

**Order N 1/N**  
**Of the Head of the Legal Entity of Public Law - Deposit Insurance Agency**  
**28 December 2017, Tbilisi**

**On Approving the Instruction for the Form of and Person Having the Authority to Write the Administrative Offense Protocol by the Deposit Insurance Agency and the Rules for Imposing and Payment of the Sanction**

In accordance with Article 23.6 of the Law of Georgia on Deposit Insurance System, it is hereby ordered:

**Article 1.** To approve the Instruction for the Form of and Person Having the Authority to Write the Administrative Offense Protocol by the Deposit Insurance Agency and the Rules for Imposing and Payment of the Sanction, as annexed hereto.

**Article 2.** This Order shall become effective upon its publication.

*Head of the Agency*

*Otar Dzidzikashvili*

# **Instruction for the Form of and Person Having the Authority to Write the Administrative Offense Protocol by the Deposit Insurance Agency and the Rules for Imposing and Payment of the Sanction**

## **Article 1. Scope of the Instruction**

This Instruction determines the form of and the rules for writing and keeping of the administrative offense protocol to be written by the Legal Entity of Public Law – Deposit Insurance Agency (the “Agency”) in case of the failure of a commercial bank to duly provide the information on the deposit insurance system to the depositors, as well as to duly pay the initial, regular or special premium as provided under the Law of Georgia on the Deposit Insurance System (the “Law”) and the relevant legal acts of the Head of the Agency. This Instruction also determines the person having the authority to write an administrative offense protocol and rules for imposing and payment of the sanctions. Furthermore, it regulates the procedural matters of appealing and enforcement of the administrative offense protocol.

## **Article 2. Definitions**

The terms not otherwise defined herein shall have the meaning, as provided under the Georgian legislation.

## **Article 3. Writing of Administrative Offense Protocol**

1. In case of the failure of a commercial bank to duly provide the information on the deposit insurance system to the depositors, as well as to duly pay the initial, regular or special premium as provided under the Law and the relevant legal acts of the Head of the Agency, the Agency is authorized to issue an administrative offense protocol (hereinafter – the “Offense Protocol”) with the prior written consent of the National Bank of Georgia if such offense was caused intentionally or with gross negligence or if the breach is not a one-time occurrence.

2. The Offense Protocol issued by the Agency at the same time constitutes to a penalty receipt, which imposes monetary sanction on the offender (commercial bank) and which is mandatory.

3. The penalty amount is determined by the Law.

4. In cases envisaged under subparagraph “c”, paragraph 2 of Article 23 of the Law, an Offense Protocol is written after remedying the breach but unless the payment has been delayed for more than 10 (ten) days. If the overdue period constitutes to 10 (ten) days and the offender has not remedied the breach, then the Agency written an Offense Protocol, which reflects the penalty for 10 days and thereafter issues the second Offense Protocol *pro rata* with the number of overdue days, given the specificities of this Article.

## **Article 4. Person Authorized to Write an Offense Protocol**

The Head of the Agency or Acting Head of the Agency is authorized to write an Offense Protocol (hereinafter – the “Authorized Person”).

## **Article 5. Form and Content of an Offense Protocol**

1. An Offense Protocol is a document having the form, as included in Annex 1 hereof.

2. An Offense Protocol shall include the following data:

- a) Date (day, month, year) of writing the Offense Protocol;
- b) Name, last name and position of an Authorized Person;
- c) Name, identification code, legal and factual (if any) address of an offender (commercial bank);
- d) Essence of the breach;

e) Penalty amount.

3. The Offense Protocol is written with blue or black ballpoint pen. All entries of an Offense Protocol shall be clear. It is prohibited to cross any entry out, erase or scrape it off, etc. In case of damage or making mistake in an Offense Protocol, a new protocol is written. The old one shall be crossed out and shall thereafter be delivered to the person having the authority to issue Offense Protocols with the further aim of cancelling it out.

4. The Offense Protocol is signed and sealed by an Authorized Person.

5. The Offense Protocol shall be recorded in the journal determined under paragraph 2, Article 6 of this Instruction no later than the next working day.

## **Article 6. The Rules for Making and Keeping the Recording Journal of Administrative Protocols**

1. The Agency supplies Offense Protocols independently.

2. The Head of the Agency issues Offense Protocols to an Authorized Person. Issuing, return and cancelation of Offense Protocols is recorded in the Recording Journal of Administrative Protocols (hereinafter – the “Journal”), as provided in Annex 2 hereof.

3. The Journal provided under paragraph 2 of this Article is opened in the beginning of each calendar year.

4. The Journal pages are numbered consecutively. The cover and other pages of the Journal shall be binder stringed. Herewith, a label is affixed at the string knot, which shall be certified with the signature of the Head of the Agency and sealed.

5. All entries of the Journal are made with blue or black ballpoint pen.

6. It is prohibited to erase, scrape off or correct or delete the entries previously made with a corrector. In case of necessity, an inaccurate entry is crossed over with a single line in a manner that should make the previous text clearly visible. The new entry is made in the same field of the Journal and the person authorized to keep the Journal makes the relevant entry in the “Remark” column (for example: the 2<sup>nd</sup> and 10<sup>th</sup> fields are corrected, date, signature, name and last name).

7. In case one Journal is insufficient due to pending case load over the course of one calendar year, a new Journal is opened, which is considered as a continuation of the previous one.

8. By the end of the calendar year, after registration of all Offense Protocols in the Journal, the person authorized to keep the Journal makes an entry on the aggregate number of processed cases.

9. The Journal is kept with the person having such authority and is thereafter transferred to the archive as provided under the Georgian legislation.

10. The conditions, under which the Journal is kept, shall ensure safety of the information included therein.

11. The Journal is an internal document and it (or the information included therein) shall not be transferred to any third party, other than directly provided under the Georgian legislation.

## **Article 7. Keeping of the Offense Protocol**

The Offense Protocol shall be kept in accordance with the rules of the Law of Georgia on Strict Accounting Forms.

## **Article 8. Write-off of Unusable Offense Protocols**

1. Unusable Offense Protocols can be written off:

b) Due to a mistake made during filling them out;

c) Physical damage of Offense Protocol;

c) Other instances envisaged by the law.

2. Unusable Offense Protocols shall be written-off as per the act of write-off (Annex 3). Exclusive number of an unusable Offense Protocol shall be recorded in the act of write-off of strict accounting forms (documents).

3. Cancelled strict accounting forms shall be utilized and verified as per the effective legislation.

#### **Article 9. Serving of an Offense Protocol**

1. The Offense Protocol written by the Agency is sent to an offender to its official (legal or other factual address known to the Agency) through postal services.

2. The Offense Protocol is considered served after it has been duly delivered to the offender's representative. For the purposes of this Article, representative of a clerical structural unit (chancellery) of an offender shall be considered as offender's representative.

3. If an offender refuses to accept the Offense Protocol, then this shall be appropriately remarked at the Offense Protocol, which is signed and dated by the offender's representative. In such scenario, the Offense Protocol shall be considered served.

4. If the offender's representative refuses to make and sign the remark provided under paragraph 3 of this Article, then the relevant remark is made and dated by the authorized representative of postal service. Similarly in such scenario, the Offense Protocol shall be considered served.

#### **Article 10. Payment of Penalty**

1. The offender (commercial bank) shall pay the penalty within the term of 30 (thirty) days after the Offense Protocol has been officially served to it.

2. If the offender fails to pay the penalty within the term provided under paragraph 1 of this Article, then the penalty amount shall be doubled, which shall be paid by the offender within the term of subsequent 30 (thirty) days.

#### **Article 11. Writing the Writ of Enforcement**

In case of failure to voluntarily pay the penalty within the term envisaged under paragraph 2 of Article 10 of this Instruction, the Agency writes the writ of enforcement (Annex 4), which shall be immediately sent to the Legal Entity of Public Law – National Bureau of Enforcement for further foreclosure activities.

#### **Article 12. Appealing the Protocol on Administrative Offense**

The addressee of the Offense Protocol is authorized to appeal the administrative offense protocol within the term of 10 (ten) days after it has been duly served, according to the Georgian legislation.

#### **Article 13. Calculation of Terms**

The terms envisaged in this Instruction shall be calculated as per the requirements of Article 94 of the General Administrative Code of Georgia, as well as Articles 60 and 61 of the Civil Procedures Code of Georgia.

#### **Article 14. Conclusive Provision**

This Instruction can be amended and modified as per the Georgian legislation.

Protocol on Administrative Offense № 000000

[Seal]

1.-----

Date (Day, Month, Year)

2.-----

Name and Position of a Person Authorized to Write a Protocol

3.-----

Name, Identification Code and Address of the Offender

4. Description of an Administrative Offense: -----

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5. Penalty Amount -----GEL ----- Tetri -----

Verbatim

Drafter of the Protocol -----

Signature

**Journal for Recording Administrative Offense Protocols**

№	Date of Issuance	Name	Number of Administrative Offense Protocol	Authority Issuing the Administrative Offense Protocol			Recipient of Administrative Offense Protocol			Drafter of Administrative Offense Protocol		Administrative Offense Protocol That Was Returned or Cancelled				Remark
				Name	Surname	Signature	Name	Surname	Signature	Name	Surname	Date of Return	Number of Administrative Offense Protocol	Name	Surname	
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17

## LEPL Deposit Insurance Agency

### Protocol №

----- 201-

### On Write-off of Useless Administrative Offense Protocols

<i>№</i>	<i>Reasons for Write-off of Administrative Offense Protocol</i>	<i>Number of Administrative Offense Protocols</i>	<i>Unique Number of Administrative Offense Protocol</i>
<i>1</i>	<i>2</i>	<i>3</i>	<i>4</i>

I hereby certify the correctness of write-off of useless administrative offense protocols through my signature.

Head of the LEPL  
Deposit Insurance Agency:

/-----/

Head of the Structural Unit:

/-----/

Person Responsible for Using and Accounting of  
Administrative Offense Protocols:

/-----/

Case №-----

**Writ of Enforcement**

LEPL Deposit Insurance Agency

\_\_\_\_\_  
(Authority Issuing the Writ of Enforcement)

\_\_\_\_\_  
Case, Due to which the Writ of Enforcement is Issued

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Date of the Protocol on Administrative Offense

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\_\_\_\_\_  
\_\_\_\_\_  
Resolution Part of the Administrative Offense Protocol

Creditor's Name and Requisites:

Debtor's Name and Requisites:

Date of the Writ of Enforcement:

Head of the LEPL Deposit Insurance Agency -----