

GOVERNMENT GAZETTE

Decision no. 262/3/23.2.2018 (6)

Payment of compensation to life insurance beneficiaries of an insurance undertaking under liquidation - Repealing Decision 12/3/13.7.2011 of the Credit and Insurance Committee of the Bank of Greece

BANK OF GREECE

THE CREDIT AND INSURANCE COMMITTEE

Having regard to:

a) Article 55A of the Statute of the Bank of Greece;

b) the Act No. 1/20.12.2012 of the Executive Committee of the Bank of Greece "Reconstitution of the Credit and Insurance Committee and delegation of powers" (Government Gazette B 3410), as in force following its amendment by Act No. 52/2.10.2015 of the Executive Committee "Constitution and powers of the Credit and Insurance Committee and the Resolution Measures Committee of the Bank of Greece" (Government Gazette B 2312),

c) Law No. 3867/2010 "Supervision of private insurance, establishment of private life insurance guarantee fund, credit rating agencies and other provisions within the scope of the Ministry of Finance" (Government Gazette A 128), in particular par. 3 of article 7 thereof,

d) Law No. 4364/2016 "Adaptation of the Greek legislation to Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II), to articles 2 and 8 of Directive 2014/51/EU of the European Parliament and of the Council of 16 April 2014 amending Directives 2003/71/EC and 2009/138/EC, and Regulations No. (EC)1060/2009, No. (EC) 1094/2010 and No. (EC) 1095/2010, regarding the powers of the European Insurance and Occupational Pensions Authority (hereinafter EIOPA) and the European Securities and Markets Authority, as well as article 4 of Directive 2011/89/EU of the European Parliament and of the Council of 16 November 2011 as regards the supplementary supervision of financial entities in a financial conglomerate and related provisions of private insurance legislation and other provisions" (Government Gazette A 13), in particular par. 3 of article 10, as well as articles 235 to 248 thereof,

e) Decision No. 12/3/13.7.2011 of the Credit and Insurance Committee of the Bank of Greece "Payment of compensation to life insurance beneficiaries of an insurance undertaking whose authorisation has been withdrawn" (Government Gazette B 1862),

f) minutes No. 86/29.11.2017 of the Management Committee of the Private Life Insurance Guarantee Fund,

g) the recommendation note of the Supervised Institutions Inspection Department dated 16/2/2018,

h) the fact that the provisions hereof do not stipulate an expense to the state budget, decided the following:

Decision No. 12/3/13.7.2011 of the Credit and Insurance Committee of the Bank of Greece "Payment of compensation to life insurance beneficiaries of an insurance undertaking whose authorisation has been withdrawn" (Government Gazette B 1862) is repealed and replaced as follows:

Article 1

Object

The object of this decision is to regulate matters concerning the payment of compensation from the Private Life Insurance Guarantee Fund (hereinafter referred to as the "Guarantee Fund") to life insurance beneficiaries of an insurance undertaking whose authorisation has been withdrawn.

Article 2

Definitions

For the purposes of this decision:

1. "Life insurance claims" means claims arising from insurance or from the redemption value of primary insurance contracts in the context of the operations of article 5 of Law No. 4364/2016 (Government Gazette A 13) at the time of operation of the insurance undertaking whose authorisation has been withdrawn, provided that such claims cumulatively meet the following conditions:

a) they do not concern the exempted persons of article 8 of Law No. 3867/2010 (Government Gazette A 128);

b) they do not come under the insurance subsectors excluded under paragraph 1 of article 7 of Law No.

3867/2010 (Government Gazette A 128).

c) they have not been repaid in full by the insurance undertaking, either as redemption value, as sum assured or as loan. In case of payments that have been made, the life insurance claim shall be equal to the unpaid part of the claim;

d) they are registered in the records of the insurance undertaking and are included in the Statement of Compensation Beneficiaries of article 242 par. 2 of Law No. 4364/2016 (Government Gazette A 128) that is notified to the Guarantee Fund, in accordance with article 3 hereof and

e) they are not time barred on the date the authorisation of the insurance undertaking is withdrawn.

2. "Compensation" means the amount payable by the Guarantee Fund after deduction of any amount received by the beneficiary from the insurance undertaking as redemption value or as sum assured or loan.

3. "Beneficiary" means the person to whom the Guarantee Fund must pay compensation in accordance with articles 5, 7 and 8 of Law No. 3867/2010 (Government Gazette A 128).

4. "Insurance liquidator" means the person appointed in accordance with the provisions of article 237 par. 4 of Law No. 4364/2016.

5. "Personal data" and "sensitive data" means the data set out respectively in points A and b of article 2 of Law No. 2472/1997.

Article 3

Determination of life insurance claims

1. Following the publication of the Statement of Compensation Beneficiaries of par. 2 of article 242 of Law No. 4364/2016 (Government Gazette A 13), the insurance liquidator notifies the Guarantee Fund of the life insurance claims certified therein, as well as the list of persons included in article 8 of Law No. 3867/2010. The Guarantee Fund, taking into account the Statement of Compensation Beneficiaries, shall determine the claims from life insurance, in accordance with articles 7 par. 1 and 8 of Law No. 3867/2010, as in force, and article 2 par. 1, 2 and 3 hereof.

2. The Guarantee Fund may request from the liquidator any information it deems necessary for the implementation of subparagraph 1 of par. 2 of article 7 of Law No. 3867/2010 (Government Gazette A 128), as in force. The Guarantee Fund reserves the right to object, as provided for in par. 2 of article 242 of Law No. 4364/2016 (Government Gazette A 13) against the Statement of Compensation Beneficiaries.

3. The liquidator shall notify the Guarantee Fund without delay of any final court judgement on the objections of paragraph 2 of article 242 of Law No. 4364/2016, which result in an amendment of the Statement of Compensation Beneficiaries. For the relevant life insurance claims, the provisions of the second subparagraph of paragraph 1 hereof shall apply following the above notification.

Article 4

Communication

1. Once the life insurance claims have been determined, the Guarantee Fund shall inform the beneficiaries of the compensation they are entitled to, the credit institutions through which compensation is to be paid and the deadline within which each beneficiary must make the declarations of paragraphs 2 and 3 of this article. Beneficiaries shall be informed by whatever means deemed appropriate by the Guarantee Fund, in particular by printed or electronic mail, through its website.

2. For the payment of compensation, beneficiaries shall notify in writing, by a solemn declaration of Law 1599/1986 certified for signature authenticity, the Guarantee Fund of the deposit or payment account, in which they are legal beneficiaries.

3. Beneficiaries also declare to the Guarantee Fund in writing, by a solemn declaration of Law No. 1599/1986 certified for signature authenticity, at least that:

- a) the premium, the sum assured and the insurance relationship in general neither constitutes nor is related to an act of money laundering and no criminal prosecution for an offence of Law No. 3691/2008, as in force, has been brought against beneficiaries of the insurance relationship, in relation to said relationship,
- b) after payment of the compensation in accordance with the present, they reserve no claim whatsoever against the Guarantee Fund.

Article 5

Payment of compensation

1. Compensation is paid by crediting the bank account of paragraph 2 of article 4 hereof, provided that the Guarantee Fund has received the solemn declaration of Law No. 1599/1986 of paragraph 3 of the same article.
2. The slip of deposit in the bank account shall be full proof of the payment and, consequently, of the fulfilment of the legal obligations of the Guarantee Fund vis à vis the beneficiaries of the compensation.
3. The Guarantee Fund may, following a decision of the Bank of Greece, pay to the beneficiaries the compensation that it has determined in accordance with article 3 hereof, in instalments, by determining either a specific, numerically determined, amount, or a percentage of the claim, to be paid in each instalment. The decision of the previous subparagraph, taken upon recommendation of the Guarantee Fund, shall specify the terms and the schedule of instalments, taking into account the provisions of paragraph 4 and the need to maximize the number of fully satisfied beneficiaries at each stage of the instalments.
4. The Guarantee Fund shall pay the compensation within three years of the notification of the Statement of Compensation Beneficiaries provided for in article 3 hereof. By decision of the Bank of Greece following a reasoned request by the Guarantee Fund, the above deadline may be extended taking into account the instalment procedure of compensations, in accordance with paragraph 3 hereof.

Article 6

Guarantee Fund Operation during the compensation procedure

By decision of the Management Committee of the Guarantee Fund, an outsourcee may be employed to assist completing the procedures described herein. The outsourcee shall keep confidential any personal or sensitive data that may come to his possession. The following criteria shall be used to select an outsourcee: (a) possession of as many specialities as possible; (b) the overall cost; (c) previous experience in similar tasks; and (d) absence of conflicts of interest. The Management Committee's requirements with respect to the selection of an outsourcee may be specified on an ad hoc basis by informing potential outsourcees.

Article 7

Final Provisions

1. The provisions hereof also apply, in case of portfolio transfer, to life insurance that are not transferred. In such case, the time limits referred to in this decision shall start to run from the date of the Bank of Greece decision approving the transfer, made according to paragraph 3 of article 9 of Law No. 3867/2010 (Government Gazette A 128).
2. As of the date of publication hereof Decision 12/3/13.7.2011 of the Credit and Insurance Committee of the Bank of Greece is repealed, and any reference to it shall henceforth be understood as a reference to this Decision.

This decision shall be published in the Government Gazette and posted on the website of the Bank of Greece.

The Chairman
IOANNIS STOURNARAS