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.