Basic information

2008/0199(COD) COD - Ordinary legislative procedure (ex-codecision procedure) Directive	Procedure completed
Deposit guarantee schemes: coverage level and the payout delay **Subject** 2.50.02 Savings 2.50.04 Banks and credit	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
ECON Economic and Monetary Affairs	EHLER Christian (PPE-DE)	13/10/2008

Committee for opinion	Rapporteur for opinion	Appointed
IMCO Internal Market and Consumer Protection	The committee decided not to give an opinion.	
JURI Legal Affairs	The committee decided not to give an opinion.	

Council of the European Union

Council configuration	Meetings	Date
Economic and Financial Affairs ECOFIN	2911	2008-12-02
Justice and Home Affairs (JHA)	2927	2009-02-26

European Commission

Commission DG	Commissioner
Financial Stability, Financial Services and Capital Markets Union	MCCREEVY Charlie

Key events

Date	Event	Reference	Summary
15/10/2008	Legislative proposal published	COM(2008)0661	Summary
23/10/2008	Committee referral announced in Parliament, 1st reading		
02/12/2008	Debate in Council		Summary

08/12/2008	Vote in committee, 1st reading		Summary
10/12/2008	Committee report tabled for plenary, 1st reading	A6-0494/2008	
16/12/2008	Debate in Parliament		
18/12/2008	Decision by Parliament, 1st reading	T6-0630/2008	Summary
18/12/2008	Results of vote in Parliament		
26/02/2009	Act adopted by Council after Parliament's 1st reading		
11/03/2009	Final act signed		
11/03/2009	End of procedure in Parliament		
13/03/2009	Final act published in Official Journal		

Technical information

Procedure reference	2008/0199(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Directive
Legal basis	EC Treaty (after Amsterdam) EC 047-p2
Stage reached in procedure	Procedure completed
Committee dossier	ECON/6/68655

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee draft report		PE415.139	30/10/2008	
Amendments tabled in committee		PE415.263	28/11/2008	
Committee report tabled for plenary, 1st reading/single reading		A6-0494/2008	10/12/2008	
Text adopted by Parliament, 1st reading/single reading		T6-0630/2008	18/12/2008	Summary

Council of the EU

Document type	Reference	Date	Summary
Draft final act	03743/2008/LEX	11/03/2009	

European Commission

Document type	Reference	Date	Summary
Legislative proposal	COM(2008)0661	15/10/2008	Summary

Commission response to text adopted in plenary	SP(2009)402	29/01/2009	

Other institutions and bodies

Institution/body	Document type	Reference	Date	Summary
ECB	European Central Bank: opinion, guideline, report	CON/2008/0070 OJ C 314 09.12.2008, p. 0001	18/11/2008	Summary

Additional information

Source	Document	Date
National parliaments	IPEX	
European Commission	EUR-Lex	

Final act

Directive 2009/0014
OJ L 068 13.03.2009, p. 0003 Summary

Deposit guarantee schemes: coverage level and the payout delay

2008/0199(COD) - 18/11/2008 - European Central Bank: opinion, guideline, report

OPIONION OF THE EUROPEAN CENTRAL BANK at the request of the Council of the European Union on a 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.

On 24 October 2008, the European Central Bank (ECB) received a request from the Council of the European Union for an opinion on a 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 ECB's competence to deliver an opinion on the proposed directive is based on Article 105(4) of the Treaty establishing the European Community. In accordance with the first sentence of Article 17.5 of the Rules of Procedure of the European Central Bank, the Governing Council has adopted this opinion.

General observations: the ECB notes that the current financial market crisis has confirmed that deposit-guarantee schemes are vital for maintaining depositors' confidence and therefore safeguarding financial stability. The ECB supports the underlying aim of enhancing depositors' confidence and understands that for urgency reasons the proposed directive focuses on increasing the coverage level of national deposit-guarantee schemes in line with the Ecofin Council's conclusions of 7 October 2008, reducing payout delay and discontinuing the current option for co-insurance.

At the same time, the ECB supports the Commission's intention to continue work on convergence of the national schemes, with particular regard to harmonising their funding mechanisms, and to submit a report on the matter to the European Parliament and to the Council by 31 December 2009. In view of the importance of the funding arrangements of the national schemes for the effectiveness of the financial safety net and for safeguarding financial stability, the ECB looks forward to contributing to the Commission's future work in this field and encourages timely completion of the Commission's report.

In this context, the ECB underlines that national schemes' funding arrangements must, inter alia, comply with the monetary financing prohibition laid down in the Treaty, and in particular with the prohibition on national central banks providing overdraft facilities or any other type of facility within the meaning of Article 101 of the Treaty, as more specifically considered in past ECB opinions concerning draft national legislation and in the ECB's Convergence Reports.

Specific observations: the ECB makes the following specific observations:

- **Coverage level of the guarantee**: the ECB welcomes the increase in the minimum amount of guaranteed deposits to EUR 50 000 by the end of 2008 and the further increase to EUR 100 000, as mentioned in the Council's conclusions of 7 October 2008. At the same time, the ECB emphasises that any increase in the coverage exceeding the latter of the above mentioned amounts should be preceded by close

coordination at the EU level, as substantial differences between national measures may have a counter-productive effect and create distortions in the single market;

- **Reduction of payout delay**: the ECB welcomes the intention to reduce delays in payouts of guaranteed deposits significantly and thereby strengthen depositors' confidence. In this context, the ECB would emphasise that recent analysis at international level has highlighted that a prompt payout of depositors' claims is of key importance for effective deposit protection. At the same time, a pragmatic approach should be taken to introducing the necessary reduction in payout delays, thereby preserving credibility of the deposit-guarantee schemes. This implies establishing efficient operational processes for verifying claims and paying depositors, as well as ensuring that sufficient funding is available. In particular, procedures need to be put in place so that if a bank that operates on a cross-border basis fails, depositors receive payouts as efficiently as they would if the failed bank were operating in a single Member State . Moreover, the ECB suggests that the Commission's plan to assess whether it would be possible to harmonise further the funding arrangements used by the national schemes should be accompanied by a review of the effectiveness of payout procedures. Finally, in addition to shortening the payout period, the ECB suggests that public confidence in deposit-guarantee schemes could be enhanced by improving depositors' awareness of the terms and conditions of deposit protection, inter alia through appropriate disclosure of the terms and conditions by credit institutions.

Deposit guarantee schemes: coverage level and the payout delay

2008/0199(COD) - 11/03/2009 - Final act

PURPOSE: to amend Directive 94/19/EC on Deposit Guarantee Schemes as regards the coverage level and the payout delay.

LEGISLATIVE ACT: Directive 2009/14/EC 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.

CONTENT: following a first reading agreement with the European Parliament, the Council adopted a Directive raising guarantee levels and reducing payout delays in the event that deposits of a bank would become unavailable. The new Directive includes provisions:

- raising the **coverage level to a minimum of EUR 50 000** as from 30 June 2009, rather than the present EUR 20 000;
- setting the **coverage level at EUR 100 000 as from 31 December 2010**;
- reducing the payout delay to **25 working days** (a period of five working days to establish that a credit institution has failed to repay deposits which are due and payable, and of 20 working days, subject to extension by 10 working days, to make the repayment). The corresponding periods are at present 21 working days and three months, subject to the possibility of two three-month extensions.

By 16 March 2011, the Commission shall submit to the European Parliament and to the Council a report on the effectiveness and delays of the payout procedures assessing whether reduction to 10 working days of the delay could be implemented.

Member States shall ensure that:

- credit institutions 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;
- the depositors 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 deposit-guarantee scheme;
- deposit-guarantee schemes perform regular tests of their systems and that, if appropriate, they are informed in the event that the competent authorities detect problems in a credit institution that are likely to give rise to the intervention of deposit-guarantee schemes.

The Commission shall submit a **report** to the European Parliament and to the Council by 31 December 2009 at the latest. It shall be accompanied, if necessary, by appropriate proposals to amend this Directive.

ENTRY INTO FORCE: 16/03/2009.

TRANSPOSITION: 30/06/2009.

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.

Deposit guarantee schemes: coverage level and the payout delay

2008/0199(COD) - 02/12/2008

The Council arrived at a general approach on a draft Directive aimed at tightening up the rules on bank deposit guarantee schemes in order to improve confidence in the banking sector. On the basis of this approach, the Presidency will continue its contacts with the European Parliament in order to reach an agreement enabling the Directive to be adopted at first reading, before the end of the parliamentary term.

The Council's general approach provides for:

- raising the deposit guarantee level to EUR 50 000, rather than the present EUR 20 000, from 30 June 2009 and harmonising the level at EUR 100 000 from 31 December 2011. That harmonisation should make it possible to avoid the distortion of competition among banks which appeared during the financial crisis (in the form of massive deposit transfers from banks affiliated to a scheme offering a low coverage level to banks affiliated to a scheme offering a high coverage level);
- a period of five working days to establish that a credit institution has failed to repay deposits which are due and payable, and of 20 working days, subject to extension by 10 working days, to make the repayment. The corresponding periods are at present 21 working days and three months, subject to two three-month extensions. Overall, the payout period could not exceed 35 working days, compared with 10 months at present.

The European Parliament's vote is expected during the week of 15 December.

Deposit guarantee schemes: coverage level and the payout delay

2008/0199(COD) - 15/10/2008 - Legislative proposal

PURPOSE: to amend Directive 94/19/EC on Deposit Guarantee Schemes as regards the coverage level and the payout delay.

CONTENT: the Council of the European Union agreed on 7 October 2008, that it is a priority is to restore confidence and proper functioning of the financial sector. In times of volatile markets, one of the biggest concerns for depositors is the safety of bank deposits should their bank fail.

All Member States are committed to provide deposit guarantee protection for individuals for an amount of at least EUR 50 000, acknowledging that many Member States determine to raise their minimum to at least EUR 100 000.

Ministers are committed to take all necessary measures to protect the deposits of individual savers and welcomed the intention of the Commission to bring forward urgently an appropriate proposal to promote convergence of deposit guarantee schemes.

Directive 94/19/EC of the European Parliament and of the Council on Deposit guarantee schemes provides already for a basic coverage of depositors. However, the ongoing financial turmoil necessitates an improvement of the coverage.

The Directive should be revised in four key areas:

1) Coverage level:the current minimum coverage level is set at EUR 20 000 with the option for Member States to determine a higher coverage. However, this does not reflect the current average deposits of approximately EUR 30 000 per EU citizen. In order to maintain depositors' confidence, **the coverage level should be raised to at least EUR 50 000 and, after one year, to at least EUR 100 000**. According to estimates, about 65% of eligible deposits are covered under the current regime. The new amounts would cover an estimated 80% (with coverage of EUR 50 000) and 90% (with coverage of EUR 100 000) of deposits.

Changes of the coverage level should be subject to the standard comitology procedure. However, in emergency situations, prompt action, coordinated across the Community, would be needed to increase the level of coverage to address any sudden loss of depositor confidence. Therefore, an emergency comitology measure is critical. Such emergency measures should be restricted to 18 months.

2) Reduction of payout delay:the current payout delay of three months, which can even be extended to nine months, is detrimental to the confidence of depositors and does not meet their needs. Many depositors can be expected to face significant financial difficulties already within less than one week. **Therefore, the payout delay should be reduced to three days**, without a possibility extension.

However, the deadline should commence only when either the competent authorities have determined that the credit institution appears to be unable to repay the deposit or a judicial authority has ruled that the claims of depositors are suspended. The decision of the competent authorities may take up to 21 days after first becoming satisfied that a credit institution has failed to repay deposits. In the interest of a rapid payout, this period of 21 days should be reduced to 3 days. For the purposes of rapid payout, a scheme should cover only retail deposits. However, Member States should have the option to include other depositors provided that this inclusion does not impede rapid payouts.

3) Co-insurance:the current Directive allows an optional co-insurance of up to 10%, i.e. a certain percentage of losses that is borne by the depositor. This option should be discontinued.

4) Cross-border cooperation: a deposit guarantee scheme does not only cover depositors in the Member State where the bank is authorized (home country) but also covers depositors at the bank's branch in another Member State (host country). It is essential that 'home and host' schemes cooperate with each other to ensure rapid payout. The proposal, therefore, explicitly introduces a general obligation for schemes to cooperate with each other.