



FINANTSINSPEKTSIOON

REQUIREMENTS FOR PRECONTRACTUAL INFORMATION DISCLOSED ABOUT THE TERMS AND CONDITIONS OF AN INVESTMENT DEPOSIT

The advisory guidelines have been enacted by 6 March 2008 Resolution No 1.1-7/21 of the Management Board of the Financial Supervision Authority.

1. Competence

In accordance with Section 3 of the Financial Supervision Authority Act (hereinafter: FSAA), the Financial Supervision Authority conducts national financial supervision in order to enhance the stability, reliability, transparency and efficiency of the financial sector, to reduce systemic risks and to promote prevention of the abuse of the financial sector for criminal purposes, with a view to protecting the interests of clients and investors by safeguarding their financial resources, and thereby supporting the stability of the Estonian monetary system.

In accordance with Section 57 of the FSAA, the Financial Supervision Authority has the right to issue advisory guidelines to explain legislation regulating the activities of the financial sector and to provide guidance to subjects of financial supervision.

2. Purpose and scope of application

2.1. Purpose

- 2.1.1. The purpose of the guidelines is to direct entities that take deposits from the public on the basis of an investment deposit contract to disclose, prior to the conclusion of a contract with a client, relevant and sufficient information about the terms and conditions of the investment deposit with a view to protecting clients' interests when their funds are used and to ensure preconditions for the making of conscious investment decisions.
- 2.1.2. The guidelines create preconditions for an increase in the transparency of the service and help a client of a service provider to better understand the nature of the service, the standard and good practice in the relevant professional activity, which in turn creates greater preconditions for avoiding potential disputes when rights are exercised and obligations performed in good faith in the context of a legal relationship.

3. Scope of application

- 3.1. The guidelines apply to credit institutions, branches of foreign credit institutions and cross-border service providers in Estonia entitled to operate in Estonia and take deposits from the public.
- 3.2. The scope of application of the guidelines shall be, first and foremost, information preceding a consumer contract to ensure the protection of the interests of consumers as natural persons acting outside their business or professional activity, taking into account the fact that persons meeting the conditions in question shall be treated as a weaker party in terms of both their material capability and knowledge and experience in finance.
- 3.3. Application of the guidelines by a credit institution need not be limited to the disclosure of information preceding a consumer contract, as clear, sufficient and easily readable information supports the interests of transparency and reliability of the entire banking sector, toward which the activities of credit institutions should be directed also. Where appropriate, it is advisable to apply principles deriving from the guidelines also, for instance, to investment deposit contracts between a client and a credit institution.
- 3.4. Application of the guidelines shall take into account requirements deriving from legislation. In case of imperative requirements deriving from legislation, provisions in legislation shall be taken into account.
- 3.5. In case of problems of implementation and interpretation in the application of the guidelines, the principle of reasonableness shall be taken into account in light of the purpose of these guidelines and in good faith with the diligence expected of a credit institution.

4. Terms and definitions

- 4.1. For the purposes of these guidelines, an investment deposit is a fixed-term deposit whose interest rate depends directly on the value of a financial instrument(s) or other assets or on changes therein.
- 4.2. For the purposes of these guidelines, a risk premium is a fee paid by a client, giving the client the opportunity to earn a deposit interest on the terms provided in the investment deposit contract.
- 4.3. For the purposes of these guidelines, underlying assets are any assets taken as the basis for the calculation of an investment deposit interest and on the value of which or on change therein the deposit interest paid to a client depends.

5. General requirements

- 5.1. These guidelines establish the makeup of the information that a provider of an investment deposit service shall convey to a client prior to the conclusion of an investment deposit contract (Annex 1 to the guidelines). The obligation provided in this clause shall be deemed

to have been discharged also if the information provided in Annex 1 to these guidelines has been made available to a client on a web page coterminous with the investment deposit.

- 5.2. Precontractual information on an investment deposit shall be conveyed to a client in a manner ensuring the clarity and ease of readability and give a client the opportunity to evaluate the conditions of an investment deposit on the basis of uniform criteria and their conformity to the client's investment objectives.
- 5.3. Information shall be formatted in a systematically structured manner to ensure for a client the uncomplicated readability and intelligibility of the terms and conditions of an investment deposit.
- 5.4. Information disclosed in communications shall be correct, accurate and unambiguous. Information shall not be of a misleading content, nor shall it omit or lack anything affecting the content or meaning of the data conveyed in the information or the comprehension thereof under the principle of reasonableness.
- 5.5. Communications shall not contain hidden information, the placement or presentation of which shall not result in difficulty for a client in understanding the facts relating to the terms and conditions of an investment deposit or in possibly creating a misleading impression of the facts relating to the terms and conditions of an investment deposit.
- 5.6. The disclosure of information in a contract and the choice of its presentation shall be guided by the assumption that a consumer of a service shall have no specialist knowledge of finance, including with respect to financial terminology.
- 5.7. When deciding the disclosure of the makeup of information, a credit institution may be guided by the fact that a client is generally well-informed, attentive and reasonable, who knows his or her investment objective and conveys to a credit institution the correct information about his or her interest and, if needed, requests further information.

6. Information conveyed about the terms and conditions of an investment deposit prior to the conclusion of a contract.

- 6.1. Information on the terms and conditions of an investment deposit shall be conveyed at least in the makeup conveyed in Annex 1 to these guidelines. It shall not be forbidden to structure this information differently, nor shall it be forbidden to add information not referred to in these guidelines.

7. Final provisions

The guidelines shall enter into force from 8 September 2008.

Annex 1 Makeup of precontractual information on an investment deposit

Designation	Notes on the content of information
1. Credit institution information	1.1. Company name and address of the credit institution taking a deposit.
2. Sales period of a deposit	2.1. Period during which a credit institution offers a deposit.
3. Minimum deposit amount	3.1. Minimum amount required for concluding a deposit contract.
4. Deposit term	4.1. Term of a deposit entitling a client to receive interest to the full extent on the terms provided in a contract.
5. Deposit interest	5.1. Procedure for calculating deposit interest.
6. Underlying assets	<p>6.1. Important features of underlying assets:</p> <p>6.1.1. In the case of stocks and bonds, reference shall be name to at least the issuer of the underlying assets, the issuer's location and field of activity.</p> <p>6.1.2. In the case of stock or a unit of investment fund, a description shall be provided, at least briefly, the main principles of its investment policy, notably information on the types, regions and business sectors of the assets invested on behalf of the fund.</p>
7. Initial and final values	7.1. Procedure for setting and disclosing the initial and final values of the underlying assets producing the deposit interest.
8. Bases for adjusting interest	8.1. If a credit institution reserves the right to adjust deposit interest without a client's prior consent, this information shall be disclosed. The information shall convey a list of events or circumstances entitling the credit institution to potentially adjust the interest.

9. Fee	9.1. Information on all fees entailed for a client by depositing.
10. Description of risks	<p>10.1. Information on risks related to a deposit as a result of which the rate of interest received on a deposit may decrease and which circumstances may necessitate the non-payment of interest.</p> <p>10.2. Information given on a deposit and its underlying assets shall be conveyed in a balanced manner. The same section of the information describing rights to earn interest on a deposit shall refer to risks pursuant to which the receipt of interest revenue will not be not guaranteed.</p> <p>10.3. If a client pays a risk premium and if this is appropriate under the terms of a contract, the party taking the deposit shall be obligated to convey explicitly the information that in case of such a deposit the interest received by depositing upon the expiry of the term of the deposit contract may be less than the risk premium paid.</p> <p>10.4. Information on the rate of return of a deposit, or a similar deposit with which a comparison of the deposit is desired, shall include a clear reference that “The rate of return on a deposit or its underlying assets in a previous period does not mean a promise or indication of the rate of return on the deposit in coming periods”.</p> <p>10.5. If information is conveyed on underlying assets producing a deposit interest about its past rate of return, where possible, such information shall be conveyed for at least the previous five years.</p>
11. Revocation of an offer	<p>11.1. Information on whether a credit institution is entitled after the end of a sales period to decide on the confirmation of the terms of an offer and a deposit or the revocation of the terms of an offer.</p> <p>11.2. If a credit institution reserves the right to cancel contracts concluded after the end of a sales period, information shall provide specific bases for a revocation, the procedure for notifying clients, whether this shall cause a client additional expenses and the term within which the deposit amount will be transferred back to the client.</p>
12. Term for repaying a deposit amount and potential interest	12.1. Information on the term within which, upon the expiry of a contract, the deposit amount and potential interest will be transferred into a client’s bank account.
13. Cancellation of a contract	<p>13.1. Information on whether a client is entitled to a premature termination/cancellation of an investment deposit. If a client has been afforded such an entitlement, the contract shall provide at least:</p> <p>13.1.1. Consequences of the premature cancellation of a contract, notably the extent to which there will be repaid any money deposited, entitlement to interest already earned, fees entailed by a termination or the like;</p> <p>13.1.2. Bases and extent and makeup for the formation of the fee entailed</p>

by a termination (whether as a set amount or as a per cent of the amount deposited).

Term within which a credit institution shall transfer a deposit amount back into a client's bank account.

