

Treatment of business partnerships and entrepreneurs accounts, aggregation with personal coverage

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Directive 2014/49/EU on deposit guarantee schemes

Article 2 - Definitions

“6. ‘depositor’ means the holder or, in the case of a joint account, each of the holders, of a deposit;

7. ‘joint account’ means an account opened in the name of two or more persons or over which two or more persons have rights that are exercised by means of the signature of one or more of those persons;”

Article 7 - Determination of the repayable amount

“2. The share of each depositor in a joint account shall be taken into account in calculating the limit provided for in Article 6(1).

In the absence of special provisions, such an account shall be divided equally among the depositors.

Member States may provide that deposits in an account to which two or more persons are entitled as members of a business partnership, association or grouping of a similar nature, without legal personality, may be aggregated and treated as if made by a single depositor for the purpose of calculating the limit provided for in Article 6(1).”

***DGSD transposition in the Romanian legislation –
Law 311/2015 on deposit guarantee schemes and the Bank Deposit Guarantee Fund***

Article 3, para. (1)

“e) joint account – an account opened in the name of two or more persons or an account over which two or more persons have rights and in which operations can be made on the signature of at least one of those persons;

f) depositor – the holder or, in the case of a joint account, each of the holders of a deposit;

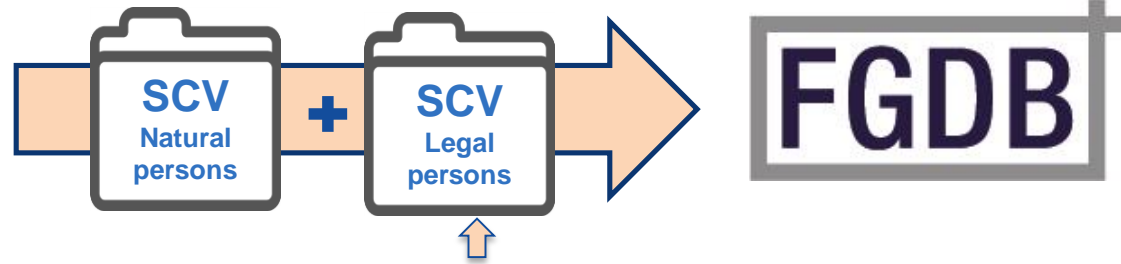
g) guaranteed depositor – the holder of an eligible deposit or, in the case of a joint account, the holders of an eligible deposit or, as the case may be, the person entitled to amounts from an eligible deposit;”

Article 64, para. (1) and (3)

“(1) In the case of a joint account, the compensation level shall be determined for each guaranteed depositor who holds a share of the joint account, considering the proportion to which that depositor is entitled in line with contractual and/or legal provisions. To calculate compensation levels in the absence of such provisions, the joint account shall be divided equally between the respective depositors.

.....
(3) In the case of a joint account to which several persons are entitled as members of a business partnership, an association or a similar group, without legal personality, in order to determine the compensation level the deposit in the joint account shall be considered as held by a single depositor.”

Reporting requirements regarding the SCV files



Depositors assimilated to the legal persons category:

- ✓ self-employed natural persons;
- ✓ natural persons carrying out economic activities independently;
- ✓ natural persons exercising liberal professions (for instance, architects, doctors, lawyers etc.);
- ✓ other natural persons whose economic activity is regulated by special laws;
- ✓ individual enterprises;
- ✓ family enterprises.

Example of determining the repayable amount



Mr. X is a very successful entrepreneur, highly innovative and hard-working.

He is a self-employed natural person (authorized natural person – acronym PFA in Romanian) and also a member of a family enterprise named “John Doe”, with a share of 30%. Mr. X and the Family Enterprise “John Doe” placed their funds with the same bank, namely Bank A.

According to the last SCV files sent by Bank A to FGDB, Mr. X has 130,000 euros as a natural person and 150,000 euros as a self-employed natural person - Mr. X PFA, while the Family Enterprise “John Doe” holds a deposit of 300,000 euros.

How is the repayable amount calculated in case of unavailability of deposits?

FGDB will reimburse Mr. X with 100,000 euros as a natural person and, separately, Mr. X PFA with another 100,000 euros as a self-employed natural person.

The Family Enterprise “John Doe” will be compensated with 100,000 euros as a single depositor and Mr. X will benefit from this compensation according to his 30% share.

Thank you!