

## COUNTRY UPDATE-Greece: Securities & Banking

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The Bank of Greece is Greece's central bank and is responsible for the overview and supervision of the banking system.

The Bank of Greece is a member of the European Central Bank (ECB) and the European System of Central Banks (ESCB). The operation of the Bank of Greece is governed by its statute (Katastatiko), which was ratified by Law no. 3424/7.12.1927 (published in the government gazette issue A 298) and codified by Presidential Decree 21/22.08.1931 (Government Gazette issue A 287).

Since then it has been amended by various resolutions of the general assembly, the latest ones dated April 24, 2012, ratified by Law no. 4099/2012 and the other dated February 25, 2013, regarding the amendment of Article 71 of the statute. It should be mentioned that since 2010 the Bank of Greece extends its supervisory authority over private insurance companies, thus acting as the regulator for two of the three pillars of the Greek financial system (the capital markets being supervised by the Hellenic Capital Market Commission, see below under the relevant heading).

The operations and responsibilities of the Bank of Greece are determined in article two of its statute and include, among others, holding and managing the country's official foreign reserves, which consist of the foreign exchange and gold reserves; supervising credit institutions, private insurance companies, as well as other entities of the financial sector; promoting and overseeing the smooth operation of payment systems, as well as of trading, settlement or clearing systems for over-the-counter transactions in securities and other financial instruments; and acting as treasurer and fiscal agent for the government.

As from the adoption of the euro as the currency of Greece, the central bank no longer autonomously performs those operations that belong to the ESCB, being an integral part of it, and acts in accordance with the guidelines of the European Central Bank, as stipulated in articles 127 and 138 of the Treaty on the Functioning of the European Union (formerly articles 105 and 111 of the Treaty Establishing the European Community) and articles three, 12, 14 sections three, 30 and 31 of the ESCB statute. The Bank of Greece may participate in international monetary and economic organizations, subject to the European Central Bank's approval, according to article six of the ESCB statute. The statute determines the bank's basic competences as above, and secures its independency and its relations with parliament and the government.

### Banking regulation

The basic rules of banking regulation are found in Law 4261/2014, which implemented [Directive 2013/36/EU](#). The Law contains provisions governing the authorization of the business, the acquisition of qualifying holdings, the exercise of the freedom of establishment and of the freedom to provide services, the powers of supervisory authorities of home and host member states in this regard and the provisions governing the initial capital and the supervisory review of credit institutions and investment firms.

The main objective and subject-matter of the law is to coordinate national provisions concerning access to the activity of credit institutions and investment firms, the modalities for their governance, and their supervisory framework.

Law 4261/2014 was at first amended by Law 4799/2021, which implemented Directive (EU) 2019/878 regarding, inter alia, (mixed) financial holding companies, and thereafter by Law 4920/2022, which implemented Directive (EU) 2019/2034 on the prudential supervision of investment firms and amending Directives 2002/87/EC.

The Bank of Greece employs a system of supervision as described in the above directives concerning the administration of risks (credit risk, market risk, legal and operating risk), and the accounting and database systems. It is also responsible for licensing business



conduct rules. In the case of violations, the Bank of Greece may impose penalties on violators, i.e., a monetary fine or a suspension of an operating license.

### **Deposit insurance**

Prior to the financial crisis of 2008, Greek law provided for a guarantee of bank deposits up to an amount of 20,000 euros per depositor via the Deposit Guarantee Fund (DGF). According to Law 3746/2009 and due to the aforementioned credit crisis, there was an increase of the relative limit to 100,000 euros. This Law had also implemented Directives 2005/14/EC and 2005/68/EC, and changed the DGF to a "Deposit and Investment Guarantee Fund" (TEKE), and was subsequently amended via Law 4051/2012.

Law 3746/2009 was repealed by Law 4370/2016, implementing Directive 2014/49/EU, which constitutes an essential instrument for the elimination of certain differences between the laws of the member states as regards the rules on deposit guarantee schemes (DGSs) to which those credit institutions are subject. Law 4370/2016 maintained the guarantee of bank deposits up to the amount of 100,000 euros. Exceptionally, deposits resulting from real estate transactions relating to private residential properties and those that serve social purposes laid down in Law 4370/2016, are protected up to the amount of 300,000 euros for one month after the amount has been credited or from the moment when such deposits become legally transferable.

The Hellenic Deposit and Investment Guarantee Fund, is the operator of the deposit guarantee and investment compensation schemes, as well as the Resolution Fund for credit institutions, It is governed by Law 4370/2016, as amended by Laws 4438/2016, 4701/2020, 4972/2022, and it is composed of three separate schemes: (i) the Deposit Cover Scheme (hereinafter "DCS") for coverage of depositors, (ii) the Investment Cover Scheme (ICS), for coverage of investor clients and (iii) the Resolution Scheme (hereinafter "RS"), for financing of resolution measures.

All credit institutions that are licensed and operate in Greece, including those registered in the EU or abroad, whose depositors do not enjoy the same level of protection in their home country, are obliged by law to participate in the DCS. Remuneration includes the whole deposit of each depositor with the same credit institution, which is independent of the number of accounts that are held up to the limit mentioned.

Payment takes place within three months from the time that the deposits become unavailable. As its name suggests, the Hellenic Deposit and Investment Guarantee Fund has expanded its protection also to investors. Law 4370/2016, as amended and in force today, provides for a guarantee of investments up to an amount of 30,000 euros per investor via ICS of the Hellenic Deposit and Investment Guarantee Fund.

### **Payment services**

Greece implemented PSD2 ([Directive 2015/2366/EU](#)) with Law 4537/2018, as amended by Law 4949//2022.

### **Bank secrecy and money laundering**

Greece has strict banking secrecy rules that affect the operation of the Greek banking system. The rules are derived from Decree 1059/1971 as amended, regulating banking secrecy relating to bank deposits and commonly referred to as "special banking secrecy" and various general clauses of Greek Civil Code governing "general banking secrecy", covering all transactions with banks.

Banking secrecy is also protected by constitutional and penal law provisions. Greece has also implemented all EU directives on money laundering. Law 4557/2018, as amended by Law 4816/2021, which implemented the 6th AML Directive (Directive 2018/1673), 4734/2020, which implemented Directive (EU) 2018/843, and 4920/2022, which implanted Directive (EU) 2019/1153, has been adopted. This law repealed the previous anti-money laundering regime of Law 3691/2008.

### **Greek crisis — banking aspects**

A Financial Stabilization Fund (the HFSF), which was established in 2010 under Greek law 3864/2010, as amended by Law 4941/2022, and endowed originally with 10 billion euros and later with an additional 40 billion aiming to ensure and safeguard adequate capitalization of the Greek banking system, is currently in the last phase of liquidation regarding the 'systemic banks'.

Also, various new regulations have been introduced for the liquidation and reorganization of banks (laws 4021/2011 and 4051/2012 and 4261/2014), mainly through the introduction of the supervisor's power to impose a good bank-bad bank division where necessary. Repeated use of this power has been made during the last of years in connection with so called 'non-systemic', i.e. smaller banks not capable of obtaining sufficient capital, as required by capital adequacy rules.

### **Non-performing loans (NPL)**

In the course of the last few years, it has become clear that dealing with NPLs is the most pressing issue facing the Greek banks. The issue has necessitated new regulation. With law 4354/2015 (NPLs law), the delegation of the servicing (i.e. legal and accounting management, negotiation and actual collection) of claims and the transfer of claims arising from loans and/or credits granted or granting by credit or financial institutions was permitted for the first time in Greece. The scope of the NPLs Law was amended by Law 4389/2016 and since May 27, 2016, not only non-performing loans fall under the scope of the NPLs law, but performing ones too.

The NPLs law, which was further amended, among others, by laws 4389/2016, 4393/2016, 4472/2017, 4549/2018, 4643/2019 and 4701/2020 provided with the establishment of special purpose undertakings, which, will be involved in the management and acquisition of NPLs.



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The main provisions of the NPLs law are the following:

- Servicing of NPLs is permitted to Greek companies in the form of the special purpose societies anonymes and EEA companies which are duly established in Greece via a branch. Both of the aforementioned undertakings must have obtained a special license by the Bank of Greece. The applying service company must have a minimum share capital of 100,000 euros fully paid in cash, in order to be granted the relevant authorization.

As per the authorization procedure, the Bank of Greece (BoG), by virtue of its Decision 118/19.5.2017, laid down the regulatory and organizational framework for this type of undertakings, including inter alia the procedure for obtaining a license, the rules of governing their relationship with the debtors, rules of prudential supervision, rules for the refinancing of claims. This Decision has been amended by Decision 153/08.01.2019 of the BoG.

- The servicing of NPLs must be based on a written agreement between the lender and the servicing company, which includes the details of the particular claims under service, the description of the particular duties and the agreed servicing fee. The drafts of these agreements are subject to the supervision of the BoG for the purposes of verifying their compliance with the NPLs law.
- The BoG may authorize the servicing companies to provide further credit to debtors whose loans they have been managing, for the sole purpose of refinancing, with the prior consent of the originator of debt. The refinancing shall be based on an approved restructuring plan and the applying company shall ensure payment of capital equal to 4,500,000 euros.
- The banking secrecy is lifted to the extent required for servicing companies to perform their duties under the servicing delegation agreements mentioned above. This is a key point as Greece benefits from banking secrecy regulations.
- The sale of NPLs is valid if a servicing delegation agreement is signed between the acquiring company and the servicing company licensed and regulated by the BoG. Rights arising from the transferred receivables can only be enacted by the servicing companies. The transfer of claims arising from NPLs is permitted only through sale transaction, based on a sale-transfer agreement in writing. Entities that may acquire NPLs are the following: i) S.A. companies registered to the General Commercial Registry (G.E.MI). that according to their articles of association are able to acquire such receivables ii) Companies having a seat in the EEA-area that, according to their articles of association, are able to acquire such receivables and to iii) third-country firms that according to their articles of association are able to acquire such receivables.
- Transfer is permitted provided that within 12 months prior to such transfer, the borrower and the guarantor, if any, have been invited in writing to settle/arrange the obligations towards the original lender.
- The transfer must not have as a result the deterioration of the legal and other position of the borrower and the guarantor(s), if any.

Greece, with Law 4649/2019, as amended by Law 4818/2021 and in force today, has adopted an Asset Protection Scheme named "Hercules", in order to facilitate the securitisation of NPLs owned by Greek banks. According to this scheme, a private securitisation vehicle will acquire NPLs from Greek banks and sell securities to investors. The Greek state will guarantee the senior securities issued by the securitisation vehicle that contain less risk. For providing this guarantee the Greek state will receive remuneration, which will be in line with market conditions. The European Commission approved this Scheme on October 10, 2019, opining that it does not constitute state aid, however Eurostat is currently reviewing again the status of this Scheme.

## Securities regulation

### *The Hellenic Capital Market Commission*

The Hellenic Capital Market Commission (HCMC) is the primary supervisory authority for investment services activities and aims to promote capital market security and integrity and investor protection. It was originally established in 1967 and was reorganised in 1991. The HCMC is a Member of the European Securities and Markets Authority (ESMA) and operates within its framework and under its auspices.

HCMC is also a member of the International Organization of Securities Commissions (IOSCO) and it concludes bilateral and multilateral agreements with other competent Authorities for the exchange of confidential information and cooperation in respect of issues relating to its competence.

HCMC is, inter alia, responsible for:

- Approving the issuance of prospectuses and provision of information to investors.
- Licensing and supervising all investment services and fund management firms, as well as supervising the operation of capital markets and companies that are listed on the Athens Stock Exchange.
- Imposing administrative penalties (fines, suspension and revocation of operating licences).
- Signing agreements and protocols with supervising authorities for the exchange of confidential information and overall cooperation.

## Securities regulation – EU Directive implementation

The most important laws that implement EU directives on securities regulation in Greece are as follows.

- Law 3556/2007, as amended by Laws 4099/2012, 4374/2016, 4797/2021 and 4701/2020, concerning transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market, implements [Directive 2004/109/EC](#).



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- Law 4099/2012, as amended by Laws 4209/2013, 4389/2016, 4416/2016, 4607/2019, 4706/2020 and 4920/2022, concerning collective investment undertakings (UCITS) implements Directives [2009/65/EC](#) [2010/78/EU](#), [2010/73/EU](#), 2011/96/EU, 2009/133/EC, 2004/113/EC.
- Regulation (EU) 2017/1129, on the prospectus to be published when securities are offered to the public or admitted to trading on a regulated market, which repeals the Directive 2003/71/EC.
- Law 4443/2016 implements measures for the harmonization of Greek Law with Regulation No. 596/2014 of the European Parliament and the Council and implements [Directive 2014/57/EU](#) on market abuse.
- Law 3461/2006, as amended, among others, by Laws 3556/2007, 3756/2009, 3943/2011, 4141/2013 and 4783/2021, implements Directive 2004/25/EC relating to public tender offers.
- Law 4514/2018, as amended by Law 4920/2022, implements the [Markets in Financial Instruments Directive II](#). Greek MiFID II Law entered into force on January 1, 2018.
- Law 4706/2020, as amended by Law 4920/2020, implements Directive 2017/828 (SRD II) as regards the encouragement of long-term shareholder engagement. It also introduces a new set of rules regarding corporate governance.

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[Complaints Procedure](#)

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