**Introduction**

On 24 November 2015, the European Commission published its communication “Towards the Completion of the Banking Union”. The proposal is for a Regulation of the European Parliament and of the Council in order to establish a European Deposit Insurance Scheme (“EDIS”). The proposal is to apply in the Eurozone countries (with non-Eurozone countries able to join if they wish).

The EU Committee of the European Forum Deposit Insurers (“EFDI”) take note of the debate on the “third pillar” of the Banking Union. The issue has been running for some time alongside introduction of the Banking Union’s single supervisory mechanism and single resolution mechanism.

**The EU Committee and the Banking Union Working Group**

Briefly, EFDI is an association of European deposit guarantee schemes (and investor compensation schemes). The EFDI has 56 members from across 44 European nations. Established in 2002, its objectives are to facilitate cooperation and the sharing of information between DGS.

Within EFDI, an EU Committee has been established for those DGS belonging to EU member states. All EU member states DGSs are members of the EU Committee. EFDI’s EU membership is universal. Within the EU Committee, a separate Banking Union Working Group has been set up. As such, EFDI is well placed to engage in discussion and debate around EDIS, benefitting from years of practical experience across member states. EFDI can offer a unique, practical view to assist policy makers’ deliberations.

**EDIS**

Following publication of the Commission’s proposal, the EU Committee understands it will be considered at ECOFIN and other EU bodies in the following months. The matter will receive close political scrutiny, including on issues around the EU’s “better regulation”, subsidiarity and proportionality, and the legal basis under the Treaty.
EFDI wishes to contribute through the EU Committee and Banking Union Working Group to the consideration of practical issues arising from the draft regulation. This statement is prepared on behalf of the members from the Member States of the Banking Union, and approved by the full EU Committee accordingly.

**Depositors confidence and role of National DGS**

1. The future role and responsibilities of national DGSs, in particular during the full insurance phase, has to be clarified in the legislation. From 2024, it is not apparent that such DGS will have funding and resources. According to the DGSD, it is important that depositors in each Member State can identify, contact, and understand “their” local DGS (see Art. 14(2), 16 DGSD) to strengthen depositor confidence, and consumer protection. The EU Committee agrees with the approach taken by the DGSD that individual depositors, as retail consumers, are more likely to trust and relate to a local institution, based in their country, speaking their language, properly resourced, than a “distant” supranational authority in Brussels.

**Access to funds and timing**

2. EU DGS are already committed to achieving a 7 working day payout by 2024, under the DGSD. Some have already achieved or are close to achieving this target. Payout is fundamental to deposit guarantee scheme protection, so that any process involving EDIS must be swift and secure and should offer an access to liquidity at least as large and immediate as the one DGSs would have under the DGSD. Any delay, debate, restriction or disagreement, as to the access to funding would jeopardise speedy payout or resolution financing. Whether and if so to what extent national DGS still need contingency funding (on a national level) needs to be clarified.

3. The Committee recommends further work be carried out to establish the decision making process, including information requirements and participation of the national DGS to ensure rapid response, including where there may be multiple demands from multiple Member States.

**Governance**

4. The Committee notes the concerns expressed in the Commission’s proposals regarding governance of EDIS. The recommendation is to house EDIS in the Single Resolution Board, to avoid duplication or proliferation of institutions. The EU Committee understands that in some Member States this combination of resolution authority and the DGS is well established, in particular when the relevant national central bank is entrusted with the functions. Some EU Committee members consider this governance option as appropriate.

5. On the contrary view, the majority of members of the EU Committee are concerned as to the conflicts it can pose on the SRB, in particular between the resolution/recovery and deposit insurance function. The SRB is not comparable to a national central bank and credit institutions affected by its resolution and deposit insurance measures differ significantly. The SRB is designed for larger institutions not to be resolved by simple liquidation, or cheaper “alternative measures”, whereas in the Banking Union framework, national DGSs deal with depositor pay-out in case of liquidation or can be asked to provide a financial contribution to the resolution of an institution. The use of the DGS is more likely in the case of idiosyncratic, non-systemic failures.
6. Therefore, absolute clarity to avoid conflicts of interest, forbearance, and understanding of the appropriate “triggers” for DGS payout will be required. Separation of duties and decision making over management of EDIS and over release of funds on request needs to be established.

**Harmonisation**

7. The current DGSD, whilst “maximising harmonisation” still allows some variations in implementation, as to the extent of coverage (as well as speed of payout). There are, for example, significant differences in the exact definition of covered deposits, e.g. the deposits by local authorities and personal pension schemes. Furthermore, the coverage of “temporary high balances” (THBs) varies among countries. There are differences among countries also with respect to payout times during the next decade. A more uniform approach, at least on issues that may cause competitive distortion (e.g. THBs) and within the Eurozone countries, is critical in order to ensure a level playing field and a harmonised use of a common fund.

**Consistency of Mandate**

8. Under the DGSD, the DGS may effect a payout, or carry out “alternative measures”. The EDIS proposal does not incorporate an “alternative measures” approach. The mandate needs to be clear.

9. The majority of the EU Committee members consider this inconsistent with the availability of this option under the DGSD. They argue this is leaving a national DGS within the Eurozone unclear as to whether it can seek EDIS support for “alternative measures” (where mandated to do so) and if not, it is likely to pursue the liquidation payout even if, in its view, that is not the optimal outcome. It is recognised that resolution is now harmonised under the Bank Recovery and Resolution Directive but this does not address the “alternative measures” a DGS may take. As a result, DGS within the Eurozone would be limited to the payout function whereas DGS outside of the Eurozone could still take less costly “alternative measures”. Such an unjustified differentiation would have detrimental effects for credit institutions throughout the Eurozone. In this context, the application of State Aid rules to DGSs’ alternative measures needs to be further discussed.

10. Some other EU Committee members have opposite views on the extent to which the mandate for EDIS is consistent. They argue the different European countries application of EDIS (Eurozone/ Non-Eurozone) could potentially undermine the functioning of the resolution framework established within the BRRD and pose a challenge to the level playing field within the Single Market. The phasing out of this DGSD option within the Banking Union is therefore necessary to ensure a level playing field within the BU and safeguard an equal access between all member states to EDIS.

**Funding and Risk Based Contributions**

11. The proposal does not address or recognise three important parts of funding under the DGSD. First, the EDIS model disincentives national DGS from accumulating (or retaining) funds over the 0.8% target of the DGSD. Secondly, for other DGSs, it disincentives them from adopting the lower (and less costly) target acknowledged by the directive. Third, there is no recognition in the EDIS proposal of ‘payment commitments’ - an important funding tool for some DGSs.
12. The Committee welcomes the approach that any contributions should be risk based. The Committee is working with the European Banking Authority (“EBA”) on its own guidance in this area, which it would be happy to share. EBA’s guidelines provide a good starting point for harmonisation. EDIS contributions should be based on a single consistent and fully risk based methodology. Anyway, further consideration would be required to the appropriate risk based methodologies to balance a single approach with all Eurozone DGSs approaches in order to ensure sufficient refinement to reflect national characteristics. EDIS’ plan for a single and binding methodology for the Eurozone may prevent Eurozone funding schemes from properly charging the costs they still face all along EDIS build-up phase.

13. Another subject raised by the EDIS proposal relates to the investment of assets. The assets of EDIS are to be invested in a diversified manner - this should not be restricted to investments only within the European Union. Instead, in order to safeguard liquidity also during Eurozone stress periods, it would be prudent to allow for investments to have been adequately diversified in geographical terms to high-quality sovereign bonds also outside the EU area.

**Impact Assessment**

14. Regardless of the specific form, or even the necessity, of EDIS, the members of the EU Committee take the view that the impact assessment conducted by the European Commission in 2010\(^1\) does not serve as a sufficient basis for the Commission's proposal. The entering into force of the DGSD and the transposition thereof into national laws as well as the SSM and SRM need to be taken into account with regard to proportionality and subsidiarity of any stage of EDIS. The legal landscape has substantially changed since 2010. As a result, conducting a thorough impact assessment, including a cost-benefit-analysis, is vital. Given the importance of EDIS, as part of the Banking Union, and to avoid delay, a targeted analysis of specific sensitive issues might assist to address concerns.

EFDI is keen to engage on the details discussion and debate as the matter progresses through 2016.

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