

## THE CHAIRPERSON

Jonathan Faull  
Director General  
Directorate-General Internal Market and Services  
European Commission

27 October 2014

### **EBA Recommendation to Bulgarian authorities on actions necessary to comply with Directive 94/19/EC - Compliance**

Dear Mr Faull, *Dear Jonathan*

On 17 October 2014, the EBA addressed a recommendation to the Bulgarian National Bank (BNB) and to the Bulgarian Deposit Insurance Fund (BDIF) in accordance with Article 17(3) of Regulation (EU) No 1093/2010, setting out actions necessary to comply with Directive 94/19/EC (the Deposit Guarantee Schemes Directive). I enclose a copy of the recommendation.

The recommendation followed an investigation into the actions of the BNB in relation to two Bulgarian banks, Corporate Commercial Bank AD (KTB) and Commercial Bank Victoria EAD (VCB), which have resulted in depositors being prevented from accessing their deposits since 20 and 22 June 2014 respectively, whether directly through the banks or through payments by the BDIF.

We recommended that the BNB ensure that depositors of KTB and VCB have access to deposits protected under the Deposit Guarantee Schemes Directive (DGS Directive) by 21 October 2014, either by removing or limiting the restrictions on the access to deposits resulting from supervisory actions on KTB and VCB or by triggering pay out by the BDIF by making the determination of unavailability of deposits as referred to in Article 1(3)(i) of Directive 94/19/EC. The EBA also recommended that the BDIF pay out verified and due deposits in accordance with Article 10 of Directive 94/19/EC, should the BNB not have taken one of the actions described above by 21 October 2014.

We have received responses from both the BNB and the BDIF regarding the recommendations. In summary, the position of the BNB and the BDIF has not changed and there is no timetable provided for full, or even partial, compliance with the recommendation. In view of a possible formal opinion by the European Commission, we would like to inform you in accordance with Article 17(4) of Regulation (EU) No 1093/2010 that the authorities remain in breach of Union law and it is unclear when depositors might regain access to their funds.

The BNB has informed us by letter dated 21 October 2014 that their supervisory action to place KTB and VCB under conservatorship and to suspend of all of KTB and VCB obligations on 20 and 22 June 2014 was a supervisory measure available under Bulgarian national law which could be upheld for a term of six months, i.e. until 20/22 December 2014. It considers that the inconsistency of Bulgarian law with Directive 94/19/EC can only be remedied by the Bulgarian Parliament adopting legislative amendments. As regards the EBA recommendation concerning the acceleration of the audit process underway at KTB and VCB, the BNB has published preliminary results on 22 October 2014. However, final results will only be available on 31 October 2014, whereas on 7 October 2014 we were told by the BNB that the final assessment was due on 20 October 2014. The audit had been commissioned by BNB in order to determine whether KTB and VCB are insolvent, since the Bulgarian law provides that the BDIF pays out protected deposits only when the BNB has revoked a bank's licence due to insolvency. With this process appearing to slow down rather than accelerate, it is unclear whether depositors will have access to their funds by the end of November 2014, as we have been informed in previous correspondence.

The BDIF has informed us by letter dated 24 October 2014 that while it has made assessments of possible pay outs and investigated sources of additional funding, it will not make any payments until the BNB has revoked the licences of the banks concerned, since it respects the leading role of the BNB and considers that it is not in a position to fulfil its legal powers without an explicit act of the BNB on the basis of the information of the financial situation of the banks.

The responses of BNB and BDIF are attached to this letter along with a press release of the BNB on this matter.

I am grateful for the good cooperation between our organisations in relation to the different actions being taken to address the situation with KTB and VCB. Should you or the Commission services have any questions or require any further assistance, please do not hesitate to contact [bulcases@eba.europa.eu](mailto:bulcases@eba.europa.eu).

Yours sincerely

Andrea Enria

Encls: EBA Recommendation  
Correspondence from BNB and BDIF  
BNB press release, Annex to BNB press release