

Delegated legislation

Decree

Legislative decree dated 4-3-2020 of publication of the recast text of Law 20/2018, of 13 September, governing the Andorran Deposit Guarantee Fund and the Andorran Investor Compensation Scheme.

Having regard to article 59 of the Andorran Constitution, under which the General Council can, by means of a law, delegate the exercise of its legislative function to the Government.

Having regard to the delegation of legislation to the Government established in the eighth final provision of Law 17/2019 of 15 February amending Law 8/2013 of 9 May on the organisational requirements and operating conditions for entities operating within the financial system, investor protection, market abuse and financial collateral arrangements, under which the Government is entrusted to publish in the Official Gazette of the Principality of Andorra (BOPA), within six months of the said Law coming into force, the recast text of Law 20/2018 of 13 September, governing the Andorran Deposit Guarantee Fund and the Andorran Investor Compensation Scheme.

Whereas, in fulfilment of the eighth final provision of Law 17/2019, this legislative Decree recasts the content of Legislative decree the content of Law 20/2018, of 13 September, governing the Andorran Deposit Guarantee Fund and the Andorran Investor Compensation Scheme, including the amendments deriving from Law 17/2019 of 15 February amending Law 8/2013 of 9 May on the organisational requirements and operating conditions for entities operating within the financial system, investor protection, market abuse and financial collateral arrangements.

At the proposal of the Minister of Finance, the Government, in its session on 4 March 2020, approved the following Decree:

Single article

It is ordered to publish in the Official Gazette of the Principality of Andorra (BOPA) the recast text of the Law 20/2018, of 13 September, governing the Andorran Deposit Guarantee Fund and the Andorran Investor Compensation Scheme.

Single final provision

This Decree enters into force on the day of its publication in the Official Gazette of the Principality of Andorra (BOPA).

Published for public information.

Andorra la Vella, 4 March 2020

Xavier Espot Zamora

Head of Government

Recast text of Law 20/2018, of 13 September, governing the Andorran Deposit Guarantee Fund and the Andorran Investor Compensation Scheme

Chapter I. General Provisions

Article 1. *Subject matter and scope of application*

1. This Law governs the rules and procedures on the establishment and operation of the Andorran Deposit Guarantee Fund and the Andorran Investor Compensation Scheme.

2. This Law applies to the following entities:

- a) the Andorran Deposit Guarantee Fund;
- b) the Andorran Investor Compensation Scheme;
- c) banking entities authorised to operate in the Principality of Andorra;
- d) financial investment entities authorised to provide financial instruments' custodian and management services on behalf of clients in the Principality of Andorra; and
- e) branches of banking entities and financial investment entities referred to in letters c) and d) of this paragraph authorised to operate in any other country, in the terms set out by paragraph 5 of article 4 of this Law.

Article 2. *Definitions*

For the purposes of this Law, the following terms mean:

1. 'FAGADI': the Andorran Deposit Guarantee Fund.
2. 'SAGI': the Andorran Investor Compensation Scheme.
3. 'AFA': the Andorran Financial Authority.
4. 'AREB': the National Agency for the Resolution of Banking Entities.
5. 'deposit': any credit balance which results from funds left in an account or from temporary situations deriving from normal banking transactions and which a banking entity is required to repay under the legal and contractual conditions applicable, including a fixed-term deposit and a savings deposit, but excluding a credit balance where:
 - a) its existence can only be proven by a financial instrument, unless it is a savings product which is evidenced by a certificate of deposit made out to a named person and which exists before the entry into force of this Law;
 - b) its principal is not repayable at par;
 - c) its principal is only repayable at par under a particular guarantee or agreement provided by the banking entity or a third party;
6. 'investment':
 - a) funds debited or belonging to the investors, held in deposit or custody by the banking entity or the financial investment entity on their behalf in connection with investment business. These funds include the cash held in custody associated with the investments held in custody;

- b) financial instruments belonging to the investors, held or managed by the banking entity or the financial investment entity on their behalf in connection with investment business;
7. 'financial instrument': any financial instrument listed in paragraph 4 of article 2 of Law 7/2013, of 9 May, on the regulation of entities operating in the Andorran financial system and other provisions governing financial activities in the Principality of Andorra.
8. 'eligible deposits': deposits that are not excluded from protection pursuant to article 5 of this Law.
9. 'eligible investments': investments that are not excluded from protection pursuant to article 5 of this Law.
10. 'covered deposits': the part of eligible deposits that does not exceed the coverage level laid down in article 8 of this Law.
11. 'covered investments': the part of eligible investments that does not exceed the coverage level laid down in article 15 of this Law.
12. 'depositor': natural or legal person holder or, in the case of a joint account, each of the holders, of a deposit.
13. 'investor': natural or legal person or, in the case of a joint account, each of the persons, who has entrusted funds or instruments to a banking entity or a financial investment entity in connection with investment business.
14. 'joint account': 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.
15. 'unavailable deposits': any deposit that is due and payable but that has not been paid by a banking entity in accordance with the legal and contractual conditions applicable in this regard, when:
- a) not having been declared insolvent in accordance with b) below and not having paid deposits that are due and payable, the AFA or the AREB, having previously consulted each other, resolves that for reasons directly related to the entity's financial situation it is unable to repay them and there is no current prospect of being able to do so in the near future.
- The AFA or the AREB must issue a resolution as soon as possible and notify the FAGADI's Managing Commission no later than five working days after verifying for the first time that the entity cannot repay the due and payable deposits.
- b) one of the members of the FAGADI is formally declared insolvent provided that prior to making this declaration the competent judicial authorities have consulted the supervisory authorities of the financial system.
- If no specific date is laid down (legally or contractually) for the maturity of the deposits, and in those cases in which the liquidation of the insolvent member of the FAGADI has already begun, it is deemed that the deposit matures at sight.
16. 'banking entity': entity authorised to operate in the Principality of Andorra the business of which is to take deposits or other repayable funds from the public and to grant credits for its own account, in the terms provided for in article 8 of Law 7/2013, of 9 May, on the regulation of entities operating in the Andorran financial system and other provisions governing financial activities in the Principality of Andorra.
17. 'financial investment entity': financial investment companies and agencies authorised to provide investment services and ancillary services including financial instruments' management and custodian services on behalf of their clients, including custody and related services such as treasury and collateral management, in the terms set forth in the legislation in force on investment services and activities.

18. 'branch': place of business in a foreign country which forms a legally dependent part of a banking or a financial investment entity and which carries out directly all or some of the transactions inherent in the business of banking entities or financial investment entities. All establishments created in a same country by a banking entity or a financial investment entity from another country are deemed to be a single branch.

19. 'FAGADI target level': the ex-ante amount of available financial means which the FAGADI is required to reach in accordance with article 11 of this Law, expressed as a percentage of its members' covered deposits.

20. 'SAGI target level': the amount of guarantee reserves invested in safe and liquid assets to be maintained by the member entities of the SAGI in accordance with article 18 of this Law, expressed as a percentage of its members' covered investment.

21. 'available financial means of the FAGADI': cash, deposits and other low-risk assets which can be liquidated within a period not exceeding that referred to in article 10 of this Law and payment commitments laid down in paragraph 4 of article 11. Additionally, the available financial means of the FAGADI are made up of the assets assigned to deposit guarantee reserves maintained by the members as set out in the first additional provision of this Law.

22. 'payment commitments': payment commitments of a banking entity towards the FAGADI which are fully collateralised, provided that the collateral

- a) consists of low-risk assets;
- b) is unencumbered by any third-party rights and is at the disposal of the FAGADI.

23. 'low-risk assets': Andorran public debt and any asset included in the first and second category of Table 1 of article 366 of the Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms, and any other asset which is considered safe and liquid in an equivalent manner by the Managing Commission.

24. 'deposit guarantee reserve': an amount equivalent to 1.6% of the covered deposits that banking entities must keep as an unavailable reserve and that are temporarily assigned to the FAGADI. The first additional provision states the period during which these reserves must be assigned, which is the transitional period that the FAGADI has to achieve its target level ex ante.

25. 'investment guarantee reserves': unavailable reserve assigned to the coverage compliance of the SAGI that the member entities of the SAGI shall maintain.

26. 'unavailable reserves': reserves with origin in the deposit guarantee reserves that the banking entities maintained in their equity in accordance with Law 1/2011. These reserves no longer are deemed deposit guarantee reserves and shall be maintained by the member entities of the FAGADI as unavailable reserves until they are used immediately and without restriction to cover risks or losses when they occur or the AFA authorises its reclassification as available reserves.

Article 3. Beneficiaries of the FAGADI and the SAGI

Natural and legal persons, regardless of their nationality or place of residence, holding deposits in Andorran banking entities are beneficiaries of the FAGADI. Beneficiaries are entitled to the reimbursement of these deposits as provided for in this Law.

Natural and legal persons, regardless of their nationality or place of residence, holding investments deposited, managed or kept in custody in Andorran banking entities or financial investment entities are

beneficiaries of the SAGI. Beneficiaries are entitled to the reimbursement of these investments as provided for in this Law.

Article 4. *Members of the FAGADI and the SAGI*

1. Banking entities authorised to operate in the Principality of Andorra are compulsorily and exclusively members of the FAGADI.

2. Banking entities and financial investment entities authorised to operate in the Principality of Andorra are compulsorily and exclusively members of the SAGI.

3. If an entity does not comply with its obligations as a member of the FAGADI or the SAGI, the corresponding Managing Commission notifies the AFA immediately, which in cooperation with the former shall promptly take all appropriate measures including, if necessary, the imposition of penalties to ensure that the entity complies with its obligations.

4. If the measures taken under the previous paragraph fail to secure compliance by the member entity, the corresponding Managing Commission may give notice, with the explicit consent of the AFA, of its intention to exclude the member entity from the FAGADI or the SAGI within a reasonable period of time of not less than one month for the FAGADI and twelve months for the SAGI.

If, on expiry of that notice period given by the corresponding Managing Commission, the member entity has not complied with its obligations, it is excluded from the FAGADI or the SAGI and the AFA withdraws its license to operate.

5. The FAGADI and the SAGI shall cover depositors and investors of branches of Andorran banking entities and financial investment entities authorised to operate in other country, subject to the following provisions:

- a) the registration of a branch with the FAGADI and the SAGI is compulsory when the covered deposits or the covered investments held by the branch are not covered by a guarantee scheme in the host state;
- b) if the covered deposits or the covered investments held by the branch are covered by a guarantee scheme in the host state, such branches shall register with the FAGADI and the SAGI to cover the difference in coverage or scope when the amount guaranteed is less than that covered by the FAGADI and the SAGI. Otherwise, it is not necessary;
- c) when the branches consider to register with a guarantee scheme in the host state, they shall inform the corresponding Managing Commission of the terms and conditions governing such scheme so that its suitability may be assessed.

6. Deposits and investments held before the date on which the authorisation is withdrawn will continue to be covered by the FAGADI or the SAGI until the fulfilment of the commitments provided for in this Law. The guaranteed amounts are those that exist at the time of the authorisation withdrawal. The guarantee reserves that the entity holds until the withdrawal of its authorisation in accordance with the provisions of this Law will be unavailable and assigned to meet potential commitments derived from the application of the Law.

7. In any case, the amount of guaranteed reserves that the entity whose license is withdrawn had on its financial statements in accordance with this Law will cease to be unavailable and assigned once the entity has complied with the obligations it has to its clients as per in this Law.

Article 5. *Non-eligible deposits and investments*

1. The following deposits and investments are considered non-eligible for the purposes of this Law:

- a) deposits and investments held, on their own behalf and for their own account, by the following entities or individuals:
 - banking entities;
 - financial investment companies and agencies;
 - insurance undertakings;
 - collective investment undertakings' management companies;
 - asset management companies;
 - any other entities that, according to its applicable legislation, carry out the foregoing typical activities in the financial sector;
 - any other financial entity subject to supervision;
 - directors; senior management; shareholders with a direct or indirect minimum holding of 10% in the share capital of the entity; and depositors who are in a similar situation in other companies of the group.
- b) deposits held by collective investment undertakings;
- c) deposits held by pension or retirement funds;
- d) bearer deposit certificates and temporary assignments of assets;
- e) deposits and investments held by companies or entities in the same group as the member entity of the FAGADI and the SAGI;
- f) deposits and investments held by any public Administration except those held by local authorities with an annual budget of EUR 500,000 or less;
- g) own funds of the member entities;
- h) deposits and investments the holder of which has never been identified pursuant to the applicable legislation on the prevention and fight against money laundering and terrorist financing currently in force, or arising out of transactions in connection with which there has been a criminal conviction for money laundering or terrorist financing in Andorra or abroad;
- i) deposits and investments the holder of which has obtained, in a personal capacity, favourable financial conditions which have contributed to worsening the situation of the entity, provided that such circumstance has been determined by a final court judgment;
- j) deposits and investments made by depositors or investors acting on behalf of any of the excluded depositors or investors listed in subparagraphs a) to g), and on behalf of or acting in concert with the depositors or investors listed in subparagraphs f) and g).

2. FAGADI and SAGI's member entities shall have eligible deposits and investments identified at all times. This information may be requested by the corresponding Managing Commission at any time.

Chapter II. Regulation of the FAGADI

Article 6. Nature, legal and economic status

1. The FAGADI is a public law entity with legal personality and patrimonial and financial autonomy and with full capacity to carry out its functions under public and private law, and is governed by the provisions provided for in this Law.
2. The FAGADI is governed by private law except when it exercises the administrative powers that are directly attributed to it by this Law or any other provision with the status of a law.
3. The FAGADI is managed and represented by the Managing Commission of the FAGADI according to articles 25, 26 and 27 of this Law.
4. The personnel of the FAGADI are governed by labour law and hired observing the principles of equality, merit and ability.
5. The FAGADI may contract third parties to carry out any material, technical or instrumental activity necessary to ensure the adequate fulfilment of its functions.
6. The members of the Managing Commission and its personnel, as well as all those who carry out or have played a role in the Fund, including experts who are hired by the Fund, have a duty of confidentiality regarding all the information obtained in the performance of their functions, even after they are ceased or leave the Fund.
7. Expenses of the FAGADI must be borne equally by the member entities of the FAGADI.
8. Each year, the Managing Commission prepares and approves a budget proposal for the FAGADI, as well as its annual accounts and the budget follow-up.

Article 7. Use of funds

1. The FAGADI'S financial means provided for in article 11 are principally used to reimburse the depositors in accordance with this Law.
2. Up to 50% of the FAGADI's financial means provided for in paragraph 2 of article 11 may be used to finance the resolution of banking entities in accordance with the legislation in force on this matter. In this case, the AREB, following consultation with the FAGADI's Managing Commission and the AFA, determines the amount to be borne by the FAGADI.

Additionally, if the AREB considers it appropriate and provided that prior authorisation has been sought from the AFA and the FAGADI's Managing Commission has been consulted, up to 50% of the FAGADI's financial means provided for in paragraph 3 of article 11 may be used for these purposes.

3. The FAGADI, following consultation with the AFA and the AREB, can use the available financial means provided for in article 11 in order to avoid the insolvency of a banking entity, provided that the following conditions are met:
 - a) the AREB has not taken any resolution action under the provisions of the current legislation on this matter;
 - b) the FAGADI has appropriate systems and procedures to select and apply the alternative measures and monitor the associated risks;

- c) the costs of these measures do not exceed the costs that would be generated by the payment of the amounts guaranteed by the FAGADI in the event of the bankruptcy and liquidation of a member entity;
- d) the use of alternative measures by the FAGADI is linked to the conditions imposed to the banking being supported, involving at least more stringent risk monitoring greater verification rights for the FAGADI;
- e) the use of alternative measures by the FAGADI is linked to commitments by the banking entity being supported with a view to securing access to covered deposits;
- f) the FAGADI's Managing Commission deems the cost of implementing these alternative measures affordable, charged to ordinary contributions or extraordinary contributions, in accordance with paragraph 5 of this article, provided that such extraordinary contributions are confirmed by the AFA in accordance with article 11.

The FAGADI must consult the AREB and the AFA on the alternative measures and the conditions imposed on the banking entity.

4. The alternative measures as referred to in paragraph 3 of this article shall not be applied where the AREB considers the conditions for resolution action under the current legislation on this matter to be met.

5. If the available financial means are used in accordance with paragraph 3 of this article, member banking entities shall immediately provide the FAGADI with the financial means used for alternative measures, when necessary in the form of extraordinary contributions, where:

- a) the need to reimburse depositors arises and the FAGADI's available financial means amount to less than two thirds of the target level to be achieved by the FAGADI as laid down in article 11 of this Law;
- b) the available financial means fall below 25% of the target level to be achieved by the FAGADI pursuant to article 11 of this Law.

6. The financial means provided for in article 11 that are available may also be used, with the prior authorisation of the FAGADI's Managing Commission, to finance measures to preserve the access of depositors to covered deposits, including transfer of assets and liabilities and deposit book transfer, in the context of national insolvency proceedings, provided that the costs borne by the FAGADI do not exceed the net amount of compensating covered deposits at the banking entity concerned.

7. The AFA and, where appropriate, the AREB, must inform the FAGADI's Managing Commission as soon as possible when they discover problems in a banking entity that could lead to the FAGADI intervening.

The authorities to which this Law assigns powers and responsibilities must cooperate with each other and exercise their powers in accordance with this Law.

Article 8. Coverage level per beneficiary

1. The coverage level for deposits is up to EUR 100,000 or, in the case of deposits held in a different currency, its equivalent applying the exchange rate on the date on which any of the events referred to in paragraph 1 of article 7 of this Law occurs.

2. In addition, the following deposits are covered for three months and with a limit of EUR 300,000:

- a) deposits resulting from real estate transactions relating to private residential properties;

- b) deposits deriving from payments received by the depositor on ad hoc basis and relating to marriage, divorce, retirement, dismissal, invalidity or death;
- c) deposits that are based on the payment of insurance benefits or compensation for criminal injuries or wrongful conviction.

The three-month period runs from the date on which the deposit has been credited or from the moment when such deposits become legally transferable.

3. The Government of Andorra, further to a proposal from the FAGADI's Managing Commission, must review and propose the update, where applicable, of the coverage level per beneficiary, not less than every five years after the entry into force of this Law, taking into account in particular the evolution of the banking sector and the economic situation of Andorra as well as the evolution of the consumer price index in the Principality of Andorra. The first review must not take place before five years have passed since the entry into force of this Law, unless unforeseen events necessitate an earlier review.

Article 9. Determination of the deposits' repayable amount

1. The amount of EUR 100,000 applies per depositor and member entity of the FAGADI and not to each eligible deposit. Therefore, the determination of the maximum amount per depositor shall take into account the aggregated credit positions that the depositor holds in the member entity of the FAGADI affected by a cover event according to article 2.15 of this Law.

2. The reference dates for the calculation of the repayable amount are the following:

- a) date on which the member entity is declared insolvent;
- b) date on which the AFA or the AREB notifies the Managing Commission of the FAGADI, according to article 2.15 a) of this Law, that the member entity is unable to repay deposits;
- c) date on which the authorisation of a member entity is withdrawn in accordance with article 4 of this Law.

3. Where the depositor is not the beneficial owner of the amounts deposited in an account, the guarantee covers the beneficial owner provided that such person has been identified or is identifiable before the dates referred to in the preceding paragraph.

Where there are several beneficial owners, the share of each under the arrangements subject to which the sums are managed are taken into account when calculating the limit of EUR 100,000 and, in the absence of special provisions, equally among the depositors.

4. Amounts the depositor owes to the banking entity are not taken into account when calculating the repayable amount unless they are due on or before the dates referred to in paragraph 2 and to the extent the compensation is possible under the statutory and contractual provisions governing the contract between the banking entity and the depositor.

In any case, depositors shall be informed prior to the conclusion of the contract by the banking entity of when their liabilities towards the banking entity are taken into account when calculating the repayable amount according to the preceding paragraph.

5. Interest on deposits which has accrued until, but has not been credited at, the dates referred to in paragraph 2 shall be reimbursed by the FAGADI. The aggregate reimbursable amount of deposits and interest does not exceed the amount laid down by article 8 of this Law.

6. In the event that the available financial means are exceeded and the total repayment of the covered deposits to the beneficiaries as provided for in article 8 is not possible, each depositor will be reimbursed the highest amount possible depending on the available financial means (on a pro rata basis). Depositors will benefit from the privileged claim provided for in article 23 of this Law to obtain the difference up to the maximum coverage level laid down for each beneficiary.

Article 10. Repayment to the depositors

1. The FAGADI shall make the repayable amount available according to articles 8 and 9 of this Law within seven working days as from the dates referred to in paragraph 2 of article 9 of this Law.

2. Repayment of deposits referred to in paragraph 1 of this article and the first transitional provision may be deferred in any of the following situations:

- a) when it is uncertain whether a person is entitled to receive repayment or the deposit is the subject of a legal dispute;
- b) when the deposit is subject to restrictive measures imposed by national governments or international bodies restricting the power of the depositors to dispose of the deposited funds;
- c) when there has been no transaction relating to the deposit within the last 24 months;
- d) when, according to paragraph 2 of article 8 of this Law, the repayable amount exceeds EUR 100,000;
- e) when the amount to be repaid must be paid out by a deposit guarantee scheme of a member state of the European Union or other country in which a branch of the member entity of the FAGADI operates.

3. Deposits referred to in the first part of paragraph 3 of article 9 may be subject to a longer repayment term, which cannot exceed three months from the reference dates laid down by paragraph 2 of article 9, when the Managing Commission deems it appropriate.

4. The repayable amount shall be made available without a request to the FAGADI being necessary. For that purpose, the banking entity shall transmit the necessary information on deposits and depositors as soon as requested by the FAGADI.

Repayment is made in euros and by bank transfer.

Repayment means to make available the repayable amounts within the laid down term. Repayment is understood as the mobilization of the repayable amount, so that it can be repaid as soon as the depositor has taken the necessary measures to allow the effective repayment of the corresponding amount, by providing the bank data required to make the payment of such amount by transfer to the bank account chosen by the depositor from among the banking entities authorised to operate in Andorra.

5. No repayment shall be made by the FAGADI where there has been no transaction relating to the deposit within the last 24 months and the value of the deposit is lower than the administrative costs that would be incurred by the FAGADI in making such a repayment.

6. The right to obtain the repayable amounts prescribes after five years from the dates referred to in paragraph 2 of article 9 of this Law.

7. Neither the State, the AFA nor the AREB cover the deposits that are secured by the FAGADI in the terms laid down in this Law. The liability of the State, the AFA and the AREB vis-à-vis the depositors of the member entities is limited to ensuring the setting-up of the FAGADI.

Article 11. *Financing of the FAGADI*

1. The FAGADI has the appropriate mechanisms to determine its potential debts. The available financial means of the FAGADI should be proportional to these debts. The Managing Commission of the FAGADI informs the Government of Andorra annually of the amount of the deposits covered by the FAGADI, its analysis of potential debts and the amount of its available financial means.

The FAGADI collects the ex-ante available financial means through contributions that its members must make at least once a year. This does not preclude the possibility of obtaining additional funds from other sources, including credits or loans. The FAGADI must ensure it has adequate financing mechanisms that allow it, if necessary, to obtain short-term funds to meet its commitments.

In this regard, the FAGADI is financed by the following means:

- a) the regular annual contributions provided for in article 12 of this Law;
- b) the deposit guarantee reserves regulated in the first additional provision of this Law;
- c) extraordinary contributions that the FAGADI requests from its member entities as provided for in article 11.7 of this Law;
- d) loans or any other short-term funding or indebtedness arrangement.

The regular ordinary annual contributions take into account the phase of the business cycle and the impact that pro-cyclical contributions may have when setting annual contributions.

The Managing Commission of the FAGADI may authorise that regular annual contributions to the FAGADI consist of payment commitments provided by the member entities of the FAGADI, provided that such commitments do not exceed 30% of the FAGADI's total available financial means corresponding to the ex-ante part of the FAGADI.

2. The available financial means of the FAGADI corresponding to the ex-ante part shall reach, by no later than 30 June 2024, a target level of 0.8% of the amount of the covered deposits of all member entities.

3. Additionally, once the target level laid down in paragraph 2 of this article is achieved, the member entities must continue to make their contributions to the FAGADI to create an additional financial cushion of 0.8% of the covered deposits within a period of eight years.

The Government, via decree and further to a proposal from the Managing Commission of the FAGADI, may extend this period taking into consideration the phase of the business cycle and the impact that pro-cyclical contributions may have when setting annual contributions.

No contribution is required under the provisions of this paragraph if the available financial means in accordance with paragraph 2 are below the target level.

4. Where the available financial means of the FAGADI corresponding to the ex-ante part do not reach the minimum required by paragraph 2 of this article, the payment of contributions shall resume at least until the target level is reached again.

If, after reaching for the first time the minimum required by paragraph 2, the available financial means corresponding to the ex-ante part have been reduced to less than two-thirds of the target level, the regular contribution shall be set at a level allowing the target level to be reached within six years.

5. The period set out in paragraph 2 may be extended for a maximum period of four years if, between the entry into force of this Law and 30 June 2024, the FAGADI has made cumulative disbursements in excess of 0.8% of covered deposits.

6. The available financial means of the FAGADI corresponding to the ex-ante part provided for in paragraphs 2 and 3 of this article, as well as the assets corresponding to the deposit guarantee reserves of member entities of the FAGADI by virtue of the first additional provision, shall be invested in highly-liquid, low-risk assets and in a sufficiently diversified manner. These assets cannot be subject to charges, encumbrances, levies, embargos or judicial enforcement, nor can they be used as collateral for other obligations or for purposes other than those provided for in this Law. Any benefits accrued and/or generated by the assets in which the financial means available to the FAGADI corresponding to the ex-ante part are invested, must be registered in the FAGADI's accounts.

7. Where the available financial means corresponding to the ex-ante part are insufficient to repay depositors when deposits become unavailable, the FAGADI's Managing Commission shall request payment from the banking entity activating the coverage for the amount of the deposit guarantee reserves that it must maintain according to the first additional provision of this Law in order to repay the depositors in the covered events. If this amount is not sufficient to repay them, the FAGADI's Managing Commission must request the remaining banking entities to provide the proportional amount of the deposit guarantee reserves that they must maintain in accordance with the first additional provision of this Law.

When required for this purpose, the member entities of the FAGADI must provide the FAGADI's Managing Commission with the amounts claimed in accordance with article 10 of this Law.

The amount claimed from each member entity of the FAGADI of the part of the total amount to be made available to the beneficiaries affected by the covered event shall be in the same proportion as each entity's deposit guarantee reserves represent of the total unavailable reserves of the member entities of the FAGADI. The insolvent member entity activating the coverage is excluded from this calculation.

Where the available financial means of the FAGADI corresponding to the ex-ante part provided for in paragraphs 2 and 3 of this article, as well as the assets resulting from the deposit guarantee reserves assigned to the FAGADI by virtue of the first additional provision of this Law, are not sufficient to repay the depositors in the covered events, the Managing Commission of the FAGADI may request extraordinary contributions from the member entities which cannot exceed 0.5% of their yearly covered deposits.

The Managing Commission of the FAGADI, after obtaining the AFA approval, may require extraordinary contributions in exceptional circumstances, which cannot entail that the limit provided for in article 20 of this Law is exceeded.

The Managing Commission of the FAGADI, after consulting the AFA, may defer, in whole or in part, a banking entity's payment of extraordinary contributions if it would jeopardise the liquidity or solvency of the member entity. Such deferral shall not be granted for a longer period than six months but may be renewed upon the request of the banking entity. The contributions deferred pursuant to this paragraph shall be paid when such payment no longer jeopardises the liquidity or solvency of the entity.

8. If the financial means available to the FAGADI are not sufficient and the extraordinary contributions set forth in paragraph 7 are not enough or are not immediately available, the FAGADI may be financed by loans or other financial mechanisms granted by financial entities or third parties which, under no circumstances, can entail that the limit provided for in article 20 of this Law is exceeded.

Article 12. Calculation of ordinary contributions to the FAGADI

1. For the purposes of reaching the target level referred to in paragraphs 2 and 3 of article 11, each year the Managing Commission calculates and requests the member entities to make regular annual contributions to constitute the ex-ante part of the FAGADI, taking into consideration the phase of the business cycle, the impact that pro-cyclical contributions may have on setting annual contributions and

the deadlines pursuant to article 11 considering the covered deposits of each entity and the degree of risk it incurs determined according to the following criteria:

- a) the contribution of each entity shall be updated annually and be equal to the proportion of the aggregate amount of covered deposits of all member entities represented by the entity's covered deposits;
- b) contributions shall be adjusted to the risk profile of each member, according to the following criteria:
 - the degree of risk incurred by the entity, taking due account of the importance of its business model, its off-balance sheet risks and its leverage ratio;
 - the stability and variety of funding sources and highly liquid assets free of charges
 - the financial situation of the entity;
- c) contributions shall take due account of the phase of the business cycle.

2. The regular annual contributions to the FAGADI to be made by the member entities from the entry into force of this Law in order to achieve the target level laid down in paragraphs 2 and 3 of article 11 must be charged to results. Simultaneously, the deposit guarantee reserves held under the first additional provision may be reclassified as unavailable reserves, which can be used immediately and without restriction by the banking entities to cover risks or losses when they occur.

3. The AFA, by means of a technical communiqué, sets out the parameters to be taken into account by the Managing Commission of the FAGADI so that the contributions of its member entities are proportional to their risk profile, and taking into account the guidelines issued by the European Banking Authority. To this end, the AFA is authorised to provide the Management Commission of the FAGADI with all the necessary information to carry out this risk assessment. This information shall not be kept for longer than is necessary.

Chapter III. Regulation of the SAGI

Article 13. Nature, legal and economic status

1. The SAGI is a public law entity which has legal personality, patrimonial and financial autonomy and with full capacity to carry out its functions under public and private law, which is governed by the provisions provided for in this Law.
2. The SAGI is governed by private law except when it exercises the public powers that are directly attributed to it by this Law or any other provision with the status of a law.
3. The SAGI is managed and represented by its Managing Commission according to articles 25, 26 and 27 of this Law.
4. The members of the Managing Commission and those who exercise or have played a role in the SAGI, including experts who are hired by the SAGI, have a duty of confidentiality regarding all the information obtained in the performance of their functions, even after they are ceased or leave.
5. Expenses of the SAGI must be borne by its member entities in the same proportion that each entity's covered investments represent of the total aggregate covered investments of all the member entities of the SAGI.

Article 14. Covered events

1. The SAGI repays the guaranteed amount of the covered investments to the investors when any of the following events occur:
 - a) any of the member entities of the SAGI has been formally declared insolvent and this situation means it is unable to repay the investments; this notwithstanding, such amounts are not repaid by the SAGI if, within the period for repayment, the member entity is no longer unable to repay;
 - b) the AFA or the AREB determines that, in its view and according to the information available, the member entity concerned appears to be unable for the time being, and for reasons which are directly related to its financial circumstances, to meet its obligations to investors.
 - c) In order the AFA or the AREB to reach this conclusion, the following must occur:
 - the investors must have requested the member entity concerned to return the investments entrusted to it and no return has been obtained within twenty-one working days;
 - the member entity is not in the situation referred to in subparagraph a) of this paragraph; and
 - the member entity has been given the right of a prior hearing.

2. Investments eligible for coverage are those that cannot be separated from the assets of the member entity of the SAGI and, due to this circumstance, financial damage may be caused to the beneficiaries.

For the purposes of facilitating the return of the investments to the investors and the determination of the covered amounts when the SAGI shall repay them, the AFA may order the transfer of such deposits and the register of securities and any other financial instrument from the member entity of the SAGI concerned to any other member entity, when the former has not already done so.

Where applicable, the judge handling the insolvency proceedings shall authorise the new entity taking over the deposit or the register of securities and other financial instruments to access the relevant documentation and facilitate the transfer and the registry of securities. The existence of insolvency proceedings shall not prevent the recovery by the holders of the securities and other financial instruments, unless there are reasonable indicia of money laundering or any other criminal activity.

3. Under no circumstances does the SAGI cover losses due to fluctuations in the investments' value, insolvency or non-compliance of issuers or liable persons under the relevant financial instruments or of the markets or systems in which such instruments are exchanged, cleared or settled. Debt securities payable by the insolvent member entity of the SAGI are also excluded from coverage when expressly issued as subordinated or when they become subordinate by law.

4. The AFA and, if applicable, the AREB give notice to the Managing Commission of the SAGI as soon as possible in the event they discover problems in a member that could give raise to the intervention of the SAGI.

The authorities to which this Law assigns powers and responsibilities must cooperate with each other and exercise the powers in accordance with this Law.

Article 15. Coverage level per beneficiary

1. The coverage level for investors is separate from the coverage level provided for in article 8 and amounts to a maximum of EUR 100,000 per beneficiary and per member of the SAGI.

2. The Government of Andorra, further to a proposal from the SAGI's Managing Commission, must review and propose the update, where applicable, of the coverage level per beneficiary, not less than every five years after the entry into force of this Law, taking into account in particular the evolution of the business sector and the economic situation of Andorra as well as the evolution of the consumer price index in the Principality of Andorra. The first review must not take place before five years have passed since the entry into force of this Law, unless unforeseen events make necessary an earlier review.

Article 16. Determination of the investments' repayable amount

1. The covered amount is calculated taking due account of the market value of the investments on the date on which any of the covered events provided for in article 14 of this Law occurs, or the preceding working day when it is a bank holiday, applying where applicable the exchange rate for that day. The covered amounts are credited for their monetary equivalent.

2. Where the financial instruments are not traded in an official secondary market, the covered amount is calculated when any of the covered events provided for in article 14 of this Law occurs, and only for these purposes, according to the following criteria:

- a) equity securities: book value calculated with the last audited balance of the issuer. If the audited balance is not available or it contains reservations with adjustments which could entail a lower value than book value, the market value is calculated by an expert;
- b) debt securities: par value plus accrued interest, when the interest rate is explicit, or reimbursement value discounted at the implicit issue rate, in the case of zero-coupon or issued at discount securities;
- c) other financial instruments: estimated market value calculated according to the generally accepted valuation procedures with regard to the concerned financial instrument;

- d) in the case of financial instruments issued by insolvent companies, the value is determined by an expert, and its determination may be deferred until the end of the insolvency proceedings.
3. The guarantee provided for in this article applies to each investor, whatever the number and class of the investments the investor holds in the same member entity.
4. Where there are several beneficial owners, the share of each under the arrangements subject to which the investments are deposited, managed or kept in custody shall be taken into account when calculating the covered amount and, in the absence of special provisions, equally among the investors.
5. In the event that the SAGI's available financial means under article 18 of this Law are insufficient and the total repayment of the covered amounts to the beneficiaries is not possible in accordance with article 15, each beneficiary will be reimbursed the highest amount possible depending on the available financial means of the SAGI (on a pro rata basis). Beneficiaries shall have the privileged claim provided for in article 23 of this Law to obtain the difference up to the maximum coverage level laid down for each beneficiary.

Article 17. *Repayment to the investors*

1. The Managing Commission of the SAGI takes the appropriate measures to inform the investors that a covered event has occurred in the terms provided for in article 14 of this Law.
2. The Managing Commission of the SAGI shall make the repayable amount available as soon as possible, and at the latest, within three months after determining the adequacy and the amount of the position of the investor.

Where the Managing Commission of the SAGI foresees that payments will not be made within the laid down deadline, it may request the AFA for an extension of up to three additional months, indicating the reasons for such extension. The AFA may authorise it if there are exceptional reasons for the delay, such as the large number of investors, the existence of investments entrusted to the entity in other countries or the finding of extraordinary technical or legal difficulties to verify the actual balance of the covered investments, or whether or not the covered amount should be repaid.

3. Repayment is made in euros and by bank transfer.

Repayment means to make available the repayable amounts within the established deadline. Repayment is understood to be the mobilization of the repayable amount, so that it can be repaid as soon as the depositor has taken the necessary measures to allow the effective repayment of the corresponding amount, by providing the bank data required to make the payment of such amount by transfer to the bank account chosen by the depositor from among the banking entities authorised to operate in Andorra.

4. Neither the State, the AFA nor the AREB cover the investments that are secured by the SAGI in the terms laid down in this Law. The liability of the State, the AFA and the AREB vis-à-vis the investors covered by the SAGI is limited to ensuring the setting-up of the SAGI.

Article 18. *Financing of the SAGI*

1. For the purposes of fulfilling the obligations attributed to the SAGI pursuant to this Law, all member entities shall create and maintain an unavailable reserve assigned to meet the guarantees covered by the SAGI, that is to say, an investment guarantee reserve.

The investment guarantee reserve assigned to the guarantees covered by the SAGI shall reach a target level of 1.5% of the calculation base amount provided for in paragraph 2 no later than 30 June 2020.

2. For the purposes of calculating the investment guarantee reserve due, it shall be taken due account of the 5% of the market value of the investments maintained in the member entities of the SAGI. To this end:

- a) financial instruments traded in official secondary markets are valued according to the market quotation value of the market in which are traded;
- b) financial instruments not traded in official secondary markets are valued according to the criteria set forth in paragraph 2 of article 16 of this Law.

3. The amount of the investment guarantee reserve to be maintained by each member entity of the SAGI shall be determined annually and it is equal to the proportion of the covered investments of the entity over the aggregated amount of covered investments of all member entities of the SAGI. Such amount shall be maintained during the following year until the next revision. If this annual calculation process involves a rearrangement of the investment guarantee reserve of a member entity, the increase of the aforementioned reserve must be carried out by allocating the annual profit or by reducing unrestricted reserves, and its reduction by reclassification of the surplus amount as unrestricted reserves.

The Managing Commission of the SAGI calculates on an annual basis the amount of the investment guarantee reserve to be maintained by each member entity of the SAGI. The annual provision is calculated in a linear manner taking into consideration the deadline set forth in paragraph 1.

If, once the target level of the investment guarantee reserves foreseen in paragraph 1 has been reached for the first time, such amount has been reduced to less than two-thirds of the target level, the annual provision shall be set at a level allowing the target level to be reached within six years.

4. Each member entity shall invest an amount equivalent to the investment guarantee reserve in highly-liquid, low-risk assets and in a sufficiently diversified manner.

5. The assets corresponding to the investment guarantee reserve of member entities of the SAGI cannot be subject to charges, encumbrances, levies, embargos or judicial enforcement, nor can they be used as collateral for other obligations or for purposes other than those provided for in this Law.

6. The Managing Commission of the SAGI may, after prior approval from the AFA, require extraordinary contributions in exceptional circumstances, which cannot entail that the maximum coverage limit provided for in article 20 of this Law is exceeded.

The Managing Commission of the SAGI may, after consulting the AFA, defer, in whole or in part, an entity's payment of extraordinary contributions if it would jeopardise the liquidity or solvency of the member entity. Such deferral may not be granted for a longer period than six months but may be renewed at the request of the member entity. The contributions deferred pursuant to this paragraph shall be paid when such payment no longer jeopardises the liquidity or solvency of the entity.

7. Under extraordinary circumstances and on grounds of urgency, the SAGI may be financed by loans or other financial mechanisms granted by financial entities or third parties which, under no circumstances, can these entail that the maximum coverage limit provided for in article 20 of this Law is exceeded.

8. The Government of Andorra, further to a proposal from the Managing Commission of the SAGI, must review periodically and, at the very least, every five years, the maximum level to be achieved by the SAGI, especially where advisable under the circumstances, and may propose modifications where applicable.

Article 19. Release of funds by the member entities of the SAGI

1. Where required, member entities of the SAGI shall make available to its Managing Commission, in the time and manner set forth in paragraph 2 of article 17 of this Law, the amounts required from each one,

up to the limit of the investment guarantee reserve the entity is obliged to maintain at any given time, as well as the additional extraordinary contributions required by the Managing Commission, where appropriate.

2. The amount claimed from each member entity of the SAGI of the part of the total amount to be made available to the beneficiaries affected by the covered event shall be made in the same proportion as the investment guarantee reserve of each entity represents of the total investment guarantee reserves of the member entities of the SAGI. The insolvent member entity activating the application of this coverage is excluded from this calculation.

3. Payments to beneficiaries are first made from the proceeds of the sale of the assets assigned to the investment guarantee reserve of the member entity of the SAGI in the circumstances set forth in article 14. The investment guarantee reserves of other member entities of the SAGI can only be used when that investment guarantee reserve has been fully applied. Furthermore, the extraordinary contributions regulated in paragraph 6 of article 18 can only be requested when the investment guarantee reserves of all member entities have been fully applied.

Chapter IV. Provisions applying to the FAGADI and the SAGI

Article 20. Joint limit on the FAGADI's and the SAGI's liability

1. The maximum amount covered by the FAGADI for all beneficiaries cannot exceed EUR 200 million.
2. The maximum amount covered by the SAGI for all beneficiaries cannot exceed EUR 50 million.
3. The Managing Commissions of the FAGADI and the SAGI review these limits periodically and, at least, every five years, and may propose its modification if the specific circumstances so require.

Article 21. Obligation to suspend the payment of covered deposits

1. Where a depositor, an investor or any person entitled to or with interests in covered deposits or covered investments as per this law has been charged with an administrative or criminal offence arising out of or in relation to money laundering or terrorism financing, the Managing Commissions of the FAGADI and the SAGI, respectively, shall suspend any payment relating to the depositor or investor concerned, pending the administrative decision or the judgment of the court.
2. The Managing Commissions of the FAGADI and the SAGI, respectively, shall suspend any payment relating to beneficiaries whose account has been blocked by an administrative or judicial decision, until the block is lifted.

Article 22. Subrogation of the FAGADI and the SAGI to depositors' and investors' rights

1. Where the FAGADI and the member entities of the FAGADI and the SAGI make payments to depositors or investors, they subrogate to the depositors' or investors' rights as creditors for an amount equal to the payments made by the FAGADI and the SAGI.
2. Where the FAGADI makes payments within a bank resolution procedure in accordance with article 7.2, including the application of resolution tools or the exercise of resolution powers, the FAGADI has the right to claim against the relevant bank for an amount equal to its payments. This right ranks at the same level as the covered deposits in the applicable insolvency regulations.

3. Where the FAGADI uses its financial means in accordance with article 7.3, the FAGADI is entitled to claim an amount equal to the disbursements it has made to the relevant bank. This right ranks at the same level as the covered deposits in the applicable insolvency regulations.

4. Where the FAGADI uses its financial means in accordance with article 7.6, the FAGADI is entitled to claim an amount equal to the disbursements it has made to relevant bank. This right ranks at the same level as the covered deposits in the applicable insolvency regulations, but the time limits laid down for credit status configuration do not apply.

Article 23. *Privileged claims of the beneficiaries of the FAGADI and the SAGI*

1. In the event that the maximum amounts covered by the FAGADI and the SAGI have not been paid, the beneficiaries have a privileged claim to obtain from the assets of the insolvent member entity the amount remaining to be paid up to the maximum amount covered according to articles 8 and 15 of this Law, respectively. The credits of the beneficiaries exceeding such maximum amount are classified pursuant to the insolvency legislation or any other laws that are applicable at any given time.

2. Once the beneficiaries have obtained the maximum covered amounts, either through a direct payment from the corresponding Managing Commission or after exercising the privileged claim pursuant to paragraph 1 of this article, the FAGADI and the SAGI have, in turn, a privileged claim against the assets of the insolvent member entity for an amount equal to the total amount used according to articles 7 and 14, respectively.

3. Privileges laid down by this article have preference over any other privilege laid down in the insolvency legislation at any given time, except the following:

- (i) mortgages and pledges or any other credits guaranteed by rights *in rem* in favour of third parties;
- (ii) judicial or administrative liens laid down prior to the declaration of the covered event;

4. The amounts recovered by the FAGADI as a consequence of the exercise of the privilege laid down in this article shall be used to restore the available financial means of the FAGADI and to repay the extraordinary contributions made by the member entities, according to the following order:

1st) Repayment of the FAGADI's ex-ante available financial means that have been used up to a maximum limit of the amount corresponding to the target level required in article 11 of this Law;

2nd) Any recovered amount that exceeds the level of the ex-ante available financial means that must be repaid is returned to the member entities in proportion to the contributions made from the deposit guarantee reserves regulated in the first additional provision of this Law so that they are repaid up to the required level;

3rd) Any recovered amount that exceeds the levels required by the two previous paragraphs is returned to the member entities in proportion to the extraordinary contributions made pursuant to article 11 of this Law.

5. The amounts recovered by the Managing Commission of the SAGI as a consequence of the exercise of the privilege laid down in this article shall be used to restore the investment guarantee reserves and to repay the extraordinary contributions made by the member entities, according to the following order:

1st) The recovered amount is returned to the member entities in proportion to the contributions made from the investment guarantee reserves regulated in article 18 of this Law so that they are refunded up to the required level;

2nd) Any recovered amount that exceeds the mandatory investment guarantee reserve level is returned to the member entities in proportion to the extraordinary contributions made pursuant to paragraph 6 of article 18 of this Law.

Article 24. Depositor and investor information about the FAGADI and the SAGI

1. Banking entities and financial investment entities authorised to operate in the Principality of Andorra shall make available to actual and intending depositors and investors, in all premises and on their websites, in an understandable and accessible manner, the necessary information to identify the FAGADI and the SAGI. This information includes their name, address, telephone number, website and e-mail address, as well as information concerning the legislation regulating them and the amount and scope of deposit guarantees and the process and conditions to be met for the repayment of a covered amount. Deposits and investments guarantee information is provided using information sheets whose minimum content is detailed in Annex I and Annex 2 of this Law.

Entities operating under different trademarks shall clearly inform depositors and investors of this fact and that the coverage level applies to aggregate deposits and investments maintained in the entities. This information is included in the information sheets .

2. Member entities of the FAGADI and the SAGI cannot use their membership in advertising, although they may include a factual reference to them without adding other data or information about the FAGADI or the SAGI.

3. Before entering into a contract on deposit or investment management and custody, member institutions provide depositors and investors with the information provided for in paragraph 1 of this article. Depositors acknowledge receipt of that information by signing the information sheet.

4. Confirmation that the deposits and investments are eligible deposits shall be provided to depositors and investors on their statements of account including a reference to the information sheet. This information sheet shall be provided to the depositor and the investor at least annually.

5. In the case of a merger, conversion of subsidiaries into branches or similar operations, depositors and investors shall be informed by the member entities of the FAGADI and the SAGI at least one month before the operation takes legal effect, unless the AFA allows a shorter deadline on the grounds of commercial secrecy or financial stability.

Depositors and investors shall be given a three-month period following notification of the merger or conversion or similar operation to withdraw or transfer to another entity, without incurring any penalty, their eligible deposits and investments including all accrued interest and benefits in so far as they exceed the coverage level at the time of the operation.

6. If a banking entity or a financial investment entity withdraws or is excluded from the FAGADI or the SAGI, the concerned entity shall inform its depositors and investors within one month of such withdrawal or exclusion. The exclusion from the FAGADI or the SAGI is published in the Official Journal of the Principality of Andorra and in two national newspapers.

7. If a depositor or an investor uses internet banking or investment services, the information required to be disclosed by this article may be communicated by electronic means. Where the depositor or investor so requests, it shall be communicated on paper.

8. The information indicated in paragraph 1 must be provided in the official language or in the language agreed between the depositor and/or investor and the banking entity or the financial entity at the time of opening the account.

Chapter V. Managing Commission of the FAGADI and the SAGI

Article 25. Composition and functioning

1. The Managing Commission of the FAGADI and the Managing Commission of the SAGI are created to ensure the proper functioning, respectively, of both guarantee schemes, and to carry out the functions laid down by this Law.

2. The Managing Commission of the FAGADI has six members: two appointed by the AFA, one appointed by the Ministry of Finance, one appointed by the AREB from among the members of its Board of Directors and/or Senior Management and two members appointed by the banking entities through the Andorran Banking Association. The Managing Commission shall appoint a legal advisor who attends its meetings without the right to vote, acting as the secretary, and advises the Managing Commission on all legal issues arising from the performance of its tasks and functions.

3. The Managing Commission of the SAGI has six members: two appointed by the AFA, one appointed by the Ministry of Finance, one appointed by the AREB from among the members of its Board of Directors and/or Senior Management, one member appointed by the Andorran financial entities through the Financial Investment Entities Association and one member appointed by the banking entities through the Andorran Banking Association. The Managing Commission shall appoint a legal advisor who attends its meetings without the right to vote, acting as the secretary, and advises the Managing Commission on all legal issues arising from the performance of its tasks and functions.

4. The AFA will keep a record of the appointments and dismissals of the members of the Managing Commissions. All members shall have expert knowledge and appropriate professional experience to fulfil their duties and business and professional integrity, in the terms set out in the legislation on the entities operating in the financial system.

The members and the secretaries of the Managing Commissions have a duty of confidentiality regarding all information obtained when carrying out their functions, even after they are ceased or leave their office.

The status of member of the Managing Commission is incompatible with any activity that could jeopardize the member's independence and impartiality in the performance of the office.

5. The chair of the Managing Commissions is appointed by its members from among the members appointed by the AFA.

6. The Managing Commissions are based in the AFA premises and meet when called by its chair or upon the request of at least two of its members. When requested by its members, the chair will call the meeting immediately. The decisions of the Managing Commissions are adopted by a majority vote of its members; the chair will have a casting vote. The chair is the external representative of the Managing Commissions. Where not regulated by this Law, the Managing Commissions are governed by its internal rules approved by the Government.

7. The expenses of the Managing Commissions of the SAGI shall be borne by the member entities of the system in the same proportion as their covered investments represent of the aggregate amount of investments of the member entities of the system.

8. The Managing Commissions approve its internal rules and forward them to the Government for approval and publication.

Article 26. General functions of the managing commissions

1. The Managing Commissions take all the actions required to ensure the proper functioning of the FAGADI and the SAGI and so that the beneficiaries obtain the maximum amounts as provided for in this Law.

2. The functions of the Managing Commissions include, but are not limited to, the following:

- a) calculate annually, by 31 May, according to the data on covered deposits and investments corresponding to the annual audited financial statements of each member entity of the FAGADI and the SAGI, respectively, the amount of the contributions to be made to the FAGADI and the investment guarantee reserves to be maintained for the SAGI. In exceptional circumstances, the Managing Commissions may decide to calculate such amount based on the non-audited available information;
- b) annually, by 31 May, according to the data on covered deposits corresponding to the annual audited financial statements of each member entity of the FAGADI, calculate the adjustments to be made to the amount of the deposit guarantee reserve that each banking entity must maintain according to the first additional provision of this Law, so that each member entity has a deposit guarantee reserve that corresponds to the proportional part that each member entity represents on the reference date with regards to the calculations of the ordinary contributions laid down in article 12 of this Law. The amount of the deposit guarantee reserve must be maintained throughout the following year until the next review takes place. In exceptional circumstances, the Managing Commissions may decide to calculate such amount based on the non-audited available information;
- c) monitor the situations in which the beneficiaries are entitled to obtain the maximum amounts laid down when a coverage event occurs;
- d) determine the amounts due to each beneficiary of the FAGADI and organise the payments to be made by the FAGADI to beneficiaries from its resources;
- e) determine the amounts due to each beneficiary of the SAGI and organise the payments to be made by the SAGI to beneficiaries from its resources;
- f) represent member entities of the FAGADI and the SAGI, in the terms provided for in this Law, in the insolvency or administrative intervention proceedings affecting insolvent member entities of the FAGADI and the SAGI;
- g) request from the competent judicial or administrative authorities the essential information needed to fulfil their functions and respect, insofar as is possible, the confidentiality of the beneficiaries' data and circumstances;
- h) ensure the confidentiality and the protection of the depositors' and investors' personal data pursuant to the legislation on data protection in force at any given time;
- i) prepare an annual report on the activities of the FAGADI and the SAGI;
- j) issue technical communiqués setting out guidance on the performance of the foregoing functions and any others conferred by this Law, which is compulsory for the member entities of the FAGADI and the SAGI.

3. Additionally, the Managing Commission of the FAGADI carries out the following functions:

- a) carries out stress tests to the depositor guarantee scheme, at least, every three years. The AFA, by means of a technical communiqué, determines the methodology of the stress tests, taking

into consideration the guidelines issued by the European Banking Authority. The FAGADI uses the necessary information to carry out the stress tests on its system solely for the performance of these tests and shall not store this information longer than is necessary.

b) selects and contracts with the custodian entities of the assets held by the FAGADI.

General criteria to select the custodian entities include diversification, solvency, experience, specialisation, capability, security and cost, taking into account that both the service provided by the entity meets the specific needs of the FAGADI and the internal control procedures of the custodian and the evaluation of the direct and indirect transactional costs that may derive from the activity of the custodian.

The Managing Commission acts as the procurement body of the FAGADI and drafts the technical specification documents in which the specific criteria to assess both the capabilities of the entities to meet the specific needs of the FAGADI and the internal control procedures and the evaluation of the direct and indirect transactional costs that may derive from the activity of the custodian. These specific criteria ensure that the entities meet the following aspects:

- (i) Prove a remarkable financial strength, experience and specialisation in the sector of custody services.
- (ii) Have a proved capacity to manage assets.
- (iii) Have adequate and efficient technological and process capabilities to book keeping, assess and verify compliance with the FAGADI investment guidelines, and deliver results.
- (iv) Have efficient processes to carry out the FAGADI treasury management.
- (v) Offer competitive costs regarding fixed commissions on assets, on transactions or operative, or informative or management commissions.

The contracts between the FAGADI and the custodian entities set out the validity period, that may be extended.

Article 27. Representative functions of the managing commissions

1. The Managing Commissions of the FAGADI and the SAGI act in the name and on behalf of the FAGADI and the SAGI, respectively.

2. The Managing Commissions also represent the beneficiaries when recovering the amounts that, up to the maximum limit per beneficiary laid down by this Law, have not been received due to the fact that the available financial means of the FAGADI or the SAGI were insufficient. Special powers of representation are not needed insofar as such powers are already granted by this law.

This representation is limited to the unpaid amounts under the maximum limit as provided for in articles 8 and 15 of this Law.

3. Additionally, beneficiaries may claim separately and independently within the framework of the insolvency proceedings the amounts exceeding, where appropriate, the maximum limit according to articles 8 and 15 of this Law and any other credit they may have vis-à-vis the insolvent member entity of the FAGADI and the SAGI, according to the general provisions on insolvency or any other applicable provisions at any given time.

First additional provision. *Transition from the deposit guarantee reserve system to the FAGADI. Transitional dual system*

1. Banking member entities of the FAGADI shall maintain as unavailable reserves the deposit guarantee reserves required by Law 1/2011, of 2 February, on the creation of a deposit guarantee scheme for banking entities that exceed the amount to be maintained as deposit guarantee reserves and as investment guarantee reserves assigned to the FAGADI and the SAGI, respectively, in the terms set forth in this additional provision.

For these purposes, on the date this Law enters into force, the banking entities and the corresponding Managing Commission shall identify in their accounts the guarantee reserves existing on the date this Law enters into force that correspond to the deposits and investments covered according to Law 1/2011 .

Once identified, the guarantee reserves required by Law 1/2011 intended for investment coverage must be maintained as investment guarantee reserves covered by the SAGI together with the liquid assets that were assigned in accordance with the second transitional provision of this Law.

Also, from the deposit guarantee reserves that the banking entities had pursuant to Law 1/2011, banking entities shall maintain an amount equal to 1.6% of the covered deposits as deposit guarantee reserves together with the liquid assets assigned to said reserves. The assets cannot be subject to charge, encumbrance, levy, embargo or judicial enforcement and they can neither respond to other obligations nor can they be used as collateral for other obligations or for purposes other than those provided for in this Law. As member entities of the FAGADI make ordinary contributions in accordance with article 12 of this Law, these deposit guarantee reserves can be simultaneously reclassified as unavailable reserves, which can be used immediately and without restriction by the banking entities to cover risks or losses when they occur.

On the other hand, the deposit guarantee reserves required by Law 1/2011 that are not assigned as at the date this Law enters into force must be reclassified as unavailable reserves, which can be used immediately and without restriction by the banking entities to cover risks or losses when they occur, but only once the Managing Commission of the FAGADI has verified the amount of reserves that each member entity has to maintain as of the date this Law enters into force. These reserves will remain in this category until they are used to cover risks or losses when they occur, or until the AFA authorises their reclassification as available reserves.

Likewise, the deposit guarantee reserve that each banking entity must maintain in accordance with this first additional provision must be subject to an annual adjustment that can lead to an increase, by applying the annual profits or by reducing freely available reserves; or a reduction, which would allow the surplus amount of the deposit guarantee reserve to be reclassified as freely available reserves, where appropriate.

Second additional provision. *Insolvency provisions*

1. The assets assigned to the deposit guarantee reserves of the insolvent member entity of the FAGADI that have to be maintained according to the first additional provision of this Law shall be separated from its assets and made available to the Managing Commission to be used in the terms provided for in this Law.

2. The assets corresponding to the investment guarantee reserves of the insolvent member entity shall be separated from its assets and made available to the Managing Commission of the SAGI to be used in the terms provided for in this Law.

3. A certificate issued by the Managing Commission listing the holders of privileged credits and their amount is enough to determine the sums for which a privileged claim may be made against the assets of the insolvent member entity pursuant to article 23 of this Law.

4. Separate judicial proceedings initiated by any person harmed by insolvency situations do not prevent the enforced sale of the assets assigned to the deposit guarantee reserve or the investment guarantee reserve of the insolvent member entity, which may be carried out separately from the insolvency proceedings, so that the holders of the privileged claim pursuant to article 23 of this Law can be paid immediately.

First transitional provision. *Deadlines for payment to the FAGADI*

1. The maximum repayment period of seven working days referred to in article 10 of this Law will not enter into force until 1 January 2024. Until then, the maximum repayment periods are as follows:

- a) twenty working days until 31 December 2018;
- b) fifteen working days, from 1 January 2019 to 31 December 2020; and
- c) ten working days, from 1 January 2021 to 21 December 2023.

2. Until 31 December 2023, where the FAGADI cannot make the repayable amount available within seven working days, it will make available to the depositors an appropriate amount of their covered deposits to cover the cost of living within five working days of a request. This amount shall be deducted from the repayable amount.

The FAGADI shall only grant access to the appropriate amount referred to in the previous paragraph on the basis of data provided by the FAGADI or the member entity.

3. Repayment referred to in the previous paragraph may be deferred in any of the situations provided for in article 10 of this Law.

Second transitional provision. *Assignment of the investment guarantee reserves to the SAGI*

The investment guarantee reserves required by Law 1/2011, of 2 February, on the creation of a deposit guarantee scheme for banking entities that are recorded in the balance sheets of the banking entities members of the SAGI on the date this Law enters into force shall be maintained as unrestricted reserves and assigned to the SAGI, that is, as investment guarantee reserves together with the liquid assets, so as to meet the SAGI's target level set forth in article 18 of this Law.

The annual amount to be contributed by each member entity to the investment guarantee reserve is calculated in the terms laid down by article 18 of this Law taking into account the existence of pre-existing reserves.

Banking entities must reclassify the investment guarantee reserves that exceed the level required by article 18 of this Law as unavailable reserves, which can be used immediately and without restriction by the banking entities to cover risks or losses when they occur or until the AFA authorises their reclassification as available reserves.

Third transitional provision. *FAGADI stress tests*

The first stress test referred to in paragraph 3 of article 26 will be carried out no later than two years after the date this Law enters into force.

Fourth transitional provision. *Treatment of the deposits and investments held by Banca Privada d'Andorra, S.A.U*

Law 1/2011, of 2 February, on the creation of a deposit guarantee scheme for banking entities will be applicable to Banca Privada d'Andorra, S.A.U., a residual entity in accordance with paragraph 4 of article 15 of Law 8/2015, of 2 April, on urgent measures to implement mechanisms of restructuring and resolution of banking entities. Consequently, this Law will not apply to Banca Privada d'Andorra, S.A.U., which will not be considered a member of the FAGADI or the SAGI as setting-up and governed by this Law.

By virtue of this, deposits and investments existing on the date this Law enters into force will continue to be covered for the amount of coverage existing on that date, taking into account the limits and conditions laid down in Law 1/2011 and paragraph 6 of article 41 of Law 8/2015.

The amount of the deposit and investment guarantee reserves that Banca Privada de Andorra, S.A.U. maintains pursuant to Law 1/2011 and this transitional provision will no longer be unavailable and assigned once the entity has complied with its obligations laid down in Law 1/2011 regarding its clients and the amounts covered by this transitional provision.

Fifth transitional provision. *Constitution of the Managing Commissions*

1. The Managing Commissions laid down in this Law shall be incorporated and start performing their functions within two months of this Law entering into force.

Repealing provision

1. Law 1/2011, of 2 February, on the creation of a deposit guarantee scheme for banking entities is repealed without prejudice of the provisions foreseen in the fourth transitional provision.

2. Statutory provisions developing the provisions of Law 1/2011, of 2 February, on the creation of a deposit guarantee scheme for banking entities, will continue into force provided that do not contradict the provisions of this Law, until the entry into force of the statutory provisions that may develop this Law.

3. References in other existing legal provisions to Law 1/2011, of 2 February, on the creation of a deposit guarantee scheme for banking entities, shall be understood to be made to the provisions of this Law regulating the same subject.

First final provision. *Amendment of Law 95/2010, of 29 December, on Corporate Income Tax*

1. Subparagraph k) and l) are added to paragraph 1 of article 8 of Law 95/2010, of 29 December, on Corporate Income Tax, and it should read as follows:

“(k) the Andorran Deposit Guarantee Fund.”

“l) The Andorran Investor Compensation Scheme.”

Second final provision. *Amendment of the Law regulating the disciplinary regime of the financial system*

The following amendments are made to the Law regulating the disciplinary regime of the financial system, as approved on 27 November 1997. Article 16.b of the aforementioned Law is amended and it should read as follows:

“b) noncompliance with current regulations regarding the deposit and investment guarantee schemes for the member entities of the FAGADI and the SAGI, respectively.

Third final provision. *Entry into force*

This Law will enter into force the day after being published in the Butlletí Oficial del Principat d'Andorra.

ANNEX 1

FAGADI DEPOSITOR INFORMATION SHEET TEMPLATE

Basic information about deposit protection

Deposits in [insert name of banking entity] are protected by:	Andorran Deposit Guarantee Fund (FAGADI)
Limit of protection:	EUR 100 000 per depositor per banking entity ⁽¹⁾ [where applicable:] The following trademarks are part of your banking entity [insert all trademarks which operate under the same license]
If you have more deposits at the same banking entity:	All your deposits at the same banking entity are 'aggregated' and the total is subject to the limit of EUR 100 000 ⁽¹⁾
If you have a joint account with other person(s):	The limit of EUR 100 000 applies to each depositor separately ⁽²⁾
If you owe debts to the same banking entity:	The debts you owe to the banking entity are not taken into account when calculating the repayable amount unless these debts were due on or before the reference dates for the calculation of the repayable amount provided for in the legislation in force and the legal and contractual provisions governing the agreement between you and the banking entity. In any case, banking entities shall duly inform the depositors, before the conclusion of the contract, of the circumstances in which their debts will be taken into account or not to calculate the covered amount in accordance with the previous paragraph.
Reimbursement period in case of banking entity's failure:	20/15/10/7 working days ⁽³⁾
Currency of reimbursement:	Euro
Contact:	[insert the contact data of the FAGADI (address, telephone, e-mail, etc.)]
More information:	[insert the website of the FAGADI]
Acknowledgement of receipt by the depositor:	

Additional information

(1) If a deposit is unavailable because a banking entity is unable to meet its financial obligations, depositors are repaid by the FAGADI. This repayment covers at maximum EUR 100 000 per banking entity.

This means that all deposits at the same banking entity are added up in order to determine the coverage level. Always up to the maximum coverage limit of the FAGADI laid down in article 20.1 of Law 20/2018, of 13 September, governing the Andorran Deposit Guarantee Fund and the Andorran Investor Compensation Scheme. If, for instance a depositor holds a savings account with EUR 90,000 and a current account with EUR 20,000, he or she will only be repaid EUR 100,000.

This method will also be applied if a banking entity operates under different trademarks. The [insert name of the account-holding banking entity] also trades under [insert all other trademarks of the same banking entity]. This means that all deposits with one or more of these trademarks are in total covered up to EUR 100,000.

(2) In case of joint accounts, the limit of EUR 100,000 applies to each depositor.

In some cases, provided for in paragraph 2 of article 8 of Law 20/2018, of 13 September, governing the Andorran Deposit Guarantee Fund and the Andorran Investor Compensation Scheme, deposits are protected above EUR 100,000. More information can be obtained under [insert the website of the FAGADI].

(3) The responsible Deposit Guarantee Scheme is the Andorran Deposit Guarantee Fund (FAGADI). It will repay your deposits (up to EUR 100,000) in the following deadlines:

- a) twenty working days until 31 December 2018;
- b) fifteen working days, from 1 January 2019 to 31 December 2020;
- c) ten working days, from 1 January 2021 to 31 December 2023;
- d) seven working days, from 1 January 2024.

Until 31 December 2023, where the FAGADI cannot make the repayable amount available within seven working days, it will make available to the depositors an appropriate amount of their covered deposits to cover the cost of living within five working days of a request. This amount shall be deducted from the repayable amount.

The FAGADI shall only grant access to the appropriate amount referred to in the previous paragraph on the basis of data provided by the FAGADI or the member entity.

This repayment may be deferred in any of the situations provided for in article 10 of Law 20/2018, of 13 September, governing the Andorran Deposit Guarantee Fund and the Andorran Investor Compensation Scheme.

If you have not been repaid within these deadlines, you should contact the Deposit Guarantee Scheme since the time to claim reimbursement may be barred after a certain time limit. Further information can be obtained under [insert website of the FAGADI].

Other important information

In general, all retail depositors and businesses are covered by the FAGADI. Exceptions for certain deposits are set out on the website of the FAGADI. Your banking entity will also inform you upon request of whether or not certain products are covered. If deposits are covered, the banking entity shall indicate this on the statement of account.

ANNEX 2

SAGI INVESTOR INFORMATION SHEET TEMPLATE

Basic information about deposit protection

Investments in [insert name of banking entity or financial investment entity] are protected by:	Andorran Investor Compensation Scheme (SAGI)
Limit of protection:	EUR 100,000 per investor and per banking entity or financial investment entity ⁽¹⁾ [where applicable:] The following trademarks are part of your banking entity [insert all trademarks which operate under the same license]
If you hold more investments at the same entity:	All your investments at the same entity are 'aggregated' and the total is subject to the limit of EUR 100,000 ⁽¹⁾
If you hold the investment with other person(s):	The limit of EUR 100,000 applies to each investor separately ⁽²⁾
Reimbursement period in case of entity's failure:	3 months ⁽³⁾
Currency of reimbursement:	Euro
Contact:	[insert the contact data of the SAGI (address, telephone, e-mail, etc.)]
More information:	[insert the website of the SAGI]
Acknowledgement of receipt by the depositor:	

Additional information

(1) If an investment is unavailable because an entity is unable to meet its financial obligations, investors are repaid by the SAGI. This repayment covers at maximum EUR 20,000 per entity. This means that all investments deposited, managed or kept in custody at the same entity are added up in order to determine the coverage level. Always up to the maximum coverage limit of the SAGI laid down in article 20.2 of Law [·]/2018, of [·], governing the Andorran Deposit Guarantee Fund and the Andorran Investor Compensation Scheme. If, for instance an investor holds shares worth EUR 90,000 and public debt worth EUR 20,000, he or she will only be repaid EUR 100,000.

This method will also be applied if an entity operates under different trademarks. The [insert name of the account-holding entity] also trades under [insert all other trademarks of the same entity]. This means that all investment deposits with one or more of these trademarks are in total covered up to EUR 100,000.

(2) In case of joint held investment, the limit of EUR 100,000 applies to each investor.

(3) The responsible Investor Compensation Scheme is the Andorran Investor Compensation Scheme (SAGI). It will repay your investments (up to EUR 100,000) within 3 months after determining the suitability and the amount of the position of the investor.

If you have not been repaid within these deadlines, you should contact the SAGI since the time to claim reimbursement may be barred after a certain time limit. Further information can be obtained under [insert website of the SAGI].

Other important information

In general, all retail investors and businesses are covered by the SAGI. Exceptions for certain investments are set out on the website of the SAGI. Your entity will also inform you upon request of whether or not certain products are covered. If investments are covered, the entity shall indicate this on the statement of account.