

## **Decision on the implementation of automated decision-making: processing of deposit guarantee compensations**

This decision is a decision in accordance with section 28 d of the Act on Information Management in Public Administration (906/2019, hereafter also the 'Information Management Act') that the Financial Stability Authority (hereafter also the 'Authority') will introduce automated decision-making in the automated data processing of deposit guarantee compensations. The decision-making referred to in the implementation decision is used for administrative decisions made based on the Authority's decision on the deposit guarantee compensation. The Authority has had a technical readiness to implement automated decision-making before the adoption of section 6 a of the Information Management Act. By the time of the issue of this implementation decision, automated decision-making has never been actually used as no need has arisen to compensate for deposits using the assets of the Deposit Guarantee Fund.

### **Justifications**

The Financial Stability Authority has assessed the prerequisites of the implementation of the automated decision-making with this implementation decision. In its assessment, the Financial Stability Authority has paid attention to the prerequisites laid down in the Act on the Financial Stability Authority (1195/2014), Administrative Procedure Act (434/2003), Information Management Act and the General Data Protection Regulation (GDPR (EU) 2016/679).

In its justifications described below, the Financial Stability Authority considers that the decision-making subject to the implementation decision fulfils all the prerequisites for the implementation of the automated decision-making.

### **Act on the Financial Stability Authority**

Under section 1(1) of Chapter 5 of the Act on the Financial Stability Authority, a Deposit Guarantee Fund, managed by the Authority, exists to safeguard the receivables of the depositors of deposit banks. Further, a deposit bank must belong to a deposit guarantee scheme under section 1(2).

Section 7 of Chapter 5 of the Act lays down provisions on the use of the assets of a Deposit Guarantee Fund. Under section 7(1), the assets of the Deposit Guarantee Fund cannot be used for any other purpose than payment of compensation to the depositors in accordance with Chapter 5 of the Act on the Financial Stability Authority.

Section 8 of Chapter 5 of the Act lays down provisions on the covered deposits. Under section 8(1), the eligible deposits of a depositor in the same deposit bank shall be compensated from the assets of the Deposit Guarantee Fund, however, up to a maximum of 100,000 euros.

In accordance with Section 9(1) of Chapter 5 of the Act, if a deposit bank has not paid the overdue and undisputed eligible deposits, the depositor may notify the Authority of the matter.

Under section 9(2), the Authority shall decide within five working days from the notice referred to in subsection 1, or after having received notice that a deposit bank has been found insolvent by a decision of a Court or other authority, on whether the deposits shall be compensated from the assets of the Deposit Guarantee Fund.

Under section 9(3), a prerequisite for the ordering of the liability to pay shall be that the failure to pay the claim referred to in subsection 1 has, on the basis of an account obtained thereof, resulted from payment or other financial difficulties of the bank and that the difficulties, in the opinion of the Authority, are not temporary.

Under section 9(6), in order to implement the decision of the Authority referred to in subsection 2 above, the deposit bank and the bankrupt's estate of the deposit bank shall submit to the Authority information on the depositors and their deposits repayable under section 8.

Under section 10(1) of Chapter 5 of the Act, compensation according to section 8 must be made available to the depositors from the Deposit Guarantee Fund without a separate application and within seven working days from the decision of the Authority referred to in section 9, unless otherwise provided for in subsection 2.

## **Prerequisites laid down in the Administrative Procedure Act**

### Prerequisites for automated decision-making on a matter

Under section 53 e(1), a matter concerns automated decision-making when the authority makes a decision that concludes the processing of a matter using automated data processing without a natural person checking and approving the decision. According to section 53 e(2), the authority may make an automated decision on a matter that does not involve circumstances that require case-by-case discretion or that involves circumstances that require case-by-case discretion that have been assessed by a public official or other person processing the matter. The decision must be based on processing rules prepared based on the applied act and advance discretion.

According to a Government proposal (HE 145/2022 vp, p. 97), the processing of a matter in accordance with subsection 1 may include phases in which a natural person participates in the preparation of the matter by completing intermediate measures such as phases that require case-by-case discretion. In the preliminary work for the act (HE 145/2022 vp, p. 98) referred to in subsection 2, it is noted that, on the other hand, an automated decision may also be made on matters that involve case-by-case discretion but for which a public official or other person processing the matter has assessed the circumstances preceding the discretion. Such an assessment may concern topics such as the prerequisites for a deduction required in a tax return, which a tax official will assess based on the justifications presented by a taxpayer. In this case, the final decision on the matter will be made automatically based on the assessment and other information concerning the matter entered into the information system by the official. However, if the person processing the matter makes an overall definitive judicial conclusion in this context, and a decision is made on the matter according to this conclusion, this would not be considered an automated decision according to the definition of subsection 1.

The Financial Stability Authority has identified that, as a rule, decisions on deposit guarantee compensation do not involve a need for case-by-case discretion. Deciding on the matter is based on prerequisites for an eligible deposit and a covered deposit defined in legislation. Under section 2(1) of Chapter 5 of the Act on the Financial Stability Authority, a deposit bank shall have internal systems to ensure that the amount of each depositor's eligible and covered deposits can continuously be clarified. Under section 2(2), the deposit banks shall, upon request, submit the information referred to in subsection 1 to the Authority.

The Financial Stability Authority has determined and issued instructions for deposit banks regarding how to report the account and depositor information to the Authority. As a result, the Financial Stability Authority receives comprehensive information on each depositor's eligible and covered deposits from the deposit banks.

The automated decision-making is limited to situations that do not require discretion by a natural person. The Financial Stability Authority has identified the situations that require discretion in its instructions for deposit banks on the reporting of the account and depositor information.

A matter concerning the deposit guarantee compensation will primarily be decided on directly based on the information provided by a deposit bank and no further explanation on the matter is needed from the depositor. The automated decision-making that this implementation decision concerns is directly based on the legislation and meets the prerequisites for the automated decision-making for this part.

In certain situations, a decision concerning the deposit guarantee compensation involves case-specific circumstances that must be assessed by a public official processing the matter at the Authority before making a final decision on the matter. In this case, the final decision on the matter will be made automatically based on the assessment and other information on the matter entered into the information system by the public official processing the matter. Based on the Financial Stability Authority's assessment, the matter may be automatically decided provided that a public official processing the matter is involved in making the decision in so far as the matter involves circumstances requiring case-by-case discretion. According to the Authority's assessment, situations requiring discretion concerning deposit guarantee compensations are comparable to the example provided in the Government proposal, as the natural person processing the matter will assess the provided further explanation and, based on it, enter into the system whether the depositor is entitled to the deposit guarantee compensation for said account. However, the final decision will be made automatically based on the information entered into the system by the person processing the matter as well as the depositor and account information received from the bank.

As noted above, a matter concerning the payment of deposit guarantee compensations is resolved with the Financial Stability Authority's decision. In this case, the situation concerns making a decision that concludes the processing and the prerequisites for the automated decision-making on the matter are applicable. Under section 10(1) of Chapter 5 of the Act on the Financial Stability Authority, the deposit guarantee compensation must be made available to the depositors without a separate application.

The automated decision-making on the payment of deposit guarantee compensation is based on the processing rules prepared by the Financial Stability Authority referred to in section 2(16) of the Information Management Act. The processing rules guide the processing of the matter and automated decision-making. The processing rules have been prepared so that, in

each matter decided automatically, the automated decision-making will lead to a result in accordance with the Act on the Financial Stability Authority and other applicable legislation.

Boundaries have been set for the processing rules based on which the decision-making on the matter will always be transferred to a natural person. The reason for setting the boundaries is a need to ensure the legal protection of the party concerned as well as the appropriate processing of the matter.

#### Requirement for legal protection in automated decision-making

According to section 53 f(1) of the Administrative Procedure Act, the prerequisite for automated decision-making is that the natural person whom the decision concerns may in all respects request an administrative review of the decision free of charge using a request for an administrative review in accordance with section 7 a or a similar claim, which will be processed by the authority that made the decision or an authority belonging to the same controller.

However, based on subsection 2, the provisions laid down in section 53 f(1) of the Administrative Procedure Act shall not apply if the automated decision-making is used to accept the request of the party concerned that does not concern another party.

According to section 6(1) of Chapter 7 of the Act on the Financial Stability Authority, an appeal may be lodged to a decision issued by the Authority to pay compensations produced using automated decision-making under sections 10 and 11(1) of Chapter 5. Provisions on requesting an administrative review are laid down in the Administrative Procedure Act.

Under section 6(2), an appeal on the decision issued to the request for an administrative review and other decisions are issued by the Authority by virtue of this Act may be lodged with the Helsinki Administrative Court. In other respects, provisions for the making of an appeal are laid down in the Administrative Judicial Procedure Act (808/2019).

Under section 6(3), the decision of the Authority must be complied with irrespective of appeal, unless otherwise ordered by the appeal authority or provided for on the matter elsewhere in the law.

Based on the justifications stated above, the Financial Stability Authority notes that sufficient legal protection has been ensured for the implementation of automated decision-making.

#### Notifying of automated decision-making

Under section 53 g (1) of the Administrative Procedure Act, the administrative decision must indicate if the matter has been resolved automatically as well as information about where to access the implementation decision referred to in section 28 d of the Information Management Act.

Based on this implementation decision, the automatically made administrative decision will be made to include information that the matter has been resolved automatically as referred to in section 53 e of the Administrative Procedure Act. Additionally, the address of the Financial Stability Authority's website where this implementation decision is available will be included in the administrative decision. The decision will also include instructions for requesting the implementation decision from the Financial Stability Authority using other means.

Under section 53 g (3) of the Administrative Procedure Act, the name of the person providing further information will not be included in the decision. However, the decision will include the contact information of the Authority, which the party concerned may contact for further information about the implementation decision as necessary.

### **Prerequisites laid down in the Information Management Act.**

#### Documentation of the division of duties and processing rules

Under section 28 a (1) of the Information Management Act, the authority must document the division of duties of the persons responsible for the implementation of the duties laid down in Chapter 6 a of the Information Management Act. The Financial Stability Authority has documented the division of duties.

Under section 28 a (2) of the Information Management Act, the authority must ensure that the processing rules of the automated decision-making are documented adequately clearly and comprehensively so as to demonstrate their legality. The processing rules must particularly indicate how the non-discrimination of the decision-making is ensured, how the matter is investigated adequately and appropriately, including hearing the party concerned, and how the decision is justified or why no justifications are required.

The Financial Stability Authority has prepared processing rule documentation in accordance with section 28 a (2) of the Information Management Act, which details the operations of the automated decision-making that this implementation decision concerns. The documentation describes any stages of the automated decision-making that affect resolving the matter as well as the processing rules relevant to each stage of the decision-making. The documentation describes the legislation applied to automated decision-making and assesses how the non-discrimination of the procedure will be ensured. The processing rules also define how the matter will be investigated adequately and appropriately and on what grounds it is unnecessary to hear the party concerned or provide justifications for the decision. The documentation also details the information and information sources required for making a decision on the matter and the practices related to acquiring the information as well as ensuring that the information is up-to-date and accurate.

The legality of the content of the processing rule documentation in accordance with section 28 a (2) of the Information Management Act has been checked in accordance with section 28 a (3) of the Information Management Act and the documentation has been approved on 25 October 2024. The Financial Stability Authority will store the approved processing rules documentation for at least five years beginning in the calendar year following the dismissal of the automated decision-making.

In accordance with section 28 a (4) of the Information Management Act, the Financial Stability Authority has verified that, based on the prepared processing rule documentation as well as the implementation of the information systems used in resolving the matter, it will be possible to demonstrate which processing rules were used to automatically decide on an individual matter for five years after the resolving the matter.

#### Quality assurance, quality monitoring and the processing of errors

Under section 28 b (1) of the Information Management Act, before introducing the automated decision-making and upon changing the procedure during use, the authority must ensure that the automated decision-making corresponds to the documentation referred to in section 28 a (2) of the Information Management Act, i.e. the processing rules prepared on the automated decision-making. In addition, under section 28 b (2), the authority must ensure that the language used in the automatically produced documents provided to the party concerned is of high standard and that the key measures related to quality assurance have been documented.

Under section 28 c of the Information Management Act, the authority must automatically monitor the quality of the matters subject to automated decision-making as well as the accuracy of their content. The section also lays down provisions on the procedure related to correcting any errors detected.

The quality assurance and monitoring approaches followed by the Financial Stability Authority have been documented and persons in charge of quality assurance and monitoring have been appointed.

Before the introduction of the automated decision-making, the Financial Stability Authority has ensured that the automated decision-making corresponds to the prepared processing rules through comprehensive testing of the procedure. The Financial Stability Authority has also assured that the automatically produced documents fulfil the requirements of appropriate language. The language in the decisions prepared by the Financial Stability Authority is edited.

The Financial Stability Authority has approved a description how the quality of the automated decision-making will be monitored after its introduction. This documentation includes information on the quality monitoring of the automated decision-making as well as the implementation of the requirements concerning information security measures. The Authority will take corrective action to respond to any errors that may have affected the matters decided in the operating process. Any errors detected, their impacts and the corrective action to respond to them will be separately documented.

#### Provision of information

As referred to in section 28 e of the Information Management Act, the Financial Stability Authority will provide information about the automated decision-making on matters, the justifications for using the automated decision-making and other information relevant to the rights of the client on its website at [www.rvv.fi/](http://www.rvv.fi/). In addition, the valid implementation decision will be published at the Authority's website. Information on the implementation decision and the automated decision-making is also available at the deposit guarantee service number.

#### Use of data

According to section 28 f of the Information Management Act, the authority must use risk assessment to confirm that appropriate technical measures are used to ensure that the information utilised in automated decision-making is up-to-date and accurate.

The Financial Stability Authority has assessed the currency and accuracy of the information utilised in automated decision-making by risk assessment and has carried out the technical measures assessed as necessary to promote the quality of the information utilised in the application and the processing of the matter.

Automated decision-making will only be used in such situations related to the payment of deposit guarantee compensations that do not require case-by-case discretion based on the assessment in the implementation rules. The maintenance of the data in the deposit guarantee compensation system is based on extensive provisions on the obligations concerning access to information and the duty of submit information.

## **Data protection regulation**

### Automated decision-making

The automated decision-making concerning the matters of natural persons must also fulfil the prerequisites in accordance with the GDPR.

Under Article 22 of the GDPR, national legislation is required for automated individual decision-making. The legal basis of the national legislation concerning automated decision-making is Chapter 8 b of the Administrative Procedure Act and Chapter 6 a of the Information Management Act. Legislation confirms the protective measures followed in automated decision-making. The decisions made in the decision-making referred to in this implementation decision are based on the law and fulfil the requirements set in Article 22 of the GDPR.

### Informing data subjects

The obligation of the controller to inform data subjects and related procedures is laid down in Articles 12, 13 and 14 of the GDPR. According to the GDPR, the controller must directly inform the data subject of automated decision-making. The purpose of the regulation concerning the provision of information in the GDPR is to provide the data subject with a comprehensive and clear view of the processing of personal data as a whole. This includes the obligation to, at the start of the service process, inform the data subject in advance that a decision on the matter may be made automatically.

In the automated decision-making, the Financial Stability Authority has paid attention to the provisions for informing data subjects. Further information on the use of the automated decision-making is available on the website of the Financial Stability Authority and the topic is also included in the Authority's privacy policy.

### Impact assessment

Article 35 of the GDPR lays down provisions on data protection impact assessment. Based on paragraph 3 (a) of the Article, a data protection impact assessment shall in particular be required in the case of a systematic and extensive evaluation of personal aspects relating to natural persons which is based on automated processing, and on which decisions are based that produce legal effects concerning the natural person or similarly significantly affect the person.

The Financial Stability Authority has prepared and approved the impact assessment referred to in the GDPR for the automated decision-making.

## A list of documents used as the basis of the implementation decision

This implementation decision is based on the following documents:

- A document on the division of duties referred to in section 28 a (1) of the Information Management Act (RVV 173/06.00/2024-4)
- Processing rule documentation referred to in section 28 a (2) of the Information Management Act (RVV 173/06.00/2024-5)
- Documentation on quality assurance referred to in section 28 b (3) of the Information Management Act (RVV 173/06.00/2024-6)
- Data protection impact assessment (RVV 18/00.05/2020)

## Storage period

If the automated decision-making is discontinued, the Financial Stability Authority will continue to store this implementation decision for at least five years after this date. The period begins at the start of the calendar year succeeding the discontinuation. The storage period is based on section 28 d (3) of the Information Management Act.

## Appeal

This implementation decision may not be appealed (section 6(2) of the Administrative Judicial Procedure Act).

## More information about the decision

More information about matters related to the implementation decision is available at the email address of the Authority's registry and the deposit guarantee service number. More detailed information about contact channels for requesting additional information and for submitting a request for information is available at the Financial Stability Authority's website at [rvv.fi/](http://rvv.fi/).

## Signatures

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