

Bank Bankruptcy Act

Promulgated, State Gazette No. 92/27.09.2002, effective 28.12.2002, supplemented, SG No. 67/29.07.2003, amended, SG No. 36/30.04.2004, effective 31.07.2004, supplemented, SG No. 31/8.04.2005, effective 8.10.2005, amended, SG No. 105/29.12.2005, effective 1.01.2006, SG No. 30/11.04.2006, effective 12.07.2006, SG No. 34/25.04.2006, effective 1.01.2008 (*)(**), amended and supplemented, SG No. 59/21.07.2006, effective 1.01.2007, amended, SG No. 59/20.07.2007, effective 1.03.2008, SG No. 67/29.07.2008, SG No. 105/29.12.2011, amended and supplemented, SG No. 98/28.11.2014, effective 28.11.2014, SG No. 22/24.03.2015, effective 24.03.2015, SG No. 41/5.06.2015, effective 5.06.2015, SG No. 50/3.07.2015, SG No. 61/11.08.2015, effective 11.08.2015, SG No. 62/14.08.2015, effective 14.08.2015, amended, SG No. 94/4.12.2015, effective 1.01.2016

Text in Bulgarian: Закон за банковата несъстоятелност

Chapter one

GENERAL DISPOSITIONS

Subject

Article 1. (1) (Previous text of Article 1, SG No. 59/2006) This Act shall establish the bankruptcy proceedings against a bank with registered address in the Republic of Bulgaria.

(2) (New, SG No. 59/2006) The provisions of chapter thirteen of the Credit Institutions Act shall furthermore apply to the bankruptcy proceedings of a bank with branches in Member States.

Purpose of the proceedings

Article 2. (1) The bankruptcy proceedings against a bank shall ensure, within the shortest period, fair satisfaction of the depositors and the other creditors of the bank.

(2) The bankruptcy proceedings shall take into consideration the interests of the depositors and the other creditors of the bank, as well as the public interest with regard to the stability and credibility of the banking system.

Bankruptcy estate

Article 3. (1) The bankruptcy estate shall comprise:

1. the property rights of the bank at the date of the judgement on initiation of bankruptcy proceedings;
2. the property rights of the bank acquired after the date of the judgement on initiation of bankruptcy proceedings.

(2) (Amended, SG No. 59/2006) From the date of the decision on revoking the licence for carrying out banking activity, pursuant to Article 36 (2) of the Credit Institutions Act no disposition transactions and actions with the property of the bank shall be carried out, with the exception of the customary expenses for its preservation and management. Actions and

transactions shall not be carried out from the same date for collecting, renegotiating or securing claims on the bank, as well as for settling its monetary liabilities, regardless of the manner of execution.

(3) Actions and transactions, carried out in violation of the prohibitions stipulated in Paragraph 2, shall be nil and void with respect to the bankruptcy creditors.

(4) Where a bank declared bankrupt has acted as a financial intermediary or commissioner on government or government-guaranteed loans extended from international financial institutions and foreign countries, the state, represented by the Minister of Finance, shall be subrogated as the sole creditor with respect to the sub-borrowers of the loans.

(5) The claims on the sub-borrowers of the loans under Paragraph 4 and related rights and established securities shall not be part of the bankruptcy estate and shall be submitted for full disposition to the Minister of Finance.

Bankruptcy creditors

Article 4. (1) The bankruptcy estate shall be used for satisfaction of all creditors of the bank for commercial and non-commercial claims having arisen by the date of the judgement on initiation of bankruptcy proceedings against the bank, as well as of creditors on claims related to bankruptcy expenses made under the terms and procedures of this Act.

(2) A claim shall be satisfied only after full satisfaction of the creditors under Article 94 (1), items 1 - 8, arising from:

1. legal or contracted interest on unsecured claim, due after the date of the judgement on initiation of bankruptcy proceedings against the bank;

2. gratuitous transaction.

(3) The creditors on claims related to bankruptcy expenses made under the terms and procedures of this Act shall receive payment on maturity date, and if they do not receive payment on maturity date, they shall be satisfied in accordance with the procedure of Article 94 (1), item 3.

Preservation of the securities

Article 5. The creditors of the bank shall preserve the rights to the established securities in the bankruptcy proceedings.

Summons

Article 6. (Supplemented, SG No. 61/2015, effective 11.08.2015) The bank and the creditors in the bankruptcy proceedings shall be summoned under the terms of Article 619 of the Commerce Act, unless otherwise provided for herein.

Particulars of the proceedings

Article 7. A meeting of the creditors shall not be held and a rehabilitation plan may not be put forth during the bankruptcy proceedings against a bank.

Chapter Two

INITIATION OF BANKRUPTCY PROCEEDINGS

Section I

Initiation of the proceedings

Grounds for initiation of bankruptcy proceedings

Article 8. (1) (Amended, SG No. 59/2006) Bankruptcy proceedings against a bank shall be initiated when the Bulgarian National Bank, hereinafter referred to as "the Central Bank", has revoked its licence for carrying out banking activity pursuant to Article 36 (2) of the Credit Institutions Act.

(2) (New, SG No. 59/2006) Bankruptcy proceedings shall be furthermore opened against a bank in liquidation proceedings in respect of which it has been established under the terms of Article 125 or Article 130 of the Credit Institutions Act that it is in a state of insolvency.

(3) (Previous Paragraph 2, SG No. 59/2006) Initiation of bankruptcy proceedings against a bank may be requested from the court only by the Central Bank.

(4) (New, SG No. 31/2005, previous Paragraph 3, amended and supplemented, SG No. 59/2006) The revocation of a bank's licence by the Central Bank in pursuance of Article 36 (2) of the Credit Institutions Act shall not be barrier to use of the funds available at the time of revocation of the licence on an account of the said bank kept in a real time gross settlement system with a view to fulfilling the obligations of the said bank arising from the participation thereof in the payment system on the day of revocation of the licence but not no later than the moment of revocation thereof.

(5) (New, SG No. 31/2005, previous Paragraph 4, amended, SG No. 59/2006) The revocation of a bank's licence in pursuance of Article 36 (2) of the Credit Institutions Act shall not have a retroactive effect on the rights and obligations of the said bank arising from or related to the participation thereof in the payment system before the moment of revocation of the licence.

Petition for initiation of bankruptcy proceedings

Article 9. (1) The petition of the Central Bank for initiation of bankruptcy proceedings against a bank shall be filed in writing with the competent court.

(2) (Amended, SG No. 59/2006, SG No. 62/2015, effective 14.08.2015) The request of the Central Bank under paragraph 1 shall specify solely the ground or grounds under Article 36 (2) of the Credit Institutions Act on the basis of which the licence has been withdrawn. In the cases under Article 125 or Article 130 of the Credit Institutions Act the request shall specify solely the ground or grounds for the bank's insolvency on the basis of which the decision of the Governing Council of the Central Bank has been issued.

(3) Enclosed to the petition shall be a certified transcript of the act of the Central Bank.

(4) (Amended, SG No. 105/2005) The requirements of Article 77 and 78 of the Tax and Social Insurance Procedure Code shall not apply to the petition for initiation of bankruptcy proceedings against a bank.

(5) No stamp duty shall be charged on the petition for initiation of bankruptcy proceedings against a bank.

(6) Not later than on the day of filing the petition for initiation of bankruptcy proceedings with the court the Central Bank shall inform about it the Bank Deposit Insurance Fund, hereinafter referred to as "the Fund", for the purpose of carrying out preparatory activities for appointment of trustee in bankruptcy. Along with the notification the Central Bank shall send to the Fund a copy of the list, drawn up by it, of the persons eligible for appointment as trustees in bankruptcy of a bank.

Bankruptcy Court

Article 10. The bankruptcy court for a bank shall be the district court at the registered address of the bank.

Consideration of the petition

Article 11. (1) (Amended, SG No. 59/2006) If the petition is valid, the court shall form a case on the day of its receipt and shall schedule a sitting not later than 15 days from the day of the formation of the case.