

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

**2009 No. 26.**

**THE MICRO FINANCE DEPOSIT- TAKING INSTITUTIONS  
(ESTABLISHMENT OF THE MDI DEPOSIT PROTECTION FUND)  
INSTRUMENT, 2009.**

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# STATUTORY INSTRUMENTS

2009 No. 26.

## **The Micro Finance Deposit- Taking Institutions (Establishment of the MDI Protection Fund) Instrument, 2009.**

*(Under section 80(1) of the Micro Finance Deposit – Taking Institutions Act, 2003 Act No. 5 of 2003)*

IN EXERCISE of the powers conferred on the Central Bank by section 80 of the Micro Finance Deposit - Taking Institutions Act, 2003, this Instrument is made this 11th day of May, 2009.

### PART I—PRELIMINARY

#### **1. Title**

This Instrument may be cited as the Micro Finance Deposit- Taking Institutions (Establishment of the MDI Protection Fund) Instrument, 2009.

#### **2. Application**

This Instrument shall apply to all micro finance deposit- taking institutions licensed and regulated by the Central Bank.

#### **3. Interpretation**

In this Instrument, unless the context otherwise requires—

“Act” means the Micro Finance Deposit Taking Institutions Act, 2003;

“Central Bank” means the Bank of Uganda established under the Bank of Uganda Act;

“currency point” has the value given to it in the Schedule to this Instrument;

“customer” means a person entitled to a deposit in an institution as a trustee or persons holding a deposit jointly;

“depositor” means a person holding an eligible deposit in an institution;

“display material” means information displayed in banking halls or in a conspicuous place in an institution, to promote public awareness and understanding of deposit protection;

“eligible deposit” means the aggregate of all assets deriving from demand deposits, savings accounts or financial institution certificates deposited by a depositor in an institution in accordance with paragraph 18;

“Fund” means the MDI Deposit Protection Fund;

“institution” means a micro finance deposit-taking institution or its legal successors, licensed by the Central Bank to accept deposits from the general public;

“MDI” means micro finance deposit-taking institution;

“micro finance business” has the meaning given to it under section 2 of the Act;

“micro deposit – taking institution” means a company licensed to carry on, conduct, engage in or transact in microfinance business in Uganda;

“protected deposit” means a portion of an eligible deposit protected under this Instrument;

“protected event” means an event that requires the Fund to pay a depositor in accordance with this Instrument.

#### **4. Objectives of Instrument**

The objectives of this Instrument are to—

- (a) provide for the establishment and operation of the MDI Deposit Protection Fund;
- (b) promote a strong and viable micro finance industry in Uganda in order to enhance economic growth by contributing to poverty reduction in both rural and urban areas in Uganda; and

- (c) promote the growth of the financial sector in Uganda by ensuring that regulated microfinance business is conducted in a safe and sound manner.

## PART II—ESTABLISHMENT OF FUND

### **5. Establishment and object of the Fund**

(1) There is established a Fund in the Central Bank to be known as the MDI Deposit Protection Fund.

(2) The object of the Fund is to compensate depositors for losses incurred by them in the event of insolvency of an institution.

(3) The Fund shall, subject to paragraph 18, protect all eligible deposits to the extent of the protected deposit.

(4) The moneys of the Fund shall consist of—

(a) moneys contributed by institutions under paragraph 10;

(b) income credited from whatever source;

(c) money borrowed for purposes of reimbursing depositors in the case of a protected event;

(5) The Fund shall be managed and controlled by the Central Bank.

### **6. Size of the Fund**

The Central Bank may, from time to time by notice in the *Gazette*, fix the size of the Fund as a percentage of the total micro finance deposit-taking institutions sector deposits sufficient to protect the interests of depositors.

### **7. Borrowing powers**

The Central Bank may borrow money in order to reimburse depositors to overcome any deficiency in the Fund pending collection of contributions.

## **8. Investment of surplus money**

The Central Bank shall invest the monies constituting the fund according to the terms and limitations of the Fund's investment policy and any income from the investment shall be credited to the Fund.

## **9. Application of the moneys of the Fund**

The moneys of the Fund shall be applied for—

- (a) compensating depositors for losses incurred by them in the event of insolvency of an institution;
- (b) payment and discharge of administrative expenses of the Central Bank;
- (c) repayment of any money borrowed by the fund; and
- (d) repayment of money used to make payments in respect of protected deposits.

### **PART III—PAYMENTS INTO THE FUND AND PAYMENT OF PROTECTED DEPOSITS**

## **10. Payments into the Fund**

(1) There shall be paid into the fund, all moneys referred to in paragraph 5(4).

(2) Every institution shall pay into the Fund, an annual contribution prescribed by the Central Bank by a notice published in the *Gazette*.

(3) The minimum annual contribution shall not be less than 0.2 percent of the total deposit liabilities of the institution during the previous calendar year.

(4) The Central Bank shall, at the end of each calendar year, notify an institution in writing, of the annual contribution which the institution shall pay for the following year.

(5) The annual contribution prescribed under subparagraph (2) shall be paid within twenty one days after the date of receipt of the notice by the institution.

(6) Notwithstanding subparagraph (3), the Central Bank may vary the percentage and advise on the basis of weighting.

## **11. Risk adjusted contribution**

(1) The Central Bank may by notice published in the *Gazette* increase the annual contribution beyond the amount prescribed in paragraph 10(3) where the Central Bank discovers that—

- (a) the affairs of an institution are being conducted in a manner detrimental to the interests of depositors and the Central Bank is of the opinion that the continued conduct may cause loss to the Fund;
- (b) the overall performance of an institution is rated as marginal or unsatisfactory.

(2) The contribution increased under subparagraph (1) shall be known as a risk adjusted contribution which shall be based on the ratings resulting from a review of the off-site surveillance reports of the Central Bank.

(3) An institution whose overall performance receives a rating of marginal performance shall be charged an additional charge of 0.1 percent of total deposit liabilities, in addition to the contribution made under paragraph 10(3).

(4) An institution whose overall performance receives a rating of unsatisfactory performance shall be charged an additional charge of 0.2 percent of total deposit liabilities in addition to the contribution made under paragraph 10(3).

## **12. Determination of a protected deposit**

(1) A protected deposit shall be determined from the amount which is the aggregate credit balance of all accounts maintained by a customer or depositor at an institution less any liability of the customer to the institution.

(2) A protected deposit shall not exceed one hundred and fifty currency points or such other amount as the Central Bank may prescribe by statutory instrument.

### **13. Payments out of the Fund**

(1) There shall be paid out of the Fund all moneys referred to in paragraph 9.

(2) A customer or depositor of an institution may lodge a claim for payment against the Central Bank or its appointed receiver or liquidator where an institution is declared insolvent and put into liquidation by the Central Bank.

(3) The claim made under subparagraph (1) shall be in a form approved by the Central Bank, its appointed liquidator or receiver.

(4) The Central Bank may approve the payment of a claim by a customer or depositor to be made out of the MDI Deposit Protection Fund which the customer or depositor would have been paid if the customer or depositor had made the demand for payment before the date of the protected event.

(5) The Central Bank shall pay the protected deposit to customers or depositors within ninety days of the date of the protected event.

(6) The Central Bank, its appointed receiver or liquidator may, before paying any claim lodged under subparagraph (1) require the claimant to furnish it with such documentary proof as may be proper to show that the claimant is entitled to payment from the fund.

(7) The Central Bank, its appointed receiver or liquidator may decline to make any payment under this paragraph to a person who, in the opinion of the Central Bank, its appointed receiver or liquidator, had any responsibility for, or has profited directly or indirectly from the circumstances leading to the closure of the institution.

(8) A customer or depositor of a closed institution shall not be paid any amount in excess of a protected deposit.

(9) For purposes of paying a protected deposit, any assets of a depositor denominated in foreign currency shall be converted into Uganda Shillings based on the average exchange rates of the Central Bank as at the date of the protected event.



(10) Nothing in this paragraph shall be construed so as to impose an obligation on the liquidator to set off any liability of a depositor in an institution.

#### **14. Succession of rights of a customer or depositor**

The Fund shall, upon payment of a protected deposit, succeed to the rights of a customer or depositor receiving the payment and is entitled to recover from the failed institution's estate an amount equal to the payment made by the Fund to satisfy the claim of any customer or depositor.

#### **15. Calculation of depositor's share in a joint account**

(1) A depositor's share in a joint account shall be calculated equally between the accountholders except where proof to the contrary is provided by each and every accountholder.

(2) The total protection for any joint account will be limited to the amount prescribed this Instrument for a single depositor.

#### **16. Withholding of payment of protected deposit**

The Central Bank or its appointed liquidator may direct the Fund to withhold payment of a portion of the protected deposit of any customer in an insolvent institution as may be required to satisfy, whether fully or in part, any liability of that customer to the insolvent institution.

#### **17. Inspections by the Central Bank**

Notwithstanding paragraph 13(5) and paragraph 16, the Central Bank may carry out inspections to ascertain the type, number and values of the protected deposits which, but for the closure would be payable by the institution.

#### **18. Excluded deposits**

Eligible deposits shall not include depositor assets which are—

- (a) derived from operations that have been declared illegal by a court decision, in respect of which the period of appeal has expired without an appeal being made or where no further appeal is pending;
- (b) kept in any account in which the account title is not clear as to who owns the account;

- (c) kept in a safe deposit box;
- (d) held in any kind of safekeeping or custodial arrangement with an institution;
- (e) deposited by other domestic or foreign financial institutions on their own behalf and for their own account;
- (f) from domestic or foreign government entities;
- (g) from domestic or foreign companies;
- (h) from domestic or foreign undertakings for collective investment;
- (i) from domestic or foreign pension and retirement funds;
- (j) assets from the institution's board members, Managing Directors, managers, members of the audit board, shareholders of five percent or more of the institution's capital, persons responsible for carrying out the statutory audits of the institution's accounting documents;
- (k) from companies in the same Group as each institution;
- (l) for which it is determined that the depositor has obtained from the institution rates or any other financial concession which may have helped to aggravate the institution's financial condition;
- (m) from companies which may be excluded from deposit protection coverage by the Act or any other law; or
- (n) debt securities issued by an institution and any other liabilities arising out of the institution's own acceptances and promissory notes.

## **19. Public awareness**

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

(2) Every institution shall permanently exhibit the display material at its public entrance and exit doors and adjacent to each teller station in its banking hall.

(3) Every institution shall display the statement “Deposits Protected by the MDI Deposit Protection Fund” on all web sites, official stationery and print advertising.

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

## **20. Appointment of statutory manager**

(1) An institution may appoint a statutory manager who shall be responsible for paying protected depositors.

(2) Where a statutory manager is appointed under subparagraph (1), the statutory manager shall pay the protected depositor within ninety days from the date of appointment of the statutory manager.

(3) Where the licence of an institution under statutory management is to be revoked, and the institution is placed into liquidation, the protected deposits shall be paid by the Fund in accordance with this Instrument but in any case not later than ninety days.

## **21. Annual report of the Fund**

(1) The Central Bank shall, within four months after the end of each financial year, submit audited financial statements and an annual report of its operation of the Fund to the Minister and to every institution.

(2) The financial year of the Fund shall be a calendar year beginning on the 1st day of January and ending on the 31st day of each year.

## **22. Civil penalty interest charge**

An institution which fails to pay a contribution payable under this Instrument is liable to pay a civil penalty interest charge of 1 percent of the unpaid amount for every day which the contribution remains unpaid after the notice to pay has been issued to the institution.

## SCHEDULE

*Paragraph 3*

### CURRENCY POINT

A currency point is equivalent to twenty thousand shillings.

#### **Cross References**

Bank of Uganda Act Cap. 51

Micro Finance Deposit – Taking Institutions Act, 2003 Act No. 5 of 2003

E. TUMUSIIME MUTEBILE,  
*Governor Bank of Uganda.*