

European Deposit Insurance Scheme Completing the Banking Union

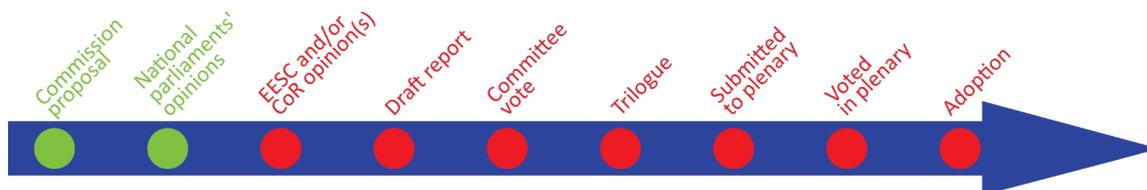
SUMMARY

As part of its ambition to complete the Banking Union, the European Commission proposes the introduction of a European Deposit Insurance Scheme (EDIS), in order to reduce the potential spill-over risk of local bank failures on the financial stability of the economic and monetary union as a whole. According to the proposal of 24 November 2015, the EDIS would be the third pillar of the Banking Union and be introduced gradually, in three separate phases between 2017 and 2024, complementing national deposit guarantee schemes. It also has implications for the overall resolution framework for banks under the Single Resolution Mechanism (SRM) so the Commission proposes to amend the SRM Regulation (EU) No 806/2014, introducing a common deposit insurance system as of 2024.

In parallel, the Commission published a communication proposing additional measures for risk sharing and risk reduction in the banking sector. These include ensuring adequate loss-absorbing resources for banks and measures to improve the comparability of risk-weighted assets.

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

<i>Committee responsible:</i>	Economic and Monetary Affairs (ECON)	COM(2015) 586 of 24.11.2015
<i>Rapporteur:</i>	Esther de Lange (EPP, the Netherlands)	<i>procedure ref.:</i> 2015/0270(COD)
<i>Next steps expected:</i>	Discussions in ECON Committee	Ordinary legislative procedure



<p>In this briefing:</p> <ul style="list-style-type: none"> • Introduction • Context • Existing situation • The changes the proposal would bring • Preparation of the proposal • Parliament's starting position 	<ul style="list-style-type: none"> • Stakeholders' views • Advisory committees • Council (& European Council) • National parliaments • Parliamentary analysis • Legislative process • References
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Introduction

In the context of its efforts to build a Banking Union, on 24 November 2015 the European Commission proposed a '**European Deposit Insurance Scheme**' (**EDIS**) ([COM 586 final](#)). To create this so-called third pillar of the banking union, the Commission proposes to amend [Regulation \(EU\) No 806/2014](#), which sets out the Single Resolution Mechanism (EU). Initiated by the European Commission on the basis of [Article 114\(1\) TFEU](#), the ordinary legislative procedure applies.

The proposed regulation seeks to amend the euro area's existing single resolution framework (SRM): it would establish a [European Deposit Insurance Scheme](#), to distribute the risk associated with protecting depositors from local bank failures to the Banking Union as a whole, and ultimately aims to disentangle the link between banks and sovereigns. The European Commission expects the EDIS to increase resilience against future financial crises, by reducing the vulnerability of national deposit guarantee schemes to large local shocks, and helping to reassure depositors across the Banking Union. After a transitional period of eight years, the EDIS would, as of 2024, ultimately fully insure national deposit guarantee schemes.

National deposit guarantee schemes are a core protection element for bank customers, and complement the Banking Union's resolution framework. Today, deposits of up to €100 000 (per bank and depositor) are **guaranteed** in case of bank failure. The current [Directive 2014/49/EU](#) evolved from prior legislation (Directive [94/19/EC](#)), covering an amount of only €20 000. In the United States, the Federal Deposit **Insurance** Corporation ([FDIC](#)) insures depositors (US citizens only) for '[at least US\\$250 000 per bank](#)' (approximately €227 000).

In an accompanying communication, [Towards the completion of the Banking Union](#), the Commission places the EDIS proposal in the broader context of completing banking union, and examines additional measures that it considers necessary for risk-sharing and risk reduction in the banking sector.

Context

Following up on the [Five Presidents' Report](#) on 'completing Europe's Economic and Monetary Union' in June 2015, and the related Commission [Communication](#) of 21 October, the institution published its proposal for a common European Deposit Insurance Scheme (EDIS) on 24 November 2015. The EDIS is supposed to become what is known as the third pillar of the Banking Union (the first being the 'single supervision mechanism', and the second, the 'single resolution mechanism'). The EDIS shall gradually insure (assuming more risk over time) national deposit guarantee schemes, and ensure that national schemes rely less on financial support from their respective governments. The debate on the EDIS is closely linked to the Deposit Guarantee Scheme

Directive (DGSD)¹ and the Bank Recovery and Resolution Directive (BRRD, see below), as well as other prudential provisions, which together comprise the [single rulebook](#).

The question as to whether harmonisation of national guarantee systems might be sufficient, or whether mutualising them and introducing a common insurance scheme would become a necessity, dates back to the initial set-up of the Banking Union. In June 2012, Herman van Rompuy wrote, in his report, [Towards a genuine economic and monetary union](#), that a common system would 'serve as an important assurance that eligible deposits of all credit institutions are sufficiently insured'. In a similar vein, in its [Roadmap towards a Banking Union](#) of September 2012, the Commission argued that 'shifting the supervision of banks to the European level ... must subsequently be combined with other steps such as a common system for deposit protection, and integrated bank crisis management'. In this regard, the [Four Presidents' Report](#) of December 2012 remained less ambitious and put stronger emphasis on the harmonisation of national deposit guarantee schemes, while omitting the topic of the EDIS. To avoid becoming politicised, the [European Central Bank \(ECB\)](#) remained cautious and considered a European deposit guarantee scheme 'not essential in the short term'.² Recently, the ECB President, one of the authors of the Five Presidents' Report, has said he considers a European Deposit Insurance Scheme to be vital and a priority.³

Political controversy stems from the very idea of risk sharing among participating national deposit guarantee systems and authorities (and the potential moral hazard), in exchange for greater aggregate stability. Sequencing matters too: to some, a common system only creates credibility, while others want to see risk-reduction measures first. In a fully mutualised system, banks' risk profiles (and thus their requested contributions to a guarantee fund) would be benchmarked against all banks in the Banking Union and not only against their national competitors). With regard to [deposit volume trends and loan-to-deposit ratios](#), EU countries vary from about 50% to more than 170%.⁴

Existing situation

To date, the Banking Union (19 euro-area Member States)⁵ consists of two pillars, a single supervisory mechanism ([SSM](#)) and a single resolution mechanism ([SRM](#)), along with the accompanying single rulebook. Since 4 November 2014, the ECB directly supervises the [most significant banking groups](#) in participating Member States. The second pillar, the SRM, establishes an integrated resolution process at EU level for all banks in Member States supervised by the SSM. The SRM's resolution authority [SRB](#) (Single Resolution Board) and its resolution instrument, the SRF (Single Resolution Fund)⁶ became fully operational on 1 January 2016.

The single rulebook encompasses the set of legislative texts with which all financial institutions – currently [8 130 banks](#)⁷ in the EU, of which 6 387 in the euro area – must comply. These rules, among other things, lay down **capital requirements** for banks ([CRD-IV/CRR](#)), regulate the **prevention and management of bank failures** (BRRD) and ensure better **protection for depositors** (DGSD). Aiming to mitigate the risk of banking crises spilling over to other sectors, and thereby to increase the stability of the financial system, much effort has been devoted to create a supervisory framework with harmonised rules on **capital measurement and capital standards**⁸ with the CRD-IV and CRR provisions. The BRRD Directive ([2014/59/EU](#)) of 15 May 2014, sets out the rules and procedures that **all EU Member States** must adopt to mitigate and manage the distress or failure of a bank or investment firm. It ensures that banks facing risk of insolvency can be 'resolved' without taxpayers having to bail them out. The deadline for the

implementation of the Directive in national law was 31 December 2014. The **Directive on Deposit Guarantee Schemes 2014/49/EU** (DGSD) of 16 April 2014 amends previous legislation of 1994, and [harmonises](#) the rules governing [deposit-guarantee schemes](#) in **all EU Member States**: It ensures that deposits continue to be guaranteed in the amount of up to €100 000 per depositor and bank, and shortens pay-out procedures from 20 to 7 days (as of 2023). The Directive also requires the designated DGS authorities to collect a significant level of **ex ante funding** (0.8% of covered deposits) from banks, to be built up by 2024 at the latest.⁹ The deadline for the implementation of the DGSD in national law was 3 July 2015. Nevertheless, full transposition of both Directives, [BRRD](#) and [DGSD](#), remains fragmented across the EU, leading to limited collection of ex ante funding to date.¹⁰

The changes the proposal would bring

The [EDIS proposal](#) to amend the resolution framework of the Banking Union entails specific provisions (new 'Part IIa') in the SRM Regulation.

The core principles

The [EDIS](#) would be administered by the '**Single Resolution and Deposit Insurance Board**' ('Board'), as part of the Single Resolution Board, in all stages jointly with participating national deposit guarantee schemes (DGS). Part of the EDIS, a new **Deposit Insurance Fund (DIF)** would be filled by contributions owed and paid by banks directly to the Board, and calculated and invoiced by participating DGSs.

The EDIS applies to all DGSs that are officially recognised in a participating¹¹ Member State and to all credit institutions affiliated to such schemes. As the cover provided by the EDIS is limited to the mandatory functions DGSs have under the DSGD, i.e. pay-outs to depositors and contributions to resolution, the EDIS applies to all schemes that may, in principle, encounter **pay-out events** or be requested to **contribute to a resolution** procedure. Neither the Board nor a participating DGS may discriminate against entities, deposit-holders, investors or other creditors established in the Union on grounds of their nationality or place of business (Article 6(1)).

The different stages of the European Deposit Insurance Scheme

The proposed amendment foresees three successive stages: a reinsurance scheme, a co-insurance scheme and a full insurance scheme. In all three stages the EDIS would both provide funding, and cover losses of participating deposit guarantee schemes ([gradually rising from 20% in 2017 up to 100% in 2024](#)).

Reinsurance (2017-2019)

In the reinsurance phase, the EDIS may provide limited funding, and cover a limited share of the loss of a participating DGS that encounters a pay-out event or has to contribute to resolution (Article 41a). National schemes could access EDIS funds only after exhausting their own resources. In the initial stage of reinsurance, coverage is limited to resolution proceedings conducted by the Board (Articles 41a(2) and 79).

Provision of funding in the reinsurance stage

Funding in the reinsurance stage would be provided if there is a **liquidity shortfall** of the participating DGS (Article 41a(2)). This process differs depending on whether (a) the national authority encounters a pay-out event or (b) has to contribute to resolution.

a) In a **pay-out event**, a participating DGS (Article 41b(1)) has a liquidity shortfall if the amount of covered deposits in the failing bank is larger than the total of (i) the amount of available financial means that the participating DGS should hypothetically¹² have,

given the funding path established by Article 41j, and (ii) the amount of extraordinary (*ex post*) contributions¹³ the participating DGS can raise within three days of the event. The amount of covered deposits used to calculate the liquidity shortfall only consists of eligible deposits up to the standard coverage level of €100 000 or its equivalent in national currency (Article 6(1) of the DGS Directive).

b) In a **resolution case** (Article 41b(2)) the liquidity shortfall is the amount that the participating DGS has to contribute to resolution, less the amount of available financial means that the participating DGS should hypothetically have in place given the funding path established (Article 41j). The hypothetical level of available financial means is the only liquidity resource that the participating DGS needs to tap to reduce its shortfall.

If the participating DGS has a liquidity shortfall, it may request funding from the Deposit Insurance Fund **of up to 20%** of that shortfall. The remaining 80% needs to be covered by other funding sources. By applying the hypothetical level of available financial means to calculate the liquidity shortfall, the EDIS allows those DGSs which, at the time of the pay-out event, have more available financial means than required, to obtain funding from the EDIS. The funding provided by the EDIS is capped.

Loss cover in the reinsurance stage

In its reinsurance stage, in addition to providing funding for a liquidity shortfall, the EDIS will also cover, in a second step, 20% of the participating DGS's **excess loss**. The concept of excess loss differs depending on whether the participating DGS encountered a pay-out event or was requested to contribute to resolution.

a) In a **pay-out event** (Article 41c(1)) the participating DGS incurs an excess loss if the total amount that it repaid to depositors (Article 8, DGS Directive) exceeds the sum of (i) the amount it collected in insolvency proceedings on the deposit claims that it obtained (Article 9(2), first sentence, DGSD) by compensating depositors, (ii) the amount of available financial means that the participating DGS should hypothetically have in place given the funding path established by Article 41j, and (iii) the amount of extraordinary (*ex-post*) contributions the participating DGS can raise within one year of the pay-out event. While the liquidity shortfall is calculated on the basis of the amount of covered deposits (eligible deposits up to €100 000), the calculation of the excess loss, made later in the reinsurance procedure, can be based on the actual amounts repaid to depositors. The participating DGS is assumed to have been able to collect the amount of *ex-post* contributions that it is allowed by the DGSD within one year from the pay-out event: 0.5% of the total covered deposits of its member banks (Article 10(8), DGSD).

b) In a **resolution case** (Article 41c(2)), the excess loss is the amount that the participating DGS has to contribute to resolution, less the sum of: (i) the amount it may have been reimbursed after a subsequent valuation discovered that the DGS contribution should have been lower than initially requested by the resolution authority, and (ii) the amount of available financial means that the participating DGS should have in place, given the funding path established by Article 41j.

The loss cover of 20% of the excess loss in this phase is applied by reducing the amount of funding that the participating DGS is obliged to repay to the EDIS by the amount of loss cover. As with provision of funding, the loss cover by the EDIS is also capped.

Co-insurance (2020-2023)

After the initial three-year reinsurance phase, participating DGSs will be co-insured by the EDIS for a period of four years. They may request both funding and loss cover from

the Deposit Insurance Fund (see below) in case they encounter a pay-out event or need to contribute to resolution (Article 41d). The EDIS now also provides funding for, and covers losses arising from, contributions to national resolution proceedings.

The difference with the reinsurance phase is that funding is provided and loss is **covered as from the 'first euro'** and the share borne by the EDIS gradually increases over the co-insurance period (20-80%). The EDIS will provide funding for a percentage of the participating DGSs' liquidity need arising from a pay-out event¹⁴ or a request to contribute to resolution.¹⁵ It will also cover the same percentage of the loss the participating DGS ultimately incurs from these events.

Full insurance (as of 2024)

After the four-year co-insurance phase, participating DGSs would be fully insured by the EDIS. Full insurance provides full funding of the liquidity need and covers all losses arising from a pay-out event or a request to contribute to resolution. The **mechanism is the same as in the co-insurance phase**, but with the EDIS covering a 100% share. In this regard, the term 'full insurance' slightly blurs the replacement effect EDIS has on participating authorities in the Member States.

Safeguards for coverage by the EDIS

The proposal includes safeguards against incorrect or unwarranted access to the EDIS by a national DGS. Deposit guarantee schemes will be excluded if they have failed to comply with obligations under the SRM Regulation or the national law implementing key provisions of the Deposit Guarantee Schemes Directive, or if the respective Member State has failed to correctly implement these Articles (Article 41i). They will only be covered by the EDIS if their available financial means at least amount to the harmonised funding path set out in the Regulation (Article 41j).

State aid and assessment

While a DGS's compensation payments to depositors are not state aid (Article 8, DGSD),¹⁶ the contribution to resolution, although intended to ensure depositors' access to deposits, results in a benefit for the institution under resolution (must comply with Article 108 [TFEU](#) and Article 19 of Regulation (EU) No [806/2014](#)). The contribution may therefore be considered state aid, requiring notification and Commission approval.

Administration

Procedure leading to funding

Participating DGSs must notify a pay-out event or a request to contribute to resolution to the Board immediately (Art 41l). The Board then determines, within 24 hours, whether the conditions for the EDIS, as set out in Article 41a (reinsurance), Article 41d (co-insurance) or Article 41h (full insurance), are met (Article 41l(1)). The Board shall further determine the amount of funding that it would provide to the participating DGS.

Where one or more participating DGSs encounter several pay-out events or uses in resolution (events) simultaneously, the Deposit Insurance Fund's available financial means may not suffice. In this case the funding that each participating DGS may obtain for each event would be limited by a share of the DIF's available financial means, according to a pro rata calculation (details not included in the Commission proposal).

Procedure after funding

After the provision of funding, the Board must determine the excess loss (reinsurance) or loss (co-insurance, full insurance) of the participating DGS, monitor the use of the funding provided, and monitor the efforts to collect on deposit claims from the

insolvency estate. The difference between the initial funding the participating DGS obtains from the Deposit Insurance Fund and the amount of funding it ultimately has to repay to the Board results in the (excess) loss covered by the EDIS (see Article 41m-o).

Financial provisions

The EDIS budget needs to cover administrative expenditure, funding and loss cover. The budget currently contains two parts: **Part I** for the administration of the Board and **Part II** for the Single Resolution Fund (SRF). The EDIS' administrative expenditures of EDIS would be covered by existing administrative contributions that are raised under Part I of the Board's budget, taking account of the additional administrative burden caused by the EDIS (Article 65(5)). The **Deposit Insurance Fund (DIF)** would be contained in a **new Part III** to the Board's budget. Its structure of revenues and expenditures (Article 60a) corresponds to that of Part II for the SRF (Article 60). The Board would be responsible for administering both the SRF and the DIF (Article 75).

Ex ante contributions to the Deposit Insurance Fund

The **Deposit Insurance Fund** would be filled by *ex ante* contributions paid by banks directly to the Board, and calculated and invoiced by participating DGSs on behalf of the Board (Article 74a(1)). These *ex ante* contributions are an obligation separate from those contributions requested by Article 10(1) of the DGS Directive. However, in order to achieve **cost-neutrality for the banking sector**, the *ex ante* contributions paid to the DIF may be compensated at the level of the participating DGS.

Extraordinary ex post contributions

As from the start of the co-insurance phase, the Board may also claim payment of extraordinary *ex post* contributions from the banks affiliated to participating DGSs when the DIF's available means are insufficient for funding and loss cover (Article 74d). This means that participating DGS would remain responsible for raising *ex post* contributions from the national banking sector to replenish their national system following a pay-out event or a resolution contribution. *Ex post* contributions are owed and paid by banks directly to the Board and, during the co-insurance period, calculated and invoiced by the respective participating DGS on behalf of the Board. The Board determines the total amount of *ex post* contributions it may claim from the member banks within the limits established by a Commission delegated act. During the co-insurance phase, participating DGS calculate the *ex post* contribution applying the same risk-based method it applies to calculate the *ex ante* contribution under Article 10(1), DGSD.

The EDIS – decision-making

The EDIS would be administered by the Board, both in its executive and plenary session. The executive session would be composed of the same members for both EDIS- and SRM-related decisions and tasks. Decisions relating exclusively to the EDIS would require a specific composition (members representing national DGS authorities).

Preparation of the proposal

In the follow-up to the Five Presidents' report, a Communication on 'Completing the EMU' of 21 October 2015 spelled out several proposals but did not touch upon the issue of deposit insurance in detail. Different and controversial positions also became visible during the [meeting](#) of the Commission's Expert Group on Banking Payments and Insurance, on 6 November: 'Views ranged from requiring a system with (full) mutualisation of losses (PT, EL, ES, IE) to rejecting any steps towards EDIS (DE)'. Experts from FR, ES and IT argued that only loss sharing would help solving the bank-sovereign

nexus and were thus 'surprised by the relatively low level of ambition of the draft regulation compared to previous proposals'. On 9 November 2015, a [paper](#) from the European Political Strategy Centre (EPSC), the Commission's think-tank, anticipated major elements of the final proposal: the sequential introduction and the institutional anchoring with the SRB. It also advocated a backstop framework, to be established with the European Stability Mechanism (ESM). On 11 November, the Commission held an [orientation debate](#) on the Banking Union in general and announced the publication date of the final proposal.

Interestingly, no impact assessment on the EDIS has been published. According to the Better Regulation guidelines, a reason should be given in the explanatory memorandum. Instead, the proposal lists some impact-related elements in the legislative financial statement section (pp. 52-59) but the Commission's background 'quantitative analysis', as indicated in chapter 3, is not available to the public. At the same time, the accompanying [communication](#) puts the proposal into a wider context and offers suggestions on how to further reduce¹⁷ risk in the Banking Union (pp. 9-11).

Parliament's starting position

The European Parliament (EP) has had the opportunity to deal with deposit guarantee schemes in the Member States on a number of occasions. Negotiations on the current DGS Directive 2014/49/EU ([2010/0207\(COD\)](#)) began on 12 July 2010 with the European Commission's proposal to revise Directive 94/19/EC. After trilogues and adoption by the EP in a second reading vote on [15 April 2014](#), the Act was published on 12 June 2014 ([OJ L 173](#)). Negotiations on the current SRM Regulation 2014/806/EU ([2013/0253\(COD\)](#)) started on 10 July 2013 with the Commission's proposal. After being adopted by the EP in a first reading vote (570 votes to 88 with 13 abstentions) on 15 April 2014, the Act was published on 30 July 2014 ([OJ L 225](#)). While the own-initiative resolution on the 'review of the economic governance framework' of June 2015 ([2014/2145\(INI\)](#)) does not mention deposit insurance, Parliament does recall the Banking Union's intention 'to break the vicious circle between banks and sovereigns as well as to minimise the negative spill-overs emanating from a sovereign debt crisis' (Pt 55). Two weeks prior to the publication of the final proposal, the draft report, 'Banking Union – annual report 2015' of the ECON Committee (Rapporteur: Roberto Gualtieri, S&D, Italy – [2015/2221\(INI\)](#)) explicitly 'welcomed' the Commission's intentions to create a '**reinsurance mechanism at EU level**' (Pt 40). Formally adopted in the Committee on 15 February 2016, the report 'welcomes' the Commission's 24 November 2015 'package on risk sharing and risk reduction' and 'takes note of the **gradual approach** from re-insurance to finally full insurance for participating Member States' (Pt 64). Such a capacity [EDIS] would contribute 'to genuinely break the sovereign-bank loop' but any system of protection of deposits 'must always avoid the introduction of any moral hazard, while ensuring that risk takers remain liable for their risk taking'. The creation of EDIS requires, apart from implementation of existing Banking Union's legislation (including BRRD, Pt 54, and DGSD) by all the participating Member States, 'further measures to achieve a substantial reduction of risks in the European banking system'. It regards the bail-in tool as a systemic mechanism of risk avoidance (Pt 64-66).

Stakeholders' views

Academic opinion

[Analysis](#) by Dirk Schoenmaker (University of Rotterdam) and Guntram Wolff of Bruegel (published prior to the current proposal) considered that a fully fledged EDIS 'raises

questions as regards transition problems as well as governance when some national policies remain in place'. To them, a common system would become possible only after 'reduction of the national sovereign risk on banks' balance sheets, for example by introducing some form of large exposure rules.' Daniel Gros of CEPS asks whether a [re-insurance arrangement](#) (phase 1 of the proposal) would not be a sufficient solution. To him, 'experience rating could be used to ensure a proper pricing of risk and to protect the interests of the depositors in countries with safer banking systems'. In addition, the 'EDIS should have a decision-making structure separate from and independent of the SRM, since it has mainly a macroeconomic function' (protecting against systemic crises). [Dirk Schoenmaker](#) however, finds a re-insurance system not convincing because of its complexity and higher operational risks. Looking at the actual proposal, [Guntram Wolff](#) admits that re-insurance would reduce moral hazard. It would not however, 'fully sever the ties binding the banking sector to national fiscal and economic risks' (cf. recital 20). By contrast, the EDIS would only realise its intended effect, if European banks hold fewer government bonds on their books.

Associations' views

The [European Banking Federation \(EBF\)](#) generally supports the proposal's ambition but equally stresses the importance of full transposition of the DGSD. The [Association for Financial Markets in Europe \(AFME\)](#) stresses the need to ensure that contributions to the Deposit Insurance Fund (DIF) are calibrated to effectively reflect the risk of loss to the fund, as well as ensuring cost neutrality for banks. [The Dutch Banking Association \(NVL\)](#) welcomes the proposal, but believes that EDIS should be preceded by a further harmonisation of deposit insurance rules.

Advisory committees

The European Economic and Social Committee (EESC) is currently examining the proposal. A [study group](#) met on [13 January 2016](#) and [8 February](#) and drafted an opinion on [6 March](#) which is expected to be adopted during the plenary session of 16-17 March 2016. The EESC regards the EDIS-proposal as well as the Commission communication on further risk reduction as 'two sides of the same coin', to be pursued 'in parallel and without delay' (Pt 1.1, 3.2). From the point of view of the Committee, the EDIS 'will have a positive impact on the situation of individual Member States and banks by being more able to cushion local shocks' (Pt 1.5) and it welcomes the cost-neutrality for banks. However, it would have preferred to see 'the proposed risk-based contribution arrangements to be directly incorporated' into the draft regulation, instead of relying on delegated acts (Pt 1.15). Since the Commission did not publish its impact assessment, the EESC recommends carrying out a 'comprehensive in-depth impact study' (similar to those related to the DGSD) (Pt. 1.9). Among as yet unaddressed challenges, the Committee regards the considerable volume of non-performing loans. In this vein, the draft opinion underlines that one of the key issues regarding risk-reduction measures will be to select which of these are most relevant and to start implementation (Fn 21). The rapporteur is Daniel Mareels (Group I – Employers, Belgium).

The Committee of the Regions (CoR) is currently preparing an opinion, '[Completing Europe's Economic and Monetary Union](#)', due for adoption in April 2016, stressing the importance of minimising moral hazard as well as stress tests for all institutions affected by the draft regulation (Pt 25, 26). The CoR also decided to draft an opinion on EDIS for plenary session in June 2016. The rapporteur is Hans-Jörg Duppré (EPP, Germany).

Council

The Council held a first exchange of views during the [ECOFIN meeting on 8 December 2015](#). Reportedly, Germany expressed strong reservations regarding the Commission proposal.¹⁸ In September, a leaked [non-paper](#) of the German Ministry of Finance prioritised risk-reduction measures such as swift BRRD transposition and a sufficiently high bail-in cushion (MREL at least 8%¹⁹) over further mutualisation of bank risks. A common deposit insurance or re-insurance scheme would appear, for the time being, 'unacceptable'. Part of the criticism also relates to the legality of introducing the EDIS without Treaty change. After controversial negotiations, in March 2014 the funding element of the Single Resolution Mechanism, the Single Resolution Fund, was achieved through an [intergovernmental agreement](#) (IGA).²⁰ The latter stipulated that a majority of countries would have to ratify the document by [30 November 2015](#) in order to enable the Single Resolution Board to become fully operational as of 1 January 2016.

Regarding the EDIS proposal and the risk-reduction measures set out in the communication, ECOFIN has set up an [ad hoc working group](#) on 'the Strengthening of the Banking Union' (first meeting 20 January 2016) to consider both subject matters as they are 'strongly interrelated'. In this regard, possible restrictions for the size of banks' holdings of sovereign debt are perceived very [differently](#). [Reportedly](#), a 'road map' should be adopted by July 2016, after the ECOFIN Council on 17 June 2016.

National parliaments

The proposal for a regulation was transmitted to the national parliaments, with the subsidiarity deadline for submitting a reasoned opinion 16 February 2016. None has either issued a [reasoned opinion](#), or expressed concern about subsidiarity and/or proportionality.

Parliamentary analysis

On 8 July 2013, and prior to the agreement on the Single Resolution Mechanism in April 2014, the [EP's Monetary Dialogue](#) with the ECB President focused on '[Common Deposit Guarantee Schemes](#)'. In an EP Policy Department report, Charles Wyplosz (Graduate Institute of Geneva), stressed that a common fund may not be necessary as long as the ECB assumes its role as lender of last resort. By contrast, in his testimony to the ECON Committee Daniel Gros (CEPS) advocated the introduction of an EU-wide re-insurance fund.²¹ In a similar vein, in June 2015, Gael Giraud and Thore Kockerols question, in a [Cost of Non-Europe study](#) by the European Parliamentary Research Service (EPRS), whether euro-area Member States were truly capable of effectively guaranteeing deposits (€100 000 per person and bank), and supported the need for a 'European Deposit Guarantee Fund'.²² An EPRS [study](#) of November 2015 looks at EMU governance from a holistic point of view, including the core elements of the 'financial union', while a recent [briefing](#) analyses the European Council's work on Banking Union.

Legislative process

The [process](#) is still at an early stage. A rapporteur (Esther de Lange, EPP, Netherlands) and shadows have been appointed, the EP's Constitutional Affairs Committee (AFCO) will deliver an opinion and on 23 February 2016, the lead ECON Committee held a first general hearing: Michael Theurer (ALDE, Germany) described EDIS as important but also cautioned expectations: if much of the instability of European banking sector stems from overly high amounts of government-bond holdings, then EDIS will not be a proper solution. Markus Ferber (EPP, Germany) and Burkhard Balz (EPP, Germany) both

mentioned the lack of a Commission impact assessment. Balz, rapporteur on '[stocktaking and challenges of the EU Financial Services Regulation](#)' in December 2015, also stressed the importance of the implementation of DGSD and BRRD. To Peter Simon (S&D, Germany) strengthening Banking Union must not endanger what has been achieved so far, such as the DGSD. On a technical note, he warned against relying too much on level 2 decisions as was the case during BRRD negotiations. While Marco Zanni (EFDD, Italy) found the proposal to be too short in ambition and too long regarding its envisaged transition period, Philippe Lamberts (Greens/EFA, Belgium) considered it to be moving in the 'right direction'. However, since risk mutualisation goes along with risk reduction, he preferred elements of the latter not to be separated from the draft regulation. Representing the Commission, Patrick Pearson maintained that full implementation of the DGS directive would act as a 'safeguard against moral hazard' and therefore stressed the transition period of until 2024. The rapporteur concluded the session stating that every country needs 'to get out of this stronger', increasing the responsibility at EU and national level. Further discussions are scheduled for April and May, including [reportedly](#) a first working document. The draft report is expected for September 2016.

References

European Parliament, Legislative Observatory (CEIL), [European Deposit Insurance Scheme](#), Procedure file 2015/0270(COD).

European Commission, [On steps towards Completing Economic and Monetary Union](#), COM(2015) 600 final, Brussels, 21 October 2015.

European Commission, [Towards a European Deposit Insurance Scheme](#), European Political Strategy Centre (EPSC), Brussels, 9 November 2015.

European Commission, [Towards the completion of the Banking Union](#), COM(2015) 587 final, Strasbourg, 24 November 2015.

Five Presidents' Report, [Completing Europe's Economic and Monetary Union](#), Brussels, 22 June 2015.

Gros, Daniel, [Completing the Banking Union: Deposit Insurance](#), CEPS, Brussels, December 2015.

Endnotes

¹ See e.g. Jennifer Payne, [The Reform of Deposit Guarantee Schemes in Europe](#), in *European Company and Financial Law Review*, Vol. 12, Issue 4, 2015, pp. 489-539.

² In January 2013, Vice President Vítor Constâncio [argued](#): 'This framework [DGSD] should ensure depositor confidence and the national deposit guarantee schemes, built on common EU standards, could interact with the SRM. A European deposit guarantee scheme is therefore **not essential in the short term**.'

³ See e.g. the contributions by Mario Draghi on [27 August](#), [4 November](#), and [11 November 2015](#).

⁴ As to the impact on Austrian and German public-sector savings banks (*Sparkassen*), state banks (*Landesbanken*), as well as co-operative banks (*Genossenschaftsbanken*) see the [Commission's Q&A](#) (in German). In contrast, the German Savings Banks' Finance Group's [view](#) remains cautious, 10 February 2016 (in German).

⁵ Membership is mandatory for all euro-area countries, [others can opt in](#). The ratification of the [international agreement on the transfer and mutualisation of contributions to a single resolution fund \(SRF\)](#), does not yet constitute membership in the Banking Union. In [November 2015](#), the European Banking Authority (EBA) warned of a 'problem of single market dislocation if further harmonisation applied only to Banking Union members ... and urged further harmonization of the DGSD'.

⁶ Since the SRF will be built up gradually, only reaching its funding target in 2023, a 'bridge financing' arrangement became necessary to cover the transition period. On loss estimates regarding bank resolution see [EGOV, November 2015](#).

⁷ The figure refers to 'monetary financial institutions' (MFIs) and besides credit institutions also comprises central banks, money market funds (MMF) and other deposit-taking institutions such as electronic money institutions.

⁸ [Directive 2013/36/EU](#) (CRD-IV) lays down provisions for necessary capital buffers while [Regulation \(EU\) No 575/2013](#) (CRR) lays down uniform rules concerning general prudential requirements regarding risk. The latter

is [supplemented](#) by two Commission Delegated Acts: (i) a [Regulation](#) (2015/61/EU) on the liquidity coverage ratio of credit institutions ('LCR Regulation'), ensuring that a sufficient proportion of their assets can be made available in the short term; and (ii) a [Regulation](#) (2014/62/EU) covering the leverage ratio, to ensure that EU credit institutions and investment firms use the same methods to calculate, report and disclose their leverage ratios. On a global scale, the [Basel Committee on Banking Supervision \(BCBS\)](#) has developed guidelines, subsequently known as Basel I, II, & III provisions.

- ⁹ Following the guidelines published by the European Banking Authority (EBA) on [28 May 2015](#).
- ¹⁰ As of [2 March 2016](#), 24 of the 28 Member States had fully transposed the BRRD, whilst the four others had partially transposed it ([overview of national implementing measures](#)). In [October 2015](#), infringement procedures were launched against six Member States: Czech Republic, Luxembourg, the Netherlands, Poland, Romania and Sweden. 22 of the 28 EU Members had fully transposed the DGSD, and another had partially transposed it ([overview of national implementing measures](#)). In [December 2015](#), infringement procedures were launched against ten Member States: Belgium, Cyprus, Estonia, Greece, Italy, Luxembourg, Poland, Romania, Slovenia and Sweden. To improve cooperation between national competent authorities, the EBA published [Guidelines on cooperation agreements](#), 15 February 2016.
- ¹¹ 'The participating Member States are those whose currency is the euro and those other Member States that have established a close cooperation with the European Central Bank to participate in the SSM (Article 4(1))' (COM(2015) 586, p. 8).
- ¹² 'The use of the hypothetical level of available financial means rather than the actual level serves to weaken potential incentive for a participating DGS to fall short of its obligation to raise *ex ante* contributions in line with a precise funding path' (*ibid.* p. 10).
- ¹³ 'Extraordinary (*ex post*) contributions (Article 10(8) of the Directive), to the extent they can be raised within a very short period, are an additional source of liquidity that could lower the liquidity shortfall' (*ibid.*).
- ¹⁴ 'In this case the liquidity need is equal to the total amount of covered deposits of the failing bank (Article 41f(1)). The loss is determined by subtracting the participating DGSs' proceeds from the insolvency estate (Article 41g(1))' (*ibid.* p. 12).
- ¹⁵ 'In a resolution case the liquidity need is equal to the amount of contribution requested by the Board and the national resolution authority, respectively. The loss is determined by subtracting the difference the participating DGS may have been paid after a subsequent valuation determined that the initial contribution should have been lower (Article 41g(2)). There would be no cap on the provision of funding or the loss cover' (*ibid.*).
- ¹⁶ On state aid and the bail-in provision under the BRRD, in force since 1 January 2016, see Benoit Mesnard: [The implementation of bail-in in recent resolution cases](#), European Parliament, IPOL/EGOV, Brussels, 22 January 2016.
- ¹⁷ See Aliénor Margerit, [Completing the Banking Union. Risk sharing initiatives and parallel risk reduction measures](#), European Parliament, IPOL/EGOV, Brussels, 11 February 2016.
- ¹⁸ ['Germany warns on eurozone bank deposit plan'](#), *Financial Times*, 8 December 2015. See also Sachverständigenrat, [Jahresgutachten 2015/2016](#), Wiesbaden, 11 November 2015, p. 21, Deutsche Bundesbank, [Monthly Report](#) December 2015, and the statements of the ruling grand coalition, Deutscher Bundestag, [Ds. 18/6548](#), 4 November 2015, [Ds. 18/7644](#), 23 February 2016.
- ¹⁹ EU-wide standards (to be proposed by the Commission by 31 December 2016) on loss absorption 'minimum requirement for own funds and eligible liabilities' ([MREL](#), see Article 45, BRRD).
- ²⁰ Council Implementing Regulation (EU) 81/2015, 19 December 2014 (OJ L 15, 22 January 2015). For a detailed account see: Alexander Kern, European Banking Union: A Legal and Institutional Analysis of the Single Supervisory Mechanism and the Single Resolution Mechanism, in: *European Law Review*, Issue 2, 2015, pp. 176f.
- ²¹ See also Daniel Gros & Dirk Schoenmaker, [European Deposit Insurance and Resolution in the Banking Union](#), in: *Journal of Common Market Studies*, Vol. 52, Issue 3, pp. 529-546.
- ²² Gael Giraud & Thore Kockerols, [Making European Banking Union Macro-Economically Resilient](#), EPRS, Cost of Non-Europe Report, Brussels, June 2015, p. 78.

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