



Leibniz Institute for Financial Research SAFE  
Sustainable Architecture for Finance in Europe (<https://safe-frankfurt.de/>)

## SAFE Finance Blog

### Negative Interest Rates on Deposits Legally Questionable

04/05/2017

Tobias Tröger: Unilateral changes of interest rates into negative territory for existing contracts inadmissible



Due to the continuous low interest rate policy of the European Central Bank many banks and savings banks have lowered the rates for saving deposits to zero – some even start to advance in the negative territory: Companies but also private customers have to pay fees for depositing money at their banks. From a legal perspective, such a change of rates into negative territory is controversial. Tobias Tröger (<http://safe-frankfurt.de/research/researchers/researchers-details/showauthor/56-troeger.html>), SAFE Law

Professor, told the German daily Frankfurter Allgemeine Zeitung (1 April 2017) (<http://www.faz.net/aktuell/finanzen/meine-finanzen/sparen-und-geld-anlegen/erste-klagen-gegen-negativzinsen-14951631.html>) that a unilateral change of interest rates into the negative sector without

permission of the customer is inadmissible for existing contracts.

In any case, it is not enough to just send an information letter. The question of payment – who gives money to whom in a retail deposit operation – is a fundamental part of the contract and cannot simply be changed by one side. Also, it is not important whether the bank calls the negative rates “interest” or “deposit fee”. A simple change of the bank’s list of prices and services is not sufficient. In principle, customers do not have a remuneration obligation.

Banks can, however, introduce negative rates for new contracts or for new money on existing accounts, according to Tröger. Also, amendment agreements and the cancellation of contracts is certainly possible – though savings banks are only allowed to cancel contracts with private customers on objective grounds, Tröger explains. Of course, there is a certain risk for a bank that its customers do not agree to a new contract with negative rates once it has cancelled the old contract.

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