Deposit guarantee schemes. Recast

2010/0207(COD) - 14/06/2011 - Committee report tabled for plenary, 1st reading/single reading

The Committee on Economic and Monetary Affairs adopted the report by Peter Simon (S&D, DE) on the proposal for a directive of the European Parliament and of the Council on Deposit Guarantee Schemes (recast).

The committee recommended that the European Parliament position adopted in first reading following the ordinary legislative procedure should amend the Commission proposal as follows:

Purpose and scope: Members want to specify that the Directive lays down rules concerning the functioning of the European scheme for national Deposit Guarantee Schemes **intended to provide depositors in the Union with a common safety net offering a high level of protection**.

In the event of the establishment of a **European fund for banking crisis resolution**, the Commission, in cooperation with EBA, shall ensure that the level of protection for depositors remains high.

Definitions: the definition of "**deposit**" should cover:

- any credit balance which results from funds left in an account or from temporary situations deriving from normal banking transactions, including fixed term deposits, savings deposits and registered deposits, and which a credit institution must repay under the legal and contractual conditions applicable or

- any debt evidenced by a certificate issued by the credit institution.

Eligibility of deposits: Members propose **excluding** from all repayment by deposit guarantee schemes:

- deposits arising out of transactions in connection with which there has been a criminal conviction for money laundering as defined in Directive 2005/60/EC on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing;

- deposits which act as collateral and are legally strongly connected to a loan or other obligation of the depositor

- deposits the holder of which has been identified pursuant to Directive 91/308/EEC at the time of the activation, during and following the repayment of deposit guarantees;

- deposits by pension and retirement funds, except those held in personal pension schemes or in occupational pension schemes of an employer that is not a large company;

- deposits by the State and by central, regional and local authorities.

However, Member States shall ensure that certain deposits are fully protected for up to 12 months after the amount has been credited or from the moment when such deposits become legally transferable: a) deposits resulting from **real estate transactions** relating to private residential properties; b) deposits that serve purposes defined in national law which are linked to **particular life events** such as marriage, divorce,

retirement, dismissal, redundancy, invalidity or death of a depositor; c) deposits that serve purposes defined in national law and are based on the **payment of insurance benefits or compensation** for criminal injuries or wrongful conviction.

Level of guarantee: the Directive provides that Member States must ensure that the repayment covers a **maximum of EUR 100 000 per bank for each depositor**.

Members add that with regard to deposits with credit institutions or branches of foreign credit institutions in the Member States which were already made before 31 December 2010 and with regard to deposits of depositors whose principal place of residence is in an Member State which, before 1 January 2008, had a statutory Deposit Guarantee Scheme **with a fixed coverage level between EUR 100 000 and EUR 300 000 for deposits,** the Member States concerned may decide, by way of derogation, that the fixed coverage level hitherto in force shall remain in force unaltered.

Payout delay: deposit guarantee schemes should be able to ensure that reimbursements should be made **within five working days**. However, Member States may decide that until 31 December 2016 a time limit for repayment of **20 working days** is to apply. If Member States have adopted this longer time limit for repayment, depositors shall upon request receive a **one-off payout of up to EUR 5 000 from the Deposit Guarantee Scheme within five working days** on their deposit eligible for repayment. It should be noted that the Commission had proposed that deposits be repaid within 7 days.

Repayment or payout may be **deferred** in certain specified cases set out in the report.

There shall be no repayment where there has been no transaction relating to the deposit within the last 24 months and the value of the deposit is lower than the administrative costs that would arise from repayment.

Financing Deposit Guarantee Schemes: Deposit Guarantee Schemes shall raise the available financial means by regular contributions from their members at least once each year.

The regular contribution shall take due account of the business cycle and shall not be less than 0.1 % of the covered deposits.

The duty to pay contributions only applies when the amount of funds held by the Deposit Guarantee Scheme is less than the target level. After the target level has been reached for the first time and where the available financial means amount to less than two thirds of the target level due to funds being used, the regular contribution shall not be less than 0.25 % of covered deposits.

The available financial means of Deposit Guarantee Schemes shall be invested in a low-risk and sufficiently diversified manner, and shall not exceed 5% of the scheme's available financial means, except where a zero risk weighting applies to these deposits or investments pursuant to Directive 2006/48/EC.

Governance: deposit Guarantee Schemes shall meet specific governance rules and shall form a **special committee** that is composed of high representatives of the Deposit Guarantee Scheme, its members and of the relevant authorities who decide on transparent investment guidelines for the available financial means.

Calculation of contributions to Deposit Guarantee Schemes: an amendment stipulates that contributions to Deposit Guarantee Schemes shall be determined for each member **in proportion to the degree of risk** incurred by it. Credit institutions shall **not pay less than 75 % or more than 250 %** of the amount that a bank with an average risk would have to contribute.

Member States may provide for lower contributions for low-risk sectors that are governed by special laws.

Deposit Guarantee Schemes may use their own risk-based methods as **alternative approaches** to determine the degree of risk incurred by members. The alternative approaches shall be approved by the respective competent authorities and by EBA and shall comply with the guidelines developed by EBA.

Information to be provided to depositors: when a deposit is not guaranteed by a Deposit Guarantee Scheme Members propose that the credit institution shall **inform the depositor accordingly,** whereupon the depositor shall be offered the possibility to withdraw his deposits without incurring any penalty fees, and with the all attained interests and benefits.

- The information sheet (in Annex III) shall also be **attached to one of their statements of account at least once a year.** Furthermore, the website of the responsible Deposit Guarantee Scheme must contain the necessary information for depositors, in particular information concerning the provisions regarding the process and conditions of deposit guarantees as envisaged by the Directive.

- Credit institutions shall inform depositors adequately about the functioning of the Deposit Guarantee Scheme together with **the maximum coverage level** and other sources of information on the Deposit Guarantee Scheme in a way that is easy to understand.

- **If credit institutions merge**, depositors will be given a three-month period following the notification of the merger in order to give them the opportunity to transfer their deposits exceeding the coverage guaranteed to another bank or bank brand without incurring any penalty fees, and with the right to all accrued interest and benefits.

- If a credit institution withdraw or is excluded from a Deposit Guarantee Scheme, its depositors shall be informed within one month by the outgoing credit institution.

Delegated acts: the Commission will have the power to adopt such acts in order to adjust the coverage level for the total deposits of the same depositor as laid down in this Directive in line with inflation in the European Union on the basis of changes in the consumer price index.