Basic information

2010/0207(COD) COD - Ordinary legislative procedure (ex-codecision procedure) Directive	Procedure completed
Deposit guarantee schemes. Recast Amended by 2023/0115(COD) **Subject** 2.50.02 Savings 2.50.04 Banks and credit	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
ECON Economic and Monetary Affairs	SIMON Peter (S&D)	06/09/2010

Former committee responsible	Former rapporteur	Appointed
ECON Economic and Monetary Affairs	SIMON Peter (S&D)	06/09/2010

Former committee for opinion	Former rapporteur for opinion	Appointed
IMCO Internal Market and Consumer Protection	ROITHOVÁ Zuzana (PPE)	14/10/2010
JURI Legal Affairs	STOYANOV Dimitar (NI)	27/10/2010

Former committee for opinion on the legal basis	Former rapporteur for opinion	Appointed
JURI Legal Affairs	GERINGER DE OEDENBERG Lidia Joanna (S&D)	01/12/2010

Council of the European Union

Council configuration	Meetings	Date
Economic and Financial Affairs ECOFIN	3148	2012-02-21
Economic and Financial Affairs ECOFIN	3290	2014-01-28
Economic and Financial Affairs ECOFIN	3281	2013-12-10
Economic and Financial Affairs ECOFIN	3294	2014-02-18
Economic and Financial Affairs ECOFIN	3271	2013-11-15

	Economic and Financial Affairs ECOFIN	3248	2013-06-21
	Justice and Home Affairs (JHA)	3298	2014-03-03

European Commission	Commission DG	Commissioner
	Financial Stability, Financial Services and Capital Markets Union	BARNIER Michel

Key events

Date	Event	Reference	Summary
12/07/2010	Legislative proposal published	COM(2010)0368	Summary
07/09/2010	Committee referral announced in Parliament, 1st reading		
24/05/2011	Vote in committee, 1st reading		
14/06/2011	Committee report tabled for plenary, 1st reading	A7-0225/2011	Summary
15/02/2012	Debate in Parliament		
16/02/2012	Decision by Parliament, 1st reading	T7-0049/2012	Summary
16/02/2012	Results of vote in Parliament		
21/02/2012	Debate in Council		Summary
21/06/2013	Debate in Council		
15/11/2013	Debate in Council		
28/01/2014	Debate in Council		
04/03/2014	Council position published	05199/1/2014	Summary
13/03/2014	Committee referral announced in Parliament, 2nd reading		
18/03/2014	Vote in committee, 2nd reading		
21/03/2014	Committee recommendation tabled for plenary, 2nd reading	A7-0216/2014	Summary
15/04/2014	Decision by Parliament, 2nd reading	T7-0351/2014	Summary
15/04/2014	Results of vote in Parliament		
15/04/2014	Debate in Parliament		
16/04/2014	Final act signed		
16/04/2014	End of procedure in Parliament		
12/06/2014	Final act published in Official Journal		

Technical information

Procedure reference	2010/0207(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)

Procedure subtype	Recast
Legislative instrument	Directive
Amendments and repeals	Amended by 2023/0115(COD)
Legal basis	Treaty on the Functioning of the European Union TFEU 053-p1
Stage reached in procedure	Procedure completed
Committee dossier	ECON/7/15295

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Specific opinion	JURI	PE456.828	27/01/2011	
Committee draft report		PE460.614	28/02/2011	
Committee opinion	JURI	PE456.696	23/03/2011	
Amendments tabled in committee		PE460.968	05/04/2011	
Committee opinion	IMCO	PE460.676	14/04/2011	
Committee report tabled for plenary, 1st reading/single reading		A7-0225/2011	14/06/2011	Summary
Text adopted by Parliament, 1st reading/single reading		T7-0049/2012	16/02/2012	Summary
Committee draft report		PE529.882	06/03/2014	
Committee recommendation tabled for plenary, 2nd reading		A7-0216/2014	21/03/2014	Summary
Text adopted by Parliament, 2nd reading		T7-0351/2014	15/04/2014	Summary

Council of the EU

Document type	Reference	Date	Summary
Council position	05199/1/2014	04/03/2014	Summary
Draft final act	00082/2014/LEX	16/04/2014	

European Commission

Document type	Reference	Date	Summary
Legislative proposal	COM(2010)0368	12/07/2010	Summary
Document attached to the procedure	COM(2010)0369	12/07/2010	Summary
Document attached to the procedure	SEC(2010)0834	12/07/2010	
Document attached to the procedure	SEC(2010)0835	12/07/2010	

Supplementary legislative basic document	N7-0040/2012	08/02/2012	
Commission response to text adopted in plenary	SP(2012)213	21/03/2012	
Commission communication on Council's position	COM(2014)0140	04/03/2014	Summary

National parliaments

Document type	Parliament/Chamber	Reference	Date	Summary
Contribution	IT_CHAMBER	COM(2010)0368	13/10/2010	
Contribution	PT_PARLIAMENT	COM(2010)0368	15/10/2010	
Contribution	UK_HOUSE-OF-COMMONS	COM(2010)0368	15/10/2010	
Contribution	IT_SENATE	COM(2010)0368	29/10/2010	
Contribution	CZ_SENATE	COM(2010)0368	10/11/2010	
Contribution	AT_BUNDESRAT	COM(2010)0368	18/11/2010	
Contribution	AT_NATIONALRAT	COM(2010)0368	25/11/2010	

Other institutions and bodies

Institution/body	Document type	Reference	Date	Summary
EDPS	Document attached to the procedure	N7-0081/2010 OJ C 323 30.11.2010, p. 0009	09/09/2010	Summary
ECB	European Central Bank: opinion, guideline, report	CON/2011/0012 OJ C 099 31.03.2011, p. 0001	16/02/2011	Summary

Additional information

Source	Document	Date
National parliaments	IPEX	
European Commission	EUR-Lex	
European Commission	EUR-Lex	

Final act

Directive 2014/0049
OJ L 173 12.06.2014, p. 0149 Summary

Corrigendum to final act 32014L0049R(02)
OJ L 309 30.10.2014, p. 0037 Summary

Corrigendum to final act 32014L0049R(01)
OJ L 212 18.07.2014, p. 0047 Summary

Deposit guarantee schemes. Recast

2010/0207(COD) - 21/03/2014 - Committee recommendation tabled for plenary, 2nd reading

The Committee on Economic and Monetary Affairs adopted the recommendation for second reading contained in the report by Peter SIMON (S&D, DE) on the Council position at first reading with a view to the adoption of a directive of the European Parliament and of the Council Deposit Guarantee Schemes (recast).

As the Council's first reading position tallies with the agreement reached in the trilogues, the committee recommended that the committee approve it **without further amendments**.

The main elements of the Agreement concerned the following issues:

- for the first time, EU-wide rules on the financing of deposit guarantee schemes are being laid down;
- payment deadlines in the event of insolvency are being cut from the current 20 working days to seven working days;
- the principle of risk-based contributions has been established;
- Member States must protect temporary high deposits over the normally protected amount of EUR 100 000 in the case of sums resulting, for example, from the sale of privately owned property, insurance payments, divorce etc;
- in future, depositors will receive clear, readily understandable information;
- the resources available in the deposit guarantee fund are primarily intended for making payments in the event of insolvency;
- deposit guarantee schemes may lend to each other on a voluntary basis.

Deposit guarantee schemes. Recast

2010/0207(COD) - 04/03/2014 - Commission communication on Council's position

The communication from the Commission concerns the Council's position at first reading with a view to adopting a Directive of the European Parliament and of the Council on Deposit Guarantee Schemes.

Even though the political agreement diverges from the Commission proposal to a considerable extent, it achieves the objectives behind the original Commission proposal. The Commission therefore supports a Council position that reflects the political agreement of 17 December 2013.

The main points of the political agreement with Parliament are as follows :

Scope of coverage: the European Parliament aimed at maintaining higher coverage of deposits made before 31 December 2010 and which were held by depositors residing in a Member State which, before 1 January 2008, had a statutory DGS with a coverage level up to EUR 300 000. Parliament and council agreed that Member States with a coverage level up to **EUR 300 000** would apply this higher coverage until **31 December 2018**.

Repayment deadlines: Parliament suggested that Member States could maintain the current repayment period of 20 working days until the end of 2016 when it would be shortened to five working days. The political agreement provides that **repayment deadlines would be reduced in three phases:** (i) fifteen working days as from 1 January 2019; (ii) ten working days as from 1 January 2021; and eventually (iii) seven working days as from 1 January 2024.

Financing: Parliament had requested a target level of DGS funds of 1.5% of covered deposits to be reached over 15 years (instead of 1.5% of eligible deposits within 10 years as proposed by the Commission). The political agreement **envisages a target level of 0.8% of covered deposits to be reached within 10 years.** The share of payment commitments that may be counted towards the target level is increased from 10% as suggested by Parliament, to 30%.

Use of funds: the political agreement maintains the principle, as proposed by the Commission and endorsed by the Parliament, that DGS funds are to be primarily used to repay depositors but may also be used for failure prevention or resolution measures under certain conditions.

With regard to preventing bank failures, qualitative conditions similar to those introduced

by Parliament are envisaged, in particular ensuring that the scheme is equipped with appropriate systems and procedures for selecting and implementing alternative measures and monitoring affiliated risks. However, the political agreement introduces **two main elements** which did not feature in Parliament's legislative resolution in the first reading.

(1) The compromise aligns the DGS Directive with the political agreement on the proposal for a Bank Resolution and Recovery Directive by introducing the possibility of raising contributions to existing DGS for the purpose of covering the costs related to systemic risk, failure and resolution.

(2) The political agreement provides that the Commission could authorise a Member State to have a target level between 0.5 and 0.8% of covered deposits under certain conditions.

Deposit guarantee schemes. Recast

2010/0207(COD) - 04/03/2014 - Council position

The Council adopted its position at first reading with a view to the adoption of the directive of the European Parliament and of the Council on Deposit Guarantee Schemes (DGS).

The European Parliament adopted its position at first reading at its plenary session on 16 February 2012. on December 2013, final compromises with the European Parliament were found both on the Bank Recovery and Resolution Directive (BRRD) and the DGS Directive, which permitted the conclusion of the negotiations concerning these two dossiers.

During the trialogue of 17 December 2013, a provisional agreement was reached between the co-legislators with a view to an early second-reading agreement. On 18 February 2014 the Council reached a political agreement on the revised text.

The Council's position in first reading **reflects the compromise reached in negotiations between Parliament and Council,** with the help of the Commission.

The main amendments made by Council and accepted by Parliament are as follows:

Deposit protection : this must be limited to the extent necessary, in order to avoid transferring investment risks to the DGSs :

- financial instruments will be excluded from the scope of coverage, except for existing savings products evidenced by a certificate of deposit made out to a named person ;
- Member States should also be able to decide that the deposits of local authorities with an annual budget of up to EUR 500 000 are covered;
- depositors will benefit from : (i) a more uniform level of protection throughout the Union ; (ii) a broadened and clarified scope of coverage, (iii) faster repayment periods, (iv)improved information and (v) more robust funding requirements ;
- DGSs will be allowed to participate in the financing of the resolution of credit institutions in accordance with the BRRD ;
- in compliance with State Aid rules, Member States may also allow for protection of deposits, serving certain social purposes, that amount to more than EUR 100 000 for a limited period of time, and taking into account in particular the living conditions in the Member State concerned.

More harmonised methods of financing of DGSs :

- the financing of DGSs will be borne by the credit institutions themselves and the funding capacity of DGSs must be more proportionate to their liabilities ;
- DGSs will be subject to a more uniform ex-ante funding target level based on the amount of covered deposits, with funds invested in low risk assets.

Time-limit for repayment :

- the repayment period will be reduced to **7 working days by 2024**. During a transitional period, Member States will be allowed to reduce the repayment period gradually to the maximum of 7 working days ;
- depositors must be able, on request, to access an appropriate amount of their covered deposits to cover for their cost of living.

Better information for depositors :

- depositors will be informed about their coverage, and the DGS responsible, on their statement of account. Potential depositors must be provided with comparable information by way of standardised information sheets. References to DGSs in advertisements must be limited to brief factual statements.

In Member States where credit institutions have established branches, DGSs must inform and repay depositors on behalf of the DGS in the Member State where the credit institution has been authorised. Safeguards must be in place to ensure that a DGS repaying depositors receives, from the home DGS, the necessary financial means and instructions prior to repayment. DGSs concerned should enter into agreements with other DGSs, in order to facilitate cross-border cooperation.

On 10 January 2014, the Chair of ECON Committee addressed a letter to the Presidency indicating that, should the Council transmit formally to the Parliament its position in the form that it was presented in the Annex to that letter, the Chair would recommend to the Plenary to accept the Council's position without amendment.

Deposit guarantee schemes. Recast

2010/0207(COD) - 15/04/2014 - Text adopted by Parliament, 2nd reading

The European Parliament adopted a legislative resolution on the Council position at first reading with a view to the adoption of a directive of the European Parliament and of the Council Deposit Guarantee Schemes (recast).

Parliament approved the Council position at first reading without amendments.

The Council position tallies with the compromise reached in the trilogues.

Deposit guarantee schemes. Recast

2010/0207(COD) - 16/04/2014 - Corrigendum to final act

Corrigendum to Directive 2014/49/EU of the European Parliament and of the Council of 16 April 2014 on deposit guarantee schemes

(Official Journal of the European Union L 173 of 12 June 2014)

Article 21, first paragraph:

for:

'... 4 July 2019 ...',

read:

'... **4 July 2016** ...'.

Deposit guarantee schemes. Recast

2010/0207(COD) - 16/04/2014 - Final act

PURPOSE: harmonises the EU rules relating to deposit guarantee schemes (DGSs) and to improving the protection of depositors.

LEGISLATIVE ACT: Directive 2014/49/EU of the European Parliament and of the Council on deposit guarantee schemes.

CONTENT: this Directive, which is a recast of Directive 94/19/EC of the European Parliament and of the Council, **lays down rules and procedures relating to the establishment and the functioning of deposit guarantee schemes (DGSs)**. It should contribute to the achievement of the internal market, from the point of view of both the freedom of establishment and the freedom to provide financial services in the field of credit institutions, while increasing the stability of the banking system and the protection of depositors.

The main elements of the new Directive are the following:

Adhering to a DGS: the Directive obliges all banks to **adhere to a DGS** so that all of their deposits are guaranteed. Each Member State shall ensure that within its territory one or more DGSs are introduced and **officially recognised**.

The Directive also imposes a **continuous supervision** of DGSs, which must regularly perform stress tests of their systems (at least every three years).

The European Banking Authority (EBA) must publish and update the **list of authorised credit institutions** and indicate of which DGS each credit institution is a member.

Coverage level: Member States shall ensure that the coverage level for the aggregate deposits of each depositor is **EUR 100 000** in the event of deposits being unavailable. They should also ensure that the following deposits are protected **above EUR 100 000** for at least three months and no longer than 12 months, notably, deposits resulting from real estate transactions relating to private residential properties, insurance benefits, marriage, divorce, retirement, redundancy or invalidity.

The amount of EUR 100 000 shall be **reviewed periodically**, and at least once every five years by the Commission.

If appropriate, this last shall submit a proposal for a Directive to adjust the amount, taking account in particular of developments in the banking sector and the economic and monetary situation in the Union. The first review shall not take place before 3 July 2020.

Reimbursement: the repayment period to depositors when bank deposits become unavailable should reduce from 20 working days currently to **seven working days by 2024**. Member States should have the option of having a **transitional period** to the end of 2023. The repayment periods should, however, not exceed 15 working days by the end of 2018, and as early as 2021, should not exceed 10 working days.

When Member States allowed a transition period and where DGSs cannot make the repayable amount available within seven working days they shall ensure that depositors have access to **an appropriate amount** of their covered deposits to cover the cost of living within **five working days** of a request.

Better information for depositors: before entering into a contract on deposit-taking, the credit institutions should: i) make available the information necessary for **the identification of the DGSs** of which the institution and its branches are members within the Union; ii) inform actual and intending depositors of the applicable exclusions from DGS protection.

Depositors should be informed about their **coverage and the responsible DGS** on their statements of account. Intending depositors should be provided with the same information by way of a **standardised information sheet**, receipt of which they should be asked to acknowledge. The website of the relevant DGS shall also be indicated on the information sheet. References to DGSs in advertisements should be limited to short factual statements.

In the case of a merger or conversion of subsidiaries into branches, depositors shall be informed at least one month before the operation takes legal effect. They shall be given a **three-month period** following notification of the merger to withdraw or transfer their deposits to another credit institution, without incurring any penalty.

Financing DGSs: DGSs should have in place adequate systems to determine their potential liabilities. DGSs shall raise the available financial means by **contributions** to be made by their members (that is, the banks) at least annually.

The Directive requires Member States to ensure that, by 3 July 2024, the available financial means of a DGS shall at least reach **a target level of 0.8% of the amount of the covered deposits of its members**.

The contributions to DGSs shall be based on the amount of covered deposits and the **degree of risk** incurred by the respective member. The EBA shall, by 3 July 2015, issue guidelines in this regard.

Use of funds: the financial means of DGS shall be primarily used in order to **repay depositors** within the framework of financing the resolution of credit institutions. Member States may authorise the DGSs, under certain well-defined conditions, to also use these funds for **preventative measures**.

The available financial means may also be used to finance measures to preserve the access of depositors to covered deposits, in the context of national insolvency proceedings, provided that the costs borne by the DGS do not exceed the net amount of compensating covered depositors at the credit institution concerned.

Borrowing between DGSs: on a voluntary basis, DGSs may lend to other DGSs, when, notably, the financial resources of a system do not allow it to meet its obligations by reason of inadequate financial funds available. In addition, the borrowing scheme should, for its part, not be subject to commitments of current credits from other DGSs.

Branches of credit institutions established in third countries: Member States shall check that branches established in their territory by a credit institution which has its head office outside the Union have **protection equivalent** to that prescribed in this Directive.

ENTRY INTO FORCE: 02.07.2014.

TRANSPOSITION: no later than 03.07.2015 (31.05.2016 for some measures relating to reimbursement).

DELEGATED ACTS: the Commission shall be empowered to adopt delegated 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 Union on the basis of changes in the consumer price index. The power to adopt delegated acts shall be conferred on the Commission for an **unlimited period**. The European Parliament or the Council may object to a delegated act within a period of **three** months from the date of notification (this period can be extended for three months). If the European Parliament or the Council make objections, the delegated act will not enter into force.

Deposit guarantee schemes. Recast

2010/0207(COD) - 16/04/2014 - Corrigendum to final act

Corrigendum to Directive 2014/49/EU of the European Parliament and of the Council of 16 April 2014 on deposit guarantee schemes

(Official Journal of the European Union L 173 of 12 June 2014)

On page 172, Article 21, first paragraph:

for:

‘… 4 July 2019 …’,

read:

‘… **4 July 2015** …’.

Deposit guarantee schemes. Recast

2010/0207(COD) - 12/07/2010 - Document attached to the procedure

This report covers those issues raised by the review clauses of Directive 94/19/EC on Deposit Guarantee Schemes which are not dealt with by the proposal to amend Directive 94/19/EC.

It covers:

- appropriateness of a fixed coverage level of EUR 100 000;
- appropriateness and arrangements for providing full coverage for certain temporarily increased account balances;
- benefits and costs of introducing a pan-European Deposit Guarantee Scheme;
- harmonisation of the scope of products and depositors covered, including the specific needs of small and medium-sized enterprises and local authorities;
- the link between deposit guarantee schemes and alternative means of reimbursing depositors, such as emergency payout mechanisms. .

Appropriateness of the fixed coverage level of EUR 100 000: Directive 2009/14/EC requires Member States to ensure that by 31 December 2010 their level of coverage is fixed at EUR 100 000. The report notes that the minimum harmonisation approach taken by Directive 94/19/EC resulted in significant differences between the coverage levels in Member States. During the financial crisis in autumn 2008, some EU depositors moved their

deposits from banks in Member States with a lower coverage level to those with higher deposit protection. Such differences may cause serious distortions. To avoid such distortions in the future and ensure a level playing field across the internal market, the level of coverage should in principle be the same everywhere.

The coverage levels in Member States still vary greatly, from the minimum of EUR 50 000 to EUR 103 291 in Italy and even unlimited guarantees in some Member States. Currently, 16 of out 27 Member States either already apply the coverage level of EUR 100 000 or have legislation in place to introduce it this year. Therefore, reverting to any level of coverage lower than EUR 100 000 would be confusing for depositors and, by unnecessarily aggravating the risk of runs on banks, could undermine confidence again. A fixed coverage level of EUR100 000 is the optimal solution in terms of effectiveness and cost efficiency.

It would substantially improve deposit protection without disproportionately increasing the costs for banks and depositors. In comparison with the coverage levels applicable in Member States before the financial crisis, it would increase the amount of covered deposits from 61% to 72% of eligible deposits; it would also increase the number of fully covered deposits from 89% to 95% of eligible deposits. The benefits of adopting a coverage level higher than EUR 100 000 would be very limited (for example, the level of EUR 200 000 would increase the number of fully covered deposits by less than 2% only) and higher coverage would thus not seem to justify the additional costs.

Small and medium-sized enterprises and local authorities: in order both to simplify and harmonise the system and to ensure faster payout by making it easier to verify claims, the Commission is in favour of including or excluding entire categories of depositors such as enterprises and authorities in all Member States rather than differentiating within a given category (i.e. by size of enterprise or the nature of the authority) since such distinctions would be time-consuming and costly. Having examined this issue, the Commission proposes to cover all enterprises regardless of size, but intends to exclude local authorities from the DSG.

A pan-EU DSG: in order to improve cross-border cooperation among DSGs and overcome the current fragmentation of the system (there are almost 40 schemes in the EU), the Commission services analysed the benefits and costs of introducing a pan-EU Deposit Guarantee Scheme. A single pan-EU Deposit Guarantee Scheme would be cost-efficient, since it saves administrative costs of about EUR 40 million per year. However, there are some legal issues to be further investigated. Therefore, the idea of a single pan-EU scheme should be seen as a longer-term project and be subject to further review by 2014.

A network of Deposit Guarantee Schemes with a mutual borrowing facility should be considered as the first step to establishing a single pan-EU scheme in the future. It should be noted that the introduction of a pan-EU scheme presupposes full harmonisation of Deposit Guarantee Schemes and could therefore only enter into force after the target level for their funds of 1.5% of eligible deposits has been reached.

Emergency payout: the Commission proposes to reduce the payout period to seven days. However, emergency payout has not been identified as a preferable option. Fast payment of a certain amount in advance (e.g. EUR 10 000 in three days) while retaining the current payout period (i.e. four to six weeks) for amounts above EUR 10 000 would require Deposit Guarantee Schemes to pay out twice and the costs (stemming from human and technical resources) would likely almost double as well. Fast payout without proper verification of claims (due to time pressure) could result in a higher than normal rate of erroneous payments. An ‘emergency payout’ could also be detrimental to depositor confidence, as it would send a very negative market signal to depositors. Depositors who only receive part of their deposits on short notice may believe that the Deposit Guarantee Scheme does not have sufficient funds to pay the whole amount and may thereby cause a run on banks by trying to withdraw all their deposits. If a Deposit Guarantee Scheme can pay out EUR 10 000 after three days, it should also be able to pay out EUR 100 000 within a short deadline if it is soundly financed.

Deposit guarantee and bank resolution (alternatives to payout): the alternative to triggering Deposit Guarantee Schemes and liquidating the bank would be bank resolution (i.e. organising an orderly failure) that entails continuity of banking services, so that depositors have continuous access to their funds. In particular, deposits may be transferred to another bank. However, the proposal on DSGs should not anticipate the ongoing work on bank resolution, nor on the other hand should progress on Deposit Guarantee Schemes be delayed by further developments in this field. A good solution would be to ensure that the Directive on Deposit Guarantee Schemes remains adaptable to changes arising from further work on bank resolution. Consequently, the Commission proposes that the cost to Deposit Guarantee Schemes of transferring deposits as a resolution measure should not exceed the cost of reimbursing depositors.

Deposit guarantee schemes. Recast

2010/0207(COD) - 12/07/2010 - Legislative proposal

PURPOSE: to recast provisions on the Deposit Guarantee Scheme.

PROPOSED ACT: Directive of the European Parliament and of the Council.

BACKGROUND: events in 2007 and 2008 showed that the existing, fragmented DGS system has not delivered on the objectives set by Directive 94/19/EC on Deposit Guarantee Schemes (DGS), in terms of maintaining depositors’ confidence and financial stability in times of economic stress. The current about 40 DGS in the EU, which cover different groups of depositors and deposits up to different coverage levels, impose different financial obligations on banks and therefore limit the benefits of the internal market for banks and depositors. Moreover, schemes have proved to be underfinanced in times of financial stress.

Directive 2009/14/EC was adopted as an emergency measure to maintain depositors’ confidence, in particular by increasing the coverage level from EUR 20 000 to EUR 100 000 by the end of 2010. Directive 2009/14/EC contained a clause providing for a broad review of all aspects of DGSs.

The need to reinforce DGSs by presenting appropriate legislative proposals was reiterated in the Commission communication of 4 March 2009 Driving European recovery.

This proposal is part of a package on guarantee schemes in the financial sector, which also comprises a review of investor compensation schemes (Directive 97/9/EC) and a White Paper on insurance guarantee schemes.

IMPACT ASSESSMENT: altogether, over 70 different policy options were assessed. The main options identified as preferable are: (a) simplifying and harmonising the scope of coverage; (b) reducing the payout deadline to seven days; (c) ending the practice of setting off depositors' liabilities against their claims; (d) introducing an information template to be countersigned by a depositor and a mandatory reference to DGSs in account statements and advertisements; (e) harmonising the approach to the funding of DGSs; (f) setting a target level for DGS funds; (g) fixing the proportions of ex-ante and ex-post bank contributions to DGS; (i) introducing risk-based elements for bank contributions to DGS; (j) restricting the use of DGS funds for broader bank resolution purposes benefiting of all creditors of a bank; (k) having the host country DGS act as a single point of contact for depositors at branches in another Member State.

In terms of social impact, the proposal provides that, in the event of a bank failure, depositors are reimbursed up to EUR 100 000 by a DGS within seven calendar days. This will make the intervention of social welfare systems almost unnecessary.

LEGAL BASE: Article 53(1) TFEU.

CONTENT: the main elements of this proposal are:

- simplification and harmonisation, in particular as to the scope of coverage and the arrangements for payout;
- further reduction of the time limit for paying out depositors and better access for DGS to information about their members (i.e. banks);
- sound and credible DGSs that are sufficiently financed;
- mutual borrowing between DGSs, i.e. a borrowing facility in certain circumstances.

The elements of the review which, in the Commission's view, should not be subject to legislation are set out in the report accompanying this proposal (please see COM(2010)0369). The report and the proposal are part of a package on guarantee schemes in the financial sector, which also comprises a review of investor compensation schemes (see COD/2010/0199) and a White Paper on insurance guarantee schemes.

The main points are as follows:

Scope: the Directive now encompasses all credit institutions and all schemes, without distinction. All banks must join a DGS. This ensures that depositors always have a claim against a scheme and that all schemes must be soundly financed. Mutual guarantee schemes protect depositors by protecting the credit institution itself. Since all banks must now join a DGS, mutual guarantee schemes can either be recognised as DGSs and meet the requirements set out in Directive 2006/48/EC, or be set up separately. In this case, a dual membership of a bank in both schemes and the additional safeguard role of mutual schemes can be taken into account when the contributions to the DGS are set.

Definitions: deposits are now defined more clearly. Only entirely repayable instruments can be deemed deposits, not structured products, certificates or bonds. This prevents DGSs from taking unpredictable risks with investment products.

Supervision: all DGSs must now be supervised on a continual basis and they must perform regular stress tests of their systems. DGSs now have the right to obtain information from banks at an early stage in order to enable fast payout. Member States are now explicitly allowed to merge their DGSs. Credit institutions now have to be given one month's notice, not 12 months', before they can be excluded from a DGS.

Eligibility criteria and determination of the repayable amount: depositors' eligibility has been simplified and harmonised. Most discretionary exclusions have become mandatory, in particular the exclusion of authorities and financial institutions of any kind. On the other hand, deposits in non-EU currencies are covered under the law and so are the deposits of all non-financial companies. The coverage level of EUR 100 000 (to be implemented by end of 2010 under Directive 2009/14/EC) has not been amended. However, Member States may decide to cover deposits arising from real estate transactions and deposits relating to particular life events above the limit of EUR 100 000 , provided that the coverage is limited to 12 months.

It is now stipulated that interest due but not credited at the time of failure must be repaid, provided that the coverage level is not exceeded. Depositors must now be paid out in the currency in which the account was managed. Setting off claims against the depositor's liabilities is no longer permitted after an institution fails.

Payout: the DGS must now act to repay depositors within one week. Depositors do not need to submit an application. Any information they are given must be in the official language(s) of the Member State where the deposit is located. The Directive now stipulates that depositors' unacknowledged or unpaid claims against DGS can only be time-barred to the extent that the DGS's claims in the liquidation proceedings are time-barred. In order to meet such a short payout deadline, the competent authorities are obliged to inform DGSs by default if a bank failure becomes likely. Moreover, DGSs and banks must exchange information on depositors, domestically and across borders, unfettered by confidentiality requirements. Credit institutions must also be in a position to provide the aggregated deposits of a depositor ('single customer view') at any time.

DGS financing and borrowing between DGS: the Directive now ensures that DGSs' available financial means are proportionate to their potential liabilities. These financial means are safeguarded against potential losses by restrictions on investment similar to those for electronic money institutions under Directive 2009/110/EC and UCITS under Directive 2009/64/EC, taking into account the need for lower risk and higher liquidity. The financing of DGS will be based on the following subsequent steps:

- ***step 1:*** in order to ensure sufficient funding, DGSs must have 1.5 % of eligible deposits on hand after a transition period of 10 years (this is referred to as the 'target level'). If these financial means turn out to be insufficient in the event of a bank failure, the second and third steps below must be taken;
- ***step 2:*** banks must pay extraordinary ('ex-post') contributions of up to 0.5 % of eligible deposits if necessary. Consequently, ex-ante funds will account for 75 % of DGSs' financing and ex-post contributions 25 %;
- ***step 3:*** a mutual borrowing facility allows a DGS in need to borrow from all other DGSs in the EU, which, altogether, must, if needed, lend to the DGS a maximum of 0.5 % of its eligible deposits in need on short notice, proportionate to the amount of eligible deposits in each country.

The loan must be repaid within five years and new contributions to the DGS must be raised to reimburse the loan. To secure repayment, the lending DGSs have the right to subrogate into the claims of depositors against the failed credit institution and these claims will rank first in the liquidation procedure of the credit institution whose failure depleted the borrowing DGS;

- ***step 4***: as a last line of defence against taxpayers' involvement, DGSs must have in place alternative funding arrangements, recalling that those arrangements must comply with the monetary financing prohibition laid down in Article 123 TFEU.

This **four-step mechanism** will become fully operational only after 10 years. In order to adapt the target level to schemes' potential liabilities, it will be recalibrated on the basis of covered deposits (i.e. taking into account the coverage level), but without diminishing the level of protection.

DGS funds should principally be used for paying out depositors. This, however, does not prevent their use for bank resolution purposes in accordance with state aid rules. However, to avoid the depletion of funds for the benefit of a bank's uninsured creditors, such use must be limited to the amount that would have been necessary to pay out covered deposits. Given that bank resolution and payout have different purposes, DGS funds should be ring-fenced already when the target level is build up, ensuring that the primary function of DGSs, i.e. deposit payout, is not impeded.

Risk-based contributions to DGSs: contributions from credit institutions to DGSs must be calculated according to their risk profiles in a harmonised way. In principle, contributions consist of both non-risk and risk-based elements. The latter will be calculated on the basis of several indicators reflecting the risk profiles of each credit institution. The proposed indicators cover the key risk classes commonly used to evaluate the financial soundness of credit institutions: capital adequacy, asset quality, profitability and liquidity. The data necessary to compute those indicators are available under existing reporting obligations.

Taking into account differences between banking sectors in Member States, the Directive ensures some flexibility by developing a set of core indicators (mandatory for all Member States) and another set of supplementary indicators (optional for Member States). The core indicators consist of commonly used criteria such as capital adequacy, asset quality, profitability and liquidity. Core indicators weigh 75 % and supplementary indicators 25 %. In general, the Directive requires that the total amount of contributions to be collected by DGS should first be determined in line with the target level for DGS funds; then the amount should be apportioned among DGS member banks according to their risk profiles. Consequently, the Directive provides incentives for sound risk management and discourages risky behaviour by clearly differentiating between the levels of contribution paid by the least and most risky banks (from 75 % to 200 % of the standard amount, respectively).

As to the non-risk element, the contribution base is the amount of eligible deposits, as is currently the case in most Member States. However, over time, covered deposits (i.e. eligible deposits not exceeding the coverage level) will become the contribution base in all Member States as they better reflect the risk to which DGSs are exposed. A full harmonisation of the calculation of risk-based contributions should be achieved at a later stage.

Cross-border cooperation: in order to facilitate the payout process in cross-border situations, the host country DGS acts as a single point of contact for depositors at branches in another Member State. This includes not only communication with depositors in that country (acting as a 'post box') but also paying out on behalf of the home country DGS (acting as a 'paying agent'). Agreements between DGSs will facilitate this function. Schemes have to exchange relevant information with each other. Mutual agreements will facilitate this.

Banks reorganising themselves in a way that causes their membership of one DGS to cease and entails membership in another DGS will be reimbursed their last contribution so that they can use these funds to pay the first contribution to the new DGS.

Depositor information: before making a deposit, depositors must now countersign an information sheet based on the template set out in the proposal, which contains all relevant information about the coverage of the deposit by the responsible DGS. Existing depositors must be informed accordingly on the statements of account. Advertising on deposit products must be limited to a factual reference to coverage by the DGS, in order to avoid using the DGS as a marketing argument. The regular disclosure of specific information by DGSs (ex-ante funds, ex-post capacity, results of regular stress testing) ensures transparency and credibility, leading to enhanced financial stability with insignificant costs.

New supervisory architecture: on 23 September 2009, the Commission adopted proposals for Regulations establishing the European System of Financial Supervisors, including the creation of the three European supervisory authorities and the European Systemic Risk Board. The new European Banking Authority should collect information on the amount of deposits, conduct peer review analyses, confirm whether a DGS can borrow from other DGSs, and settle disagreements between DGSs.

FINANCIAL IMPLICATIONS: the proposal has no implication for the Union's budget.

Deposit guarantee schemes. Recast

2010/0207(COD) - 16/02/2011 - European Central Bank: opinion, guideline, report

OPINION OF THE EUROPEAN CENTRAL BANK on a proposal for a directive of the European Parliament and of the Council on deposit guarantee schemes (recast) and on a proposal for a directive amending Directive 97/9/EC of the European Parliament and of the Council on investor-compensation schemes.

The ECB welcomes the aim of the proposed recast directive to provide a comprehensive, more harmonised framework for deposit guarantee schemes (DGSs). It appreciates the incorporation in the proposed recast directive of its recommendations to: (a) further harmonise the eligibility criteria and coverage levels for deposit guarantees; (b) strengthen the information requirements imposed on credit institutions concerning the scope of deposit protection granted through relevant DGSs; and (c) introduce partial *ex ante* funding arrangements for all DGSs. The ECB considers those elements of the DGS regulatory framework as crucial from a financial stability perspective.

The ECB acknowledges that the proposed amending directive introducing the update of Directive 97/9/EC will enhance harmonisation of investor-compensation schemes in the Union. While the ECB does not provide detailed comments on this legislative instrument, it considers it important that the Union regulatory framework continues to be based on the assumption of different risk profiles of depositors and investors.

The ECB makes the following specific observations on the DGS:

Scope: the ECB recommends that the exclusion of deposits held by public authorities from the regime of the proposed recast directive should use the more precise original language of Directive 94/19/EC, and hence should refer to 'government and central administrative authorities' and 'provincial, regional, local and municipal authorities'.

Repayment period: achieving the proposed reduction to 7 days may prove difficult since it is to be introduced shortly after the original reduction to 20 working days, which was to be implemented by the Member States until the end of 2010. The ECB recommends that the proposed recast directive is amended to the effect that the Commission will (i) prepare a review: on the implementation of the original reduction to 20 working days; and (ii) based on the results of the review, formulate proposals as regards a possible additional reduction or reductions of the repayment period.

Financing: the ECB recommends that such ex ante financing level be defined by reference to 'covered deposits', i.e. eligible deposits not exceeding the coverage level, considering that covered deposits reflect the level of DGS liabilities more adequately than eligible deposits.

The proposed calculation method for risk-weighted contributions to DGS is the subject of a debate. The ECB recommends that the proposed recast directive provides for detailed elements of the calculation methodology to be further specified through technical standards and guidelines developed by the European Banking Authority (EBA), based on verified empirical data and promoting equal treatment.

Lastly, the ECB supports from a financial integration perspective the provision of the proposed recast directive under which credit institutions ceasing to be a member of a scheme and joining another scheme will have their contributions for the last six months reimbursed or transferred to the new scheme. In order to avoid any potential abuse, the arrangement should be limited to the transfer of the paid contributions to the new scheme (excluding the possibility of reimbursement) and should not include extraordinary contributions paid to cover the original DGS's insufficient resources.

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.

Deposit guarantee schemes. Recast

2010/0207(COD) - 09/09/2010 - Document attached to the procedure

Opinion of the European Data Protection Supervisor on the proposal for a Directive of the European Parliament and of the Council on Deposit Guarantee Schemes (recast).

In this Opinion, the EDPS briefly explains and analyses the data protection aspects of the proposal. He recalls that the improved procedure for the repayment of depositors entails an increased processing of personal data of depositors within a Member State, but also between Member States. In case the depositor is a natural person, information about the depositor constitutes personal data within the meaning of Directive 95/46/EC. The EDPS is pleased to see that this is confirmed in the proposal.

He is also pleased to see that certain data protection elements have been addressed in the proposal in substantive terms. The proposal provides that the information obtained for the preparation of repayments may only be used for that purpose and shall not be kept longer than is necessary for that purpose. This conforms to the principle of purpose limitation, as laid down in Directive 95/46/EC and the obligation to keep data no longer than is necessary for the purpose for which it was collected or is further processed. It is explicitly pointed out that the information obtained for the preparation of repayments also includes markings under Article 4(2). On the basis of the latter Article, credit institutions are obliged to mark deposits if the deposit is for some reason not eligible for repayment, for instance because the deposits arise out of transactions which are connected with a criminal conviction for money laundering. Since the purpose of the information exchange is the repayment of the deposit, the communication of such a marking can be considered to be a necessary measure. The EDPS therefore takes the view that the transfer of such a marking, when considered personal data, is in conformity with the data protection rules as long as the marking itself does not reveal more information than necessary. A simple mark stating that the deposit is not eligible would serve the purpose. Therefore the obligation contained in Article 4(2) of the proposal should be applied in that way, in order to comply with the rules stemming from Directive 95/46/EC.

The proposal also deals with the collection of information by DGSs which is necessary to perform regular stress tests of their systems. This information is submitted to the DGSs by the credit institutions on an ongoing basis. In informal consultation the EDPS expressed concerns as to whether this information would also include personal data. The EDPS expressed doubts as to whether it was actually necessary to process personal data for performing stress tests. The Commission has adjusted the proposal on this point and added that such information shall be rendered anonymous. In terms of data protection this means that the information cannot, after taking into account all means likely to be used, be linked to an identified natural person. The EDPS is satisfied with this assurance.

With further regard to the information received for the performance of stress tests it is stated in the proposal that that such information may only be used for that purpose and that it shall be kept no longer than is necessary for that purpose. The EDPS would like to point out that if information is made anonymous, it no longer falls within the definition of personal data to which the rules contained in Directive 95/46/EC apply. There may be good reasons to provide for limited use of this information. However, the EDPS would like to make clear that data protection rules do not require this.

In conclusion, the EDPS is satisfied with the way in which the data protection aspects are addressed in the proposed Directive, and would only like to refer to the comments made above.

Deposit guarantee schemes. Recast

2010/0207(COD) - 16/02/2012 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 506 votes to 44, with 21 abstentions, a legislative resolution on the proposal for a directive of the European Parliament and of the Council on Deposit Guarantee Schemes (recast).

Parliament's position at first reading, under the ordinary legislative procedure, amends the Commission proposal as follows:

Purpose and scope: Parliament wants 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: Members consider that the term "**deposit**" should cover: i) 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 (ii) any debt evidenced by a certificate issued by the credit institution.

They also introduced and laid down in detail definitions for **"preventive and supportive measures"** (measures adopted by Deposit Guarantee Schemes to prevent a bank failure of the affiliated credit institutions), "**measures in conjunction with the orderly winding-up of credit institutions**" (measures to prevent a call on a Deposit Guarantee Scheme) and "**pledged assets**" (payment commitments which are duly backed by high-quality collateral and which are subject to certain conditions).

Participation and supervision/ in Parliament's view, the establishment on the territory of a Member State of one or several deposit guarantee schemes should not preclude the establishment of **cross-border Deposit Guarantee Schemes** by Member States or the merger of schemes of different Member States. Approval of such cross-border or merged Deposit Guarantee Schemes shall be obtained from the competent authorities in cooperation with the EBA.

When recognising and approving Deposit Guarantee Schemes, the relevant competent authority shall pay particular attention to the stability of the Deposit Guarantee Scheme and shall ensure its membership is balanced.

Supervision of cross-border Deposit Guarantee Schemes shall be exercised by EBA, in cooperation with a body composed of representatives of the competent authorities of the countries where the affiliated credit institutions are based.

Tests of Deposit Guarantee Schemes systems shall take place at least every three years or more frequently when the circumstances require it.

The EBA shall:

- shall forward to the European Systemic Risk Board (ESRB), on its own initiative or at the request of the ESRB, the information concerning Deposit Guarantee Schemes which is needed for systemic risk analysis;
- at least every five years, conduct peer reviews including on corporate governance aspects;
- have the power to examine on the basis of updated figures the stress resistance of Deposit Guarantee Schemes annually in accordance with different scenarios of predefined breaking points in order to determine whether an adjustment of the current calculation model and the target level is appropriate. In this context, the stress resistance test shall be based on a low-impact, a medium-impact and a high-impact following scenario.

Furthermore, Member States shall ensure that their Deposit Guarantee Schemes have sound corporate governance practices in place.

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;
- deposits in respect of which the depositor and the credit institution have contractually agreed that the deposit shall be applied towards the discharge of specific obligations of the depositor towards the credit institution or another party
- 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, deposits by local authorities are eligible for repayments by a Deposit Guarantee Scheme under certain conditions).

On the other hand, **certain deposits should be fully protected** for up to 12 months after the amount has been credited or from the moment when such deposits become legally transferable. These are (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: 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 from paragraph 1, that the fixed coverage level hitherto in force shall remain in force unaltered.

Deposits shall be paid out in the currency of the Member State in which the account was maintained or in euro.

Repayment: Members consider Deposit Guarantee Schemes should be in a position to repay unavailable deposits within **five working days but no less than a week**.

Member States may decide that **until 31 December 2016 a time limit for repayment of 20 working days is to apply**, provided that, after a thorough examination, the competent authorities establish that the Deposit Guarantee Schemes are not yet in a position to guarantee a time limit of five working days but no less than a week for repayment.

If Member States have adopted a time limit for repayment of 20 working days as applicable until 31 December 2016, the Deposit Guarantee Scheme shall, upon the request of a depositor, make a one-off payout of up to EUR 5 000 within five working days but no less than a week, on his deposit eligible for repayment.

Repayment or payout may be deferred in the following cases: i) where it is uncertain whether a person is legally entitled to receive repayment or the deposit is subject to legal dispute; ii) where the deposit is subject to economic penalties imposed by national governments or international bodies; iii) where there has been no transaction relating to the deposit within the last 24 months (the account is dormant).

No repayment shall be effected **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 such repayment.

Financing of Deposit Guarantee Schemes: Deposit Guarantee Schemes shall raise the available financial means by regular contributions from their members **at least once a 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.
- Deposit Guarantee Schemes may use available financial means in excess of the threshold in the Directive for preventive and support measures, provided that certain conditions are met.
- The financial resources can also be used for measures in conjunction with the **orderly winding-up of a credit institution**.

Deposit Guarantee Schemes shall meet **specific governance rules** and shall form a special committee which is composed of high representatives of the Deposit Guarantee Scheme, its members and of the relevant authorities who work out and 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 which are governed by national law.

Member States may i) allow all credit institutions affiliated to the same central body to be subject as a whole to the risk weighting determined for the central body and its affiliated institutions on a consolidated basis; ii) may require credit institutions to pay a minimum contribution, irrespective of the amount of their covered deposits.

Deposit Guarantee Schemes may use their **own alternative risk-based methods** for determining and calculating the risk-based contributions by their members. Each alternative method shall be approved by the competent authorities and by EBA.

In order to **ensure effective harmonisation of the definitions** and the establishment of the standard method, EBA shall develop draft regulatory technical standards. If necessary, EBA may suggest adjustments to those definitions and methods to ensure full comparability and avoid distorting elements.

Information to be provided to depositors: when a deposit os not guaranteed by a Deposite Guarantee Scheme, Members propose that the credit institution should inform the depositor accordingly, whereupon the credit institution shall offer the depositor the opportunity to **withdraw his or her deposits**, including all accrued interest and benefits, **without incurring any penalty fees**.

- The information sheet (in Annex III) shall also be attached to one of their statements of account at least once a year. The website of the responsible Deposit Guarantee Scheme shall also be indicated. The website shall contain the necessary information for depositors, in particular information concerning the provisions regarding the process and conditions of deposit guarantees as envisaged by this Directive.
- Credit institutions shall inform depositors adequately, and in **an easily understandable manner**, concerning the functioning of the Deposit Guarantee Scheme. At the same time, credit institutions shall provide depositors with information about the maximum coverage level and other matters relating to the Deposit Guarantee Scheme.
- Depositors shall be given a three-month period following the **notification of the merger** in order to give them the opportunity to transfer their deposits, including all accrued interest and benefits, in so far as they exceed the coverage guaranteed in the Directive, to another bank or bank brand without incurring any penalty fees.
- 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 delegated 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 Union on the basis of changes in the consumer price index. Members introduced amendments to lay down the conditions for the exercise of this delegated power.

Deposit guarantee schemes. Recast

2010/0207(COD) - 21/02/2012

The Council took stock of work on a draft directive on deposit guarantee schemes following adoption by the European Parliament on 16 February of its position in first reading.