover beyond the minimum specified in the mandatory system of guarantees for the assets.

2. Any assets covered by the contractual guarantee system shall be applied towards satisfaction of the depositors' claims after the funds from the mandatory guarantee system have been fully applied.

⁷³ As worded in Art. 1.25.a) of the Law mentioned in Footnote 5.

⁷⁴ Added by Art. 1.25.b) of the Law mentioned in Footnote 5.

Article 40

1. The agreement on establishment of the contractual guarantee fund and the principles of its operation shall specify, without limitation:

- 1) participants of the fund;
- 2) rules of joining and withdrawal from the fund, including the rate of contribution to that fund; and
- 3) rules of applying the fund's money for protection of the bank deposits and investments.

2. The agreement on establishment of the contractual guarantee fund may also provide for a cover for the assets held in bank accounts other than those referred to in Art. 2.2.

Article 41

The agreement on establishment of the contractual guarantee fund and the principles of its operation shall require the approval of the Council of the Bank Guarantee Fund in order to be valid.

C h a p t e r 6

Criminal Liability

Article 42

1.⁷⁵ Whosoever, being a member of management board or bank council (regional association's authority) covered by the statutory system of guarantees for the assets, causes a loss incurred by the Fund as a result of the bank's failure to establish the fund for protection of guaranteed assets or creating it in an incorrect amount, or when the assets allocated to the fund for protection of guaranteed assets were not invested in treasury securities or money bills of the National Bank of Poland or deposited in the manner referred to in Art. 26.1 and 2,

shall be liable to a fine, restriction of liberty or imprisonment up to two years.

2.⁷⁶ The same penalty shall be applicable to a member of management board or bank council (regional association's authority) covered by the statutory system of guarantees for the bank deposits who causes a loss incurred by the Fund by encumbering any assets which represent the coverage of the fund for protection of guaranteed assets with third party rights.

⁷⁵ As worded in Art. 1.26.a) of the Law mentioned in Footnote 5 and in Art. 5 §2.41 of the Law of 6 June 1997 - Implementing Provisions to the Criminal Code (Dz.U. No. 88 item 554 and No. 160 item 1083) which entered into force on 1 September 1998.

⁷⁶ As worded in Art. 1.26.b) of the Law mentioned in Footnote 5.

C h a p t e r 7

Final and Transitory Provisions**Article 43**

1. The fund for protection of guaranteed assets referred to in Art. 25 shall be established on the last reporting day of the month during which this Law enters into force, and in case of banks established after the effective date of this Law - on the last reporting day of the month during which the court decision on entering the bank into the register become final.

2. The regional associations referred to in the Law on Restructuring Cooperative Banks and Bank Gospodarki Żywnościowej and Certain Other Laws of 24 June 1994 shall establish the fund for protection of guaranteed assets on the last reporting day of the month during which their financial statements are consolidated.

3. If the guarantee condition is fulfilled by the entities covered by the statutory system of guarantees for the assets held in bank accounts before they establish the funds for protection of guaranteed assets on the dates specified in this Law, the dates of making disbursements in accordance with the procedure referred to in Art. 27 and 28 shall run from the day of establishing the funds for protection of guaranteed assets in compliance with the Law.

Article 43a⁷⁷

Prior to the execution of the Law on Restructuring Cooperative Banks and Bank Gospodarki Żywnościowej and Certain Other Laws of 24 June 1994, as regards the establishment of all regional associations and banks contemplated thereby, the provisions of this Law referring to such associations and banks shall accordingly apply to sociations and banks affiliating cooperative banks by virtue of separate regulations.

Article 44

The Bank Guarantee Fund is not a state ear-marked fund in the meaning of the Budget Act of 5 January 1991 (Dz.U. of 1993 No. 72 item 344 and of 1994 No. 76 item 344, No. 121 item 591 and No. 133 item 685).⁷⁸

Article 45

The National Bank of Poland and the Finance Minister shall pay 50,000,000⁷⁹ PLN each to the Fund within 14 days after appointment of the Management Board of the Bank Guarantee Fund.

⁷⁷ Added by Art. 1.27 of the Law mentioned in Footnote 5.

⁷⁸ The Budget Law of 5 January 1991 was declared null and void by Art. 202.1 of the Law on Public Finance of 26 November 1998 (Dz.U. No. 155 item 1014) which entered into force on 1 January 1999. Today, the matters of public finance are regulated by the said law of 26 November 1998.

⁷⁹ After re-denomination pursuant to Art. 4.6a of the Law on Re-denomination of Zloty of 7 July 1994 (Dz.U. No. 84 item 386 and of 1995 No. 16 item 79).

Article 46

(omitted).

Article 47

(omitted).

Article 48

(omitted).

Article 49

This Law shall enter into force after 30 days of its promulgation.⁸⁰



⁸⁰ The Law was promulgated on 17 January 1995.