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Committee on the Internal Market and Consumer Protection

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OPINION

of the Committee on the Internal Market and Consumer Protection

for the Committee on Economic and Monetary Affairs

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))

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SHORT JUSTIFICATION

The Committee on the Internal Market and Consumer Protection generally supports the revision of Directive 94/19/EC on Deposit Guarantee Schemes (DGS), as the existing system needs a more harmonised solution. The recent financial crisis shows that a more solid framework should be provided to overcome the destabilities of financial markets. There are about 40 DGSs in the EU today, covering different groups of depositors and deposits of different coverage levels, and imposing different obligations on financial institutions. Such a fragmented DGS system limits the benefits of the Internal Market and does not provide a solid basis to combat future crises. Moreover, the current schemes are underfinanced in many Member States.

In order to improve the clarity of Commission's text and put forward some critical observations on the proposal, the Committee suggests following substantial amendments:

- Broadening the scope of directive in order to cover traditional savings instruments such as savings books or certificates of deposits. These deposits, although not linked to a bank account, are used as a substitute to savings accounts.
- Clarifying vague provisions which would not offer legal certainty for consumers and the financial institutions.
- Introducing provisions for faster decision-making procedures, as in the case of financial problems of credit institutions it is necessary that the competent authorities are informed without delay and that subsequently those authorities, together with the Deposit Guarantee Scheme, act quickly in order to protect consumers.
- Ensuring that deposits of local authorities (municipalities) are also covered by the DGS. Vast majority of local authorities are small entities with low budgets, no direct link to the central state budget and a limited ability to assess credibility of a credit institution.
- Allowing the extended scope of coverage of temporary high balances for the deposits that fulfil social considerations defined in national law (such as redundancy, insurance claims etc.).
- Extending the proposed 7 days payout period to 7 working days and making the payout process obligatory, not facultative.
- In many Member States a banking institution can operate under several different brand names but it only needs to get one authorisation from the regulator. In such a case a consumer who has several accounts with different brands covered under a single licence would only be compensated up to €100,000. The Committee on the Internal Market and Consumer Protection suggests allowing Member States to decide that the DGS coverage shall apply separately to the deposits placed with each brand entity, even if operated by one credit institution.

- Supporting the shift towards ex-ante funding of DGS and lowering the costs of harmonization. The target level determined on the basis of eligible deposits places an overbearing burden on financial institutions and interrupts the link between the actual amount of deposits and institutions' contributions. The Committee chose another concept of the covered deposits, which comprises the true amount of deposits and thus corresponds better with the needs of consumer protection.
- The Committee on the Internal Market and Consumer Protection is also convinced that the DGS should be able to use their funds for early intervention in order to minimize the effects of a potential bank default on customers.
- Mutual borrowing between the systems from different Member States could potentially help but could also transfer a crisis from one country to another. Therefore the Committee proposes to shift this provision from obligations to the model framework, which can be used if needed, and it would depend on the Member States if they participate in such a system (e.g. by signing the appropriate cross-border agreements).
- Deleting Annexes I and II on calculation of risk based contributions, as according to the principle of subsidiarity it should be left to Member States. The proposed system would not ensure the proclaimed goal (i.e. the same contributions for banks with the same risk profile in different Member States) due to the different conditions of financial markets across the EU and with respect to the specific products for consumers (i.e. deposits in the building savings banks).
- Strengthening information provisions and giving consumers the possibility (e.g. in case of merger) to transfer the unprotected deposits to another credit institution without penalties. The actual depositors will also be provided with the information sheet (based on the Annex III) in their bank statements.
- Allowing the choice of language regime of information requirements if agreed by both parties in order to provide a flexible solution for border regions and expats and to increase cross-border competition in the Internal Market in general.
- Simplifying the terminology used in Annex III, so that information for consumers is provided in a comprehensive language.

AMENDMENTS

The Committee on the Internal Market and Consumer Protection calls on the Committee on Economic and Monetary Affairs, as the committee responsible, to incorporate the following amendments in its report:

Amendment 1

**Proposal for a directive
Recital 9 a (new)**

Text proposed by the Commission

Amendment

(9a) It should 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 build 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.

Amendment 2

**Proposal for a directive
Recital 17**

Text proposed by the Commission

Amendment

(17) In order to limit deposit protection to the extent necessary to ensure legal clarity and transparency for depositors and to avoid transferring investment risks to Deposit Guarantee Schemes, certain financial products with an investment character should be excluded from the scope of coverage, in particular those that are not repayable in par ***and those whose existence can only be proven by a certificate.***

(17) In order to limit deposit protection to the extent necessary to ensure legal clarity and transparency for depositors and to avoid transferring investment risks to Deposit Guarantee Schemes, certain financial products with an investment character should be excluded from the scope of coverage, in particular those that are not repayable in par.

Justification

This recital is changed according to the amendment to Article 2, paragraph 1 - point a - paragraph 3 - indent 1.

Amendment 3

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 **government and central, provincial and regional** 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. **Moreover, government and central, provincial and regional** authorities also have much easier access to credit than citizens. **However, Member States should ensure that the deposits of local municipalities are covered by this Directive so that they can fulfil their functions even in the case of bank failure.** Non-financial businesses should in principle be covered, regardless of their size.

Justification

This amendment refers to the changes made in Article 4 - paragraph 1 - point j.

Amendment 4

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

Amendment

(24) **Member States are encouraged to set the** contributions to Deposit Guarantee Schemes **reflecting** the risk profiles of individual banks and **leading** to a fair calculation of contributions and **providing**

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.*

incentives to operate under a less risky business model. *In the case of particularly low-risk sectors of lending which are governed by special laws, including building savings banks, corresponding special arrangements should be provided for.*

Amendment 5

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 *a* maximum *of* 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 *7 working days by 31 December 2013*.

Justification

This amendment refers to the changes made in Article 7.

Amendment 6

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

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. 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 their obligation to lend.**

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, 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.

Justification

This amendment refers to the changes made in Article 10.

Amendment 7

Proposal for a directive

Recital 33

Text proposed by the Commission

(33) 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.***

Amendment

(33) 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.

Justification

This amendment refers to the changes made in Article 11.

Amendment 8

Proposal for a directive
Recital 24 a (new)

Text proposed by the Commission

Amendment

(24a) Supervisory authorities should apply a rigorous licensing procedure for each credit institution that intends to be part of a Deposit Guarantee Scheme.

Justification

The deposit guarantee system can create moral hazard problems. It is necessary to have a rigorous licensing procedure to assess the business plan for each institution that make use of the Deposit Guarantee Scheme. Licensing should be subject to adequate conditions.

Amendment 9

Proposal for a directive
Article 2 – paragraph 1 – point a – subparagraph 1

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 and contractual conditions applicable.

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

Amendment 10

Proposal for a directive
Article 2 – paragraph 1 – point a – subparagraph 3 – indent 1

Text proposed by the Commission

Amendment

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

its existence can only be proven by a certificate other than a statement of account, ***with the exception of savings books;***

Justification

This amendment allows to cover the traditional savings instruments, such as savings books. Such deposits are used as a substitute to savings accounts and are popular among consumers in many Member States.

Amendment 11

Proposal for a directive

Article 2 – paragraph 1 – point e – point i

Text proposed by the Commission

(i) the relevant competent authorities have determined that *in their view* the credit institution concerned *appears to be* unable for the time being, for reasons which are directly related to its financial circumstances, to repay the deposit and *to* have no current prospect of being able to do so.

The competent authorities shall make that determination as soon as possible and in any event no later than five working days after first becoming satisfied that a credit institution has failed to repay deposits which are due and payable; or

Amendment

(i) the relevant competent authorities have determined that, *according to information currently available to them*, the credit institution concerned *is* unable for the time being, for reasons which are directly related to its financial circumstances, to repay the deposit and have no current prospect of being able to do so.

The competent authorities shall make that determination as soon as possible and in any event no later than five working days after first becoming satisfied that a credit institution has failed to repay deposits which are due and payable; or

Justification

This amendment aims at clarifying too legally vague provisions, which would not offer enough legal certainty. The decision by the relevant competent authorities that a financial institution is not solvent should be supported by the evidence based on their current information, not on their views (as proposed by the Commission) in order to prevent any possible future disputes about the unfounded decisions.

Amendment 12

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 **1,25%** of **covered** deposits for which a Deposit Guarantee Scheme is responsible;

(The change of 'eligible' to 'covered' applies throughout the text.)

Justification

With regard to protection of consumers and restricting the costs, which will be transferred from the financial institutions to consumers, the target level and contributions should be based on the actual amount of deposits (covered deposits), not on the hypothetical eligible deposits.

Amendment 13

Proposal for a directive

Article 3 – paragraph 1 – subparagraph 3

Text proposed by the Commission

Amendment

No credit institution may take deposits unless it is a member of such a scheme.

No credit institution may take deposits unless it is a member of such a scheme **and fulfils the requirements of the supervisory authorities. It is necessary for supervisory authorities to have a rigorous licensing procedure to assess the risk profile of each institution that makes use of the Deposit Guarantee Scheme.**

Justification

We have seen a number of cases where institutions take on extreme levels of risk and therefore are able to offer high rates on deposits. These institutions can only attract customers because of the protection from Deposit Guarantee Schemes. Therefore it is necessary to at least have a rigorous licensing procedure to assess the risk profile each institution that make use of the Deposit Guarantee Scheme. Licensing should be subject to adequate conditions.

Amendment 14

Proposal for a directive Article 3 – paragraph 2

Text proposed by the Commission

2. If a credit institution does not comply with the obligations incumbent on it as a member of a Deposit Guarantee Scheme, the competent authorities which issued its authorization shall be notified and, in collaboration with the **guarantee scheme**, shall take all appropriate measures including the imposition of sanctions to ensure that the credit institution complies with its obligations.

Amendment

2. If a credit institution does not comply with the obligations incumbent on it as a member of a Deposit Guarantee Scheme, the competent authorities which issued its authorization shall be notified **immediately** and, in collaboration with the **Deposit Guarantee Scheme**, shall **promptly** take all appropriate measures including the imposition of sanctions to ensure that the credit institution complies with its obligations.

Justification

In the case of financial problems of credit institutions it is necessary that the competent authorities are informed with no time delay and that subsequently the competent authorities together with the Deposit Guarantee Scheme act quickly in order to protect consumers.

Amendment 15

Proposal for a directive Article 3 – paragraph 6 – subparagraph 2

Text proposed by the Commission

Such tests shall take place at least every **three years** or when the circumstances require it. The first test shall take place by 31 December 2013.

Amendment

Such tests shall take place at least every **year or more frequently** when the circumstances require it. The first test shall take place by 31 December 2013.

Amendment 16

Proposal for a directive Article 4 – paragraph 1 – point j

Text proposed by the Commission

Amendment

(j) deposits by authorities,

(j) deposits by **government and central, provincial and regional** authorities,

Justification

This amendment allows that the deposits of local authorities (municipalities) will be also covered. Vast majority of local authorities (municipalities) are small entities with low budgets, which can be seriously endangered in case of bank failure.

Amendment 17

Proposal for a directive

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

Text proposed by the Commission

Amendment

Member States outside the euro area shall provide for an equivalent protection sum set in their currency, rounded to the nearest unit of 1 000.

Justification

Member States outside the euro area lack the certainty of a set level for protection which disadvantages consumers in those Member States. This set sum will also ensure that currency fluctuations do not unfairly affect the protection level of consumers.

Amendment 18

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 the coverage level laid down in paragraph 1. ***However***, Member States ***may decide*** that the following deposits are ***covered***

2. Member States shall ensure that Deposit Guarantee Schemes do not deviate from the coverage level laid down in paragraph 1. ***In addition***, Member States ***shall ensure*** that the following deposits are ***fully***

provided that the costs for such repayments are not subject to Article 9, 10 and 11:

protected:

Amendment 19

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;

(a) deposits resulting from real estate transactions *relating to* private residential *properties* for *6 months* after the amount has been credited, *or longer at the Member State's discretion to a maximum of 12 months;*

Amendment 20

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*.

(b) deposits that *serve* social *purposes* defined in national law and are linked to particular life events such as marriage, divorce, *retirement, dismissal, redundancy*, invalidity or decease of a depositor. The coverage shall *be for 6 months after the event, or longer at the Member State's discretion to a maximum of 12 months;*

Amendment 21

Proposal for a directive Article 5 – paragraph 2 – point b a (new)

Text proposed by the Commission

Amendment

(ba) deposits defined in national law such as the payment of insurance claims,

compensation for clinical negligence and payments awarded by courts or tribunals as compensation for criminal injuries or wrongful conviction. The coverage shall be for 6 months after the amount has been credited, or longer at the Member State's discretion to a maximum of 12 months.

Justification

Similarly to points a) and b) in this paragraph, the amendment allows the 100% coverage for temporary high balances of the accounts in case of special payments such as insurance claims etc. It is left to Member States to allow such possibility in their national law.

Amendment 22

**Proposal for a directive
Article 5 – paragraph 6**

Text proposed by the Commission

6. The amount referred to in paragraph 1 shall be reviewed periodically by the Commission at least once every five years. If appropriate, the Commission shall submit to the European Parliament and to the Council a proposal for a Directive to adjust the amount referred to in paragraph 1, taking account in particular of developments in the banking sector and the economic and monetary situation in the Union. The first review shall not take place before 31 December 2015 unless unforeseen events necessitate an earlier review.

Amendment

6. The amount referred to in paragraph 1 shall be reviewed periodically by the Commission at least once every five years. If appropriate, the Commission shall submit to the European Parliament and to the Council a proposal for a Directive to adjust the amount referred to in paragraph 1, taking account in particular of developments in the banking sector and the economic and monetary situation in the Union, **and notably of currency fluctuations**. The first review shall not take place before 31 December 2015 unless unforeseen events necessitate an earlier review.

Amendment 23

**Proposal for a directive
Article 6 – paragraph 1**

Text proposed by the Commission

1. The limit referred to in Article 5 (1) shall apply to the aggregate deposits placed with the same credit institution irrespective of the number of deposits, the currency and the location within the Union.

Amendment

1. The limit referred to in Article 5 (1) shall apply to the aggregate deposits placed with the same credit institution irrespective of the number of deposits, the currency and the location within the Union. ***Where national law allows a credit institution to operate under different brands the depositors shall be informed if they have more than one deposit within the same credit institution. Member States may decide that the deposits within the same credit institution are to be aggregated when calculating the amount covered and in case the amount of the aggregated deposits exceeds the coverage level per depositor set out in Article 5(1) then the contributions under Articles 9 and 11 shall be raised accordingly. Credit institutions from Member States that apply this provision cannot offer such coverage in their branches operated in Member States that do not allow credit institutions to operate under different brands.***

Justification

This amendment allows the protection also for those consumers who have several deposits in financial institutions with different brands but with the same owner, i.e. under the same licence. These consumers will be compensated up to 100 000 Euros for each deposit, if the Member State decides that the DGS coverage shall apply to the deposits placed with each distinct brand entity operated by one credit institution.

Amendment 24

**Proposal for a directive
Article 7 – paragraph 1 – subparagraph 1**

Text proposed by the Commission

1. Deposit Guarantee Schemes shall ***be in a position to*** repay unavailable deposits

Amendment

1. Deposit Guarantee Schemes shall repay unavailable deposits within ***7 working days***

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).

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 25

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.

Justification

It should be left to the DGSs to decide how frequently to collect contributions. Since the calculation and collection of contributions is a burdensome operation, it is amply sufficient for it to be done only once a year. Since the basis for calculating contributions must be a sound one, it would normally be the certified annual accounts. This is a further reason why contributions should be collected once a year.

Amendment 26

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

Amendment

deleted

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.

Justification

The limit of 5% could cause some problems in small and medium-sized Member States. Other limits concerning low-risk investments of the schemes should provide stable protection.

Amendment 27

**Proposal for a directive
Article 9 – paragraph 5 – subparagraph 2**

Text proposed by the Commission

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.

Amendment

Member States may however **decide to use them** 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.

Justification

Proposed modification will not change meaning of the proposed article. It will however make the text clear and consistent with the next subparagraph which also deals with usage of DGSs funds.

Amendment 28

**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;

(a) a scheme's financial means exceed **0,75%** of eligible deposits after such measure;

Justification

In order to protect consumers more effectively the DGS should be able to use their funds for early intervention so that the effects of a potential bank default on customers and the economy are minimalised.

Amendment 29

**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** %.

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 **0,5** and **0,75**%.

Justification

In order to protect consumers more effectively the DGS should be able to use their funds for early intervention so that the effects of a potential bank default on customers and the economy are minimalised.

Amendment 30

**Proposal for a directive
Article 9 – paragraph 5 – subparagraph 4 a (new)**

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 at a value below 0,5% provided that the guarantee scheme has put in place a suitable system for monitoring the risk situation of its members and can bring sufficient influence to bear.

Justification

Going below the proposed limit should be allowed in cases where it can be established that the guarantee schemes have appropriate systems in place to monitor the risk situation of their members and can bring sufficient influence to bear, and have adequate alternative financing arrangements in place to enable them to obtain short-term refinancing where necessary to meet claims against them (this includes payout if the bank failure could not be averted).

Amendment 31

Proposal for a directive

Article 10 – paragraph 1 – subparagraph 1 – introductory part

Text proposed by the Commission

Amendment

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:

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

Justification

Mutual borrowing between the systems from different Member States could potentially help or transfer a crisis from one country to another, the rapporteur proposes to shift this provision from obligation to the model framework, which can be used if needed, and it would depend on the Member States if they participate in such system (e.g. by signing the appropriate cross-border agreements).

Amendment 32

Proposal for a directive

Article 11

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.***

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.***

3. ***Paragraph 2 shall not apply to Deposit Guarantee Schemes referred to in Article 1(2).***

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.

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].

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.

Member States may decide that members of Schemes referred to in Article 1(3) and (4) pay lower contributions to Deposit Guarantee Schemes.

2. The determination of the degree of risk incurred and the calculation of contributions shall be ***decided by the Member States.***

3. ***Member States may decide that members of Schemes referred to in Article 1(3) and (4) and building savings banks pay lower contributions to Deposit Guarantee Schemes.***

Justification

The system of risk based calculation of contributions should be left to Member States, as the national provisions can be better tailored to the needs of consumers (e.g. in case of widespread deposits by special financial institutions, such as the building saving banks).

Amendment 33

Proposal for a directive Article 14 – paragraph 1

Text proposed by the Commission

1. Member States shall ensure that credit institutions make available to actual and intending depositors **the** information necessary for the identification of the Deposit Guarantee Scheme of which the institution and its branches are members within the Union . . . When a deposit is not guaranteed by a Deposit Guarantee Scheme in accordance with Article 4, the credit institution shall inform the depositor accordingly.

Amendment

1. Member States shall ensure that credit institutions make available to actual and intending depositors **sufficient** information necessary for the identification of the Deposit Guarantee Scheme of which the institution and its branches are members within the Union. When a deposit is not guaranteed by a Deposit Guarantee Scheme in accordance with Article 4, the credit institution shall inform the depositor accordingly **and in that case depositors shall be offered the possibility to withdraw their deposits without incurring any penalty fees, and with the right to all accrued interest and benefits.**

Justification

Firstly, depositors should be sufficiently informed in such case and should have the possibility to withdraw their deposits without any sanction fees, and with all attained interests and benefits.

Amendment 34

Proposal for a directive Article 14 – paragraph 3

Text proposed by the Commission

3. Information to actual depositors shall be provided on their statements of account. This information shall consist of a

Amendment

3. Information to actual depositors shall be provided on their statements of account. This information shall consist of a

confirmation that the deposits are eligible pursuant to Article 2(1) and Article 4. Moreover, reference shall be made to the information sheet in Annex III **and where it can be obtained**. The web site of the responsible Deposit Guarantee Scheme **may** also be indicated.

confirmation that the deposits are eligible pursuant to Article 2(1) and Article 4. Moreover, reference shall be made to the information sheet in Annex III. **That information sheet shall be attached to one of their statements of account at least once a year**. The web site of the responsible Deposit Guarantee Scheme **shall** also be indicated.

Justification

Sufficient information on the Deposit Guarantee Scheme coverage for the actual depositors is crucially important and it should not constitute for financial institution a big burden to attach the information sheet in Annex III to one of its statements.

Amendment 35

Proposal for a directive Article 14 – paragraph 4

Text proposed by the Commission

4. The information provided for in paragraph 1 shall be made available in the manner prescribed by national law in the official language or languages of the Member State in which the branch is established.

Amendment

4. The information provided for in paragraph 1 shall be made available in the manner prescribed by national law in the official language or languages of the Member State in which the branch is established, **and, where the depositor so requests and the branch is able to grant that request, in other languages**.

Justification

This amendment aims to provide more flexible solution, which will be agreed by both parties, to provide necessary information also in other languages. Such an option will be welcomed in border regions, by expats and will increase cross-border competition in the Internal Market.

Amendment 36

Proposal for a directive Article 14 – paragraph 6

Text proposed by the Commission

6. If credit institutions merge, their depositors shall be informed of the merger at least one month before it takes legal effect. Depositors shall be informed that when the merger becomes effective, all their deposits held with each of the merging banks would after the merger be aggregated in order to determine their coverage under the Deposit Guarantee Scheme.

Amendment

6. If credit institutions merge, their depositors shall be informed of the merger at least one month before it takes legal effect. Depositors shall be informed that when the merger becomes effective, all their deposits held with each of the merging banks would after the merger be aggregated in order to determine their coverage under the Deposit Guarantee Scheme. ***Depositors will be given a three-month period following the notification of the merger to have the opportunity to transfer their deposits exceeding the coverage guaranteed in Article 5(1) to another bank or bank brand without incurring any penalty fees, and with the right to all accrued interest and benefits. During this three-month period, if the amount set out in Article 5(1) is exceeded, the protection will be extended by multiplying the amount set out in Article 5(1) by the number of credit institutions which have merged.***

Justification

Depositors should be not only properly informed, but they should also have the possibility without penalties to transfer the unguaranteed deposits to another credit institution, as they should not "suffer" from lower coverage due to the merger of their credit institution.

Amendment 37

**Proposal for a directive
Article 14 – paragraph 7**

Text proposed by the Commission

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.

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 ***or on paper if***

the depositor chooses.

Amendment 38

Proposal for a directive Article 19 – paragraph 5

Text proposed by the Commission

5. The Commission, supported by the [European Banking Authority], shall submit to the European Parliament and to the Council by 31 December 2015 a report on the progress towards the implementation of this Directive. This report should cover notably ***the possibility to determine the target level on the basis of covered deposits, without diminishing the protection of depositors.***

Amendment

5. The Commission, supported by the [European Banking Authority], shall submit to the European Parliament and to the Council by 31 December 2015 a report on the progress towards the implementation of this Directive. This report should cover notably the ***advantages and disadvantages of raising the coverage level to EUR 150 000.***

Amendment 39

Proposal for a directive Annex I

Text proposed by the Commission

Amendment

Annex I is deleted

Justification

This amendment is linked to the change made in Article 11.

Amendment 40

Proposal for a directive Annex II

Text proposed by the Commission

Amendment

Annex II is deleted

Justification

This amendment is linked to the change made in Article 11.

Amendment 41

Proposal for a directive Annex III – paragraph 1

Text proposed by the Commission

If **a** deposit which is due and payable has not been paid by **a** credit institution for reasons which are directly related to its financial circumstances, **depositors** are repaid by a Deposit Guarantee Scheme. The [insert product] of the [insert name of the account-holding credit institution] is **in general** covered by the responsible Deposit Guarantee Scheme.

Amendment

If **your** deposit which is due and payable has not been paid by **your** credit institution for reasons which are directly related to its financial circumstances, **you, as the depositor**, are repaid by a Deposit Guarantee Scheme. The [insert product] of the [insert name of the account-holding credit institution] is covered by the responsible Deposit Guarantee Scheme **in accordance with Directive 2011/.../EU of the European Parliament and of the Council on Deposit Guarantee Schemes (recast)***.

*** OJ: add directive number and publication reference.**

Justification

This Amendment aims at providing more consumer-comprehensive language and simplifies the terminology used in the Annex III (Depositor Information Template).

Amendment 42

Proposal for a directive Annex III – paragraph 2

Text proposed by the Commission

This repayment covers at maximum EUR 100 000 per bank. This means that all

Amendment

This repayment covers at maximum EUR 100 000 per bank. This means that all **your**

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.

deposits at the same bank are aggregated in order to determine the coverage level. **For example:** if 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.

Justification

This Amendment aims at providing more consumer-comprehensive language and simplifies the terminology used in the Annex III (Depositor Information Template).

Amendment 43

Proposal for a directive Annex III – 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 applicable **if a Member State decides not to apply the provisions in Article 6(1)**]: 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** covered up to EUR 100 000.

Justification

This amendment applies the change made in Article 6 – paragraph 1.

Amendment 44

Proposal for a directive Annex III – paragraph 6

Text proposed by the Commission

Amendment

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.

In general, depositors (**private or business**) are covered by Deposit Guarantee Schemes. Exceptions for certain deposits are stated on the web site of the responsible Deposit Guarantee Scheme **[insert web site of the responsible DGS]**. Your bank also **has to** inform you on request whether certain products are covered or not. If deposits are covered, the bank shall also **specify** this on **your** statement of account.

Justification

This Amendment aims at providing more consumer-comprehensive language and simplifies the terminology used in the Annex III (Depositor Information Template).

Amendment 45

**Proposal for a directive
Annex III – paragraph 7**

Text proposed by the Commission

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 six weeks at the latest, from 31 December 2013 within **one week**.

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 **7 working days**.

Justification

This Amendment aims at providing more consumer-comprehensive language and simplifies the terminology used in the Annex III (Depositor Information Template).

Amendment 46

**Proposal for a directive
Annex III – 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 these deadlines, you should take contact with the Deposit Guarantee Scheme since the time to claim reimbursement *is* barred after a *[insert relevant time period applicable in the Member State and the exact reference of the national law and the particular article, which governs these provisions]*. Further information can be obtained under [insert web site of the responsible DGS].

Justification

This Amendment aims at providing more consumer-comprehensive language and simplifies the terminology used in the Annex III (Depositor Information Template). Time periods for claiming the reimbursement differ according to the Member States and it is more practical that the credit institution offers this information to its customers, rather than the individual consumers having to search for it.

Amendment 47

**Proposal for a directive
Annex III – 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 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.

Amendment

[Only where applicable:] Your deposit is guaranteed by an Institutional 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.

Justification

This Amendment aims at simplifying the terminology used in the Annex III (Depositor Information Template).

PROCEDURE

Title	Deposit guarantee schemes (recast)
References	COM(2010)0368 – C7-0177/2010 – 2010/0207(COD)
Committee responsible	ECON
Opinion by Date announced in plenary	IMCO 7.9.2010
Rapporteur Date appointed	Zuzana Roithová 14.10.2010
Discussed in committee	10.2.2011
Date adopted	13.4.2011
Result of final vote	+: 34 –: 0 0: 3
Members present for the final vote	Pablo Arias Echeverría, Adam Bielan, Lara Comi, Anna Maria Corazza Bildt, António Fernando Correia De Campos, Jürgen Creutzmann, Christian Engström, Evelyne Gebhardt, Louis Grech, Małgorzata Handzlik, Iliana Ivanova, Philippe Juvin, Sandra Kalniete, Eija-Riitta Korhola, Edvard Kožušník, Kurt Lechner, Toine Manders, Mitro Repo, Robert Rochefort, Zuzana Roithová, Heide Rühle, Matteo Salvini, Christel Schaldemose, Andreas Schwab, Eva-Britt Svensson, Róza Gräfin von Thun und Hohenstein, Kyriacos Triantaphyllides, Emilie Turunen, Bernadette Vergnaud, Barbara Weiler
Substitute(s) present for the final vote	Ashley Fox, María Irigoyen Pérez, Constance Le Grip, Pier Antonio Panzeri, Konstantinos Poupakis, Sylvana Rapti, Olle Schmidt