

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 is not guaranteed by a Deposit 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.