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Pokretanje stečajnog postupka nad bankom –

Vaša prava su zakonom zaštićena ali zahtevaju i Vašu pažnju i aktivnost u smislu ostvarenja Vaših prava

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Commencement of bankruptcy proceedings against a bank –

your rights are protected by law, but they also require your attention and action in order to be exercised

SRPSKI

Oduzimanje dozvole za rad banci, kao svoju posledicu ima otvaranje stečaja nad bankom kojoj je oduzeta dozvola za rad.

Narodna banka Srbije (NBS) istovremeno sa donošenjem rešenja o oduzimanju dozvole za rad banci, donosi i rešenje o ispunjenosti uslova za pokretanje postupka stečaja.

Postupak stečaja nad bankom pokreće se rešenjem mesno nadležnog privrednog suda o pokretanju postupka stečaja, koji ovo rešenje donosi najkasnije narednog radnog dana računajući od dana prijema rešenja NBS o oduzimanju dozvole za rad.

ENGLISH

The revocation of a bank's operating licence results in the opening of bankruptcy proceedings against the bank whose licence has been revoked.

At the same time as it adopts the decision revoking the bank's operating licence, the National Bank of Serbia (NBS) also adopts a decision confirming that the conditions for the initiation of bankruptcy proceedings have been met.

Bankruptcy proceedings against a bank are initiated by a decision of the locally competent commercial court on the initiation of bankruptcy proceedings, which the court adopts no later than the next business day following receipt of the NBS decision revoking the operating licence.

1

Zakonska zaštita osiguranih depozita

U slučaju pokretanja stečajnog postupka nad bankom, Agencija za osiguranje depozita (AOD) je dužna da izvrši isplatu osiguranog iznosa.

Pravo na isplatu osiguranih depozita imaju: (i) fizička lica, (ii) preduzetnici, (iii) mikro pravna lica, (iv) mala pravna lica, i (v) srednja pravna lica, i to do visine od 50.000 evra.

Za obavezu AOD-a na isplatu osiguranih depozita jemči Republika Srbija.

Statutory protection of insured deposits

Where bankruptcy proceedings are initiated against a bank, the Deposit Insurance Agency (DIA) is obliged to pay out the insured amount.

The right to payment of insured deposits belongs to: (i) natural persons, (ii) entrepreneurs, (iii) micro legal entities, (iv) small legal entities, and (v) medium-sized legal entities, up to the amount of EUR 50,000.

The Republic of Serbia guarantees the DIA's obligation to pay out insured deposits.

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Postupak započinje utvrđivanjem visine osiguranog iznosa po deponentu koji sprovodi AOD, i to na osnovu utvrđivanja stanja svih osiguranih depozita tog deponenta u banci nad kojoj je pokrenut stečajni postupak, uključujući i pripadajuću ugovorenu kamatu obračunatu do dana pokretanja stečajnog postupka, a sve ovo do maksimalnog iznosa od 50.000 evra po deponentu.

AOD u roku od 3 radna dana od dana donošenja rešenja nadležnog suda o pokretanju stečajnog postupka nad bankom, preko sredstava javnog informisanja i na svojoj internet stranici (www.aod.rs), obaveštava deponente o njihovim pravima i obavezama, datumu započinjanja isplate osiguranih iznosa, banci isplatiocu i mestu isplate osiguranih iznosa, a dužna je i da omogući deponentima da raspolažu sredstvima depozita do osiguranog iznosa u roku od 7 radnih dana.

AOD, preko banke isplatioca, osigurani iznos za dinarske depozite isplaćuje u dinarima, dok se za devizne depozite u evrima i devizne depozite u drugim valutama, osigurani iznos isplaćuje u evrima.

Obaveza banke isplatioca i AOD na isplatu sredstava depozita do osiguranog iznosa od 50.000 evra prestaje istekom roka od 3 godine od dana donošenja rešenja nadležnog suda o pokretanju postupka stečaja nad bankom.

ENGLISH

The procedure begins with the DIA determining the amount insured per depositor, on the basis of the balance of all of that depositor's insured deposits in the bank against which bankruptcy proceedings have been initiated, including the contractual interest accrued up to the day the bankruptcy proceedings were initiated, all up to a maximum amount of EUR 50,000 per depositor.

Within 3 business days of the court's decision on the initiation of bankruptcy proceedings against the bank, the DIA informs depositors, through the media and on its website (www.aod.rs), of their rights and obligations, the date on which payout of the insured amounts will begin, the paying agent bank and the place of payout of the insured amounts, and is also obliged to enable depositors to dispose of their deposited funds up to the insured amount within 7 business days.

Through the paying agent bank, the DIA pays out the insured amount for dinar deposits in dinars, whereas for foreign currency deposits in euros and foreign currency deposits in other currencies, the insured amount is paid out in euros.

The obligation of the paying agent bank and the DIA to pay out deposited funds up to the insured amount of EUR 50,000 expires after 3 years from the day of the court's decision on the initiation of bankruptcy proceedings against the bank.

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U slučaju da su deponenti u banci nad kojoj je pokrenut stečajni postupak imali deponovana sredstva u ukupnom iznosu većem od 50.000 evra, oni tu razliku između visine ukupno deponovanih sredstava i osiguranog iznosa od 50.000 evra, mogu namirivati u stečajnom postupku, uz uslov obaveznog i blagovremenog podnošenja prijave potraživanja u stečajnom postupku, u rokovima određenim rešenjem mesno nadležnog privrednog suda o pokretanju stečajnog postupka.

ENGLISH

Where depositors in a bank against which bankruptcy proceedings have been initiated held funds in a total amount exceeding EUR 50,000, they may claim the difference between the total amount of deposited funds and the insured amount of EUR 50,000 in the bankruptcy proceedings, provided that they file a claim in the bankruptcy proceedings, which is mandatory and must be timely, within the time limits set by the decision of the locally competent commercial court on the initiation of bankruptcy proceedings.

2

Namirivanje potraživanja u stečajnom postupku

Rešenje mesno nadležnog privrednog suda o pokretanju stečajnog postupka obavezno sadrži u samom rešenju rok/konkretan datum, do kada poverioci mogu da prijave svoja potraživanja, a koji rok postupajući sud određuje u rasponu od 30 – 90 dana, računajući od dana objavljivanja obaveštenja o pokretanju stečajnog postupka u Službenom glasniku Republike Srbije.

AOD, u svojstvu stečajnog upravnika, je dužna da utvrdi osnovanost i visinu prijavljenih potraživanja poverilaca u roku od 6 meseci od dana isteka roka za njihovo prijavljivanje.

Settlement of claims in bankruptcy proceedings

The decision of the locally competent commercial court on the initiation of bankruptcy proceedings must itself state the time limit/specific date by which creditors may file their claims, which the court sets within a range of 30 – 90 days, counted from the date of publication of the notice of the initiation of bankruptcy proceedings in the Official Gazette of the Republic of Serbia.

In its capacity as bankruptcy manager, the DIA is obliged to determine the validity and amount of the creditors' filed claims within 6 months of the expiry of the time limit for filing them.

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Potraživanja poverilaca banke u stečaju utvrđuju se na ispitnom ročištu i isplaćuju se iz stečajne mase po sledećem zakonom propisanom prioritetu (isplatni redovi):

1) potraživanja poverilaca preostalih nakon isplate iznosa osiguranih depozita;

2) potraživanja po osnovu javnih prihoda dospela u poslednja tri meseca pre otvaranja postupka stečaja (osim doprinosa za penzijsko i invalidsko osiguranje zaposlenih);

3) potraživanja NBS, uključujući i potraživanja po osnovu kredita odobrenih banci koja nisu namirena u potpunosti zbog razlike u vrednosti sredstava obezbeđenja;

4) potraživanja poverilaca po osnovu depozita;

5) potraživanja drugih poverilaca;

6) potraživanja poverilaca po osnovu subordiniranih obaveza banke;

7) potraživanje poverilaca koji su i akcionari banke, izuzev potraživanja po osnovu osnivačkog kapitala koje se namiruje iz viška deobne mase.

Pre namirenja poverilaca banke u stečaju namiruju se troškovi stečajnog postupka.

Princip namirenja isplatnih redova je sledeći – poverioci unutar istog isplatnog reda se namiruju proporcionalno, dok se poverioci narednog isplatnog reda mogu početi namirivati tek kada se u celosti namire poverioci isplatnog reda koji u odnosu na njih ima prioritet.

ENGLISH

The claims of the bank's creditors in bankruptcy are determined at the examination hearing and are paid out of the bankruptcy estate in the following order of priority prescribed by law (payment ranks):

1) claims of creditors remaining after payment of the insured deposit amounts;

2) claims in respect of public revenues that fell due in the last three months before the opening of bankruptcy proceedings (except for pension and disability insurance contributions of employees);

3) claims of the NBS, including claims arising from loans granted to the bank that have not been fully settled owing to the difference in the value of the collateral;

4) claims of creditors in respect of deposits;

5) claims of other creditors;

6) claims of creditors in respect of the bank's subordinated liabilities;

7) claims of creditors who are also shareholders of the bank, except for claims in respect of founding capital, which are settled from the surplus of the distribution estate.

The costs of the bankruptcy proceedings are settled before the bank's creditors in bankruptcy are paid.

The principle of settlement of the payment ranks is as follows – creditors within the same payment rank are settled proportionally, while creditors of the next payment rank may begin to be settled only once the creditors of the payment rank that has priority over them have been settled in full.

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