European deposit insurance scheme (EDIS)

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EUROPEAN CENTRAL BANK OPINION OF THE EUROPEAN CENTRAL BANK on a proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) No 806/2014 in order to establish a European Deposit Insurance Scheme.

Overall, the ECB:

- fully shares the Commission's view that a single system of deposit protection is the necessary third pillar of the Banking Union and that it is needed to further enhance depositor protection and to underpin financial stability, thus contributing to the deepening of Economic and Monetary Union (EMU);
- welcomes the fact that the proposed regulation puts in place a gradual process of increasing the mutual insurance of participating DGSs in order to finally achieve a uniform system of deposit insurance that limits the link between a bank and its home sovereign;
- welcomes the fact that the proposed regulation sets a clear roadmap and timeline with clearly defined and limited transitional steps towards a fully-fledged EDIS.

The ECB also supports all other risk reduction measures in the banking sector, in addition to the creation of European Deposit Insurance Scheme (EDIS), as recommended by the Commission in its Communication "Towards the completion of the Banking Union". In this context, it emphasises the importance of the full and timely implementation of Directive 2014/49/EU of the European Parliament and of the Council as a necessary precondition to the EDIS.

The ECB states that a solution that makes the transition from one phase of EDIS to the next dependent on the progress with regard to risk reduction could cause delay. If such a conditional phasing-in of EDIS is supported, any milestones on risk-reduction would have to be precisely defined ex-ante, objectively verifiable, realistically achievable and legally linked to the transitions between the phases in the EDIS proposal. In order to ensure that EDIS is not postponed indefinitely, the list of milestones should include the most important elements that are needed to further strengthen the Banking Union.

The ECB makes a number of specific comments on the following issues:

Objective of the proposed regulation: the ECB considers it necessary to expressly clarify, within the text of the proposed regulation, that the EDIS also has the objective of ensuring the highest possible level of depositor protection across the Member States of the Banking Union.

Scope of the EDIS: the ECB welcomes the fact that the proposed regulation should apply to all DGSs that are officially recognised in the Member States participating in the Banking Union under Directive 2014/49/EU. However, all credit institutions with access to EDIS resources must be regulated and supervised on the basis of Regulation (EU) No 575/2013 of the European Parliament and of the Council and Directive 2013/36/EU of the European Parliament and of the Council. This is fully in line with the recommendation of the Five Presidents' Report that the EDIS's scope should coincide with that of the SSM and that the risk-based fees should be paid by all the participating banks in the Member States.

Governance of the EDIS: the ECB welcomes the fact that the EDIS will be administered by the Board. Resources for both the Single Resolution Fund (SRF) and the Deposit Insurance Fund (DIF) should be clearly earmarked for their respective purposes, specifically avoiding the risk that resources for deposit protection might be commingled and potentially consumed for resolution purposes.

Minimising costs for liquidation and control over the use of the EDIS: resolution authorities should try to minimise resolution costs and avoid destruction of value, the authorities in charge of liquidation should also have the general objective of minimising liquidation costs, thereby also ensuring that losses for covered deposits, and consequently, the DGSs, are minimised. In order to achieve this goal, the authorities in charge of liquidation should be permitted to carve out the covered deposit book together with certain other assets of the failing credit institution and transfer them to a private sector purchaser.

It is also important that the Board has the possibility to exercise some control over the national liquidation process. It should be able to have a say in the liquidation proceeding if it is likely that EDIS resources will be needed.

Risk-based contributions: the ECB supports the fact that the proposed regulation introduces a methodology throughout the Banking Union for calculating risk-based contributions from the co-insurance stage and that it designates the Board to set each credit institution's contribution level relative to all other participating credit institutions.

An important issue to consider will be whether, and if so to what extent, the risk-based approach to determine the level of contributions should also reflect the likelihood to trigger deposit insurance for a credit institution, and especially the likelihood that it should be put into liquidation as opposed to resolution.

Use of resources: the ECB welcomes the fact that the proposed regulation requires the use of resources, not only for pay-outs, but also in the event of resolution occurring in any of the three stages of the EDIS. However, the proposed regulation needs to expressly address whether deposit balances above EUR 100 000, which are temporarily protected from 3 to 12 months according to the legislation of the Member State concerned, should be covered by EDIS.

Duty of the EDIS towards DGSs in both the partial and full insurance stages: the ECB states that at the full insurance stage, the proposed regulation should clearly stipulate a legal obligation for the EDIS or the DIF to meet all resource needs related to depositors' claims following an event notified by a national DGS. The same legal obligation, albeit limited to the specific share that is co-insured, must also apply to the obligations of the EDIS towards the DGSs during the co-insurance phase. This also confirms the need for a fiscally neutral public backstop for the EDIS. The length of time for the Board to take a decision on the available financial means should be reduced, since DGSs are expected to compensate depositors within seven working days.

Disqualification from coverage by the EDIS: the ECB supports the fact that the proposed regulation provides safeguards aimed to ensure that all DGSs comply with their respective obligations. Infringements triggering a disqualification should be established in a more precise way in order to enhance legal certainty. Other sanctions, including penalty payments, could be considered for lesser breaches. Furthermore, where a disqualification is decided, a proper mechanism needs to be in place to ensure that the overarching aim of ensuring the adequate protection of all guaranteed deposits is fully respected at any given time. The ECB suggests several solutions in this context.

Backstop arrangements: the ECB is of the view that a fiscally neutral common public backstop for the EDIS at the latest as of the full insurance stage is necessary to ensure a uniformly high level of confidence in deposit protection under all circumstances and to effectively weaken the bank/sovereign link at the national level. However, the proposed regulation does not provide such a measure.