

Decision n°. (73) for the year 2010

Regarding the cancellation and amendment of some regulations with their decision n°. (513) for the year 2009 regarding the constitution of the Depositor's Insurance Fund (DIF)

General People's Committee:

- On sight the law n°. (1) for the year 2007 regarding the discipline of working for popular congresses, popular committees and their executive regulation.
- On sight the Libyan commercial law.
- On sight the State financial law, budget rules, accounts and stores.
- On sight the law n°. (1) for the year 2005 regarding the banks.
- On sight the decision of the general people's committee n°. (513) for the year 2009 regarding the constitution of Depositor's Insurance Fund

- On sight the letter of the secretary of general people's committee for financial auditing n°. (672) dated 08/02/2010.
- On sight the letter of the Governor of the Libyan Central Bank n°. (36) dated 22/02/2010.
- On sight the decisions of the general people's committee decided in its fifth ordinary meeting for the year 2010.

Decided

Article (1)

Paragraph (k) to be cancelled from the article n°. (6) of the constitution of Depositor's Insurance Fund related to the competence of board of directors of the Fund regarding the nomination of auditors for the Fund and their fees as well.

Article (2)

Article n°. (25) of the constitution of Depositor's Insurance Fund to be amended as follows:

Article (25)

Without prejudice to the competences of the general people's committee of the financial auditing board to check the Fund accounts, the Fund should have an exterior auditor to be chosen and to determine his fees by a decision from the board of directors of Libya Central Bank among the registered at the Auditing offices registry stipulated in the article (82) of the law of banks taking into consideration both conditions stipulated in the article (83 first) in the two paragraphs (1, 2) from the mentioned law.

Article (3)

This law shall be in effect as of the date of issuance, any other decision shall be invalid, and the to be effective by the competent authorities.

General People's Committee

Issued in 20/03/2010

General People's Committee

Decision of the General People's Committee N°. (513) for the year 2009

Regarding the pronouncement of the constitution of Depositor's Insurance Fund

The General People's Committee:

- On sight the law n°. (1) for the year 2007 regarding the discipline of working for popular congresses, popular committees and their executive regulation.
- On sight the Libyan Commercial Law.
- On sight the State financial law, budget rules, accounts and stores.
- On sight the law n°. (1) for the year 2005 regarding the banks.
- On sight the letter presented by the Governor of the Libyan Central Bank dated 14/06/2009.
- On sight the agreement of the General People's Committee in its twenty-eighth ordinary meeting held for the year 2009.

Decided

Article (1)

The constitution of Depositor's Insurance Fund to be in effect as according to this decision.

Article (2)

This law shall be in effect as of the date of issuance, any other decision shall be invalid, and the to be effective by the competent authorities.

General People's Committee

Issued in 07/11/2009

Constitution of Depositor's Insurance Fund

First Chapter

Foundation of the Fund

Article (1)

Depositor's Insurance Fund to be established based on the decision n^o. (1) for the year 2005 regarding the banks, in order to undertake the insurance of deposits of the licensed banks and associations working in Libya. The Fund shall have the legal personality and the independent financial liability and to be under the supervision of the Libyan Central Bank.

Article (2)

The main headquarters of the Fund to be in Tripoli City, and it is allowed to the Fund Board of Directors to open other branches and offices in other Libyan cities.

Article (3)

The Fund aims to protect the depositors' money by undertaking their deposits at the banks so that to encourage the saving and to strengthen the confidence through the Libyan banking discipline and also to guarantee the financial stability of the country.

Article (4)

The membership of the Fund consists of all the licensed Libyan banks and foundations which are allowed to accept deposits.

Second Chapter

Fund Management

Article (5)

The Fund to be managed by a board of directors, under the headship of the Vice-Governor of Libya Central Bank and the membership of the general clerk for financial affairs of the Under Secretary of Finance Ministry, the general clerk of the Under Secretary for Economics Ministry, the secretary of the public syndicate for banks and insurance in addition to other three members to be assigned appointed by a decision from the board of directors of Libya Central Bank for three renewable years.

Provided that they are well experienced of the financial, economic and legal affairs and not to be employed for any of the banks members of the Fund.

Article (6)

The board of directors shall assume the following tasks and mission:

- a. To make the general policy of the Fund.
- b. To adopt the general plan for investment of money of the Fund in accordance of the regulations of this system.
- c. To set the organizing structure for the board of the Fund and to determine the functions, missions and responsibilities.
- d. To adopt the organizing, financial and administrative instructions requested for the Fund.
- e. To adopt the annual estimated budget of the Fund.
- f. To adopt the financial reports and final accounts of the Fund.
- g. To set up the annual report for the Fund affaires during the fiscal year and to clarify its aims aim for the next fiscal year.
- h. To approve the loan of the Fund.
- i. To appoint auditors for the Fund accounts and their fees.
- j. The authorized capacities specified to the board of directors of the joint stock company in accordance with the regulations stipulated in the commercial law.

Article (7)

- a. Board of Directors of the Fund shall meet once every two months upon a call from the chairman whenever they need it. Also the board of directors shall meet based on the application of three of its members at least. The meeting to be legal by the presence of four members at least among them the chairman or his deputy during his absence. Decisions to be issued by the major members of the board. When the votes are the same then the side of the chairman to be elected.
- b. The board shall call any person of experience out of the Fund to attend the meeting to share viewpoints without the right of voting.

- c. A monthly reward to be given to the Head and members of the board of the Fund upon a decision from the board of directors of Central Bank of Libya.

Article (8)

- a. The Fund shall have a general manager upon a decision from the board of directors of the Fund and his financial affairs.
- b. The general manager shall assume the necessary missions and permissions for the management of the Fund including the following:
 - 1. To perform the general policy made by the board of directors of the Fund and to implement the decisions and instructions issued from the board.
 - 2. To supervise the administrative body of the Fund.
 - 3. To make the annual financial report for the Fund, and the final accounts in order to be submitted to the board during a period of not more than three months before the end of the fiscal year.
 - 4. To make the estimated annual budget for the Fund.
 - 5. Any other tasks charged by the board of the Fund or issued upon decisions and instructions in implementation of the rules of this system.

Article (9)

- a. A department for inspection to be inside the management of the Fund, that composes a number of inspectors having the capacity of judicial officers by a decision from the Governor of Central Bank of Libya.
- b. Inspectors of the Fund to be as the staff of Central Bank of Libya, regarding the implementation of the article n^o. (117/First) from the law n^o. (1) for the year 2005 related to banks.
- c. Members of the board of the Fund, the general manager, the inspectors and the whole staff shall take into consideration the full confidentiality of information and data and not to disclose them unless in conformity with the rules stipulated in this system or the law of banks.

Third Chapter

Fund's capital & resources

Article(10)

- a. Fund's capital shall be composed of:
1. five million dinars, to be paid by Central Bank of Libya, when provisions of such statute enters force
 2. non-refundable subscription duty, (100,000.000 LD): one hundred thousand Libyan dinars, to be paid by Bank to a member on two equal payments, the first within maximum of one month of date of validity of such statute, and second within maximum of one year of date of validity, considering provisions of payment of subscription duty as one payment concerning any bank to be constituted after force entrance of such statute. Subscription duty is a part of Fund's capital
- b. resources of Fund shall consist of:
1. credits that Fund obtains by virtue of provisions of such statute
 2. annual subscription duties paid by bank to the Fund
 3. revenues of investment of money of the Fund
 4. fines imposed on member banks for breaching provisions of such statute or decisions issued by its virtue, in application of provisions of Art.91/four/2 of Banks Act
 5. fines imposed by Directors Board of Central Bank of Libya on banks breaching Banks Act, by virtue of Act101/two of that Act
 6. any fiscal gifts or grants to be presented to Fund, by consent of Central Bank of Libya

Article (11)

In addition to subscription duty provided in item 2 of clause (a) of former art., every bank undertakes to pay to Fund annual subscription in rate to be specified by Directors Board of Central Bank of Libya, to be reviewed and amended when necessary by the same office. In accounting rate of subscription, total values of deposits at a bank shall be considered, at end of Dec., of last year.

Article (12)

- A. every member bank undertakes to submit to Fund, within first half of Jan. of every year, a statement of total of its deposits as they are on 31st day of Dec. of last fiscal year
- B. as for first fiscal year, every bank has to submit such statement within first week of date of such statute's entrance into force, stating total of its

deposits as they are in date of preparing that statement, and annual subscription duty will be accounted for such year in proportion with remaining period of that year

- C. every member bank has to send copy of the stated statement to Direction of Censorship on Banks & Monetary. Fund may ask Central Bank of Libya to verify correctness of data submitted by banks pursuant to clauses (a) and (b) of this Art.

Article (13)

Should a member bank fail to submit such statement within the period specified in last art., submit one defecting information, or they were not conforming to facts, a delay fine shall be imposed on it, amounting (200.000 LD) per every day of delay of submission of statement duly, provided that total of fine never limit stated in art.91/four/2 of Bank's Act. Amounts of fines imposed in application of provisions of such art. shall be added to resources of the Fund.

Article (14)

Fund shall, within January of every year, send to a member bank claim notification stating amount of annual subscription. In first fiscal year, it shall send claim notification within thirty days of date of force of such statute, and a bank has to pay duties within two weeks of date of receiving that notification.

Article (15)

In case a bank delays in paying duties of annual subscription within specified period, then simple interest shall be due on it for every day of delay form first day of occurrence, to be accounted on basis of price of re-deduction, in addition to a margin to be specified by Central Bank of Libya pursuant to application by Fund.

Article (16)

Without jeopardizing rules of applicable legislations, Fund may directly borrow or issue credit securities to enable itself to satisfy its liabilities pursuant to provisions of such statute.

Article (17)

Fund shall invest its money in securities issued by offices in Libya or securities warranted by them. Further, it may invest its money in certificates of deposit issued by Central Bank of Libya, or other investments to be proposed by Directors Board and agreed on by Governor.

Fourth Chapter

Fund's Reserves

Article (18)

Fund has to act to make reserves for itself, to the extent of minimum 3% three percent of total of deposits subject to provisions of such statute. Directors Board of Central Bank of Libya may decided to increase that extent, by proposal of Fund's Directors Board.

Article (19)

If Fund's reserves, within five years of date of force of provisions of such statute, fail to reach extent stated in last clause, its reserves inferior from such extent after reaching it, or a member bank might be liquidated before Fund's reserves reach such extent, then Directors Board of Central Bank of Libya can increase banks' annual subscription duties, not to exceed double of annual duty specified by art.11 of such statute.

Article (20)

If it will be clear that degree of risk of any member bank becomes unacceptable according to effective criteria, then Directors Board of Central Bank of Libya may increase annual subscription duty of the interested bank, not to exceed double of specified extent.

Article (21)

After taking consent of Central Bank of Libya, Directors Board of Fund may claim branch of foreigner bank to submit a deposit, financial securities, or any other insurances it may consider necessary to warrant deposits at such branch, or to continue warranting them according to provisions of such statute.

Fifth Chapter

Fund's finance & accounts

Article (22)

Fund's immobilized money shall be deposited in accounts special for it at Central Bank of Libya. Fund may deposit at any other bank money necessary to pay its liabilities under provisions of this statute.

Article (23)

- a. Fund has to keep regular records and accounts, according to ordinary accounting principles
- b. Fiscal situation as well as final accounts of Fund shall be published after being consented on by Directors Board and approved by auditors, in at least two local daily papers.

Article (24)

Fiscal year of Fund shall start from first day of January of every year, and expire in thirty first day of December of that year. First fiscal year shall start from the date in which such statute enters force, and expire in thirty first day of same year.

Article (25)

Fund has to entitle checking of its accounts annually to auditors to be selected by Fund's Directors Board among those registered at Central Bank of Libya, provided that none of them has kinship relation up to fourth degree with any member of Directors Board or the other auditor.

Article (26)

By application of Central Bank of Libya, Fund may constitute common team from inspectors of the Fund and of the Bank to inspect any bank, review its records and data, and check its actions. Such team shall prepare report of results of its works and recommendations, to be submitted to Central Bank of Libya and the Fund.

Article (27)

In case Fund discovers that a member bank or one of its employees practices illegal action or braches origins of bank transactions, it has to notify Central Bank of Libya of the event and to submit any suggestions or recommendations it considers necessary.

Sixth Chapter**provisions of warranting deposits****Article (28)**

- a. a warrant has to be:
 1. in full value of deposit, if it is amounted ten thousand dinars or lower
 2. in half amount of deposit, for higher than ten thousand dinars, not exceeding one hundred thousand dinars
 3. in quarter value of deposit, for higher than one hundred thousand dinars, not exceeding four hundred thousand dinars
 4. in one-eight value of deposit, for higher than four hundred thousand dinars, not exceeding one million dinars
 5. in one-tenth value of deposit, for higher than one million dinars, provided that maximum of warrant never exceeds two hundred and fifty thousand dinars.
- b. it is allowed to amend limits of warrant stated in items of last clause, by decision from Directors Board of Central Bank of Libya, pursuant to proposal of Fund's Directors Board, provided that decision of amendment never applies to on the bank that it has been decided to liquidate prior to issuance of such decision.
- c. Warrant sum shall be payable according to provisions of such statute if Central Bank of Libya decides to liquidate a member bank, or draw permission granted to it to practice its activity, in application of provisions of Banks' Act.

Article (29)

Within thirty days of effectiveness of such statute, this Fund shall publish in procedures code and in two national papers, an announcement containing names of banks subject to provisions of such statute, type of currency of deposits comprehended by security of bank, and scope of maximum limits of security. Such Fund has to renew such announcement similarly within Mars of every year.

Article (30)

Amount of deposit of a person to designate amount of security, shall be accounted by adopting the following basics and actions:

- a. if a person has more than one account at a bank, such accounts shall be considered as one account
- b. if account is common for two persons or more, amount of security shall be distributed on them at rate of share of each of them in account. If their shares are unspecified in account, then their shares in account shall be considered as equal, provided that total of what one person would receive never exceeds maximum of amount of security, except he has another account the that bank
- c. if a person is debtor to bank or warrantor of debtor of that bank, then clearance shall be made between deposits at bank as well as all his liabilities, whether payable or not. If clearance resulted in debit balance, such balance shall be considered as the deposit for which amount of security shall be paid, according to provisions of such statute
- d. when making clearance stated in above clause, the following amount will never accounted among deposits of person in specifying amount of due security:
 1. any amounts in foreign currency not comprehended by security of Fund, under provisions of such statute
 2. any amounts put by such person as security of credits or bank facilities obtained by another person, except if credit balance remains form such amounts, after paying liabilities made as warrant.

Article(31)

Directors Board of Central Bank of Libya may impose necessary basics it considers to designate amount of deposit for which amount of security shall be paid, including specification of undue liabilities or those linked to foreign currency.

Article (32)

- a. if decision issues to liquidate a bank which is member of Fund, or to draw license given to it to practice its activity, then Fund, within thirty days of date of issuance of decision of liquidation or draw of license, has to publish in at least two national papers, an announcement to owners of deposits requesting them to submit their claims to the Fund

- b. such announcement has to be re-published in the same manner after elapse of fourteen days of date of publishing it for the first time, then to be re-published every six months from date of issuance of decision of liquidation or draw of license, up to expiry of three years from issuance.

Article (33)

- a. Fund has to pay due amount of security to owner of warranted deposit within thirty days of date of submission of his application with condition of his written consent to replace Fund in his place, within the limits of amount for which he pays
- b. Amounts of warrants which their owners never claim, shall be deposited –as trust- in special account at Central Bank of Libya. Owners of such warrants has right to refund them within fifteen days of date of announcement of liquidation.

Article (34)

Such statute has to be published and deposited according to procedures provided for legally.