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*****I**

DRAFT REPORT

on the proposal for a directive of the European Parliament and of the Council
on Deposit Guarantee Schemes (recast)
(COM(2010)0368 – C7-0177/2010 – 2010/0207(COD))

Committee on Economic and Monetary Affairs

Rapporteur: Peter Simon

(Recast – Rule 87 of the Rules of Procedure)

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United in diversity

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Symbols for procedures

- * Consultation procedure
- *** Consent procedure
- ***I Ordinary legislative procedure (first reading)
- ***II Ordinary legislative procedure (second reading)
- ***III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

Amendments to a draft act

In amendments by Parliament, amendments to draft acts are highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the draft act which may require correction when the final text is prepared – for instance, obvious errors or omissions in a language version. Suggested corrections of this kind are subject to the agreement of the departments concerned.

The heading for any amendment to an existing act that the draft act seeks to amend includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend. Passages in an existing act that Parliament wishes to amend, but that the draft act has left unchanged, are highlighted in **bold**. Any deletions that Parliament wishes to make in such passages are indicated thus: [...].

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

**on the proposal for a directive of the European Parliament and of the Council on
Deposit Guarantee Schemes (recast)
(COM(2010)0368 – C7-0177/2010 – 2010/0207(COD))**

(Ordinary legislative procedure – recast)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2010)0368),
 - having regard to Article 294(2) and Article 53(1) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C7-0177/2010),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to the reasoned opinions delivered by the Danish Parliament, the German Bundestag, the German Bundesrat and the Swedish Parliament further to Protocol No 2 on the application of the principles of subsidiarity and proportionality, which indicate that the draft legislative act does not comply with the principle of subsidiarity,
 - having regard to the opinion of the European Central Bank of 16 February 2011¹,
 - having regard to the Interinstitutional Agreement of 28 November 2001 on a more structured use of the recasting technique for legal acts²,
 - having regard to the letter of 24 February 2011 from the Committee on Legal Affairs to the Committee on Economic and Monetary Affairs in accordance with Rule 87(3) of its Rules of Procedure,
 - having regard to Rules 87 and 55 of its Rules of Procedure,
 - having regard to the report of the Committee on Economic and Monetary Affairs (A7-0000/2011),
- A. whereas, according to the Consultative Working Party of the legal services of the European Parliament, the Council and the Commission, the proposal in question does not include any substantive amendments other than those identified as such in the proposal and whereas, as regards the codification of the unchanged provisions of the earlier acts together with those amendments, the proposal contains a straightforward codification of the existing texts, without any change in their substance,
1. Adopts its position at first reading hereinafter set out, taking into account the recommendations of the Consultative Working Party of the legal services of the European

¹ Not yet published in the Official Journal.

² OJ C 77, 28.3.2002, p. 1.

Parliament, the Council and the Commission;

2. Calls on the Commission to refer the matter to Parliament again if it intends to amend its proposal substantially or replace it with another text;
3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

Amendment 1

Proposal for a directive

Recital 2

Text proposed by the Commission

(2) In order to make it easier to take up and pursue the business of credit institutions, it is necessary to eliminate **the** differences between the laws of the Member States as regards the rules on Deposit Guarantee Schemes to which these institutions are subject.

Amendment

(2) In order to make it easier to take up and pursue the business of credit institutions, it is necessary to eliminate differences between the laws of the Member States **which may potentially distort markets** as regards the rules on Deposit Guarantee Schemes to which these institutions are subject.

Or. de

Amendment 2

Proposal for a directive

Recital 3

Text proposed by the Commission

(3) This Directive constitutes an essential instrument for 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 protection for depositors.

Amendment

(3) This Directive constitutes an essential instrument for 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 protection for depositors. ***In view of the costs to the economy as a whole of the failure of a credit institution and the adverse impact on financial stability and the confidence of depositors, it is desirable not only to make provision for reimbursing depositors but also to***

create sufficient flexibility to enable Deposit Guarantee Scheme operators to implement prevention and support measures. As in this case the affiliated credit institutions themselves cover the costs of Deposit Guarantee Schemes, appropriate incentives exist to identify problems in member institutions at an early stage and to forestall impending guarantee cases by means of appropriate measures such as conditions concerning restructuring. Deposit guarantee schemes which can also take preventive action therefore constitute an important complement to action by the supervisory authorities in day-to-day supervision and in the context of the orderly winding-up of credit institutions. Support measures provided by Deposit Guarantee Schemes should, however, always be subject to conditions and their action should always accord with competition law.

Or. de

Amendment 3

Proposal for a directive Recital 3 a (new)

Text proposed by the Commission

Amendment

(3a) Appropriate incentives for effective action by Deposit Guarantee Schemes particularly exist if there is the maximum possible correspondence between their field of competence and the area in which the costs of failure of a credit institution are borne. In order to take account of the growing integration of the internal market, therefore, it should be made possible to merge the Deposit Guarantee Schemes of different Member States or to create separate cross-border schemes on a voluntary basis. One precondition for approval by the competent authorities should be sufficient stability and balanced

composition of the new and existing Deposit Guarantee Schemes. Adverse effects on financial stability, for example where several high-risk credit institutions are covered which, within their own Deposit Guarantee Scheme, would only present an average risk, while contributions would be withdrawn from the existing guarantee schemes, must be avoided.

Or. de

Amendment 4

Proposal for a directive Recital 5

Text proposed by the Commission

(5) Directive 94/19/EC was based on the principle of minimum harmonisation. Consequently, a variety of Deposit Guarantee Schemes with very distinct features *were established* in the Union. ***This caused market distortions for credit institutions and limited the benefits of the Internal Market for depositors.***

Amendment

(5) Directive 94/19/EC was based on the principle of minimum harmonisation. Consequently, a variety of Deposit Guarantee Schemes with very distinct features *currently exist* in the Union. ***As a result of the formulation of common requirements applicable to Deposit Guarantee Schemes throughout the EU, inter alia with regard to the deposits covered, the coverage level, the target cover, the conditions which apply to the use of funds and the arrangements for payouts, a uniform level of protection is provided for depositors throughout the EU while ensuring the same stability of Deposit Guarantee Schemes. At the same time, this prevents market distortions. The Directive therefore contributes to completion of the internal market.***

Or. de

Amendment 5

Proposal for a directive

Recital 6

Text proposed by the Commission

(6) The Directive should *enable a level playing field between credit institutions, allow depositors to easily understand the features of Deposit Guarantee Schemes and facilitate* a quick repayment to depositors by sound and credible Deposit Guarantee Schemes *in the interest of financial stability. Therefore, deposit protection should be harmonised and simplified to the largest extent possible.*

Amendment

(6) The Directive should *serve to inform depositors about financial products covered and those not covered and shed light on the way in which Deposit Guarantee Schemes function. The possibility of preventing failure of a credit institution by means of appropriate measures adopted by the Deposit Guarantee Scheme operator will protect confidence in financial stability and is in the interests of private depositors, local authorities which are in need of protection and above all SMEs. Consequently, a large part of the adverse consequences of insolvency of a bank, such as the sudden loss of the relationship with a bank, can be avoided. In the event of payment becoming due under a guarantee, the Directive will ensure* a quick repayment to depositors by sound and credible Deposit Guarantee Schemes.

Or. de

Amendment 6

Proposal for a directive

Recital 9

Text proposed by the Commission

(9) *Although, in principle, all credit institutions should be members of a Deposit Guarantee Scheme, it should be recognised that there are systems which protect the credit institution itself (Institutional Protection Schemes) and, in particular, ensure its liquidity and solvency. Such schemes guarantee protection for depositors beyond that*

Amendment

deleted

provided by a Deposit Guarantee Scheme. If such schemes are separate from Deposit Guarantee Schemes, their additional safeguard role of systems should be taken into account when the contributions of its members to Deposit Guarantee Schemes are determined. The harmonised level of coverage should not affect schemes protecting the credit institution itself unless they repay depositors. Depositors should have a claim against all schemes, in particular if protection by a Mutual Guarantee Scheme cannot be ensured. No scheme or system should thus be excluded from this Directive.

Or. de

Amendment 7

Proposal for a directive Recital 9 a (new)

Text proposed by the Commission

Amendment

(9a) The key task of Deposit Guarantee Schemes is to protect depositors against the consequences of insolvency of a credit institution. Deposit Guarantee Schemes should be able to provide this protection in various ways: at one end of the activity range of Deposit Guarantee Schemes, therefore, one should find schemes with a pure reimbursement ('paybox') function.

Or. de

Amendment 8

Proposal for a directive Recital 9 b (new)

(9b) It should also, however, be possible for Deposit Guarantee Schemes to go beyond a pure reimbursement function by requiring member institutions to supply additional information and on this basis building up early warning systems. In this way risk-dependent contributions can be adjusted at an early stage or preventive measures against recognised risks can be proposed. In the event of impending imbalances, Deposit Guarantee Scheme operators should be able to decide on support measures or to use their resources to support orderly winding-up of problematic institutions in order to avoid the costs of reimbursing depositors and the other adverse impacts of insolvency.

Or. de

Amendment 9

Proposal for a directive Recital 9 c (new)

(9c) At the other end of the activity range, it should be possible for Deposit Guarantee Schemes to take the form of institutional protection schemes. Institutional protection schemes are defined by Article 80(8) of Directive 2006/48/EC of the European Parliament and of the Council of 14 June 2006 relating to the taking up and pursuit of the business of credit institutions (recast)¹. They protect the credit institution itself, in particular by ensuring its liquidity and solvency. They should be recognised as Deposit Guarantee Schemes by the competent authorities if they fulfil all criteria laid down in that Article and in this Directive. These criteria ensure, in

particular, that, as in other Deposit Guarantee Schemes, sufficient resources are always available for a potential payout.

¹ *OJ L 177, 30.6.2006, p. 1.*

Or. de

Amendment 10

Proposal for a directive Recital 10

Text proposed by the Commission

Amendment

(10) Institutional protection schemes are defined in Article 80(8) of Directive 2006/48/EC of the European Parliament and of the Council of 14 June 2006 relating to the taking up and pursuit of business of credit institutions (recast)¹ and may be recognized as Deposit Guarantee Schemes by the competent authorities if they fulfil all criteria laid down in that Article and in this Directive.

deleted

¹ *OJ L 177, 30.6.2006, p. 1.*

Or. de

Amendment 11

Proposal for a directive Recital 11

Text proposed by the Commission

Amendment

(11) In the recent financial crisis, uncoordinated increases in the coverage levels across the EU led to depositors shifting money to banks in countries where

(11) In the recent financial crisis, uncoordinated increases in the coverage levels across the EU ***have in some cases*** led to depositors shifting money to banks

deposit guarantees were higher. This drained liquidity from banks in times of stress. In times of stability, different coverage levels may lead to depositors choosing the highest deposit protection rather than the *most suitable* deposit product. This may result in competitive distortions in the Internal Market. It is therefore indispensable to ensure a harmonised level of deposit protection wherever deposits are located in the Union. However, certain deposits relating to the personal situation of depositors may be covered at a higher level but for a limited time.

in countries where deposit guarantees were higher. This drained liquidity from banks in times of stress. In times of stability, different coverage levels may lead to depositors choosing the highest deposit protection rather than the deposit product *best suited to them*. This may result in competitive distortions in the Internal Market. It is therefore indispensable to ensure a harmonised level of deposit protection *by all recognised Deposit Guarantee Schemes*, wherever deposits are located in the Union. However, certain deposits relating to the personal situation of depositors may be covered at a higher level but for a limited time.

Or. de

Amendment 12

Proposal for a directive Recital 12

Text proposed by the Commission

(12) The same *coverage level* should apply to all depositors regardless of whether a Member State's currency is the Euro or not *and regardless of whether a bank is a member of a system which protects the credit institution itself*. Member States outside the Euro area should have the possibility to round off the amounts resulting from the conversion without compromising the equivalent protection of depositors.

Amendment

(12) The same *legal entitlement in relation to the Deposit Guarantee Scheme* should apply to all depositors *in accordance with the coverage level provided for in this Directive*, regardless of whether a Member State's currency is the Euro or not. Member States outside the Euro area should have the possibility to round off the amounts resulting from the conversion without compromising the equivalent protection of depositors.

Or. de

Amendment 13

Proposal for a directive Recital 15

Text proposed by the Commission

(15) Member States should *not be prevented from establishing systems protecting pensions in general, which should operate separately from Deposit Guarantee Schemes. Member States should not be prevented from protecting certain deposits for social reasons or in relation to real estate transactions for private residential purposes.* In all cases, state aid rules should be complied with.

Amendment

(15) Member States should *also ensure that deposits resulting from certain transactions are fully covered by the Deposit Guarantee for a given period. These include deposits in connection with the acquisition or sale of private residential properties. This should also apply to deposits which are protected on certain social grounds defined in domestic law and are connected with life cycle events such as birth, marriage, divorce and particularly provision for old age or which arise from certain insurance benefits or compensation.* In all cases, state aid rules should be complied with.

Or. de

Amendment 14

**Proposal for a directive
Recital 16**

Text proposed by the Commission

(16) It is indispensable to harmonize the methods of financing schemes guaranteeing deposits or credit institutions themselves. On the one hand, the cost of financing such schemes should be borne *principally* by credit institutions themselves; on the other hand, the financing capacity of such schemes must be proportionate to their liabilities. In order to ensure that *Depositors* in all Member States *enjoy* a similarly high level of *protection and that Deposit Guarantee Schemes lend money to each other only if substantial financing efforts have been made by the Deposit Guarantee Scheme concerned, the financing of Deposit Guarantee Schemes should be harmonised at a high level. This, however, should not jeopardize the stability of the*

Amendment

(16) It is indispensable to harmonize the methods of financing schemes guaranteeing deposits or credit institutions themselves. On the one hand, the cost of financing such schemes should be borne, *in principle*, by credit institutions themselves; on the other hand, the financing capacity of such schemes must be proportionate to their liabilities. In order to ensure that *Deposit Guarantee Schemes* in all Member States *display* a similarly high level of *stability, a uniform ex ante financial target cover should be stipulated for all Deposit Guarantee Schemes.*

banking system of the Member State concerned.

Or. de

Amendment 15

Proposal for a directive Recital 18

Text proposed by the Commission

(18) Certain depositors should not be eligible for deposit protection, in particular public authorities or other financial institutions. Their limited number compared to all other depositors minimises the impact on financial stability in case of a bank failure. Authorities also have much easier access to credit than citizens. Non-financial businesses should in principle be covered, regardless of their size.

Amendment

(18) Certain depositors should not be eligible for deposit protection, in particular public authorities or other financial institutions. Their limited number compared to all other depositors minimises the impact on financial stability in case of a bank failure. Authorities also have much easier access to credit than citizens.
However, Member States should ensure that the deposits of local authorities which are in need of protection are also covered. Non-financial businesses should in principle be covered, regardless of their size.

Or. de

Amendment 16

Proposal for a directive Recital 22

Text proposed by the Commission

(22) ***The*** financial means ***of Deposit Guarantee Schemes should principally be used*** for the repayment of depositors. ***They could***, however, also be ***used in order to finance the transfer of deposits to another*** credit institution, provided that the costs borne by the Deposit Guarantee Scheme do not exceed the amount of covered deposits at the credit institution concerned. ***They***

Amendment

(22) ***Deposit Guarantee Schemes should have sufficient*** financial means for the repayment of depositors ***in the event of insolvency of a credit institution. In many cases, however, support measures to avert the insolvency of a credit institution have a more favourable effect in guaranteeing deposits than reimbursement of*** depositors. ***Moreover, such measures may***

could also to a certain extent, as circumscribed in the Directive, be used to finance the prevention of bank failures.

Such measures should comply with state aid rules. ***This is*** without prejudice to the future Commission policy concerning the establishment of national bank resolution funds.

make it possible to avoid further costs and adverse effects on financial stability and the confidence of depositors. It should therefore also be possible to use the resources of Deposit Guarantee Schemes for support measures. Support measures should always entail conditions with which the institution receiving the support must comply. It should, however, also be possible to use them in conjunction with the orderly winding-up of a credit institution, provided that the costs borne by the Deposit Guarantee Scheme do not exceed the amount of covered deposits at the credit institution concerned. Such measures should comply with state aid rules. These options for action by Deposit Guarantee Scheme operators are without prejudice to the future Commission policy concerning the establishment of national bank resolution funds.

Or. de

Amendment 17

Proposal for a directive Recital 24

Text proposed by the Commission

(24) Contributions to Deposit Guarantee Schemes should take account of the degree of risk incurred by their members. ***This would allow to reflect*** the risk profiles of individual banks ***and lead*** to a ***fair*** calculation of contributions and ***to provide*** incentives to operate under a less risky business model. ***Developing a set of core indicators mandatory for all Member States and another set of optional supplementary indicators would introduce such harmonisation gradually.***

Amendment

(24) Contributions to Deposit Guarantee Schemes should take account of the degree of risk incurred by their members. ***To this end, a standard approach to the identification of risk-dependent contributions to Deposit Guarantee Schemes should be laid down. However, the nature of the risks accepted by the affiliated credit institutions may vary depending on market circumstances and the business activities of the credit institutions. It is therefore worthwhile, in addition to the standard approach, to make it possible for Deposit Guarantee Schemes also to use risk-dependent procedures of their own in so far as they***

comply with the guidelines to be drawn up by the European Banking Authority after consulting the European Forum of Deposit Insurers (EFDI). This takes account of the risk profiles of individual banks, leads to a more precise calculation of contributions, tailored to market circumstances in the Member States, and provides incentives to operate under a less risky business model. In order, for example, to take account of particularly low-risk sectors of lending which are governed by special laws, corresponding reductions in the contributions to be paid should be provided for.

Or. de

Amendment 18

Proposal for a directive Recital 26

Text proposed by the Commission

(26) The payout delay of at maximum six weeks from 31 December 2010, runs counter to the need to maintain depositor confidence and does not meet their needs. The payout delay should therefore be reduced to a period of **one week**.

Amendment

(26) The payout delay of at maximum six weeks from 31 December 2010, runs counter to the need to maintain depositor confidence and does not meet their needs. The payout delay should therefore be reduced to a period of **five working days**.

Or. de

Amendment 19

Proposal for a directive Recital 26 a (new)

Text proposed by the Commission

Amendment

(26a) In many cases, however, the necessary procedures for a short time limit for payout do not yet exist. If, however, depositors are assured that the

time limit for payout will be short and then, upon failure of a credit institution, the time limit is not respected, this can permanently damage depositors' confidence in guarantee schemes and thus undermine their stabilising effect and purpose. Member States should therefore be given the option, during a transitional period ending on 31 December 2016, to adopt a time limit for payout of 20 working days if, after examination by the competent supervisory authority, it has been ascertained that the reduced time limit for payout is not feasible. In that case, the procedures required for the five working day time limit for payout should be developed and tested by 31 December 2016. In order to ensure that, during the transitional period ending on 31 December 2016, depositors do not encounter financial difficulties in the event of failure of their credit institution, depositors should however be able to obtain a payout of up to EUR 5 000 from the applicable Deposit Guarantee Scheme within five working days on their deposit eligible for reimbursement.

Or. de

Amendment 20

Proposal for a directive Recital 28

Text proposed by the Commission

(28) Information is an essential element in depositor protection. Therefore, actual depositors should be informed about their coverage and the responsible scheme on their statements of account and intending depositors by countersigning a standardised information sheet. The content of such information should be identical for all depositors. The

Amendment

(28) Information is an essential element in depositor protection. Therefore, actual depositors should be informed about their coverage and the responsible scheme on their statements of account and intending depositors by countersigning a standardised information sheet. The content of such information should be identical for all depositors. The

unregulated use in advertising of references to the amount and scope of a deposit-guarantee scheme could affect the stability of the banking system or depositor confidence. Therefore, a reference to Deposit Guarantee Schemes in advertisements should be limited to a short factual reference. Systems which protect the credit institution itself should **clearly** inform depositors about their **function** without promising unlimited deposit protection.

unregulated use in advertising of references to the amount and scope of a deposit-guarantee scheme could affect the stability of the banking system or depositor confidence. Therefore, a reference to Deposit Guarantee Schemes in advertisements should be limited to a short factual reference. Systems which protect the credit institution itself should inform depositors about their **legal entitlement arising from the coverage level provided for in this Directive and about how it operates**, without promising unlimited deposit protection.

Or. de

Amendment 21

Proposal for a directive Recital 32

Text proposed by the Commission

(32) While respecting the supervision of Deposit Guarantee Schemes by Member States, the European Banking Authority should contribute to the achievement of the objective of making it easier for credit institutions to take up and pursue their activities while at the same time ensuring effective protection for depositors. ***To that end, the Authority should confirm that the conditions of borrowing between Deposit Guarantee Schemes laid down in this Directive are fulfilled and state, within the strict limits set by this Directive, the amounts to be lent by each scheme, the initial interest rate as well as the duration of the loan.*** In this respect, the European Banking Authority should ***also*** collect information on Deposit Guarantee Schemes, in particular on the amount of deposits covered by them, confirmed by competent authorities. ***It should inform the other Deposit Guarantee Schemes about***

Amendment

(32) While respecting the supervision of Deposit Guarantee Schemes by Member States, the European Banking Authority should contribute to the achievement of the objective of making it easier for credit institutions to take up and pursue their activities while at the same time ensuring effective protection for depositors. In this respect, the European Banking Authority should collect information on Deposit Guarantee Schemes, in particular on the amount of deposits covered by them, confirmed by competent authorities.

their obligation to lend.

Or. de

(Note: In the German version of the Commission proposal, the last sentence in the left-hand column does not form part of Recital 32 (whereas it does in EN/FR), but instead appears as the second sentence of Recital 33. Consequently, the number and numbering of the recitals which follow differ between the German version and the English and French versions (Recital 34 in DE corresponds to Recital 33 in EN/FR, etc.).)

Amendment 22

Proposal for a directive Recital 33

Text proposed by the Commission

Amendment

<i>(34) There is a need to introduce an effective instrument to establish harmonised technical standards in financial services to ensure a level playing field and an adequate protection of depositors across Europe. Such standards should be developed in order to standardize the calculation of risk-based contributions.</i>	<i>deleted</i>
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Or. de

(Note: In the German version of the Commission proposal, the number and numbering of the recitals (as from Recital 34) differ from those in the English and French versions (Recital 34 in DE corresponds to Recital 33 in EN/FR, etc.).)

Amendment 23

Proposal for a directive Recital 35

Text proposed by the Commission

Amendment

(36) The Commission should be empowered to adopt delegated acts in accordance with Article 290 of the Treaty on the Functioning of the European Union in respect of Article 5(5).

(35) The Commission should be empowered to adopt delegated acts in accordance with Article 290 of the Treaty on the Functioning of the European Union 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.

Or. de

(Note: In the German version of the Commission proposal, the number and numbering of the recitals (as from Recital 34) differ from those in the English and French versions (Recital 34 in DE corresponds to Recital 33 in EN/FR, etc.).)

Amendment 24

Proposal for a directive Recital 35 a (new)

Text proposed by the Commission

Amendment

(35a) The Commission should also be empowered to adopt regulatory technical standards relating to the definitions and methods of the standard approach to calculating risk-adjusted contributions by credit institutions to Deposit Guarantee Schemes described in this Directive in accordance with the procedures provided for in Articles 10 to 14 of Regulation (EU) No 1093/2010. The European Banking Authority should draft such regulatory technical standards and submit them to the Commission by 31 December 2012.

Or. de

(Note: In the German version of the Commission proposal, the number and numbering of the recitals (as from Recital 34) differ from those in the English and French versions (Recital 34 in DE corresponds to Recital 33 in EN/FR, etc.).)

Amendment 25

Proposal for a directive

Article 1 – paragraph 2

Text proposed by the Commission

2. This Directive shall apply to all Deposit Guarantee Schemes *on a statutory or contractual basis and to* institutional protection schemes *recognized as Deposit Guarantee Schemes*.

Amendment

2. This Directive shall apply to all Deposit Guarantee Schemes *recognised pursuant to Article 3(1). They may take the form of statutory, contractual or* institutional protection schemes *as referred to in Article 80(8) of Directive 2006/48/EC*.

Or. de

Amendment 26

Proposal for a directive

Article 1 – paragraph 3

Text proposed by the Commission

3. Institutional protection schemes defined in Article 80(8) of Directive 2006/48/EC may be recognized as Deposit Guarantee Schemes by the competent authorities if they fulfil all criteria laid down in that Article and in this Directive.

Amendment

deleted

Or. de

Amendment 27

Proposal for a directive

Article 1 – paragraph 4

Text proposed by the Commission

4. *Institutional* protection schemes not recognized under *paragraph 3 and not guaranteeing deposits* shall not be subject to this Directive, except to the second subparagraph of Article 14(5) and the last subparagraph of Annex III.

Amendment

4. Protection schemes not recognized under *Article 3(1)* shall not be subject to this Directive, except to the second subparagraph of Article 14(5) *and (6a)* and the last subparagraph of Annex III.

Amendment 28

Proposal for a directive

Article 2 – paragraph 1 – point -a (new)

Text proposed by the Commission

Amendment

(-a) ‘preventive and support measures’ means measures adopted by Deposit Guarantee Scheme operators to prevent bank failure of the affiliated credit institutions. Such measures may include, inter alia:

(i) rights to verify the economic situation and the risk position of the affiliated credit institutions or, where an institution is being newly established, the basic plans, and with regard to a member of the company where a change occurs in a majority, facilitating control over the institution;

(ii) obligations for the affiliated credit institutions to provide information on the economic situation and the risk position, their development and intended changes to the business model;

(iii) the imposition of conditions to limit the volume of deposits guaranteed or to limit certain business operations (wholly or partially) where on the basis of an audit or drawing on other sources there are indications that there may be an impending or acute danger of resort to the Deposit Guarantee Scheme;

(iv) the levying of contributions geared to the individual risk position of the institution;

(v) rights to information from the competent supervisory authorities and exemption from any obligations of confidentiality which may exist vis-à-vis these supervisory authorities;

(vi) granting of guarantees, loans and all types of liquidity and capital assistance, including satisfying third-party claims.

Or. de

Amendment 29

Proposal for a directive

Article 2 – paragraph 1 – point -a a (new)

Text proposed by the Commission

Amendment

(-aa) ‘measures in conjunction with the orderly winding-up of credit institutions’ means measures to prevent a call on a Deposit Guarantee Scheme. Such measures may include, inter alia:

(i) assistance in acquiring an institution which has become unbalanced;

(ii) transfer of deposits and of corresponding assets, including business sectors, to a bridging institution;

(iii) an enforced merger with other credit institutions;

(iv) orderly winding-up with the participation of the Deposit Guarantee Scheme.

Or. de

Amendment 30

Proposal for a directive

Article 2 – paragraph 1 – point a – introductory part

Text proposed by the Commission

Amendment

(a) 'deposit' means any credit balance which results from funds left in an account or from temporary situations deriving from normal banking transactions and which a credit institution must repay under the legal

(a) 'deposit' shall mean any credit balance which results from funds left in an account or from temporary situations deriving from normal banking transactions and which a credit institution must repay under the legal

and contractual conditions applicable.

and contractual conditions applicable, ***and any debt evidenced by a certificate issued by the credit institution.***

Or. de

Amendment 31

Proposal for a directive

Article 2 – paragraph 1 – point a – paragraph 3 – indent 1

Text proposed by the Commission

Amendment

its existence can only be proven by a certificate other than a statement of account;

it is made out to the holder and not to a named person,

Or. de

Amendment 32

Proposal for a directive

Article 2 – paragraph 1 – point h

Text proposed by the Commission

Amendment

(h) 'target level' means 1.5% of ***eligible*** deposits for the coverage of which a Deposit Guarantee Scheme is responsible;

(h) 'target level' means 1.5% of deposits ***covered*** for the coverage of which a Deposit Guarantee Scheme is responsible;

Or. de

Amendment 33

Proposal for a directive

Article 3 – paragraph 1 – subparagraph 2

Text proposed by the Commission

Amendment

This shall not preclude the merger of schemes of different Member States.

This shall not preclude ***the establishment of cross-border Deposit Guarantee Schemes by Member States*** or the merger of schemes of different Member States ***by***

them. In this case approval shall be obtained from the competent national supervisory authorities with the participation of the European Banking Authority.

Or. de

Amendment 34

Proposal for a directive

Article 3 – paragraph 1 – subparagraph 2 a (new)

Text proposed by the Commission

Amendment

When recognising and approving Deposit Guarantee Schemes, particular attention shall be devoted to whether they are sufficiently stable and whether new and existing Deposit Guarantee Schemes are of balanced composition in relation to the affiliated credit institutions.

Or. de

Amendment 35

Proposal for a directive

Article 3 – paragraph 5 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

In the case of cross-border Deposit Guarantee Schemes, supervision shall be exercised by the European Banking Authority, with the participation of a body composed of representatives of the competent authorities of the countries where the affiliated credit institutions are based.

Or. de

Amendment 36

Proposal for a directive

Article 3 – paragraph 6 – subparagraph 1

Text proposed by the Commission

Member States shall ensure that Deposit Guarantee Schemes perform tests of their systems and that they are informed in the event that the competent authorities detect problems in a credit institution that are likely to give rise to the intervention of Deposit Guarantee Schemes.

Amendment

Member States shall ensure ***that the procedures adopted by Deposit Guarantee Schemes accord with the provisions of Article 11(3) or the guidelines adopted by the European Banking Authority pursuant to Article 11(5)***, that Deposit Guarantee Schemes perform tests of their systems and that they are informed ***immediately*** in the event that the competent authorities detect problems in a credit institution that are likely to give rise to the intervention of Deposit Guarantee Schemes.

Or. de

Amendment 37

Proposal for a directive

Article 3 – paragraph 6 – subparagraph 3

Text proposed by the Commission

The European Banking Authority shall ***periodically*** conduct peer reviews pursuant to ***Article 15 of the [EBA regulation]*** in this regard. Deposit Guarantee Schemes shall be bound to professional secrecy referred to in Article 56 of that Regulation when exchanging information with the European Banking Authority.

Amendment

The European Banking Authority shall ***at least every five years*** conduct peer reviews pursuant to ***Article 30 of Regulation (EU) No 1093/2010*** in this regard. Deposit Guarantee Schemes shall be bound to professional secrecy referred to in Article 56 of that Regulation when exchanging information with the European Banking Authority.

Or. de

Amendment 38

Proposal for a directive

Article 4 – paragraph 1 – point c

Text proposed by the Commission

(c) deposits arising out of transactions in connection with which there has been a criminal conviction for money laundering as defined in **Article 1 (C) of Council Directive 91/308/EEC**

Amendment

(c) deposits arising out of transactions in connection with which there has been a criminal conviction for money laundering as defined in **Article 1(2) of Directive 2005/60/EC¹ of the European Parliament and of the Council of 26 October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing**

¹ **OJ L 309, 25.11.05, p. 15.**

Or. de

Amendment 39

Proposal for a directive

Article 4 – paragraph 1 – point j

Text proposed by the Commission

(j) deposits by authorities,

Amendment

(j) deposits by **the State and by central, regional and local** authorities,

Or. de

Amendment 40

Proposal for a directive

Article 4 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. Member States shall ensure that deposits by local authorities are excepted from Article 4(1)(j) if the loss of the deposits would seriously damage the

maintenance of local government functions.

Or. de

Amendment 41

Proposal for a directive

Article 5 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. In addition, Member States shall ensure that the following deposits are fully protected:

(a) deposits resulting from real estate transactions relating to private residential properties for up to 12 months after the amount has been credited;

(b) deposits that serve social purposes defined in national law and are linked to particular life events such as marriage, divorce, retirement, dismissal, invalidity or decease of a depositor, for up to 12 months after the amount has been credited;

(c) deposits that serve purposes defined in national law and are based on the payment of insurance benefits or compensation, for up to 12 months after the amount has been credited.

Or. de

Amendment 42

Proposal for a directive

Article 5 – paragraph 2 – introductory part

Text proposed by the Commission

Amendment

2. Member States shall ensure that Deposit Guarantee Schemes ***do not deviate from***

2. Member States shall ensure that Deposit Guarantee Schemes ***confer an entitlement***

the coverage level laid down in paragraph 1. However, Member States may decide that the following deposits are covered provided that the costs for such repayments are not subject to Article 9, 10 and 11:

pursuant to paragraph 1.

Or. de

Amendment 43

Proposal for a directive Article 5 – paragraph 2 – point a

Text proposed by the Commission

Amendment

(a) deposits resulting from real estate transactions for private residential purposes for up to 12 months after the amount has been credited;

deleted

Or. de

Amendment 44

Proposal for a directive Article 5 – paragraph 2 – point b

Text proposed by the Commission

Amendment

(b) deposits that fulfil social considerations defined in national law and are linked to particular life events such as marriage, divorce, invalidity or decease of a depositor. The coverage shall not exceed a time period of 12 months after such event.

deleted

Or. de

Amendment 45

Proposal for a directive

Article 5 – paragraph 3

Text proposed by the Commission

3. **Paragraph 2** shall not prevent Member States from maintaining or introducing schemes protecting old-age provision products and pensions, provided that such schemes do not only cover deposits but offer comprehensive coverage for all products and situations relevant in this regard.

Amendment

3. **Paragraph 1** shall not prevent Member States from maintaining or introducing schemes protecting old-age provision products and pensions, provided that such schemes do not only cover deposits but offer comprehensive coverage for all products and situations relevant in this regard.

Or. de

Amendment 46

Proposal for a directive

Article 5 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. With regard to deposits with credit institutions or branches of foreign credit institutions in the EEA/EFTA States which had already been made before 31 December 2010 and with regard to deposits of depositors whose principal place of residence is in an EEA/EFTA State, the States concerned may decide, by way of derogation from paragraph 1, that the coverage level which has been in force hitherto shall remain in force unaltered. In that case, the target cover and the risk-dependent contributions of the credit institutions shall be adjusted accordingly.

Or. de

Amendment 47

Proposal for a directive

Article 5 – paragraph 4

Text proposed by the Commission

4. Deposits shall be paid out in the currency in which the account was maintained. If the amounts expressed in euro referred to in paragraph 1 are converted into other currencies, the amounts effectively paid to depositors shall be equivalent to those set out in this Directive.

Amendment

4. Deposits shall be paid out ***in euro or*** in the currency ***of the Member State*** in which the account was maintained. If the amounts expressed in euro referred to in paragraph 1 are converted into other currencies, the amounts effectively paid to depositors shall be equivalent to those set out in this Directive.

Or. de

Amendment 48

Proposal for a directive

Article 5 – paragraph 7

Text proposed by the Commission

7. The Commission may adjust the ***amounts*** referred to in paragraph 1 in accordance with inflation in the European Union on the basis of changes in the harmonised index of consumer prices published by the Commission.

Amendment

7. The Commission may adjust the ***amount*** referred to in paragraph 1 in accordance with inflation in the European Union on the basis of changes in the harmonised index of consumer prices published by the Commission, ***by means of delegated legal acts pursuant to Article 16 and subject to the conditions laid down in Articles 17 and 18.***

That measure, designed to amend non-essential elements of this Directive, shall be adopted in accordance with Article 16.

Or. de

Amendment 49

Proposal for a directive

Article 6 – paragraph 4

Text proposed by the Commission

4. The reference date for the calculation of the repayable amount shall be the date on which the competent authorities make the determination referred to in Article 2(1)(e)(i) or when the judicial authority makes the ruling referred to in Article 2(1)(e)(ii). Liabilities of the depositor against the credit institution shall not be taken into account when calculating the repayable amount.

Amendment

4. The reference date for the calculation of the repayable amount shall be the date on which the competent authorities make the determination referred to in Article 2(1)(e)(i) or when the judicial authority makes the ruling referred to in Article 2(1)(e)(ii). Liabilities of the depositor against the credit institution shall not be taken into account when calculating the repayable amount ***except for liabilities of the depositor which are due on the reference date.***

Or. de

Amendment 50

Proposal for a directive

Article 7 – paragraph 1 – subparagraph 1

Text proposed by the Commission

Deposit Guarantee Schemes shall be in a position to repay unavailable deposits within **7 days** of the date on which the competent authorities make a determination as referred to in Article 2(1)(e)(i) or a judicial authority makes a ruling as referred to in Article 2(1)(e)(ii).

Amendment

Deposit Guarantee Schemes shall be in a position to repay unavailable deposits within ***five working days*** of the date on which the competent authorities make a determination as referred to in Article 2(1)(e)(i) or a judicial authority makes a ruling as referred to in Article 2(1)(e)(ii).

Or. de

Amendment 51

Proposal for a directive

Article 7 – paragraph 1 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

Member States may decide that until 31 December 2016 a time limit for payout of 20 working days should apply, provided

that after a thorough examination the competent supervisory authority establishes that the Deposit Guarantee Schemes are not yet in a position to guarantee a time limit of five working days for payout.

Or. de

Amendment 52

Proposal for a directive Article 7 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. If Member States have adopted a longer time limit for payout of 20 working days until 31 December 2016, depositors shall upon request receive a payout of up to EUR 5 000 from the Deposit Guarantee Scheme within five working days on their deposit eligible for reimbursement.

Or. de

Amendment 53

Proposal for a directive Article 7 – paragraph 1 b (new)

Text proposed by the Commission

Amendment

1b. Member States may decide that, for the purposes of the payout referred to in paragraph 1, the deposits of a depositor with the same credit institution should not be aggregated in so far as the law of the Member State permits credit institutions to operate under different brand names. Deposits with the same credit institution under the same brand name shall be aggregated, and the coverage level laid down in Article 5(1) shall apply to them. If this calculation leads to a larger

amount of covered deposits per depositor and per credit institution than provided for by Article 5, the contributions to the Deposit Guarantee Scheme calculated pursuant to Article 9 and 11 shall be increased accordingly.

Or. de

Amendment 54

Proposal for a directive

Article 9 – paragraph 1 – subparagraph 2

Text proposed by the Commission

Deposit Guarantee Schemes shall raise the available financial means by regular contributions from their members ***on 30 June and 30 December of*** each year. This shall not prevent additional financing from other sources. One-off entry fees may not be requested.

Amendment

Deposit Guarantee Schemes shall raise the available financial means by regular contributions from their members ***at least once*** each year. This shall not prevent additional financing from other sources. One-off entry fees may not be requested.

Or. de

Amendment 55

Proposal for a directive

Article 9 – paragraph 1 – subparagraph 3

Text proposed by the Commission

The available financial means shall at least reach the target level. Where the financing capacity falls short of the target level, the payment of contributions shall resume at least until the target level is reached ***again***. Where the available financial means amount to less than two thirds of the target level, the regular contribution shall not be less than 0.25% of ***eligible*** deposits.

Amendment

The available financial means shall at least reach the target level. Where the financing capacity falls short of the target level, the payment of contributions shall resume at least until the target level is reached. ***The regular contribution must not be less than 0.1% of the deposits covered. Where, after the target level has been reached on the first occasion, the available financial means amount to less than two thirds of the target level because of the use of funds,***

the regular contribution shall not be less than 0.25% of deposits *covered*.

Or. de

Amendment 56

Proposal for a directive Article 9 – paragraph 2

Text proposed by the Commission

2. The cumulated amount of deposits and investments of a scheme related to a single body shall not exceed 5% of its available financial means. Companies which are included in the same group for the purposes of consolidated accounts, as defined in Directive 83/349/EEC or in accordance with recognised international accounting rules, shall be regarded as a single body for *the purpose of calculating this limit*.

Amendment

2. The available financial means of Deposit Guarantee Schemes must be invested in a low-risk and sufficiently diversified manner, except where a zero weight applies to these deposits or investments pursuant to Annex VI, Part I of Directive 2006/48. Companies which are included in the same group for the purposes of consolidated accounts, as defined in Directive 83/349/EEC or in accordance with recognised international accounting rules, shall be regarded as a single body for *this purpose*.

Or. de

Amendment 57

Proposal for a directive Article 9 – paragraph 3

Text proposed by the Commission

3. If the available financial means of a Deposit Guarantee Scheme are insufficient to repay depositors when deposits become unavailable, its members shall pay extraordinary contributions not exceeding 0.5% of their *eligible* deposits per calendar year. That payment shall be executed one day before the time limit referred to in Article 7(1).

Amendment

3. If the available financial means of a Deposit Guarantee Scheme are insufficient to repay depositors when deposits become unavailable, its members shall pay extraordinary contributions not exceeding 0.5% of their deposits *covered* per calendar year. That payment shall be executed one day before the time limit referred to in Article 7(1).

Amendment 58

Proposal for a directive

Article 9 – paragraph 4 – subparagraph 1

Text proposed by the Commission

The cumulated amount of contributions referred to paragraphs 1 and 2 may not exceed 1% of **eligible** deposits per calendar year.

Amendment

The cumulated amount of contributions referred to paragraphs 1 and 3 may not exceed 1% of deposits **covered** per calendar year.

Or. de

Amendment 59

Proposal for a directive

Article 9 – paragraph 5 – subparagraph 1

Text proposed by the Commission

The financial means referred to in paragraphs 1, 2 and 3 of this Article shall principally be used in order to repay depositors pursuant to this Directive.

Amendment

The financial means referred to in paragraphs 1, 2 and 3 of this Article shall principally be used in order to repay depositors pursuant to this Directive. ***Up to one third of the available financial means may be used for preventive and support measures as referred to in this Directive. In that case, the Deposit Guarantee Scheme shall submit to the competent authority within one month a report showing that the limit of one third of the available financial means has been respected.***

Or. de

Amendment 60

Proposal for a directive

Article 9 – paragraph 5 – subparagraph 2

Text proposed by the Commission

Amendment

They may however also be used in order to finance the transfer of deposits to another credit institution, provided that the costs borne by the Deposit Guarantee Scheme do not exceed the amount of covered deposits at the credit institution concerned. In this case, the Deposit Guarantee Scheme shall, within one month from the transfer of deposits, submit a report to the European Banking Authority proving that the limit referred to above was not exceeded. **deleted**

Or. de

Amendment 61

Proposal for a directive

Article 9 – paragraph 5 – subparagraph 3 – introductory part

Text proposed by the Commission

Amendment

Member States may allow Deposit Guarantee Schemes to use their financial means in order to avoid a bank failure without being restricted to financing the transfer of deposits to another credit institution, provided that the following conditions are met: **deleted**

Or. de

Amendment 62

Proposal for a directive

Article 9 – paragraph 5 – subparagraph 3 – point a

Text proposed by the Commission

Amendment

a) a scheme's financial means exceed 1% of eligible deposits after such measure; **deleted**

Or. de

Amendment 63

Proposal for a directive

Article 9 – paragraph 5 – subparagraph 3 – point b

Text proposed by the Commission

Amendment

b) the Deposit Guarantee Scheme, within one month from its decision to take such measure, submits a report to the European Banking Authority proving that the limit referred to above was not exceeded.

deleted

Or. de

Amendment 64

Proposal for a directive

Article 9 – paragraph 5 – subparagraph 4

Text proposed by the Commission

Amendment

On a case by case basis and subject to authorisation by the competent authorities following a reasoned request by the Deposit Guarantee Scheme concerned, the percentage referred to in (a) may be set between 0,75 and 1 %.

deleted

Or. de

Amendment 65

Proposal for a directive

Article 9 – paragraph 5 a (new)

Text proposed by the Commission

Amendment

(5a) Deposit Guarantee Schemes may use available financial means in excess of the threshold in paragraph 5 for preventive and support measures, provided that the

following conditions are met:

- a) the Deposit Guarantee Scheme has appropriate systems for monitoring and classifying risks and corresponding opportunities to influence affiliated credit institutions;*
- b) the Deposit Guarantee Scheme has the necessary procedures and structures to select, implement and control prevention and support measures;*
- c) the granting of prevention and support measures by the Deposit Guarantee Scheme is linked to conditions imposed on the credit institution supported, involving at least tighter risk monitoring and greater verification rights for the Deposit Guarantee Scheme;*
- d) the affiliated credit institutions immediately provide the Deposit Guarantee Scheme with the means used for prevention and support measures to reimburse depositors in the form of extraordinary contributions, if the available financial means of the Deposit Guarantee Scheme amount to less than two thirds of the target level;*
- e) the ability of the affiliated credit institutions to pay the extraordinary contributions in accordance with d) is assured in the opinion of the competent supervisory authority.*

Or. de

Amendment 66

Proposal for a directive Article 9 – paragraph 5 b (new)

Text proposed by the Commission

Amendment

(5b) The financial resources can also be used for measures in conjunction with the orderly winding-up of a credit institution,

provided that the costs borne by the Deposit Guarantee Scheme do not exceed the amount of covered deposits at the credit institution concerned. In this case, the Deposit Guarantee Scheme shall, within one month from the transfer of deposits, submit a report to the European Banking Authority proving that the limit referred to above was not exceeded.

Or. de

Amendment 67

Proposal for a directive

Article 10 – paragraph 1 – subparagraph 1 – introductory part

Text proposed by the Commission

(1) A scheme shall have the right to borrow from all other Deposit Guarantee Schemes referred to in Article 1(2) within the Union provided that all of the following conditions are met:

Amendment

(1) There is no obligation to lend among Deposit Guarantee Schemes. Deposit Guarantee Schemes may lend to other schemes within the Union on a voluntary basis, provided that all of the following conditions are met:

Or. de

Amendment 68

Proposal for a directive

Article 10 – paragraph 1 – subparagraph 1 – point f

Text proposed by the Commission

f) the borrowing scheme shall *state* the amount of money requested.

Amendment

f) the borrowing scheme shall *inform the competent supervisory authority of* the amount of money requested;

Or. de

Amendment 69

Proposal for a directive

Article 10 – paragraph 1 – subparagraph 2

Text proposed by the Commission

Amendment

The amount referred to in point (f) of the first subparagraph shall be determined as follows: **deleted**

[amount of covered deposits to be repaid under Article 8(1)] – [available financial means + maximum amount of extraordinary contributions referred to in Article 9(3)]

Or. de

Amendment 70

Proposal for a directive

Article 10 – paragraph 1 – subparagraph 3

Text proposed by the Commission

Amendment

The other Deposit Guarantee Schemes shall act as lending schemes. For this purpose, Member States in which more than one scheme is established shall designate one scheme acting as the lending scheme of this Member State and inform the European Banking Authority thereof. Member States may decide if and how the lending scheme is reimbursed by other Deposit Guarantee Schemes established in the same Member State. **deleted**

Or. de

Amendment 71

Proposal for a directive

Article 10 – paragraph 2 – point a

Text proposed by the Commission

Amendment

a) each scheme shall lend the amount proportionate to the amount of eligible deposits at each scheme without taking account of the borrowing scheme and Deposit Guarantee Schemes referred to under point (a). The amounts shall be calculated pursuant to the latest confirmed monthly information referred to in Article 9(7).

deleted

Or. de

Amendment 72

Proposal for a directive Article 10 – paragraph 2 – point c

Text proposed by the Commission

Amendment

c) the interest rate shall be equivalent to the marginal lending facility rate of the European Central Bank during the credit period.

c) the interest rate **set** shall be **at least** equivalent to the marginal lending facility rate of the European Central Bank during the credit period;

Or. de

Amendment 73

Proposal for a directive Article 10 – paragraph 2 – point c a (new)

Text proposed by the Commission

Amendment

ca) the borrowing body shall inform the European Banking Authority of the initial interest rate as well as the duration of the loan.

Or. de

Amendment 74

Proposal for a directive

Article 10 – paragraph 3 – subparagraph 1

Text proposed by the Commission

The European Banking Authority shall confirm that the requirements referred to in *paragraph 1* have been met, ***state the amounts to be lent by each scheme as calculated pursuant to paragraph 2(a) and the initial interest rate pursuant to paragraph 2(c) as well as the duration of the loan.***

Amendment

The European Banking Authority shall confirm that the requirements referred to in ***paragraphs 1 and 2*** have been met.

Or. de

Amendment 75

Proposal for a directive

Article 10 – paragraph 3 – subparagraph 2

Text proposed by the Commission

The European Banking Authority shall transmit its confirmation together with the information referred to in paragraph 1(h) to ***the*** lending Deposit Guarantee Schemes. They shall receive this confirmation and information within 2 working days. ***The lending Deposit Guarantee Schemes shall, without delay but at the latest within further 2 working days after reception effect payment of the loan to the borrowing scheme.***

Amendment

The European Banking Authority shall transmit its confirmation together with the information referred to in paragraph 1(h) to lending Deposit Guarantee Schemes. They shall receive this confirmation and information within 2 working days.

Or. de

Amendment 76

Proposal for a directive

Article 11 – paragraph 1

Text proposed by the Commission

(1) The contributions to Deposit Guarantee Schemes referred to in Article 9 shall be determined for each member on the basis of the degree of risk incurred by it. Credit institutions shall not pay less than 75% or more than 200% of the amount that a bank with an average risk would have to contribute. Member States may decide that members of Schemes referred to in Article 1(3) **and** (4) pay lower contributions to Deposit Guarantee Schemes but not less than 37.5% of the amount that a bank with an average risk would have to contribute.

Amendment

(1) The contributions to Deposit Guarantee Schemes referred to in Article 9 shall be determined for each member on the basis of the degree of risk incurred by it. Credit institutions shall not pay less than 75% or more than 200% of the amount that a bank with an average risk would have to contribute. Member States may decide that members of Schemes referred to in Article 1(4) pay lower contributions to Deposit Guarantee Schemes but not less than 37.5% of the amount that a bank with an average risk would have to contribute.

Or. de

Amendment 77

**Proposal for a directive
Article 11 – paragraph 2**

Text proposed by the Commission

(2) **The** determination of the degree of risk incurred and the calculation of contributions shall be based on the elements referred to in Annex I and II.

Amendment

(2) ***Annexes I and II describe the standardised approach for the determination of the degree of risk incurred and the calculation of contributions by member bodies to the Deposit Guarantee Scheme.***

Or. de

Amendment 78

**Proposal for a directive
Article 11 – paragraph 3**

Text proposed by the Commission

(3) Paragraph 2 shall not apply to Deposit Guarantee Schemes referred to in Article

Amendment

deleted

1(2).

Or. de

Amendment 79

Proposal for a directive

Article 11 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

(3a) By derogation from the standardised approach in paragraphs 1 and 2, Deposit Guarantee Schemes may use their own risk-based methods to determine the degree of risk incurred by members and calculate contributions by member bodies to the Deposit Guarantee Scheme. Calculation of the contributions shall be proportional to the commercial risk of the institute in question and take due consideration of the risk profiles of the various business models. The procedures may also calculate the contribution base from the assets side of the balance sheet and consider capital adequacy, the quality of the assets and liquidity at least as risk indicators. The procedures must be approved by the respective national supervisory authorities and by the European Banking Authority and accord with the guidelines developed by the European Banking Authority pursuant to Article 11(5). The European Banking Authority shall conduct a review of compliance with the guidelines whenever the scheme is changed and at periodic intervals of at least every five years.

Or. de

Amendment 80

Proposal for a directive

Article 11 – paragraph 4

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Text proposed by the Commission

(4) In order to ensure *specify* the *elements* of definitions and methods *under* Annex II Part A, *powers are delegated to the Commission. These* draft regulatory standards *shall be adopted in accordance with Articles 7 to 7d of [EBA Regulation]*. The European Banking Authority *may develop* draft regulatory *standards for submission* to the Commission.

Amendment

(4) In order to ensure *uniform conditions for the application of* the definitions and methods *described in* Annex II Part A *for the standardised approach set out in paragraphs 1 and 2, the European Banking Authority shall develop* draft *technical* regulatory standards. The European Banking Authority *shall submit its draft technical* regulatory standards to the Commission *by 31 December 2012*.

Powers shall be delegated to the Commission to adopt the technical regulatory standards mentioned in subparagraph 1 in accordance with the procedure laid down in Articles 10 to 14 of Regulation (EU) No 1093/2010.

Or. de

Amendment 81

**Proposal for a directive
Article 11 – paragraph 5**

Text proposed by the Commission

(5) By 31 December 2012, the European Banking Authority shall issue guidelines on the application of Annex II Part B pursuant to *[Article 8 of the EBA Regulation]*.

Amendment

(5) By 31 December 2012, the European Banking Authority shall issue guidelines on the application of Annex II Part B *and for the separate risk-based methods developed by the Deposit Guarantee Schemes under paragraph 3a* pursuant to *the procedure in Article 16 of Regulation (EU) No 1093/2010*.

Or. de

Amendment 82

**Proposal for a directive
Article 12 – paragraph 3**

Text proposed by the Commission

(3) If a credit institution ceases to be member of a scheme and joins another scheme, the contributions paid during the **6 months** preceding the withdrawal of membership shall be reimbursed or transferred to the other scheme. This shall not apply if a credit institution has been excluded from a scheme pursuant to Article 3(3).

Amendment

(3) If a credit institution ceases to be member of a scheme and joins another scheme, the contributions paid during the ***final year*** preceding the withdrawal of membership shall be reimbursed or transferred to the other scheme, ***provided that these are not regular contributions under Article 9(1), subparagraph 3, sentence 4 or extraordinary contributions under Article 9(3).*** This shall not apply if a credit institution has been excluded from a scheme pursuant to Article 3(3).

Or. de

Amendment 83

Proposal for a directive

Article 14 – paragraph 5 – subparagraph 1

Text proposed by the Commission

Member States shall limit the use in advertising of the information referred to in ***paragraph 1*** to a factual reference to the scheme guaranteeing the product to which the advertisement refers.

Amendment

Member States shall limit the use in advertising of the information referred to in ***paragraphs 1, 2 and 3*** to a factual reference to the scheme guaranteeing the product to which the advertisement refers.

Or. de

Amendment 84

Proposal for a directive

Article 14 – paragraph 5 – subparagraph 2

Text proposed by the Commission

Credit institutions ***that are member of a scheme referred to in Article 1(3) and 1(4)*** shall inform depositors adequately on the functioning of the ***scheme***. Such information may not contain a reference to

Amendment

Credit institutions shall inform depositors adequately on the functioning of the ***Deposit Guarantee Scheme***. Such information may not contain a reference to

unlimited coverage of deposits.

unlimited coverage of deposits.

Or. de

Amendment 85

Proposal for a directive

Article 14 – paragraph 6 a (new)

Text proposed by the Commission

Amendment

(6a) Should a credit institution withdraw or be excluded from a Deposit Guarantee Scheme, its depositors must be informed within one month by the outgoing credit institution.

Or. de

Amendment 86

Proposal for a directive

Article 14 – paragraph 7

Text proposed by the Commission

Amendment

(7) If a depositor uses internet banking, the information required to be disclosed by this Directive shall be communicated by ***electronic*** means in a way that brings it to the attention of the depositor.

(7) If a depositor uses internet banking, the information required to be disclosed by this Directive shall be communicated by ***suitable*** means in a way that brings it to the attention of the depositor.

Or. de

Amendment 87

Proposal for a directive

Article 17 – paragraph 1

Text proposed by the Commission

Amendment

(1) The delegation of power referred to in Article ***16*** may be revoked at any time by

(1) The delegation of power referred to in Article ***5(7)*** may be revoked at any time by

the European Parliament or by the Council.

the European Parliament or by the Council.

Or. de

Amendment 88

Proposal for a directive Article 17 – paragraph 2

Text proposed by the Commission

(2) The institution which has commenced an internal procedure for deciding whether to revoke the delegation of power shall endeavour to inform the other institution and the Commission within a reasonable time before the final decision is taken, indicating the delegated **powers** which could be subject to revocation and possible reasons for a revocation.

Amendment

(2) The institution which has commenced an internal procedure for deciding whether to revoke the delegation of power shall endeavour to inform the other institution and the Commission within a reasonable time before the final decision is taken, indicating the delegated **power**, which could be subject to revocation.

Or. de

Amendment 89

Proposal for a directive Article 17 – paragraph 3

Text proposed by the Commission

(3) The decision of revocation shall put an end to the delegation of the **powers** specified in that decision. It shall take effect immediately or at a later date specified therein. It shall not affect the validity of the delegated acts already in force. It shall be published in the Official Journal of the European Union.

Amendment

(3) The decision of revocation shall put an end to the delegation of the **power** specified in that decision. It shall take effect immediately or at a later date specified therein. It shall not affect the validity of the delegated acts already in force. It shall be published in the Official Journal of the European Union.

Or. de

Amendment 90

Proposal for a directive Article 18 – paragraph 1

Text proposed by the Commission

(1) The European Parliament **and** the Council may object to the delegated act within a period of **two** months from the date of notification. At the initiative of the European Parliament or the Council this period shall be extended by **one month**.

Amendment

(1) The European Parliament **or** the Council may object to the delegated act within a period of **three** months from the date of notification. At the initiative of the European Parliament or the Council this period shall be extended by **three months**.

Or. de

Amendment 91

**Proposal for a directive
Article 19 – paragraph 1**

Text proposed by the Commission

(1) Contributions to Deposit Guarantee Schemes referred to in Article 9 shall be distributed as evenly as possible until the target level referred to in the third subparagraph of Article 9(1) is reached.

Amendment

deleted

Or. de

Amendment 92

**Proposal for a directive
Article 19 – paragraph 1 a (new)**

Text proposed by the Commission

Amendment

(1a) If a Deposit Guarantee Scheme is unable to determine the covered deposits of the credit institutions belonging to the scheme when this Directive enters into force, the target level in Article 2(1)(h) shall refer to the eligible deposits in the scheme. As of 1 January 2015, the covered deposits shall constitute the basis for calculating the target level for all Deposit Guarantee Schemes.

Amendment 93

Proposal for a directive Article 19 – paragraph 4

Text proposed by the Commission

(4) By 31 December 2015 the Commission shall submit a report, and, if appropriate, a legislative proposal to the European Parliament and the Council with the aim to determine whether existing Deposit Guarantee Schemes should be replaced by a single scheme for the whole Union.

Amendment

deleted

Or. de

Amendment 94

Proposal for a directive Article 20 – paragraph 1 – subparagraph 1

Text proposed by the Commission

Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with ***Articles 1, 2(1)(a), (c), (d), (f), (h)-(m), 2(2), 3(1), 3(3), 3(5)-3(7), 4(1)(d)-(k), 5(2)-5(5), 6(4)-6(7), 7(1)-(3), 8(2)-(4), 9-11, 12, 13(1)-(2), 14(1)-(3), 14(5)-(7), 19 and Annex I-III*** by 31 December 2012 at the latest. They shall forthwith communicate to the Commission the text of ***those*** provisions and a correlation table between those provisions and this Directive.

Amendment

Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with ***the provisions of this Directive*** by 31 December 2012 at the latest. They shall forthwith communicate to the Commission the text of those provisions and a correlation table between ***the*** provisions and this Directive.

Or. de

Amendment 95

Proposal for a directive

Article 20 – paragraph 1 – subparagraph 2

Text proposed by the Commission

Amendment

By way of derogation from the first subparagraph, Member States shall bring into force the laws, regulations and administrative provisions necessary for them to comply with the third subparagraph of Article 9(1), Article 9(3) and Article 10 by 31 December 2020. *deleted*

Or. de

Amendment 96

Proposal for a directive

Article 20 – paragraph 1 – subparagraph 3

Text proposed by the Commission

Amendment

By way of derogation from the first subparagraph, Member States shall bring into force the laws, regulations and administrative provisions necessary for them to comply with Article 7(1) and 9(5) by 31 December 2013. However, the percentage of eligible deposits referred to in Article 9(5)(a) shall not apply before 1 January 2014. Until 31 December 2017, a percentage of 0.5% shall apply. After that date and until 31 December 2020, a percentage of 0.75% shall apply. *deleted*

Or. de

Amendment 97

Proposal for a directive

Annex 1 – point 1 – point c – paragraph 2 – indent 6

Text proposed by the Commission

CB the contribution base (i.e. the eligible deposits)

Amendment

CB the contribution base (i.e. the ***deposits covered from 1 January 2015 at the latest or, where these cannot be calculated for all member bodies of the Deposit Guarantee Scheme, the*** eligible deposits)

Or. de

Amendment 98

Proposal for a directive

Annex 2 – part B – point 1 – introductory part

Text proposed by the Commission

1. ***Member States shall determine supplementary indicators for calculating risk-based contributions.*** Some or all of the following indicators may be used ***for this purpose:***

Amendment

1. Some or all of the following indicators may ***also*** be used ***to calculate risk-based contributions:***

Or. de

Amendment 99

Proposal for a directive

Annex 3 – paragraph 2

Text proposed by the Commission

This repayment covers at maximum EUR 100 000 per bank. This means that all deposits at the same bank are ***aggregated*** in order to determine the coverage level. If, for instance a depositor holds a savings account with EUR 90 000 and a current account with ***EUR 20 000***, he or she will only be repaid EUR 100 000.

Amendment

This repayment covers at maximum EUR 100 000 per bank. This means that all deposits at the same bank are ***added up*** in order to determine the coverage level. If, for instance a depositor holds a savings account with EUR 90 000 and a current account with ***EUR 40 000***, he or she will only be repaid EUR 100 000.

Or. de

Amendment 100

Proposal for a directive Annex 3 – paragraph 3

Text proposed by the Commission

[Only where applicable]: This method will also be applied if a bank operates under different **trading** names. The [insert name of the account-holding credit institution] also trades under [insert all other brands of the same credit institution]. This means that all deposits with one or more of these brand names are in total covered up to EUR 100 000.

Amendment

[Only where applicable]: This method will also be applied if a bank **operates under different brand names for its customers**. The [insert name of the account-holding credit institution] also trades under [insert all other brands of the same credit institution]. This means that all deposits with one or more of these brand names are **each** in total covered up to EUR 100 000.

Or. de

Amendment 101

Proposal for a directive Annex 3 – paragraph 6

Text proposed by the Commission

In general, all retail depositors and businesses are covered by Deposit Guarantee Schemes. Exceptions for certain deposits are stated on the web site of the responsible Deposit Guarantee Scheme. Your bank will also inform you on request whether certain products are covered or not. If deposits are covered, the bank shall also confirm this on the statement of account.

Amendment

In general, all retail depositors and businesses **[where applicable in the Member State: and vulnerable local government bodies]** are covered by Deposit Guarantee Schemes. Exceptions for certain deposits are stated on the web site of the responsible Deposit Guarantee Scheme. Your bank will also inform you on request whether certain products are covered or not. If deposits are covered, the bank shall also confirm this on the statement of account.

Or. de

Amendment 102

Proposal for a directive Annex 3 – paragraph 7

Text proposed by the Commission

The responsible Deposit Guarantee Scheme is [insert name and address, telephone, e-mail and web site]. It will repay your deposits (up to EUR 100 000) within ***six weeks at the latest, from 31 December 2013 within one week.***

Amendment

The responsible Deposit Guarantee Scheme is [insert name and address, telephone, e-mail and web site]. It will repay your deposits (up to EUR 100 000) within ***five [only where applicable: 20] working days. [where applicable: On request, the deposit guarantee body shall pay you a credit of up to EUR 5 000 within five working days. From 2017, your deposits (up to EUR 100 000) will be repaid within five working days.]***

Or. de

Amendment 103

**Proposal for a directive
Annex 3 – paragraph 8**

Text proposed by the Commission

If you have not been repaid within ***these*** deadlines, you should take contact with the Deposit Guarantee Scheme since the time to claim reimbursement may be barred after a certain time limit. Further information can be obtained under [insert web site of the responsible DGS].

Amendment

If you have not been repaid within ***the above*** deadlines, you should take contact with the Deposit Guarantee Scheme since the time to claim reimbursement may be barred after a certain time limit. Further information can be obtained under [insert web site of the responsible DGS].

Or. de

Amendment 104

**Proposal for a directive
Annex 3 – paragraph 9**

Text proposed by the Commission

[*Only where applicable:*] Your deposit is guaranteed by an Institutional Guarantee Scheme [recognized/not recognized] as a Deposit Guarantee Scheme. This means

Amendment

[*Only where applicable:*] Your deposit is guaranteed by an Institutional Guarantee Scheme [recognized/not recognized] as a Deposit Guarantee Scheme. This means

that all ***banks*** that are members of this scheme mutually support each other in order to avoid ***a bank failure***. However, if ***a bank failure*** would nevertheless occur, your deposits will be repaid up to EUR 100 000.

that all ***institutes*** that are members of this scheme mutually support each other in order to avoid ***insolvency***. However, if ***insolvency*** would nevertheless occur, your deposits will be repaid up to EUR 100 000.

Or. de

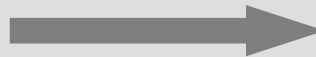
EXPLANATORY STATEMENT

The rapporteur's approach

Common requirements

- All credit institutions must belong to a Deposit Guarantee Scheme
- The depositor is entitled to a repayment of up to EUR 100 000
- Ex ante financing and the same target level for all schemes
- Short time limit for disbursement of repayments of deposits
- The same conditions for the use of funds for prevention and support purposes

Requirements/Monitoring of risks



Paybox

Pure payout function

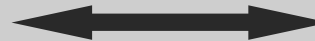
Paybox
+ prevention
& support
measures
Increased supervision



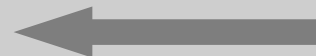
Safeguarding of institutions

Strict requirements
and monitoring
arrangements

Flexibility



Probability of repayment of depositors



Initial situation

Existing national Deposit Guarantee Schemes in the EU reimburse depositors in the event of failure of a credit institution up to a certain ceiling (the ‘coverage level’). During the financial and economic crisis, the coverage level was increased pursuant to Directive 2009/14/EC of the European Parliament and of the Council, initially from EUR 20 000 to EUR 50 000 and as of 1 January 2011, finally, to EUR 100 000 per depositor. At the same time, the time limit for paying depositors was reduced to a maximum of 30 working days. The increased level of protection improves depositors’ confidence and thus helps to prevent simultaneous withdrawals by many depositors (a run on the bank) prompted by a fear of losing their money.

However, a higher coverage level alone is not sufficient to protect depositors credibly. In order to counteract the danger of bank runs and prevent a possible destabilisation of financial markets, Deposit Guarantee Schemes must also be adequately financed. During the financial and economic crisis, however, it has become apparent that individual national Deposit Guarantee Schemes in Europe were inadequately financed, so that the State and ultimately the tax-payer had to bear the consequences of the failure of a credit institution. In order for Deposit Guarantee Schemes to have a stabilising effect at times of financial stress, therefore, it is also necessary throughout the EU to finance Deposit Guarantee Schemes adequately in advance (ex ante). Depositors must be better informed than hitherto about how Deposit Guarantee Schemes operate and must be reimbursed rapidly if the occasion arises. Bringing the measures together in this directive will increase depositors’ confidence, promote the stability of the European financial system and help to build the internal market.

Strategy

In its proposal to amend the deposit guarantee directive, the Commission seeks to attain these objectives by means of a ‘one-size fits all’ approach to Deposit Guarantee Schemes. It largely disregards the heterogeneity of banking markets in the Member States, which has resulted in Deposit Guarantee Schemes operating in different ways, which in some cases have proven to be justified in the national context. In the rapporteur’s opinion, therefore, the task to be tackled here is that of achieving significantly better protection of depositors, which is the purpose of the Commission proposal, but at the same time taking into account the heterogeneity of banking markets and the positive functioning of tried and tested practices. In addition, distortion of competition between banks and Deposit Guarantee Schemes must be avoided and account must be taken of financial stability. The rapporteur therefore proposes a differentiated approach, involving the setting of common requirements applicable to all Deposit Guarantee Schemes, while ensuring sufficient flexibility with regard to the specific way in which they operate, based on the Commission proposal.

(1) Common requirements for comprehensive protection of depositors and equal stability of Deposit Guarantee Schemes within the EU

In order to avoid any distortion of competition, protect depositors equally in all Member States and prevent destabilising displacements of deposits, all Deposit Guarantee Schemes in the EU must comply with common requirements. The essential common requirements include the following:

- All credit institutions must belong to a Deposit Guarantee Scheme

- Depositors must be entitled to a reimbursement of up to EUR 100 000
- Ex ante financing and the same target cover for all schemes
- A short time limit for repayments to depositors where they are due
- The same conditions applicable to the use of funds for prevention and support purposes

By laying down common requirements with which Deposit Guarantee Schemes must comply, uniform protection of all depositors in the Member States will be achieved while at the same time avoiding distortions of competition. Subject to these preconditions, the necessary scope for flexibility remains to do justice to the specific characteristics of banking markets in the Member States.

(2) Flexibility for prevention and support measures ensures stability

It is beyond question that any Deposit Guarantee Scheme must have adequate funding in reserve to cover the cost of reimbursements should the need arise. Despite this, financial stability and the interests of depositors may be equally well protected by ensuring that credit institutions do not fail in the first place. By improving the scope for monitoring and supervision, intervening at the right time and instituting measures in support of Deposit Guarantee Schemes, it will often be possible to foresee the impending insolvency of a bank at an early stage and to avert it. Orderly winding-up of credit institutions backed by Deposit Guarantee Schemes if the institutions have problems can also render reimbursements unnecessary. At the same time, thanks to improved scope for monitoring and supervision, influence can be brought to bear, resulting in appropriate incentives for responsible use of Deposit Guarantee Schemes, as the credit institutions affiliated to them, rather than the taxpayer, will bear the costs. The rapporteur therefore advocates greater flexibility in the Member States in deciding the framework for the operation of Deposit Guarantee Schemes:

The possible approaches range from Deposit Guarantee Schemes which only reimburse depositors in the event of failure of a credit institution to schemes designed to preserve institutions, whose prime aim is to prevent failure of a credit institution. Within this spectrum of approaches, other schemes may also be designed to allow them the flexibility to take preventive action (see diagram).

(3) Realistic time limits for payments, in the interests of depositors

A conflict of interests exists in that, for depositors, it is desirable to receive reimbursements quickly, while it is also necessary to establish reliable procedures which facilitate compliance with the time limit that has been laid down. At present, credit institutions are mostly not in a position to calculate each individual customer's deposits quickly (single customer view), which means that they also cannot within a few days forward to a scheme operator information about the deposits covered by Deposit Guarantee Schemes for all their customers in particular predetermined data formats. All the experts who were consulted have therefore stated that reimbursement of deposits within seven days (five working days) is hardly practicable in most Member States at present. If, however, depositors are promised a short time limit for reimbursement, which is then not complied with if a credit institution fails, this could permanently damage depositors' confidence in guarantee schemes and thus undermine their stabilising effect and purpose. It is not impossible that such a loss of confidence might also affect all the other schemes in Europe. This in turn could jeopardise the entire financial system in the EU. In order to be able to abide by the desirable time limit of five working days

in practice, therefore, arrangements must, at the minimum, be made to ensure that this promise can be kept under all circumstances. The rapporteur wishes to promote the requisite preconditions by means of two systems of incentives:

- (a) Deposit guarantee schemes which can already ascertain the deposits of the affiliated institutions which are covered by their scheme (i.e. the deposits, per depositor, which are actually covered) should calculate the target cover on the basis of the deposits covered. For all other guarantee schemes, the deposits potentially eligible for reimbursement (i.e. total deposits) should initially be taken as a basis for setting the target cover of the fund, which would result in higher contributions to that cover. From 2015, it would be compulsory to switch to calculation on the basis of the deposits covered. This transitional rule would create an incentive to be able to ascertain the deposits covered even before 2015, as this would reduce the contributions which banks would be required to make. At the same time, it would at an early stage create one of the preconditions to make it possible to reimburse depositors quickly.
- (b) The basic principle which the directive will introduce is that reimbursements should be made within five working days. However, until 31 December 2016 Member States may instead initially maintain the time limit which applies from 2011, namely 20 working days, if a survey by the competent supervisory authority shows that the necessary procedures for quick payment are not in place. In order to ensure that, in such cases, depositors do not encounter serious financial problems occasioned by failure of their credit institution, however, they may obtain payment of up to EUR 5 000 from the appropriate Deposit Guarantee Scheme within five working days. In view of the time limit of five working days which will in any case be compulsory for all Deposit Guarantee Schemes from 2017, this means that incentives will exist for the earliest possible introduction of the five working day time limit in any Deposit Guarantee Schemes which are not yet in a position to introduce it when the directive is first transposed.

(4) European Deposit Guarantee Schemes and promotion of European cooperation

In the field of deposit guarantees, it ought to be possible to establish cross-border guarantee schemes voluntarily or to link national schemes, in the interests of realisation of the common internal market. Appropriate incentives for effective operation of Deposit Guarantee Schemes exist, in particular, if there is maximum correspondence between their area of operation and the area where the economic costs of failure of a credit institution are incurred. If such a cross-border Deposit Guarantee Scheme is established voluntarily, the EBA would be responsible for supervision in cooperation with a board of national supervisory authorities. If cross-border Deposit Guarantee Schemes are established, the authorities which approve them should ensure sufficient stability and a balanced composition of the new and existing schemes, this being one of the fundamental conditions for approval.

Cooperation between national Deposit Guarantee Schemes is desirable in order to make it easier for depositors to make contact at branches of foreign credit institutions. The possibility of cross-border provision of credit between systems should also exist on a voluntary basis.

Conclusion

The formulation of common requirements applicable to Deposit Guarantee Schemes will make it possible for Member States to organise these schemes in as flexible a manner as possible while providing uniform protection, ensuring equal stability and avoiding distortions of competition. While maintaining the same coverage level and target level and abiding by the stipulated time limits for reimbursements and terms relating to the use of funds, Member States will thus have the opportunity to adapt their Deposit Guarantee Schemes to national features of financial markets. By means of this approach, effective protection of depositors will be achieved and the stability of the financial system ensured.

The proposal and the rapporteur's ideas were already exchanged with the shadow rapporteurs at the preliminary draft stage of this report. When drafting the report, their suggestions were incorporated in many places and taken into account accordingly in the overall approach.

ANNEX: LETTER FROM THE COMMITTEE ON LEGAL AFFAIRS

xxx

ANNEX: OPINION OF THE CONSULTATIVE WORKING PARTY OF THE LEGAL
SERVICES OF THE EUROPEAN PARLIAMENT, THE COUNCIL AND THE
COMMISSION



CONSULTATIVE WORKING PARTY
OF THE LEGAL SERVICES

Brussels, 29.9.2010

OPINION

**FOR THE ATTENTION OF THE EUROPEAN PARLIAMENT
THE COUNCIL
THE COMMISSION**

**Proposal for a directive of the European Parliament and of the Council on Deposit
Guarantee Schemes
COM(2010)368 final of 12.7.2010 - 2010/0207 (COD)**

Having regard to the Inter-institutional Agreement of 28 November 2001 on a more structured use of the recasting technique for legal acts, and in particular to point 9 thereof, the Consultative Working Party consisting of the respective legal services of the European Parliament, the Council and the Commission met on 22 July 2010 for the purpose of examining the aforementioned proposal submitted by the Commission.

At that meeting³, an examination of the proposal for a directive of the European Parliament and of the Council recasting European Parliament and Council Directive 94/19/EC of 30 May 1994 on Deposit Guarantee Schemes resulted in the Consultative Working Party's establishing, by common accord, as follows.

1) The wording of Article 2(1)(g) in the proposed recast text corresponds to the wording of the first sentence of Article 1(5) of Directive 94/19/EC. The wording of the second sentence of Article 1(5) of Directive 94/19/EC ("*any number of branches set up in the same Member State by a credit institution which has its head office in another Member State shall be regarded as a single branch*") should have also been present in the recast text; that wording should have been identified by using a grey-shaded type combined with double strikethrough, which is the sign generally used in recast proposals for marking substantive changes consisting of a deletion of existing texts.

2) In Article 4(1)(c), the reference made to "*Article 1(C) of Council Directive 91/308/EEC*" should be adapted so as to read as a reference to "*Article 1(2) of Directive 2005/60/EC of the*

³ The Consultative Working Party had at its disposal the English, French and German language versions of the proposal and worked on the basis of the English version, being the master-copy language version of the text under discussion.

European Parliament and of the Council".

3) In Article 8(4), the reference made to "*Article 1 of Directive 91/308/EEC*" should be adapted so as to read as a reference to "*Article 1(2) of Directive 2005/60/EC of the European Parliament and of the Council*".

In consequence, examination of the proposal has enabled the Consultative Working Party to conclude, without dissent, that the proposal does not comprise any substantive amendments other than those identified as such therein or in the present opinion. The Working Party also concluded, as regards the codification of the unchanged provisions of the earlier act with those substantive amendments, that the proposal contains a straightforward codification of the existing text, without any change in its substance.

C. PENNERA
Jurisconsult

J.-C. PIRIS
Jurisconsult

L. ROMERO REQUENA
Director General