

This translation is made available by DNB. No rights can be derived from this English version. The Dutch version that has been published in the Staatscourant is legally binding.

Third round of amendments to the Policy Rules for the Deposit Guarantee Scheme

Final adoption - December 2022

DeNederlandscheBank

EUROSYSTEM

Contents

| | |
|--|----|
| Summary | 3 |
| 1 Introduction | 4 |
| 2 Outcome of the consultation on the third round of amendments (September 2022) | 7 |
| 3 Amendments to the SCV Policy Rule | 13 |
| 4 Amendments to the Policy Rule on the Scope and Execution of the Deposit Guarantee Scheme | 20 |

Summary

De Nederlandsche Bank N.V. (DNB) administers the Dutch Deposit Guarantee Scheme (DGS). In that capacity, DNB published two policy rules and a round of amendments to the Regulation on Statements of Financial Undertakings under the Financial Supervision Act 2011 (Statements Regulation) in July 2017. This set of rules introduced among other things the single customer view (SCV), which enables deposit balances to be paid out within seven working days. It also clarified certain aspects of the rules that have a bearing on the scope and execution of the DGS.

This document contains the adopted third round of amendments to the DGS regulations. The amendments and additions have been made in response to questions raised by banks and DNB's wish to provide further clarification of a number of specific situations involving the DGS. These changes were put up for public consultation in September 2022. The sector's consultation responses have been incorporated into this document. Previous rounds of amendments took place in 2019 and 2021.

1 Introduction

In July 2017, DNB published the Single Customer View Policy Rule, the Policy Rule on the Scope and Execution of the Deposit Guarantee Scheme and an amendment to the Statements Regulation. This was in compliance with the obligations under Directive 2014/49/EU on deposit guarantee schemes ('DGSD'). The policy rules were updated in February 2019 (first round of amendments) and October 2021 (second round of amendments). This adoption document describes the final changes in the third round of amendments to the Single Customer View Policy Rule and the Policy Rule on the Scope and Execution of the Deposit Guarantee Scheme. The Statements Regulation has not been amended this time. The amendments are in response to banks' questions on the preparation and submission of SCV files and DNB's wish to clarify a number of specific situations involving the DGS.

Single Customer View Policy Rule

The Single Customer View Policy Rule lays down the requirements with regard to the SCV. The introduction of the SCV allows covered deposits to be paid out within seven working days. The changes in the third round of amendments concern (i) a clarification of the way in which banks must protect foreign personal data in reports, (ii) the deposit base that DNB uses under various circumstances to determine the levies that banks are required to pay for the DGS, (iii) the removal of the marking relating to convictions for money laundering, and (iv) the guarantee that banks will report dormant accounts in the SCV files and mark these accounts accordingly.

With regard to the protection of personal data, the amendment makes explicit that banks must take account of applicable data protection legislation (including privacy legislation) when reporting national or tax identification numbers (other than citizen service numbers (BSNs) issued in the Netherlands) in the SCV files. This will prevent banks from using national or tax identification numbers for the DGS in the event that this conflicts with applicable legislation. This is mostly relevant for banks with foreign customers. In conjunction with this, some adjustments are made to other personal data in the SCV file.

Another change concerns the introduction of the possibility for DNB to provide a more accurate estimate of the amount of covered deposits. Banks submit a quarterly report that forms the foundation for determining a bank's deposit base (i.e. the total amount of covered deposits). If DNB's assessment

of the quality of the submitted SCV files gives it cause to do so, DNB calculates the amount of covered deposits according to an estimate based on the number of accounts and their balances. The amendment adds a provision that the deposit base used in this calculation method will not exceed the number of customers of the bank multiplied by EUR 100,000.

Another part of this round of amendments concerns the marking for convictions for money laundering. This marking has been removed from the SCV standard in this round of amendments and hence from the data model. Research has shown that banks do not systematically have this information. The marking is therefore unreliable.

Finally, two adjustments have been made for dormant accounts. First, a guarantee has been added that banks will always include dormant accounts for each depositor in the SCV files. Second, a marking has been added for these dormant accounts. This marking relates to the possibility of deferring the repayment of dormant accounts in line with Article 8(5)(c) of the DGSD and Section 29.05(5) of the Decree on Special Prudential Measures, Investor Compensation and Deposit Guarantees under the Financial Supervision Act (*Besluit bijzondere prudentiële maatregelen, beleggerscompensatie en depositogarantie Wft- Bbpm*).

Policy Rule on the Scope and Execution of the Deposit Guarantee Scheme

The Policy Rule on the Scope and Execution of the Deposit Guarantee Scheme sets rules on aspects (i) for which the national rules give DNB discretionary room or (ii) that warrant further clarification. The amendments (i) change the identification options for depositors of escrow accounts, (ii) clarify the treatment of deposits of deceased depositors and (iii) further specify the definition of a “working day”.

In the case of escrow accounts, the deposit guarantee applies to beneficiaries, provided that the identity of the beneficiary can be established before the DGS is activated. The Policy Rule specifies a number of ways in which identity can be established, including through the professional records of a liquidator, for example. Given that a liquidator as referred to in Section 1:383 of the Dutch Civil Code does not hold an escrow account, this round of amendments deletes Section 1.1(4)(d) from the Policy Rule.

In addition, the treatment of deposits of deceased depositors is clarified in this round of amendments. DNB determines on the basis of inheritance law and relevant case law to whom the compensation under the DGS should be awarded and how this compensation will be paid. This round of amendments clarifies how DNB awards compensation when a deposit is held in the name of a deceased depositor or if the deposit is an heirs' account

In addition, a new section further specifies the definition of a "working day". The statutory repayment period is currently 10 working days. From 2024, a repayment period of seven working days will apply. This round of amendments specifies that a working day includes all days from Monday to Friday not being public holidays in accordance with DNB's collective labour agreement. This more precise definition of a working day provides clarity for depositors about which days fall within the specified repayment period.

Content of this document

This translation is made available by DNB. No rights can be derived from this English version. The Dutch version that has been published in the Government Gazette is legally binding. This adoption document aims to clarify the amendments and the incorporation of consultation responses in addition to the official adoption in the Government Gazette. In the event of any discrepancies between the content of this document and the publications in the Government Gazette, the latter will prevail.

Part 2 of this document discusses the consultation responses and how they have been incorporated. Part 3 presents the adopted amendments to the SCV Policy Rule. Part 4 describes the adopted amendments to the Policy Rule on the Scope and Execution of the Deposit Guarantee Scheme.

Next steps

The adopted amendments will be published in the Government Gazette. In addition, where applicable, the Data Delivery Agreement (DDA), the DGS Data Delivery Manual and the Assessment framework for supervision of compliance with the SCV Policy Rule (Assessment Framework) have been amended to bring them into line with the amended rules. The amendments to the rules will also be incorporated in a new, consolidated version of PDF file 'Rules of the Deposit Guarantee Scheme for Banks', which will be published on DNB's website.

2 Outcome of the consultation on the third round of amendments (September 2022)

Banks took the opportunity to respond to the public consultation on the third round of amendments to the DGS rules. Two responses were received. In this part, DNB describes the banks' principal responses and the corresponding feedback. Responses from the sector have led to clarification on a number of issues in the rules themselves as well as in the explanatory notes. In addition, the consulted amendments have been changed in several instances. These clarifications have also been included in the associated DGS Data Delivery Manual where appropriate.

Besides responses regarding the proposed policy changes, DNB received a response on the overall process of adopting the amended DGS policy rules. DNB is aware of the adjusted *modus operandi* due to the special situation created by the bankruptcy of Amsterdam Trade Bank N.V. This situation made it impossible to go through the standard processes that were followed in previous years. DNB asks for understanding for this situation. In the next round of amendments, DNB aims to return to the process agreed in previous years.

Single Customer View Policy Rule

Protection of foreign personal data in reporting

Several questions were received from the sector about the proposed way in which banks must protect foreign personal data in reports.

For instance, sector participants state that their capacity and legal expertise are insufficient to make an unambiguous assessment of whether the processing of (foreign) national or tax identification numbers for DGS purposes is allowed. In addition, banks point out that the fact that an account holder resides in a particular country does not always mean that a bank is also "active" in that country. Overall, DNB points out that banks have their own responsibility to comply with the requirements of the General Data Protection Regulation (GDPR). The amendment precisely aims to prevent the policy rule from requiring the provision of foreign personal data in the event that it conflicts with relevant legislation on applicable privacy law. DNB therefore decided

to remove from the SCV standard the aforementioned *obligation* to provide these foreign national or tax identification numbers in cases where providing these conflicts with foreign relevant legislation.

Furthermore, the consultation responses include the question of whether there are any consequences of a bank's possible choice, in view of the foreign legislation or its interpretation, not to provide foreign national and/or tax identification numbers. To address the potential elimination of foreign national or tax identification numbers from the SCV system, the consultation paper proposed making first names and initials mandatory. Banks indicate that until now, they had the option to decide whether to include first names or initials of depositors in the SCV file. Due to the limited availability of depositors' first names across banks, banks say this change will result in a significant decline in data quality. Banks propose to remove the requirement of including first names so that a bank can decide whether to include first names or initials of depositors in the SCV file. Banks are also seeking clarity on the scope of the proposed amendment. It appears insufficiently clear whether this amendment applies only to foreign customers or to all natural persons.

DNB points out that customer identification and deduplication will be more complex if banks conclude that they can no longer use national or tax identification numbers for this purpose. In such a situation, the other fixed personal data, including first names and surnames as registered in an official identity document, will be crucial in

determining whether a customer's SCV is reliable. The mere use of a surname and a date of birth proves insufficient to establish a person's unique identity. Adding the obligation to provide first names significantly increases certainty about a person's identity. Initials can be used as an additional check on the correctness of the recorded first names. Practice has shown that banks do not always record initials and first names consistently. To accommodate banks, the obligation to provide first names and initials will only apply to customers whose national or tax identification number cannot be used and provided. This also clarifies the scope of this obligation. If banks have both data available in their records, it is preferable that they provide them both.

Banks generally note that adding new fields to the data model has the effect of leaving fields empty, which will initially affect data quality. This makes it more difficult for banks to (continue to) meet the data quality requirements of 95% for automated checks and achieving at least 20% fewer errors in the SCV file. Examples of new fields include the mandatory provision of first names and (a marking for) dormant accounts. (See the "Dormant accounts" heading for DNB's response to this issue).

For an SCV standard to work properly, it is important that the reliability of an SCV can be established with a high degree of certainty. Banks note that the rules are being changed midway. DNB points out that this amendment is being forced upon it under the GDPR. DNB acknowledges that data quality may initially suffer as a result.

For now, however, DNB maintains the data quality requirements of the Assessment Framework. DNB acknowledges that there are concerns about the feasibility and timing of the amendments. Therefore, the transitional period previously envisaged until 1 April 2023 is extended to 1 July 2023. This gives the sector more time to implement the technical changes resulting from this round of amendments in their data model. Banks will now have until the end of 2023 to improve data quality. This is the measurement date for the 95% standard referenced in the Assessment Framework. This gives the sector more time to implement the amendments in the processes. The Assessment Framework will take into account any circumstances that would prevent a bank from meeting the 95% standard by the end of 2023 as a result of this amendment. If banks cannot meet the standard due to specific circumstances, a realistic transition period to bring data quality up to standard will be considered for these banks on an individual level. An important boundary condition is that the quality deterioration must in any case not occur in those SCVs for which a bank may continue to use and provide the national or tax identification number (e.g. natural persons with a BSN, but also the non-natural persons in the SCV file, as this issue is irrelevant in that population).

A specific question was raised about the grounds on which DNB requests the country

and/or place of birth. The statutory basis is provided by Section 26a of the Decree on Prudential Rules under the *Wft*. It is detailed further in Section 2(1)¹ and (2)² of the Single Customer View Policy Rule.

Finally, the consultation responses contain a concrete proposal to align relevant provisions in Section I(A)(2) and (6) with Section 3:17(6) of the *Wft*. DNB adopts this proposal and adjusts the wording of both provisions.

Determination of the deposit base

Several requests for clarification were submitted regarding the addition to the DNB's methodology for determining the deposit base. For instance, the conditions for applying this methodology appeared to be unclear. As a rule, DNB uses the estimate of the deposit base resulting from the SCV. The precondition for this is that the SCV files submitted and the control of the SCV system are of sufficient quality. If the assessment of the quality of the submitted files and/or the control of the system gives DNB reason to do so, it can rely on the estimate based on the number of deposits and balances. In most cases this method leads to an overestimation, for example because it does not take into account depositors holding multiple accounts. In order to mitigate the impact of overestimating the amount of covered deposits, this round of amendments introduces a ceiling on the amount of covered deposits. This ceiling is equal to the number of depositors multiplied by EUR

¹ A bank must create an SCV file that contains all the information necessary to administer the deposit guarantee scheme, *according to a data model prescribed by DNB*, and designed in such a manner as to link the deposit information to the details of the depositors and, if applicable, their representatives.

² The second subsection specifies the minimum data required. Further data needed are requested via the data model.

100,000. By doing so, DNB aims to prevent the aforementioned calculation based on the number of deposits and balances from being disproportionately high. The application of this ceiling is conditional on the quality of the reporting of the number of customers in the SCV file being sufficient. The quality assessment is governed by the Assessment Framework published by DNB.

Finally, the consultation responses point to the absence of a reference to the fourth subsection of Section 4 of the SCV Policy Rule. DNB added this reference in the final adoption of the amended policy rules.

Dormant accounts

Several consultation responses about dormant accounts were received. One response endorsed the approach adopted to consider financial transactions in determining whether an account must be defined as dormant. Another response considers it desirable to make a distinction between current and savings accounts in the case of dormant accounts, whereby savings accounts and fixed-term deposits will never qualify as dormant according to this response, due to the nature of these accounts. In addition, the sector believes that adding dormant accounts to the SCV standard represents a major amendment. Finally, the aforementioned comment about the impact of adding new fields to the data model for data quality also applied to dormant accounts. DNB's explanation of how it will deal with the impact of this change on data quality as set out in the

section "Protection of foreign personal data" also applies to dormant accounts.

It is essential that banks provide DNB in a timely fashion with reliable and accurate information on the deposits entrusted to them. This therefore includes information relating to dormant accounts. After all, the effective and reliable implementation of the DGS depends on correct data being provided. Regarding the marking for dormant accounts, DNB wishes to stress that there is no obligation to qualify accounts as dormant in the SCV file. Banks must make their own assessment of whether an account in their own records is to be considered dormant. The important aspect here is that all dormant accounts must also be provided in the SCV file. As the consultation responses suggest, there are circumstances in which bank accounts that meet the description of a dormant account in the policy rule will not qualify as dormant, for example in the case of a fixed-term deposit or savings account. However, if a bank chooses to mark accounts as dormant in its own records and banks wish to mark these accounts as dormant in the SCV file, at a minimum, the frameworks described in the policy rule, which follow from the DGSD³ and the *Bbpm*⁴, must be met, which is that no transaction by or on behalf of the depositor has taken place in respect of the relevant deposits for at least 24 months prior to the DGS' activation. The Assessment Framework will include the control that the external auditor must test dormant accounts against this definition.

³ Article 8:5(d)

⁴ Section 29.06(4)

Banks, as discussed in the “Protection of foreign personal data” section, indicate that a dormant account is usually caused by the inability to contact the account holder, as a result of which data quality is often lower. Banks also ask for an exception for defined dormant accounts in assessing the data quality of SCV files. Banks are also concerned about the scope of the amendment. To answer the question on data quality, DNB refers to the “Protection of foreign personal data” section. DNB further points out that the obligation to provide dormant accounts in SCV files existed before. These accounts are protected by the Dutch Deposit Guarantee. Providing SCV files for dormant accounts is therefore not an argument in support of data quality deterioration. A new aspect, however, is marking them as dormant. However, DNB leaves it to the discretion of banks whether they mark bank accounts as dormant. The starting point will be that accounts are not marked as dormant. If a bank does mark an account as dormant in the SCV file, this is only allowed if no transaction by or on behalf of the depositor has taken place in respect of the relevant deposits for at least 24 months prior to the DGS’s activation (as per the definition in the DGSD and the *Bbpm*).

Implementation date

Question 1.4 of the consultation paper addresses the date of entry into force and the transition period for implementing the changes. The sector has indicated that banks do not consider the implementation date of 1 April 2023 to be realistic. DNB refers to the sixth paragraph under the “Protection of foreign personal data” heading to answer this

question. Finally, a specific question arose in the consultation process in respect of the implementation date of the amendment to the current data quality rule (DQ rule) regarding telephone numbers for unqualified natural persons. To answer this question DNB refers to the DGS Data Delivery Manual.

Policy Rule on the Scope and Execution of the Deposit Guarantee Scheme

Qualification of escrow account

Regarding this amendment, the sector commented on the lack of a statutory basis to qualify estate accounts of liquidators and administrators as escrow accounts. DNB’s view is as follows.

Section 29.02(3) of the *Bbpm* provides the following. “If a depositor holds a deposit in their own name, but does so for the benefit of another party under a contract or statutory requirement, it is the third-party beneficiary that enjoys protection and is treated as the depositor, provided that its identity can be established before the date when it is decided to activate the deposit guarantee.” DNB believes the choice of the words “under a contract or statutory requirement” in the aforementioned section leaves room for the interpretation that this also includes escrow accounts of liquidators and administrators. It follows from the Bankruptcy Act (*Faillissementswet – Fw*) that (i) the liquidator as referred to in Section 68 of the *Fw* is in charge of administering the bankruptcy estate and (ii) the administrator is in charge of administering the estate to which the debt restructuring relates.

The liquidator and the administrator always open separate estate accounts to administer the estate as referred to above. These estate accounts are held in the name of the liquidator or administrator, respectively, but the funds held in these accounts are not held by the liquidator or administrator for themselves. Therefore, the naming of the accounts also refers to the fact that they hold these accounts in their capacity as liquidator and administrator, respectively. This is also in line with the protection concept of the DGS. The protection under the DGS must not benefit the liquidator or administrator, but the person or entity (the estate) for whose benefit the account is held. Taking a different view would entail that depositors who are bankrupt or in respect of whom debt restructuring applies may not enjoy any (or less) protection under the DGS, as the maximum compensation under the DGS applies per person. A liquidator or administrator will hold several accounts in their own name and/or manage more funds than are covered by the deposit guarantee as part of their activities.

DNB has also noted that the initial proposal to delete item d. in Section 1.1(4) of the Policy Rule on the Scope and Implementation of the Deposit Guarantee Scheme and replace

it with “an administrator as referred to in Section 287 of the Bankruptcy Act” must be amended. Item d. in Section 1.1(4) of the Policy Rule on the Scope and Implementation of the Deposit Guarantee Scheme must be deleted. The initial proposal to replace it with “an administrator as referred to in Section 287 of the Bankruptcy Act” appears unnecessary, as this administrator is already covered by Section 1.1(4)(b). This is reflected in Section 24a of the Exemption Regulation under the Wft. In Section 1.1(4), item e. is relettered to d.

Deceased account holders

Regarding the part on deceased account holders, the banks have asked whether this amendment merely aims to clarify the DNB’s processes and whether, as a consequence, adding this section does not result in any changes for the banks. This is indeed the case. The Policy Rule on the Scope and Execution of the Deposit Guarantee Scheme sets rules on aspects for which the national rules give DNB discretionary room or which require further clarification. They explain what will happen in various situations that may arise in a DGS payout situation, such as how deceased account holders are dealt with. Accordingly, not every amendment to the policy rule necessarily entails changes for the banks

3 Amendments to the SCV Policy Rule

Regulation amending the Single Customer View Policy Rule in connection with the execution of the deposit guarantee scheme.

De Nederlandsche Bank N.V.'s Policy Rule dated 10 July 2017 containing rules on the composition of single customer view files by banks for the purpose of the deposit guarantee scheme and resolution (Single Customer View Policy Rule).

De Nederlandsche Bank N.V.;

Having regard to Section 3:17(2), opening words and (d), of the Financial Supervision Act (*Wet op het financieel toezicht – Wft*) and Section 26a of the Decree on Prudential Rules for Financial Undertakings (*Besluit prudentiële regels Wft – Bpr*);

Having regard to Section 3:261 of the *Wft* and Section 29.05(3) to (5), Section 29.06(1), Section 29.07(4) and Section 29.16(1) of the Decree on Special Prudential Measures, Investor Compensation and Deposit Guarantees under the Financial Supervision Act (*Besluit bijzondere prudentiële maatregelen, beleggerscompensatie en depositogarantie Wft – Bbpm*);

Having regard to Section 212ra of the Bankruptcy Act (*Faillissementswet*);

Having consulted the representative organisations involved and the general public;

Decides as follows:

Section I

The Single Customer View Policy Rule will be amended to read as follows:

A. Protection of foreign personal data in reporting

1. In Section 2(2)(e)(1): “The initials, or first names as registered in the identity document, the birth name and the date of birth” is replaced by “The initials and first names as registered in the identity document, the surname as registered in the identity document and the date of birth”.
2. In Section 2(2)(e)(3): “The national identification number or the tax identification number and country of issue, if natural persons have such a number” is replaced by “The national identification number or the tax identification number and country of issue, if natural persons have such a number and it is permitted to use this number in record-keeping for the purposes of implementing the Dutch Deposit Guarantee Scheme.”
3. In Section 2(3)(b): “The initials, birth name” is replaced by “The initials and first names as registered in the identity document, the surname as registered in the identity document and the date of birth”.
4. In Section 2, subsection 3, item c is deleted.
5. In Section 2, subsection 3, item d is relettered to c.

6. In Section 2, subsection 3, item e is relettered to d and: "The national identification number or the tax identification number and country of issue, if available to representatives" is replaced by "The national identification number or the tax identification number and country of issue, if available to representatives and if it is permitted to use this number in record-keeping for the purposes of implementing the Dutch Deposit Guarantee Scheme."
7. In Section 2, subsection 3, item f is relettered to e.
8. New subsections 5 and 6 are added to Section 2, reading:
 - "5. If an SCV file for a deposit holder concerned contains the data referred to in subsection (2)(e)(3), then, by way of derogation from subsection (2)(e)(1), at least the initials or first names as registered in the identity document, in addition to the surname as registered in the identity document and the date of birth, suffice with regard to the information referred to there.
 6. If an SCV file for a representative concerned contains the data referred to in subsection (2)(d), then, by way of derogation from subsection (3)(b), at least the initials or first names as registered in the identity document, in addition to the surname as registered in the identity document and the date of birth, suffice with regard to the information referred to there."

B. Determination of the deposit base

1. A new subsection c is added to Section 4(4), reading:
 - "c. Where subsection b applies, subject to the condition that the assessment of the quality of reporting of the number of customers in the SCV file does not prevent this, DNB applies a ceiling on the calculation method in subsection b, whereby the deposit base is capped at the number of customers multiplied by EUR 100,000."

C. Criminal conviction for money laundering

1. In Section 6(1), the following item is deleted, with the relettering of items c to l:
 - "b. Deposits arising from transactions associated with a criminal conviction for money laundering as referred to in Section 29.01(2) of the Bbpm;"

D. Dormant accounts

1. A subsection is added to Section 3, with the full stop at the end of the fifth subsection being replaced by a semicolon, reading as follows:
 - "6. A bank shall ensure that all dormant accounts as referred to in Section 6(1)(l) are included in the SCV file for each depositor."
2. A subsection is added to Section 6(1), with the full stop at the end of subsection l (after the relettering referred to above under C.: item k) being replaced by a semicolon, reading as follows:
 - "l. Deposits that qualify as dormant according to the bank's records and where no transaction by or on behalf of the depositor has taken place in the

preceding 24 months in relation to the deposit.”

E. Adjustment of references

1. In Section 2(4)(h) the words “Markings as referred to in Section 6, (1)(b) to (g);” are replaced by “Markings as referred to in Section 6(1)(b) to (l)”.
2. In Section 4(2)(a) the words “Section 6(1)(b) to (h)” are replaced by “Section 6(1)(b) to (k)”.
3. In Section 4(3)(b) the words “Section 6(1)(b) to (g)” are replaced by “Section 6(1)(b) to (f), section h to j and section l”.
4. In Section 4(3)(d), the words “Section 6(1)(h)” are replaced by “Section 6(1)(g)”.
5. In Section 4(3)(g), the words “Section 6(1)(l)” are replaced by “Section 6(1)(k)”.
6. In Section 8(1)(b)(2) the words “Section 6(1)(b) to (h)” are replaced by “Section 6(1)(b) to k”.

Section II

These Regulations enter into force on the day after their publication in the Government Gazette, with the exception of Section I, part A, part D, second subsection, and part E, first subsection, which come into effect on 1 July 2023. This Regulation and the accompanying explanatory notes will be published in the Government Gazette.

Amsterdam, 28 November 2022

De Nederlandsche Bank N.V.
mr. drs. N.C. Stolk-Luyten, Executive Board
Member

EXPLANATORY NOTES

General

DNB has issued the Single Customer View Policy Rule to specify in further detail the requirement that banks must be capable of providing to DNB, at DNB's request, the information it requires to administer the deposit guarantee scheme (DGS), in a manner and within a period specified by DNB. This follows from Section 26a of the Decree on Prudential Rules for Financial Undertakings (*Besluit prudentiële regels Wft – Bpr*). Since 1 January 2019 banks have been required to submit this information in the form of the SCV file composed in accordance with their own procedures and measures (the SCV system). This will allow the repayment period to be shortened to seven working days, which is a requirement in the recast European Directive on deposit guarantee schemes (2014/49/EU, DGSD).

Recently it has become necessary to make a number of clarifications and additions to this Policy Rule. The amendments concern (i) clarification of the way in which banks must protect foreign personal data in reports, (ii) the deposit base that DNB uses under various circumstances to determine the levies that banks are required to pay for the deposit guarantee scheme, (iii) the removal of the marking relating to convictions for money laundering, and (iv) the guarantee that banks will report dormant accounts in the SCV files and mark these accounts accordingly.

Notes structured by section

Section I

A. Protection of foreign personal data in reporting

The addition to Section 2(2) and (3) makes explicit that banks must submit national and tax identification numbers to the extent that they are permitted to use these in record-keeping for the purposes of implementing the Dutch Deposit Guarantee Scheme. Banks are responsible for establishing the procedures and measures to ensure that the submitted data in the single customer view (SCV) are accurate and complete. To achieve this, it is important that the identity of depositors is properly established and verified. In order to determine the person entitled to a payment under the DGS and the amount of the relevant payment in a timely and correct manner, the Policy Rule requires, among other things, that the SCV file contains the national or tax identification number. The legal ground for banks to use the Dutch citizen service number (BSN) of a depositor and, if applicable, their legal representative, or in the case of a legal entity its legal representative, can be found in Section 3:17(6) of the Financial Supervision Act. This legal ground is required on the basis of the General Data Protection Regulation (GDPR) and its implementation in the Dutch GDPR Implementing Act. The Netherlands has made use of the Member State option in Article 87 of the GDPR and has imposed specific conditions on the processing of numbers that are required by law to identify a person. Section 46(1) of the GDPR Implementing Act states that, when processing personal data,

these numbers may only be used for the implementation of the relevant law or for purposes specified by law. Similar conditions may apply to foreign national and/or tax identification numbers. Banks are responsible for assessing whether they are permitted to use these foreign national and/or tax identification numbers in record-keeping for the purposes of implementing the Dutch Deposit Guarantee Scheme. In cases where they are permitted to do so, these numbers should be submitted in the SCV file.

In connection with this amendment, the requirements for other personal data, including first names and surnames, are being tightened. This is necessary to ensure adequate reliability in identifying depositors and representatives, including verification of their identity. The mere use of a surname and a date of birth proves insufficient to establish a person's unique identity. Adding first names greatly increases certainty about the person's identity. Initials can be used as an additional check on the correctness of the recorded first names. To accommodate banks, the obligation to provide first names and initials will only apply to customers whose national or tax identification number cannot be used and provided. If the national or tax identification number has been supplied, banks can choose to supply first names or initials. This also clarifies the scope of this obligation. If banks have both data available in their records, it is preferable that they provide them both.

The DGS Data Delivery Manual, the Data Delivery Agreement (GLO) with the Logical Data Model (LDM) and the Assessment

framework for supervision of compliance with the requirements of the SCV Policy Rule (Assessment Framework) are amended so that it is clear to banks how the requirements of the Single Customer View Policy Rule can be met.

B. Determination of the deposit base

The addition to Section 4 clarifies DNB's procedure when determining the bank deposit base used to calculate the levies that banks are required to pay for the fund. Where DNB's assessment of the quality of the submitted SCV files and/or the control of the SCV system so requires, subsection b makes clear that DNB can rely on the calculation based on the numbers of deposits and balances. In most cases this method leads to an overestimation, for example because it does not take into account depositors holding multiple accounts. As a result, a maximum covered amount per depositor of EUR 100,000 is not taken into account. Relying on a calculation based on numbers of deposits and balances prevents a bank taking improper advantage of the aforementioned quality of the SCV report in the form of lower levies. However, this method can also lead to an overestimation of the amount of covered deposits, namely if a bank has many customers with multiple accounts with high balances (over EUR 100,000).

The mechanism behind this can be better understood by means of an example. In this example, ABC bank has 10 customers who each hold 10 deposits of EUR 1 million per deposit. In addition, the quality of the submitted SCV files is inadequate, except in the case of the data submitted on the

number of customers, so the traditional calculation method described in Section 4(4)(b) is used. The amount of covered deposits in the current calculation method is EUR 10 million⁵. However, the actual amount of covered deposits is only EUR 1 million⁶.

In order to mitigate the impact of overestimating the amount of covered deposits, this round of amendments introduces a ceiling on the amount of covered deposits equal to the number of depositors multiplied by EUR 100,000. The application of this ceiling is conditional on the quality of the reporting of the number of customers in the SCV file being sufficient. The quality assessment is governed by the Assessment Framework published by DNB.

C. Criminal conviction for money laundering

The reason for the amendment to Section 6(1)(b) is that banks do not systematically hold information on criminal convictions for money laundering. Nor is banks' systematic access to this information regulated by law. This means the marking is currently not sufficiently reliable and it is therefore removed from the SCV standard.

D. Dormant accounts

The addition referred to in the amendment to Section 3 of the Single Customer View Policy Rule deals with the recording of the data in the SCV file. It is essential that banks provide DNB in a timely fashion with reliable and accurate information on the deposits entrusted to them. This therefore includes information

relating to dormant accounts. The obligation to provide dormant accounts in SCV files existed before. These accounts are protected by the Dutch Deposit Guarantee. For the sake of clarity, the addition introduces a guarantee that a bank will include depositors' dormant deposits on a per-customer basis when composing the SCV file. This ensures that the amount of covered deposits in the SCV file matches the total balance for which depositors are protected under the deposit guarantee scheme. In addition, this amendment ensures a more efficient payout to customers with dormant accounts.

The associated marking as described in subsection 1(l) is intended to identify dormant accounts. DNB leaves it to the discretion of banks whether they mark bank accounts as dormant. The starting point will be that accounts are not marked as dormant. If a bank does mark an account as dormant in the SCV file, this is only allowed if no transaction by or on behalf of the depositor has taken place in respect of the relevant deposits for at least 24 months prior to the DGS's activation. This text is in line with the description of dormant accounts provided in Article 8(5)(c) and (g) of the DGSD. In the case of a dormant account, the granting of compensation may be deferred in accordance with the provision in Article 8(5)(c) of the DGSD and Section 29.05(5) of the Decree on Special Prudential Measures, Investor Compensation and Deposit Guarantees under the Wft (*Besluit bijzondere prudentiële maatregelen, beleggerscompensatie en depositogarantie Wft – Bbpm*).

⁵ EUR 100,000 multiplied by the total number of accounts.

⁶ EUR 100,000 multiplied by the total number of customers.

E. Adjustment of references

As a consequence of the removal of part b in the first subsection of Section 6 subsection (1)(b) in Section 6 (the marking of deposits arising from transactions associated with a criminal conviction for money laundering), and the addition of subsection 1(l) (the marking of dormant accounts), a number of references in other articles are changed. DNB also took the opportunity to incorporate the elements added to Section 6(1) during the amendment round in 2021⁷ into the other articles.

Section II

The following should be noted with regard to the date on which the Regulation enters into force. Section II states that the Regulation will enter into force on the day after publication in the Government Gazette, with the exception of Section I, part A, with regards to the protection of personal data, Section I, part D, second subsection, with regard to the marking of dormant accounts and Section I, part E, first subsection, with regard to the removal of the marking for the criminal conviction for money. These amendments enter into force on 1 July 2023, as they may impact the banks SCV systems.

Amsterdam, 28 November 2022

De Nederlandsche Bank N.V.
mr. drs. N.C. Stolk-Luyten, Executive Board
Member

⁷ Namely (i) deposits of depositors to which suspension of payment applies, (ii) annuity accounts as referred to in the Income Tax Act 2001 and annuity savings accounts as referred to in the Wage Tax Act 1964m, (iii) deposits subject to a BEM clause or similar administration at account level applies and (iv) home construction accounts.

4 Amendments to the Policy Rule on the Scope and Execution of the Deposit Guarantee Scheme

Regulation amending the Policy Rule on the Scope and Execution of the Deposit Guarantee Scheme in connection with the administration of the deposit guarantee scheme.

De Nederlandsche Bank N.V.'s Policy Rule on the Scope and Execution of the Deposit Guarantee Scheme (*Beleidsregel Reikwijdte en Uitvoering Depositogarantiestelsel*) as referred to in Section 3:259(2) of the Financial Supervision Act (*Wet op het financieel toezicht – Wft*)

De Nederlandsche Bank N.V.;

Having consulted representative organisations;

Having regard to Sections 29.02 and 29.06 of the Decree on Special Prudential Measures, Investor Compensation and Deposit Guarantees under the Financial Supervision Act (*Besluit bijzondere prudentiële maatregelen, beleggerscompensatie en depositogarantie Wft – Bbpm*) and Section 26a of the Decree on Prudential Measures under the Financial Supervision Act (*Besluit prudentiële maatregelen Wft – Bpr*);

Having consulted the representative organisations involved and the general public;

Decides as follows:

Section I

A. Qualification of escrow account

In Section 1.1(4), item d. is deleted. In Section 1.1(4), item e. is relettered to d and the word “or” is added after the semicolon in Section 1.1(4), part c.

B. Deceased account holders

The following part and section are added to Chapter 2, Scope, after Section 2.2, renumbering the following Part and Sections in that chapter:

“Part 2.2. Deceased depositors
Section 2.3

1. In the event that a deposit holder has died and the bank’s records do not yet reflect any change in the name in which the deposit is held or if there is an “heirs’ account”, DNB will assess the heirs’ entitlement to compensation on the basis of documentation to be determined by DNB.
2. If the deceased deposit holder has died before the date of the judgement or ruling that led to the activation of the deposit guarantee scheme and the estate of the deposit holder has been divided or there is a sole heir, (each of) the heir(s) to whom the deceased deposit holder’s deposit was allocated or the sole heir, as the case may be, will individually be regarded as a deposit holder of the relevant (part of the) deposit.
3. If the deceased deposit holder has died after the date of the judgement or ruling that led to the activation of the deposit guarantee scheme and if the estate of the deposit holder has been divided or there is a sole heir, the heir(s) or sole heir, as the case may be, will succeed the deceased deposit holder in respect of the entitlement to compensation under the deposit guarantee scheme. If there are several heirs who have each been allocated a share of the deceased deposit

holder's deposits, a pro rata share of the compensation will be allocated to the heirs. This compensation is separate from and will have no effect on the amount of any compensation to which the relevant heir is/ heirs are entitled in connection with one or more other deposits held by the relevant heir(s) with the bank.

4. If and as long as the estate of the deceased depositor has not yet been divided, the heirs are the joint legal successors of the deceased depositor as regards entitlement to compensation under the deposit guarantee scheme. The compensation will be granted to the heirs jointly and will be paid into one bank account to be specified by or on behalf of the joint heirs. The level of compensation under the deposit guarantee scheme granted to joint heirs is determined by reference to the compensation that would have been granted to the deceased depositor had they been alive. This compensation is separate from and will have no effect on the amount of any compensation to which the relevant heir is/heirs are entitled in connection with one or more other deposits held by the relevant heir(s) with the bank."

C. Definition of working day

The following section is added to Chapter 3, Execution, after Section 3.7:

"Section 3.8

In determining the repayment period, DNB classifies as working days all days from Monday to Friday that are not considered public holidays according to DNB's collective labour agreement."

D. Amendment with regards to an amendment in the Single Customer View Policy Rule Wft 2017

In Section 3.7(1)(a) the words "Section 6(1)(j)" are replaced by "Section 6(1)(i)".

Section II

This Regulation will enter into force on the day after its publication in the Government Gazette (*Staatscourant*).

This Regulation and the accompanying explanatory notes will be published in the Government Gazette.

Amsterdam, 28 November 2022

De Nederlandsche Bank N.V.
mr. drs. N.C. Stolk-Luyten, Executive Board
Member

EXPLANATORY NOTES

General

With these amendments to the Policy Rule on the Scope and Execution of the Deposit Guarantee Scheme, DNB provides further clarity for banks and depositors about the scope of protection offered by the deposit guarantee scheme (DGS) and how to deal with a number of situations that may arise during a DGS payout. The amendments concern (i) dropping the possibility of using the liquidator's records referred to in Section 1:383 of the Dutch Civil Code to identify beneficiaries, (ii) introducing a provision on the treatment of accounts of deceased account holders, and (iii) clarifying the definition of a working day. Subsequently, a reference to the SCV Policy Rule will be changed because of the amendments in the above mentioned Policy Rule.

Notes on individual sections

Section I

A. Qualification of escrow account

Section 29.02(3) of the Decree on Special Prudential Measures, Investor Compensation and Deposit Guarantees under the Financial Supervision Act states that, if a depositor holds a deposit in their own name but does so for the benefit of a third-party beneficiary by virtue of a contract or legal requirement, the deposit guarantee in this case applies to the beneficiary. However, this guarantee only applies if the identity can be established prior to the decision to activate the deposit guarantee scheme. Section 2.1(b) of the Policy Rule on the Scope and Execution of

the Deposit Guarantee Scheme builds on this by allowing professional records kept by the account holder to be used to establish the identity of the beneficiary. The existing reference to a liquidator referred to in Section 1:383 of the Dutch Civil Code has been deleted, as this liquidator does not hold an escrow account.

B. Deceased account holders

Section 2.3 sets out how the deposits of deceased depositors are dealt with as regards the granting of compensation under the deposit guarantee scheme. It is essential for the implementation of the deposit guarantee scheme that banks keep proper records that reflect as quickly and accurately as possible any changes in the name in which an account is held in connection with the death of a depositor. To the extent that the SCV file contains one or more deposits in the name of a deceased person or "heirs' accounts", DNB will, on the basis of inheritance law and relevant case law, determine to whom compensation under the deposit guarantee scheme should be granted in that case and how this compensation will be paid. DNB will require information for this purpose. The documentation needed may vary from case to case. Section 2.3 therefore states that it is up to DNB to determine the required documentation on a case-by-case basis.

Subsections 2 and 3 concern the situation where an estate has already been divided or where there is a sole heir. With regard to the granting of compensation under the deposit guarantee scheme, a distinction should be made between the case where the depositor concerned died before the date of the bank's

failure or of DNB's decision to activate the DGS and the case where the depositor concerned died after that date. In the first case, it is relevant for the granting of compensation that the deceased deposit holder's claim on the bank is passed on to the heir(s), whereas in the second case, it is relevant for the granting of compensation that the claim under the deposit guarantee scheme is passed on to the heir(s). This distinction is reflected in the amount of compensation awarded to the heirs concerned. If the depositor died before the bank failed or DNB decided to activate the deposit guarantee scheme and the estate has already been divided, the deposits concerned must be taken into account when determining the amount of compensation to which the heir is entitled. In that case, the heir's maximum compensation is EUR 100,000 for all deposits held at the bank, including those still in the name of the deceased depositor and allocated to the heir. If the depositor died after the bank failed or DNB decided to activate the DGS, the deceased depositor's entitlement to compensation under the DGS is passed on to the heir, to the extent that the deceased depositor had not already received it at the time of death. This compensation is therefore independent of any compensation to which the heirs themselves may be entitled in connection with other deposits held with the failed bank.

As regards subsections 2 and 3, it is worth mentioning that the term 'divided' should also be understood to mean situations where there is a legal division of an estate or a division by will. Where reference is made to the sole heir, this means the situation in which the sole heir actually inherits and there is no question of the estate being rejected, for example.

Subsection 4 concerns the situation where an estate has not yet been divided and there are several heirs. For the implementation of the deposit guarantee scheme, it does not matter in such a case whether the death occurred before or after the bank failure or DNB's decision to activate the DGS.

C. Definition of working day

The addition of Section 3.8 clarifies that a "working day" is defined as all days from Monday to Friday that are not considered a public holiday according to DNB's collective labour agreement. This more precise definition of a working day provides clarity for depositors about which days fall within the specified repayment period.

D. Amendment with regards to an amendment in the Single Customer View Policy Rule Wft 2017

The amendment in Section 3.7 is related to an amendment in the SCV Policy Rule, through which a relettering takes place in Section 6(1) of the mentioned Policy Rule. As a consequence of this relettering, the reference in Section 3.7 of the Policy Rule of the Scope and Execution of the Deposit Guarantee Scheme will be amended.

Section II

The following should be noted with regard to the date on which the Regulation enters into force. Section II states that the Regulation will enter into force on the day after its publication in the Government Gazette.

Amsterdam, 28 November 2022

De Nederlandsche Bank N.V.
mr. drs. N.C. Stolk-Luyten, Executive Board
Member

This translation is made available by
De Nederlandsche Bank. No rights can be
derived from this English version.

De Nederlandsche Bank N.V.
PO Box 98, 1000 AB Amsterdam
+31 20 524 91 11
dnb.nl

Follow us on:



DeNederlandscheBank

EUROSYSTEEM