Deposit guarantee schemes: coverage level and the payout delay

2008/0199(COD) - 18/12/2008 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 556 votes to 21 with 3 abstentions, a legislative resolution amending the proposal for a directive of the European Parliament and of the Council amending Directive 94/19/EC on Deposit Guarantee Schemes as regards the coverage level and the payout delay. The report had been tabled for consideration in plenary by Christian **EHLER** (EPP-ED, DE), on behalf of the Committee on Economic and Monetary Affairs. The amendments were the result of a compromise between the Council and the Parliament. The main amendments - adopted under the 1st reading of the codecision procedure - were as follows:

Determination of failure to repay deposits: in the cases where payout is triggered by a determination of the competent authorities, the decision period of 21 days provided for in current legislation is reduced to 5 working days in order not to impede rapid payout. However, the competent authorities must first be satisfied that a credit institution has failed to repay deposits which are due and payable. That assessment should be subject to the judicial or administrative procedures of the Member States.

Scope: the coverage of the aggregate deposits of each depositor must be at least **EUR 50 000** in the event of deposits being unavailable.

Increase in coverage: by 31 December 2010, Member States must ensure that the coverage of the aggregate deposits of each depositor shall be set at **EUR 100 000** in the event of deposits being unavailable. However, this will not preclude the retention of provisions which offered, before 1 January 2008, notably for social considerations, full coverage for certain kinds of deposits.

If the Commission report to be submitted to the European Parliament and the Council by 31 December 2009, concludes that such an increase and such harmonisation are not appropriate and not financially viable for all Member States in order to ensure consumer protection, financial stability in the Community and to avoid cross-border distortions between Member States, it shall present to the European Parliament and the Council a proposal to amend the provision on increase in coverage.

Conversion: Member States that convert the amounts expressed in euro into their national currency shall ensure that the amounts in national currencies effectively paid to depositors are equivalent to those set out in the Directive.

Inflation: the Commission may adjust the amounts referred to above in accordance with the inflation in the EU on the basis of changes in the Harmonised Index of Consumer Prices published by the Commission.

Information: credit institutions must make available to actual and intending depositors the information necessary for the identification of the deposit-guarantee scheme of which the institution and its branches are members within the Community or any alternative arrangement provided for in the text. The depositors shall be informed of the provisions of the deposit-guarantee scheme or any alternative arrangement applicable, including the amount and scope of the cover offered by the guarantee scheme. When a deposit is not guaranteed by a deposit-guarantee scheme, the credit institution shall inform its depositors accordingly. All information shall be made available in a readily comprehensible manner.

Information shall be given on request on the conditions for compensation and the formalities which must be completed to obtain compensation.

Time limits for payout: deposit–guarantee schemes must be in a position to pay duly verified claims by depositors in respect of unavailable deposits within **20 workingdays** of the date on which the competent authorities determine that a credit institution has failed to repay deposits which are due and payable, or the judicial authority makes the appropriate ruling. This time limit includes the collection and transmission of the accurate data on depositors and deposits, which are necessary for the verification of claims. The Commission had recommended 3 days and the Committee on Economic and Monetary Affairs had stipulated 14 days.

In wholly **exceptional circumstances** and in special cases, a guarantee scheme may apply to the competent authorities for an **extension of the time limit**, which will not exceed 10 working days.

2 years after the coming into force of the Directive, the Commission shall submit a report on the effectiveness and delays of the payout procedures assessing whether further reduction to 10working days of the delay could be implemented.

Member States shall ensure that deposit-guarantee schemes perform regular tests of their systems and, if appropriate, are informed in the event that the competent authorities detect problems in a credit institution that are likely to trigger deposit-guarantee schemes.

Report: by 31 December 2009 at the latest, the Commission must submit a report on

- the harmonisation of the funding mechanisms of deposit-guarantee schemes addressing, in particular, the effects of an absence of harmonisation in the event of a cross-border crisis, in regard to the availability of the compensation payouts of the deposit and in regard to fair competition, and the benefits and costs of such harmonisation;

- the appropriateness and modalities of providing for a full coverage for certain temporarily increased account balances;

- possible models for introducing risk-based contributions;

- the benefits and costs of a possible introduction of a Community deposit-guarantee scheme; the impact of diverging legislations as regards set-off, where a depositor's credit is balanced against its debts, on the efficiency of the system and possible distortions, taking into account cross-border winding-up;

- the harmonisation of the scope of products and depositors covered, including the specific needs of small and medium enterprises and local authorities; the link between deposit-guarantee schemes and alternative means for reimbursing depositors, such as emergency pay-out mechanisms. If necessary, the Commission shall submit appropriate proposals to amend the Directive.

Transposition: 30 June 2009. However, Member States shall apply the provisions of Article 1(3)(i) (determination of failure) and Article 10(1) (time-limits for payout) of Directive 94/19/EC, as amended by this Directive, by 31 December 2010, at the latest .

By way of derogation, Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with Article 7(1a) and Article 7(3) of Directive 94/19/EC (amount of coverage), as amended by this Directive, by 31 December 2010 .

Emergency payout: the compromise text states in the recitals that Member States should aim at ensuring the continuity of banking services and access to liquidity of banks, in particular in periods of financial turmoil. For this purpose, Member States should be encouraged to make arrangements as soon as possible for ensuring emergency payouts of appropriate amounts upon the application of the affected depositor, **within 3 days or less after the application**. Since the reduction of the current payout delay of three months will have a positive impact on the confidence of depositors and the proper functioning of the financial markets, Member States and their deposit-guarantee schemes should ensure that the payout delay is as short as possible.