



**2015/0270(COD)**

4.3.2024

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## **DRAFT REPORT**

on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EU) 806/2014 in order to establish a European Deposit Insurance Scheme (COM(2015)0586 – C8-0371/2015 – 2015/0270(COD))

Committee on Economic and Monetary Affairs

Rapporteur: Othmar Karas

### ***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***

#### **Amendments by Parliament set out in two columns**

Deletions are indicated in ***bold italics*** in the left-hand column. Replacements are indicated in ***bold italics*** in both columns. New text is indicated in ***bold italics*** in the right-hand column.

The first and second lines of the header of each amendment identify the relevant part of the draft act under consideration. If an amendment pertains to an existing act that the draft act is seeking to amend, the amendment heading includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend.

#### **Amendments by Parliament in the form of a consolidated text**

New text is highlighted in ***bold italics***. Deletions are indicated using either the **■** symbol or ~~strikeout~~. Replacements are indicated by highlighting the new text in ***bold italics*** and by deleting or striking out the text that has been replaced.

By way of exception, purely technical changes made by the drafting departments in preparing the final text are not highlighted.

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## DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

**on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EU) 806/2014 in order to establish a European Deposit Insurance Scheme (COM(2015)0586 – C8-0371/2015 – 2015/0270(COD))**

**(Ordinary legislative procedure: first reading)**

*The European Parliament,*

- having regard to the Commission proposal to Parliament and the Council (COM(2015)0586),
  - having regard to Article 294(2) and Article 114 of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0371/2015),
  - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
  - having regard to Rule 59 of its Rules of Procedure,
  - having regard to the report of the Committee on Economic and Monetary Affairs (A9-0000/2024),
1. Adopts its position at first reading hereinafter set out;
  2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;
  3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

### **Amendment 1**

AMENDMENTS BY THE EUROPEAN PARLIAMENT\*

to the Commission proposal

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**2015/0270 (COD)**

**Proposal for a  
REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

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\* Amendments: new or amended text is highlighted in bold italics; deletions are indicated by the symbol **■** .

## amending Regulation (EU) 806/2014 in order to establish a European Deposit Insurance Scheme

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,  
Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Central Bank<sup>1</sup>,

Having regard to the opinion of the European Economic and Social Committee<sup>2</sup>,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) Over the past years, the Union has made progress in creating an internal market for banking services. A better integrated internal market for banking services is essential in order to foster economic growth in the Union, to safeguard the stability of the banking system and to protect depositors.
- (1) On 18 October 2012, the European Council concluded that "In the light of the fundamental challenges facing it, the Economic and Monetary Union (EMU) needs to be strengthened to ensure economic and social welfare as well as stability and sustained prosperity" and "that the process towards deeper economic and monetary union should build on the Union institutional and legal framework and be characterised by openness and transparency towards Member States whose currency is not the euro and by respect for the integrity of the internal market". To that end, the Banking Union has been established, underpinned by a comprehensive and detailed single rulebook for financial services for the internal market as a whole. The process towards establishing the Banking Union has been characterised by openness and transparency towards non-participating Member States and by respect for the integrity of the internal market.
- (2) The European Parliament, in its resolution of 20 November 2012 'Towards a genuine Economic and Monetary Union', also stated that breaking the negative feedback loops between sovereigns, banks and the real economy is crucial for a smooth functioning of the EMU, stressed the urgent need for additional and far-reaching measures for the realisation of a fully operational Banking Union, while ensuring the continued proper functioning of the internal market for financial services and the free movement of capital.
- (3) While key steps have been made towards ensuring the efficient functioning of the Banking Union, with the Single Supervisory Mechanism (the 'SSM') established by Council Regulation (EU) No 1024/2013<sup>3</sup> ensuring that the Union's policy relating to the prudential supervision of credit institutions in the euro area Member States and those non euro area Member States who choose to participate in the SSM (the 'participating Member States') is implemented in a coherent and effective manner and with the Single Resolution Mechanism (the 'SRM') established by Regulation (EU)

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<sup>1</sup> OJ C , , p. .

<sup>2</sup> OJ C , , p. .

<sup>3</sup> Council Regulation (EU) No 1024/2013 of 15 October 2013 conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions (OJ L 287, 29.10.2013, p. 63).

No 806/2014 ensuring a consistent framework for the resolution of banks that are failing or likely to fail in the participating Member States, further steps are still needed to complete the Banking Union.

- (4) In June 2015, the Five Presidents Report on Completing Europe's Economic and Monetary Union pointed out that a single banking system can only be truly single if confidence in the safety of bank deposits is the same irrespective of the Member State in which a bank operates. This requires single bank supervision, single bank resolution and single deposit insurance. The Five Presidents report therefore proposed to complete the Banking Union by establishing a European Deposit Insurance Scheme (EDIS), the third pillar of a fully-fledged Banking Union alongside bank supervision and resolution. Concrete steps in that direction should already be taken as a priority, with a re-insurance system at the European level for the national deposit guarantee schemes as a first step towards a fully mutualised approach. The scope of this reinsurance system should coincide with that of the SSM.
- (5) The recent crisis has shown that the functioning of the internal market may be under threat and that there is an increasing risk of financial fragmentation. The failure of a bank that is relatively large compared to the national banking sector or the concurrent failure of a part of the national banking sector may cause national DGSs to be vulnerable to large local shocks, even with the additional funding mechanisms provided by Directive 2014/49/EU of the European Parliament and of the Council<sup>4</sup>. This vulnerability of national DGSs to large local shocks can contribute to adverse feedback between banks and their national sovereign undermining the homogeneity of protection for deposits and contributing to a lack of confidence among depositors and resulting in market instability.
- (6) The absence of a homogenous level of depositor protection can distort competition and create an effective barrier for the freedoms of establishment and free provision of services by credit institutions within the internal market. A common deposit insurance scheme is therefore essential for the completion of the internal market in financial services.
- (7) Although Directive 2014/49/EU significantly improves the capacity of national schemes to compensate depositors, more efficient deposit guarantee arrangements are needed at the level of the Banking Union to ensure sufficient financial means to underpin the confidence of all depositors and thereby safeguard financial stability. EDIS would increase the resilience of the Banking Union against future crises by sharing risk more widely and would offer equal protection for insured depositors, supporting the proper functioning of the internal market.
- (8) Funds used by deposit guarantee schemes to repay depositors for unavailable covered deposits in accordance with Article 8 of Directive 2014/49/EU on deposit guarantee schemes do not constitute State aid or Fund aid. However, where those funds are used in the restructuring of credit institutions and constitute State aid or Fund aid, they must comply with Article 108 of the Treaty on the Functioning of the European Union and,

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<sup>4</sup> Directive 2014/49/EU of the European Parliament and of the Council of 16 April 2014 on deposit guarantee schemes (OJ L 173, 12.6.2014, p. 149).

respectively, with Article 19 of Regulation (EU) No 806/2014 of the European Parliament and of the Council<sup>5</sup>, which should be amended for that purpose.

- (9) Despite the further harmonisation introduced by the Directive 2014/49/EU, national DGSs retain certain options and discretions, including with respect to certain essential elements like target levels, risk factors to be applied when assessing credit institutions' contributions, repayment periods or the use of funds. Those differences between national rules may obstruct the free provision of services and create distortions of competition. In a highly integrated banking sector, uniformity of rules and approaches is needed to ensure a consistently robust level of protection of depositors throughout the Union and so guarantee the objective of financial stability.
- (10) The establishment of an EDIS, with decision-making, monitoring and enforcement powers centralised and entrusted to the Single Resolution and Deposit Insurance Board ("the Board"), will be essential in achieving the objective of a harmonised deposit guarantee framework. The uniform application of the deposit guarantee requirements in the participating Member States will be enhanced as a result of it being entrusted to such a central authority. In this way, the operation of EDIS should facilitate, by supporting and providing a framework for the establishment and subsequent implementation of uniform rules on deposit guarantee arrangements, the harmonisation process in the field of financial services.
- (11) Furthermore, EDIS is part of the wider EU rules harmonising prudential supervision and recovery and resolution, which are complementary aspects of the internal market for banking services. Supervision can only be effective and meaningful if an adequate deposit insurance scheme, corresponding to the developments in the field of supervision, is created. EDIS is therefore instrumental to a wider process of harmonisation and its objectives are closely linked to the Union framework on prudential supervision and recovery and resolution whose centralised application are mutually dependant. For instance, adequate coordination at the level of supervision and deposit guarantee is needed in cases where the European Central Bank (ECB) envisages withdrawing an authorisation to a credit institution or where a credit institution does not comply with the obligation to be a member of a DGS. A similar high level of integration is needed between the resolution actions and the deposit insurance tasks attributed to the Board.
- (12) This Regulation applies only in respect of banks whose home supervisor is the ECB or the national competent authority in Member States whose currency is the euro or in Member States whose currency is not the euro which have established a close cooperation in accordance with Article 7 of Regulation (EU) No 1024/2013. The scope of application of this Regulation is linked to the scope of application of Regulation (EU) No 1024/2013. Indeed, bearing in mind the significant level to which the supervisory tasks attributed to the SSM and deposit guarantee actions are interwoven, the establishment of a centralised system of supervision operated under Article 127(6) of the Treaty on the Functioning of the European Union is fundamentally important to the process of harmonisation of deposit guarantee in participating Member States. The fact of being subject to supervision by the SSM constitutes a specific attribute that

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<sup>5</sup> Regulation (EU) No 806/2014 of the European Parliament and of the Council of 15 July 2014 establishing uniform rules and a uniform procedure for the resolution of credit institutions and certain investment firms in the framework of a Single Resolution Mechanism and a Single Resolution Fund and amending Regulation (EU) No 1093/2010 (OJ L 225, 30.7.2014, p. 1).



places the entities falling within the scope of application of Regulation (EU) No 1024/2013 in an objectively and characterised distinct position for deposit guarantee purposes. It is necessary to adopt measures to create a single deposit insurance scheme for all Member States participating in the SSM in order to facilitate the proper and stable functioning of the internal market.

- (13) In order to ensure parallelism with the SSM and the SRM, EDIS should apply to participating Member States. Banks established in the Member States not participating in the SSM should not be subject to EDIS. As long as supervision in a Member State remains outside the SSM, that Member State should remain responsible for ensuring the protection of depositors against the consequences of the insolvency of a credit institution. As Member States join the SSM, they should also automatically become subject to the EDIS. Ultimately, the EDIS could potentially extend to the entire internal market.
- (14) In order to ensure a level playing field within the internal market as a whole, this Regulation is consistent with Directive 2014/49/EU. It complements the rules and principles of that Directive to ensure the proper functioning of EDIS and that appropriate funding is available to the latter. The material law on deposit guarantee to be applied within the EDIS framework will therefore be consistent with the one applicable by the national DGSs or designated authorities of the non-participating Member States, harmonised through the Directive 2014/49/EU.
- (15) In integrated financial markets, any financial support to reimburse depositors enhances the financial stability not only in the participating Member State concerned but also in other Member States, by preventing any spill-over of bank crises into non-participating Member States. The conferral of deposit insurance tasks to the Board should not in any way hamper the functioning of the internal market for financial services. The European Banking Authority (EBA) should therefore maintain its role and retain its existing powers and tasks: it should develop and contribute to the consistent application of the Union legislation applicable to all Member States and enhance convergence of deposit guarantee practices across the Union as a whole.
- (16) EDIS should progressively evolve from a reinsurance scheme into a fully mutualised co-insurance scheme over a number of years. In the context of efforts to deepen the EMU, together with the work on the establishment of bridge-financing arrangements for the Single Resolution Fund (SRF) and on developing a common fiscal backstop, this step is necessary to reduce the bank/sovereign links in individual Member States by means of steps towards risk sharing among all the Member States in the Banking Union, and thereby to reinforce the Banking Union in achieving its key objective. However, such risk sharing implied by steps to reinforce Banking Union must proceed in parallel with risk reducing measures designed to break the bank-sovereign link more directly.
- (17) EDIS should be established in three sequential stages, first a reinsurance scheme that covers a share of the liquidity shortfall and of the excess losses of participating DGSs, followed by a co-insurance scheme that covers a gradually increasing share of the liquidity shortfall and losses of participating DGSs and eventually resulting in a full insurance scheme that covers all liquidity needs and losses of participating deposit guarantee schemes.
- (18) In the reinsurance stage, and in order to limit the liability for the European Deposit Insurance Fund (“the Deposit Insurance Fund”) and to reduce moral hazard risk at the

national level, assistance from the Deposit Insurance Fund can only be requested if the national DGS has raised ex-ante contributions in accordance with a precise funding path, and if it first depletes these funds. However, to the extent that a national DGS has collected funds over and above that which is required by the funding path, it only needs to use up the funds it had to collect to comply with the funding path before being able to receive coverage by EDIS. Therefore, DGSs which have collected more funds than is needed to comply with the funding path should not be in a worse position than those which have collected funds not exceeding the levels set out in the funding path.

- (19) As the Deposit Insurance Fund, in the re-insurance stage, would only provide an additional source of funding and would only weaken the link between banks and their national sovereign, without however ensuring that all depositors in the Banking Union enjoy an equal level of protection, the reinsurance stage should, after three years, gradually progress into a co-insurance scheme and ultimately into a fully mutualised deposit insurance scheme.
- (20) While the reinsurance and coinsurance stages would share many common features, ensuring a smooth gradual evolution, pay-outs under the co-insurance stage would be shared between national DGS and the Deposit Insurance Fund as of the first euro of loss. The relative contribution from the Deposit Insurance Fund would gradually increase to 100 percent, resulting in the full mutualisation of depositor risk across the Banking Union after four years.
- (21) Safeguards should be built into EDIS so as to limit moral hazard risk and to ensure that the coverage by EDIS is only provided where national DGSs act in a prudent manner. Firstly, national DGSs should comply with their obligations under this Regulation, the Directive 2014/49/EU and other relevant EU law, in particular their obligation to build up their funds in accordance with Article 10 of Directive 2014/49/EU as further specified in this Regulation. In order to benefit from coverage by EDIS, participating DGSs need to raise ex-ante contributions in accordance with a precise funding path. This also implies that the possibility of a target level reduction in accordance with Article 10(6) of Directive 2014/49/EU is no longer available if the DGS wants to benefit from EDIS. Secondly, in case of a pay-out event or where its funds are used in resolution, a national DGS should bear a fair share of the loss themselves. It should therefore be required to collect ex-post contributions from its members to replenish its fund and to repay EDIS to the extent that the initially received funding exceeds the share of loss to be borne by EDIS. Thirdly, following a pay-out event, the national DGS should maximise the proceeds from the insolvency estate and repay the Board and the Board should have sufficient powers to safeguard its rights. Fourthly, the Board should have the powers to recover all or part of funding in case of a participating DGS did not comply with key obligations.
- (22) The Deposit Insurance Fund is an essential element without which the progressive establishment of EDIS could not be achieved. Different national systems of funding would not provide for homogenous deposit insurance across the Banking Union. Throughout the three stages, the Deposit Insurance Fund should help ensuring the stabilising role of DGSs, a uniform high level of protection to all depositors in a harmonised framework throughout the Union and avoiding the creation of obstacles for the exercise of fundamental freedoms or the distortion of competition in the internal market due to different levels of protection at national level.

- (23) The Deposit Insurance Fund should be financed by direct contributions from banks. Decisions taken within the EDIS, requiring the use of the Deposit Insurance Fund or of a national deposit guarantee scheme should not impinge on the fiscal responsibilities of the Member States. In that regard, only extraordinary public financial support should be considered to be an impingement on the budgetary sovereignty and fiscal responsibilities of the Member States.
- (24) This Regulation establishes the modalities for the use of the Deposit Insurance Fund and the general criteria to determine the fixing and calculation of ex ante and ex post contributions and lays down the powers of the Board for using and managing the Deposit Insurance Fund.
- (25) Contributions would be directly levied on banks to finance the Deposit Insurance Fund. The Board would collect the contributions and administer the Deposit Insurance Fund, while national DGSs would continue to collect national contributions and administer national funds. In order to ensure fair and harmonised contributions for participating banks and provide incentives to operate under a model which presents less risk, both contributions to EDIS and to national DGS should be calculated on the basis of covered deposits and a risk-adjustment factor per bank. During the re-insurance period the risk-adjustment factor should consider the degree of risk incurred by a bank relative to all other banks affiliated to the same participating DGS. Once the stage of co-insurance is reached, the risk-adjustment factor should consider the degree of risk incurred by a bank relative to all other banks established in the participating Member States. This would ensure that, overall, EDIS is cost-neutral for banks and national DGSs and avoid any redistribution of contributions during the build-up phase of the Deposit Insurance Fund.
- (26) In principle, contributions should be collected from the industry prior to, and independently of, any deposit insurance action. When prior funding is insufficient to cover the losses or costs incurred by the use of the Deposit Insurance Fund, additional contributions should be collected to bear the additional cost or loss. Moreover, the Deposit Insurance Fund should be able to contract borrowings or other forms of support from credit institutions, financial institutions or other third parties in the event that the ex-ante and ex post contributions are not immediately accessible or do not cover the expenses incurred by the use of the Deposit Insurance Fund in relation to deposit insurance actions.
- (27) In order to reach a critical mass and to avoid pro-cyclical effects which would arise if the Deposit Insurance Fund had to rely solely on ex post contributions in a systemic crisis, it is indispensable that the ex-ante available financial means of the Deposit Insurance Fund amount at least to a certain minimum target level.
- (28) The initial and final target level of the Deposit Insurance Fund should be established as a percentage of the total minimum target levels of participating DGS. It should progressively reach 20% of four ninth of the total minimum target levels by the end of the reinsurance period and the sum of all minimum target levels by the end of the co-insurance period. The possibility to apply for approval to authorise a lower target level in accordance with Article 10(6) of Directive 2014/49/EU should not be considered when setting the initial or final target levels of the Deposit Insurance Fund. An appropriate time frame should be set to reach the target level for the Deposit Insurance Fund.

- (29) Ensuring effective and sufficient financing of the Deposit Insurance Fund is of paramount importance to the credibility of EDIS. The capacity of the Board to contract alternative funding means for the Deposit Insurance Fund should be enhanced in a manner that optimises the cost of funding and preserves the creditworthiness of the Deposit Insurance Fund. Immediately after the entry into force of this Regulation, the necessary steps should be taken by the Board in cooperation with the participating Member States to develop the appropriate methods and modalities permitting the enhancement of the borrowing capacity of the Deposit Insurance Fund that should be in place by the date of application of this Regulation.
- (30) It is necessary to ensure that the Deposit Insurance Fund is fully available for the purpose of ensuring the guarantee of deposits. Therefore, the Deposit Insurance Fund should primarily be used for the efficient implementation of deposit guarantee requirements and actions. Furthermore, it should be used only in accordance with the applicable deposit guarantee objectives and principles. Under certain conditions, the Deposit Insurance Fund could also provide funding where the available financial means of a DGS are used in resolution in accordance with Article 79 of this Regulation.
- (31) In order to protect the value of the amounts held in the Deposit Insurance Fund, those amounts should be invested in sufficiently safe, diversified and liquid assets.
- (32) Where close cooperation with the ECB of a participating Member State whose currency is not the euro is terminated in accordance with Article 7 of Regulation (EU) No 1024/2013, a fair partition of the cumulated contributions of the participating Member State concerned should be decided taking into account the interests of the participating Member State concerned and the Deposit Insurance Fund.
- (33) In order to guarantee its full autonomy and independence when undertaking deposit insurance actions under this Regulation, the Board should have an autonomous budget with revenues from obligatory contributions from the institutions in the participating Member States. This Regulation should be without prejudice to the ability of Member States to levy fees to cover the administrative expenses of their national DGSs or designated authorities.
- (34) The Board, where all the criteria relating to the use of the Deposit Insurance Fund are met, should provide the relevant funding and loss cover to the national DGS.
- (35) The Board should operate in joint-plenary, plenary and executive sessions. The Board, in its executive session, should prepare all decisions concerning pay-out procedures and, to the fullest extent possible, adopt those decisions. Regarding the use of the Deposit Insurance Fund, it is important that there is no first-mover advantage and that the outflows of the Deposit Insurance Fund are monitored. Once the net accumulated use of the Deposit Insurance Fund in the previous consecutive 12 months reaches the threshold of 25% of the final target level, the plenary session should evaluate the application of the deposit insurance actions or the participations in resolution actions and the use of the Deposit Insurance Fund, and should provide guidance which the executive session should follow in subsequent decisions. Guidance to the executive session should, in particular, focus on ensuring the non-discriminatory application of deposit insurance actions or participation in resolution actions, on measures to be taken to avoid a depletion of the Deposit Insurance Fund.
- (36) The efficiency and uniformity of deposit insurance actions should be ensured in all of the participating Member States. For that purpose, where a participating DGS has not

applied or has not complied with a decision by the Board pursuant to this Regulation or has applied it in a way which poses a threat to any of the deposit insurance scheme's objectives or to the efficient implementation of the deposit insurance action, the Board should be empowered to order any necessary action which significantly addresses the concern or threat to the EDIS objectives. Any action by a participating DGS that would restrain or affect the exercise of powers or functions of the Board should be excluded.

- (37) When making decisions or taking actions, in particular regarding entities established both in participating Member States and in non-participating Member States, possible adverse effects on those Member States, such as threats to the financial stability of their financial markets, and on the entities established in those Member States, should also be taken into consideration.
- (38) The Board, the designated authorities, the competent authorities, including the ECB, and the resolution authorities should, where necessary, conclude a memorandum of understanding describing in general terms how they will cooperate with one another in the performance of their respective tasks under Union law. The memorandum should be reviewed on a regular basis.
- (39) The relevant entities, bodies and authorities involved in the application of this Regulation should cooperate with each other in accordance with the duty of sincere cooperation enshrined in the Treaties.
- (40) The Board and the designated authorities and competent authorities of the non-participating Member States should also conclude memoranda of understanding describing in general terms how they will cooperate with one another in the performance of their tasks under Directive 2014/49/EU. The memoranda of understanding could, inter alia, clarify the consultation relating to decisions of the Board that have effect on branches located in the non-participating Member States, where the credit institution is established in a participating Member State. The memoranda should be reviewed on a regular basis.
- (41) The procedure relating to the adoption of decisions by the Board respects the principle of delegation of powers to agencies as interpreted by the Court of Justice of the European Union.
- (42) This Regulation respects the fundamental rights and observes the rights, freedoms and principles recognised in particular by the Charter, and, in particular, the right to property, the protection of personal data, the freedom to conduct a business, the right to an effective remedy and to a fair trial and the right of defence, and should be implemented in accordance with those rights and principles.
- (43) Since the objectives of this Regulation, namely setting up a more efficient and effective deposit guarantee framework and ensuring the consistent application of deposit guarantee rules, cannot be sufficiently achieved by the Member States but can rather be better achieved at the Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives.
- (44) The Commission should review the application of this Regulation in order to assess its impact on the internal market and to determine whether any modifications or further

developments are needed in order to improve the efficiency and the effectiveness of the EDIS.

- (45) In order for EDIS to function in an effective manner as of [...], the provisions concerning the payment of contributions to the Deposit Insurance Fund, the establishment of all the relevant procedures and any other operational and institutional aspects should apply from XX.
- (46) Regulation (EU) No 806/2014 should be amended to incorporate and respectively take into account the establishment of EDIS,

HAVE ADOPTED THIS REGULATION:

*Article 1*  
*Amendments to Regulation (EU) No 806/2014*

Regulation (EU) 806/2014 is amended as follows:

1. the title is replaced by the following:  
"REGULATION (EU) No 806/2014 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 15 July 2014 on a Single Resolution Mechanism and a Deposit Insurance Scheme and amending Regulation (EU) No 1093/2010";
2. Article 1 is replaced by the following:

*“Article 1*  
*Subject matter*

1. This Regulation establishes uniform rules and a uniform procedure for the resolution of the entities referred to in Article 2 that are established in the participating Member States referred to in Article 4.

Those uniform rules and that uniform procedure shall be applied by the Single Resolution Board established in accordance with Article 42 (the ‘Board’), together with the Council and the Commission and the national resolution authorities within the framework of the Single Resolution Mechanism (‘SRM’) established by this Regulation. The SRM shall be supported by a Single Resolution Fund (the ‘SRF’).

The use of the SRF shall be contingent upon the entry into force of an agreement among the participating Member States (‘the Agreement’) on transferring the funds raised at national level towards the SRF as well as on a progressive merger of the different funds raised at national level to be allocated to national compartments of the Fund.

2. In addition, this Regulation establishes *stage 1 of* a European Deposit Insurance Scheme (‘EDIS I’):
  - *to operate as a liquidity* scheme that provides *loans to* participating deposit guarantee schemes in accordance with Article 41a, *with the aim to make progress to a full insurance scheme with loss coverage at a later stage, following a new Commission proposal;*

**EDIS I** shall be administered by the Board in cooperation with participating DGSs and designated authorities in accordance with Part IIa.

**EDIS I** shall be supported by a Deposit Insurance Fund (the ‘DIF’) *and when needed, by additional loans from the participating DGSs in accordance with Chapter 4 - mandatory lending.*"

3. Article 2 is replaced by the following:

## "Article 2

### Scope

1. For the purposes of the SRM, this Regulation shall apply to the following entities:
  - (a) credit institutions established in a participating Member State, ***except for institutions that are members of an institutional protection schemes as referred to in Article 113(7) of Regulation No 575/2013 CRR***;
  - (b) parent undertakings, including financial holding companies and mixed financial holding companies, established in a participating Member State, where they are subject to consolidated supervision carried out by the ECB in accordance with Article 4(1)(g) of Regulation (EU) No 1024/2013;
  - (c) investment firms and financial institutions established in a participating Member State, where they are covered by the consolidated supervision of the parent undertaking carried out by the ECB in accordance with Article 4(1)(g) of Regulation (EU) No 1024/2013.
2. For the purposes of ***EDISI***, this Regulation shall apply to the following entities:
  - (a) participating deposit-guarantee schemes as defined in point (1) of Article 3(1a), ***except for institutional protection schemes as referred to in Article 113(7) of Regulation No 575/2013 CRR***;
  - (b) credit institutions affiliated to participating deposit-guarantee schemes ***with the exception of branches of credit institutions that have their head office outside the Union***.

Where this Regulation creates rights or obligations for a participating DGS administered by a designated authority as defined in point (18) of Article 2(1) of Directive 2014/49/EU, the rights or obligations are deemed to be those of the designated authority.";

4. Article 3 is amended as follows:
  - (a) in paragraph 1, the following points (55), (56) and (57) are added:
    - "(55) 'participating deposit-guarantee schemes' or 'participating DGSs' means deposit guarantee schemes as defined in point (1) of Article 2(1) of Directive 2014/49/EU which are introduced and officially recognised in a participating Member State;
    - (56) 'payout event' means the occurrence ***of*** unavailable deposits as defined in point (8) of Article 2(1) of Directive 2014/49/EU in relation to a credit institution affiliated to a participating DGS;
    - (57) 'available financial means of the DIF' means cash, deposits and low-risk assets which can be liquidated within a period not exceeding that referred to in Article 8(1) of the Directive 2014/49/EU.";
  - (b) paragraph 2 is replaced by the following:



"2. In the absence of a relevant definition in the previous paragraphs, the definitions set out in Article 2 of Directive 2014/49/EU and Article 2 of Directive 2014/59/EU apply.

In the absence of a relevant definition in Article 2 of Directive 2014/49/EU and Article 2 of the Directive 2014/59/EU, the definitions set out in Article 3 of Directive 2013/36/EU apply."

5. in Article 4, paragraphs 2, 3 and 4 are replaced by the following :

"2. Where the close cooperation between a Member State and the ECB is suspended or terminated in accordance with Article 7 of Regulation (EU) No 1024/2013, the entities referred to in Article 2 of this Regulation that are established or recognised in that Member State shall cease to be covered by this Regulation from the date of application of the decision to suspend or terminate close cooperation.

3. In the event that the close cooperation with the ECB of a Member State whose currency is not the euro is terminated in accordance with Article 7 of Regulation (EU) No 1024/2013, the Board shall decide within three months after the date of adoption of the decision to terminate close cooperation, in agreement with that Member State, on the modalities for, and any conditions applicable to:

- (a) the recoupment of contributions that the Member State concerned has transferred to the SRF;
- (b) the *transfers paid by* DGSs officially recognised in the Member State concerned into the DIF .

For the purposes of point (a) of the first subparagraph, recoupments shall include the part of the compartment corresponding to the Member State concerned not subject to mutualisation. If during the transitional period, as laid down in the Agreement, recoupments of the non-mutualised part are not sufficient to permit the funding of the establishment by the Member State concerned of its national financial arrangement in accordance with Directive 2014/59/EU, recoupments shall also include the totality or a part of the part of the compartment corresponding to that Member State subject to mutualisation in accordance with the Agreement or otherwise, after the transitional period, the totality or a part of the contributions transferred by the Member State concerned during the close cooperation, in an amount sufficient to permit the funding of that national financial arrangement.

When assessing the amount of financial means to be recouped from the mutualised part or otherwise, after the transitional period, from the Fund, the following additional criteria shall be taken into account:

- (a) the manner in which termination of close cooperation with the ECB has taken place, whether voluntarily, in accordance with Article 7(6) of Regulation (EU) No 1024/2013, or not;
- (b) the existence of ongoing resolution actions on the date of termination;
- (c) the economic cycle of the Member State concerned by the termination.

Recoupments shall be distributed during a limited period commensurate to the duration of the close cooperation. The relevant Member State's share of the financial means from the SRF used for resolution actions during the period of close cooperation shall be deducted from those recoupments.

For the purposes of point (b) of the first subparagraph, the amount transferred to each DGS officially recognised in the Member State concerned shall be equal to the available financial means of the DIF multiplied by the ratio of (a) to (b):

- (a) the amount of all *transfers* paid to the DIF by the *participating* DGS concerned;
- (b) the amount of all *transfers* paid to the DIF.

The transferred amount shall not exceed the amount that is necessary for the available financial means of the *participating* DGS concerned to reach two-thirds of its target level as defined in Article 10(2) first subparagraph of Directive 2014/49/EU.

- 4. This Regulation shall continue to apply to resolution and deposit insurance proceedings which are ongoing on the date of application of a decision as referred to in paragraph 2.";
- 6. in Article 5(2), the first subparagraph is replaced by the following:

"The Board, the Council and the Commission and, where relevant, the national resolution authorities and participating DGSs, shall take decisions subject to and in compliance with the relevant Union law and in particular any legislative and non-legislative acts, including those referred to in Articles 290 and 291 of the Treaty on the Functioning of the European Union.";
- 7. Article 6 is amended as follows:
  - (a) paragraphs 1 and 2 are replaced by the following:

"1. No action, proposal or policy of the Board, the Council, the Commission, a national resolution authority or a participating DGS shall discriminate against entities, deposit holders, investors or other creditors established in the Union on grounds of their nationality or place of business.

2. Every action, proposal or policy of the Board, the Council, the Commission, a national resolution authority or a participating DGS in the framework of the SRM or of *EDIS I* shall be undertaken with full regard and duty of care for the unity and integrity of the internal market.";
  - (b) paragraph 7 is replaced by the following:

"7. Where the Board takes a decision that is addressed to a national resolution authority or a participating DGS, the national resolution authority or participating DGS shall have the right to specify further the measures to be taken. Such specifications shall comply with the decision of the Board in question.";
- 8. the heading of Part II is replaced by the following: "Single Resolution Mechanism";
- 9. Article 19 is amended as follows:
  - (a) in paragraph 3, the first subparagraph is replaced by the following:

"To the extent that the resolution action as proposed by the Board involves the use of the Funds (SRF or DIF), the Board shall notify the Commission of the proposed use of the Funds. The Board's notification shall include all of the information necessary to enable the Commission to make its assessments

pursuant to this paragraph.";

- (b) in paragraph 3, in the third, the fifth and the seventh subparagraphs the word "Fund" is replaced by "Funds", making such grammar changes as necessary;
- (c) in paragraph 5, the second subparagraph is replaced by the following:  
"The Board shall pay any amounts received under the first subparagraph into the respective Fund (SRF or DIF) and take such amounts into consideration when determining contributions in accordance with Articles 70 and 71, and *transfers in accordance with Articles 74c and 74d.*";
- (d) in paragraphs 7 and 10, the word "Fund" is replaced by the word "Funds", making such grammar changes as necessary;

10. Part IIa is inserted as follows:

**"PART IIa**  
***STAGE 1 OF EDIS I***

**TITLE I: Liquidity support**

■

**Article 41a**

***Liquidity support***

1. As from the date of application set out in Article 99(5a), *the DIF shall be used to provide liquidity support to participating DGSs in accordance with this Chapter.*
2. In case a participating DGS encounters a payout event or is used in resolution in accordance with Article 79 of this Regulation, *or is used for financing measures in accordance with Article 11(3) and 11(6) of Directive 2014/49/EU*, it may *request a loan* from the DIF ■ of its liquidity shortfall as set out in Article 41b.
3. ■
4. ■ *The outstanding cumulative funding provided by the DIF to a participating DGS shall not exceed* ■ 10 times the target level of the participating DGS as defined in the first subparagraph of Article 10(2) of Directive 2014/49/EU.

*Article 41b*  
*Liquidity shortfall*

1. In case the participating DGS encounters a payout event, its liquidity shortfall shall be calculated as the total amount of covered deposits *held by the credit institution referred to under 2(2), point b, and* within the meaning of Article 6(1) *and 6(2)* of Directive 2014/49/EU ■ at the time of the payout event less ■ the amount of available financial means the participating DGS should have at the time of the payout event *in accordance with Articles 10(2) and 10(3) of that Directive.*

■

2. In case the participating DGS is used in resolution proceedings, its liquidity shortfall shall be *calculated as* the amount determined by the resolution authority in accordance with Article 79 less the amount of available financial means the participating DGS should have at the time of the determination *in accordance with Articles 10(2) and (3) of Directive 2014/49/EU*.
3. *In case the funds of a participating DGS are used to finance measures in accordance with Article 11(3) and 11(6) of Directive 2014/49/EU, its liquidity shortfall shall be calculated as the amount used to finance those measures less the amount of available financial means the participating DGS should have in accordance with Articles 10(2) and 10(3) of that Directive at the time of the decision to grant a measure in accordance with 11(3) or 11(6) of that Directive is taken.*

**Chapter 4**  
**Mandatory lending**

**Article 41ba**  
**Provision of mandatory lending by DGSs**

1. *In cases where the available financial means of the DIF are not sufficient to provide the loan requested by a participating DGS in accordance to Article 41a, the Board may decide to borrow from the other participating DGSs.*
2. *Each participating DGS shall provide the requested loans to the DIF (mandatory lending)*
3. *The SRB shall calculate the amount of mandatory lending needed to provide funding in accordance to Article 41a. The SRB shall calculate the amount of mandatory lending to be claimed from each participating DGS in proportion to the ratio between the DIF's target level and the target level of each DGS as determined in accordance with Article 10(2) of Directive 2014/49/EU.*
4. *After completion of the build-up phase of the DIF in accordance with Article 74d, the amount to be provided by each participating DGS as mandatory lending shall not exceed 25% of the target level of that DGS.*
5. *In order to obtain the funding through mandatory lending the SRB shall follow the procedure laid down in Article 41q.*

**TITLE II**  
**PROCEDURAL PROVISIONS**

*Article 41k*  
*Preliminary information*

Where a participating DGS has been informed by the competent authority about, or has otherwise become aware of, circumstances relating to a credit institution affiliated to that participating DGS that are likely to result in a payout event or its use in resolution proceedings **or in accordance with Articles 11(3) and 11(6) of Directive 2014/49/EU**, it shall inform the Board about such circumstances without delay if it intends to request coverage by **EDIS I**. In this case the participating DGS shall also provide the Board with an estimate of the expected liquidity shortfall.

*Article 41l*  
*Duty to notify*

1. In case a participating DGS encounters a payout event or is **to be** used in resolution in accordance with Article 79 of this Regulation **or in accordance with Articles 11(3) and 11(6) of Directive 2014/49/EU**, it shall immediately notify the Board and submit all necessary information in order to allow the Board to assess whether the conditions for the provision of **liquidity support** in accordance with Article 41a of this Regulation are met.
2. The participating DGS shall inform the Board in particular about:
  - (a) the amount of covered deposits of the credit institution concerned;
  - (b) **the amount determined by the resolution authority in accordance with Article 79;**
  - (c) **the amount used to finance measures in accordance with Articles 11(3) or 11(6) of Directive 2014/49/EU;**
  - (d) its available financial means at the time of the payout event or use in resolution;
  - (e)
  - (f) any circumstances which would prevent it from meeting its obligations under national law transposing Directive 2014/49/EU and possible remedies.

*Article 41m*  
*Determination of the amount of funding*

1. After receiving the notification under Article 41k, the Board shall decide within 24 hours, in its executive session, that the conditions for coverage by **EDIS I** have been met and shall determine the amount of **liquidity support** that it will provide to the participating DGS.
2. **The Board shall within 24 hours, in its executive session, determine the amount of liquidity support to be financed by mandatory lending in accordance with Article 41ba.**

3. The Board shall immediately inform the participating DGS about its decision under **paragraph 1**. The participating DGS may request a review of the Board's decision within 24 hours after it has been informed. It shall state the reasons why it considers an amendment to the Board's decision necessary, in particular with respect to the extent of coverage by **EDIS I**. The Board shall take a decision on the request within another 24 hours.

*Article 41n*  
*Provision of liquidity funding*

1. The Board shall provide **liquidity** under **Article 41a** in accordance with the following provisions:
  - (a) the **loan** shall be provided in the form of a cash contribution to the participating DGS;
  - (b) the funds shall be due **within one working day** after the determination of the Board **made pursuant to Article 41m**.
2. **By way of derogation from paragraph 1, upon request of a participating DGS, the Board may decide that the DIF provides liquidity support in the form of a guarantee for any of the measures under Article 41a to access alternative funding arrangements under 74g.**

*Article 41o*  
*Repayment of liquidity*

1. The participating DGS shall repay the **liquidity support** provided by the Board under Article 41n **in accordance with a repayment plan as referred to in paragraph 2 of this Article**.
2. **Within 3 months of the determination referred to in Article 41m, the Board shall establish a repayment plan that ensures that the funding provided by the Board under Article 41n will be repaid in full within six years by the participating DGS.**
3. **The repayment plan initially shall, to the largest extent possible, be based on the expected funding from sources as referred to in paragraph 5.**
4. **The following conditions for the repayment plan shall apply:**
  - a) **the minimum annual repayment by the participating DGS shall be 10% of the funding provided by the Board under article 41n; and**
  - b) **each year, the Board shall reassess the level of expected recoveries and recalibrate the repayment plan for the remaining years in accordance with the assessment.**
5. **As long as a participating DGS has liquidity support outstanding with the DIF, any extraordinary contributions raised in accordance with Article 10(8) of Directive 2014/49/EU, any recoveries on the DGS's claims pursuant to Article 9(2) of Directive 2014/49/EU and Article 75 of Directive 2014/59/EU, any repayment of or income derived from measures taken in accordance with Article 109 of Directive 2014/59/EU or Article**

*11(3) of Directive 2014/49/EU shall be repaid to the DIF first before those financial means are used to reach the target level of the participating DGS again. This shall be reflected in the repayment plan.*

- 6. The participating DGS shall provide the board as a minimum on an annual basis and in case of any event that could have a material impact on the trajectory of repayment as described in the repayment plan, updated information on any contributions, recoveries, repayments or income referred to in paragraph 5.*
- 7. Taking into account the phase of the business cycle, the impact pro-cyclical contributions maybe have when setting contributions and the expected speed of recoveries from insolvency proceedings the board may grant an extension of the maturity up to 4 years upon a request including a comprehensive overview of inflows and outflows by the participating DGS.*

#### Article 41p

##### Monitoring of payouts to depositors

1. Following the provision of funding in case of a payout event in accordance with Article 41n, the Board shall closely monitor the payout procedure conducted by the participating DGS and in particular its use of the **liquidity support**.
2. The participating DGS shall provide, at regular intervals established by the Board, accurate, reliable and complete information on the payout procedure, the exercise of the rights it subrogated into, or any other matter that is relevant for the effective implementation of the Board's actions provided for in this Regulation or for the exercise of the powers of the participating DGS in the Directive 2014/49/EU or this Regulation. The participating DGS shall inform the Board, on a daily basis, about the total amount repaid to depositors, the use of the **liquidity support**, and any difficulties it encountered.

#### Article 41q

##### Provision of funding by way of mandatory lending facility

- 1. Loans by participating DGSs shall be provided on the basis of a request for a loan by the SRB on the basis of the decision under Article 41m(2), containing all relevant information while respecting confidentiality requirements under Union law.*
- 2. As long as the DIF has an outstanding loan referred to in Article 41ba, any funds received by the DIF in accordance with Article 41o shall be repaid to participating DGSs before those funds are used to repay alternative funding arrangements as referred to in 74g, or to reach the target level of the DIF referred to in 74b again.*
- 3. The detailed financial terms and conditions of the mandatory lending facility shall be specified in an agreement between each of the participating DGS and Board.*

#### Article 41r

##### Terms of loans provided by the DIF

1. *The Board shall determine the key financial terms and conditions of the liquidity facility in a standardised agreement.*
2. *The Board and the participating DGS that has requested liquidity support in accordance with Article 41a shall enter into an agreement based on the standardized agreement as referred to in paragraph 1.*
3. *The interest rate on loans provided by the DIF shall be equal to the ECB marginal facility rate increased by 1% every third year of the remaining time to maturity of the loan.*

11. Article 43 is amended as follows:

- (a) in paragraph 1, the full stop at the end of point (c) is replaced by a semicolon and the following point (d) is added:

"(d) a member appointed by each participating Member State, representing their designated authority.";

- (b) paragraph 2 is replaced by the following:

"2. Each member, including the Chair, shall have one vote except where the Board meets in the joint plenary session in accordance with Article 49b in which case the members appointed by a participating Member State under paragraph 1(c) and (d) shall together have one vote.";

- (c) in paragraph 3, the first subparagraph is replaced by the following:

"The Commission and the ECB shall each designate a representative entitled to participate in the meetings of executive sessions, plenary sessions and joint plenary sessions as a permanent observer.";

- (d) paragraphs 4 and 5 are replaced by the following:

"4. In the event of more than one national resolution authority or respectively more than one national designated authority in a participating Member State, a second representative shall be allowed to participate as observer without voting rights.

5. The Board's administrative and management structure shall comprise:

- (a) a joint plenary session which shall perform the tasks referred to in Article 49b;
- (b) **■** plenary *sessions* of the Board in accordance with *Article 49 or 49a*, which shall perform the tasks referred to in Article 50 and respectively Article 50a;
- (c) an executive session of the Board, which shall perform the tasks referred to in Article 54;
- (d) a Chair, which shall perform the tasks referred to in Article 56;
- (e) a Secretariat, which shall provide the necessary administrative and technical support on the performing of all the tasks assigned to the Board.";

12. Article 45 is amended as follows:



in paragraphs 4 and 5, the words "the resolutions tasks" are replaced by "the resolution and the deposit insurance tasks", making such grammar changes as necessary;

13. in Article 46(4), the words "national resolution authorities" are replaced by "national resolution authorities or of national DGS or designated authorities", making such grammar changes as necessary;

14. in Article 47, paragraph 1 is replaced by the following:

"1. When performing the tasks conferred on them by this Regulation, the Board, the national resolution authorities, the national DGS or designated authorities shall act independently and in the general interest.";

15. in Part III, the heading of Title II "Plenary session of the Board" is replaced by "Joint plenary session and plenary sessions of the Board";

16. the following Article 48a is inserted:

*"Article 48a*

*Participation in joint plenary sessions*

All members of the Board referred to in Article 43(1) shall participate in its joint plenary sessions.";

17. Article 49 is replaced by the following:

*"Article 49*

*Participation in plenary sessions relating to the Single Resolution Mechanism*

The members of the Board referred to in points (a), (b) and (c) of Article 43(1) shall participate in its plenary sessions relating to the Single Resolution Mechanism (SRM plenary session).";

18. the following Articles 49a and 49b are inserted:

*"Article 49a*

*Participation in plenary sessions relating to the European Deposit Insurance Scheme*

The members of the Board referred to in points (a), (b) and (d) of Article 43(1) shall participate in its plenary sessions relating to **EDIS I** (**EDIS I** plenary session).

*Article 49b*

*Tasks of the joint plenary session of the Board*

1. In its joint plenary session, the Board shall:

- (a) adopt, by 30 November each year, the Board's annual work programme for the following year, based on a draft put forward by the Chair and shall transmit it for information to the European Parliament, the Council, the Commission, and the ECB;
- (b) adopt and monitor the annual budget of the Board in accordance with Article 61(2), and approve the Board's final accounts and give discharge to the Chair in accordance with Article 63(4) and (8);
- (c) decide on the investments in accordance with Article 75;

- (d) adopt the annual activity report on the Board's activities referred to in Article 45, which shall present detailed explanations on the implementation of the budget;
  - (e) adopt the financial rules applicable to the Board in accordance with Article 64;
  - (f) adopt an anti-fraud strategy, proportionate to fraud risks taking into account the costs and benefits of the measures to be implemented;
  - (g) adopt rules for the prevention and management of conflicts of interest in respect of its members;
  - (h) adopt its rules of procedure and those of the Board in its plenary and executive sessions under this Regulation;
  - (i) in accordance with paragraph 3 of this Article, exercise, with respect to the staff of the Board, the powers conferred by the Staff Regulations on the Appointing Authority and by the Conditions of Employment of Other Servants of the European Union as laid down by Council Regulation (EEC, Euratom, ECSC) No 259/68 ("Conditions of Employment") on the Board Empowered to Conclude a Contract of Employment ("the appointing authority powers");
  - (j) adopt appropriate implementing rules for giving effect to the Staff Regulations and the Conditions of Employment in accordance with Article 110 of the Staff Regulations;
  - (k) appoint an Accounting Officer, subject to the Staff Regulations and the Conditions of Employment, who shall be functionally independent in the performance of his or her duties;
  - (l) ensure adequate follow up to findings and recommendations stemming from the internal or external audit reports and evaluations, as well as from investigations of the European Anti-Fraud Office (OLAF);
  - (m) take all decisions on the establishment of the Board's internal structures and, where necessary, their modification.
2. When taking decisions, the joint plenary session of the Board shall act in accordance with the objectives as specified in Articles 6 and 14.
  3. In its joint plenary session, the Board shall adopt, in accordance with Article 110 of the Staff Regulations, a decision based on Article 2(1) of the Staff Regulations and on Article 6 of the Conditions of Employment, delegating relevant appointing authority powers to the Chair and establishing the conditions under which the delegation of powers can be suspended. The Chair shall be authorised to sub-delegate those powers.

In exceptional circumstances, the Board in its joint plenary session may by way of a decision temporarily suspend the delegation of the appointing authority powers to the Chair and any sub delegation by the latter and exercise them itself or delegate them to one of its members or to a staff member other than the Chair.";

19. Article 50 is replaced by the following:

*"Article 50  
Tasks of the Board in its SRM plenary session*

1. In its SRM plenary session, the Board shall:

- (a) subject to the procedure referred to in paragraph 2, decide on the use of the Fund, if the support of the Fund in that specific resolution action is required above the threshold of EUR 5 000 000 000 for which the weighting of liquidity support is 0,5;
  - (b) once the net accumulated use of the Fund in the last consecutive 12 months reaches the threshold of EUR 5 000 000 000, evaluate the application of the resolution tools, in particular the use of the Fund, and provide guidance which the executive session shall follow in subsequent resolution decisions, in particular, if appropriate, differentiating between liquidity and other forms of support;
  - (c) decide on the necessity to raise extraordinary ex post contributions in accordance with Article 71, on the voluntary borrowing between financing arrangements in accordance with Article 72, on alternative financing means in accordance with Articles 73 and 74, and on the mutualisation of national financing arrangements in accordance with Article 78, involving support of the Fund above the threshold referred to in point (c) of this paragraph;
  - (d) approve the framework referred to in Article 31(1) to organise the practical arrangements for the cooperation with the national resolution authorities.
2. When taking decisions, the plenary session of the Board shall act in accordance with the objectives as specified in Articles 6 and 14.

For the purposes of point (a) of paragraph 1, the resolution scheme prepared by the executive session is deemed to be adopted unless, within three hours from the submission of the draft by the executive session to the plenary session, at least one member of the plenary session has called a meeting of the plenary session. In the latter case, a decision on the resolution scheme shall be taken by the plenary session.";

20. The following Article 50a is inserted:

*"Article 50a  
Tasks of the Board in its **EDIS I** plenary session*

1. In its **EDIS I** plenary session, the Board shall:
- (a) once the net accumulated use of the DIF in the last consecutive 12 months reaches the threshold of 25% of the final target level, evaluate the application of the use of the DIF, and provide guidance which the executive session shall follow in subsequent **liquidity support** decisions;
  - (b) decide on the **key terms and conditions of the standardised agreement referred to in Article 41r(1)**;
  - (c) decide on the voluntary borrowing between financing arrangements in accordance with Article 74f, on alternative funding means in accordance with Articles 74g;
2. When taking decisions, the plenary session of the Board shall act in accordance with the objectives specified Article 6.";

21. Article 51 is replaced by the following:

*"Article 51*

*Meetings of the joint plenary and the SRM and EDIS I plenary sessions of the Board*

1. The Chair shall convene and chair meetings of the joint plenary and the SRM and **EDIS I** plenary sessions of the Board in accordance with point (a) of Article 56(2).
  2. The Board, in its joint plenary session, shall hold at least two ordinary meetings per year. In addition, it shall meet on the initiative of the Chair, or at the request of at least one third of its members. The representative of the Commission may request the Chair to convene a meeting of the Board in its joint plenary or respectively SRM or **EDIS I** plenary session. The Chair shall provide reasons in writing if he or she does not convene a meeting in due time.
  3. Where relevant, the Board may invite observers in addition to those referred in Article 43(3) to participate in the meetings of its joint plenary or respectively SRM or **EDIS I** plenary session on an ad hoc basis, including a representative of EBA.
  4. The Board shall provide for the secretariat of the joint plenary **and the** plenary session of the Board.";
22. Article 52 is replaced by the following:

*"Article 52*

*General provisions on the decision-making process*

1. The Board, in its joint plenary or respectively SRM or **EDIS I** plenary session, shall take its decisions by a simple majority of its members, unless otherwise provided for in this Regulation. Each voting member shall have one vote. In the event of a tie, the Chair shall have a casting vote.
2. By way of derogation from paragraph 1, decisions referred to in points (a) and (b) of Article 50(1), point (a) of Article 50a(1) as well as on the mutualisation of national financing arrangements in accordance with Article 78, limited to the use of the financial means available in the SRF or respectively in the DIF, shall be taken by a simple majority of the Board members, representing at least 30 % of contributions. Each voting member shall have one vote. In the event of a tie, the Chair shall have a casting vote.
3. By way of derogation from paragraph 1 of this Article, decisions referred to in Article 50(1) or Article 50a(1), which involve the raising of ex-post contributions in accordance with Article 71, on voluntary borrowing between financing arrangements in accordance with Article 72 or Article 74f, on alternative financing means in accordance with Article 73, Article 74 or Article 74g, as well as on the mutualisation of national financing arrangements in accordance with Article 78, exceeding the use of the financial means available in the SRF or in the DIF, shall be taken by a majority of two thirds of the Board members, representing at least 50 % of contributions during the transitional period until the SRF is fully mutualised and respectively the DIF has reached its final target level and by a majority of two thirds of the Board members, representing at least 30 % of contributions from then on. Each voting member shall have one vote. In the event of a tie, the Chair shall have a casting vote.
4. █

5. The Board shall adopt and make public its rules of procedure. The rules of procedure shall establish more detailed voting arrangements, in particular the circumstances in which a member may act on behalf of another member and including, where appropriate, the rules governing quorums.";
23. Article 53 is amended as follows:
- (a) in paragraph 1, in the third subparagraph the words "national resolution authorities" are replaced by "national resolution authorities or national designated authorities", making such grammar changes as necessary;
  - (b) in paragraph 2, the reference to "Article 43(1)(c)" is replaced by the following: "Article 43(1)(c) or where relevant Article 43(1)(d)";
  - (c) paragraph 3 is replaced by the following:

"3. When deliberating on an entity referred to in Article 2 or a group of entities established only in one participating Member State or on a deposit insurance action or decision, the relevant member appointed by that Member State under Article 43(1)(c) or 43(1)(d) shall also participate in the deliberations and in the decision-making process, and the rules laid down in Article 55(1) shall apply.";
  - (d) paragraph 5 is replaced by the following:

"5. The members of the Board referred to in Article 43(1)(a) and (b) shall ensure that the resolution and deposit insurance decisions and actions, in particular with regard to the use of the SRF and respectively of the DIF, across the different formations of the executive sessions of the Board, are coherent, appropriate and proportionate.";
24. Article 54 is amended as follows:
- (a) paragraph 1 is replaced by the following:

"1. The Board, in its executive session, shall:

    - (a) prepare all of the decisions to be adopted by the Board in its joint plenary or its SRM and *EDIS I* plenary sessions, respectively;
    - (b) take all of the decisions to implement this Regulation, unless this Regulation provides otherwise.";
  - (b) in paragraph 2, the full stop at the end of point (e) is replaced by a semicolon and the following points are added:

"(f) determine the amount of *liquidity support* in accordance with Article 41m(1);

(g) determine the *amount of liquidity support to be provided by mandatory lending* in accordance with Article 41m(2);

■
  - (c) paragraphs 3 and 4 are replaced by the following:

"3. Where necessary because of urgency, the Board in its executive session may take certain provisional decisions on behalf of the Board in its joint plenary or

its SRM and *EDIS I* plenary sessions respectively, in particular on administrative management matters, including budgetary matters.

4. The Board in its executive session shall keep the Board in its joint plenary or its SRM and *EDIS I* plenary sessions respectively informed of the decisions it takes on resolution or deposit insurance.";

25. Article 56 is amended as follows:

(a) in paragraph 1:

(i) point (a) is replaced by the following:

"(a) preparing the work of the Board, in its joint plenary, plenary and executive sessions, and convening and chairing its meetings;"

(ii) in point (g), the words "on the resolution activities" are replaced by "on the resolution and on the deposit insurance activities", making such grammar changes as necessary;

(b) in paragraph 4, in the first sentence the words "bank resolution" are replaced by "bank resolution and deposit guarantee", making such grammar changes as necessary;

26. in Article 58, paragraph 3 is replaced by the following:

"3. The budget shall comprise three parts: Part I for the administration of the Board, Part II for the SRF and Part III for the DIF."

27. in Article 59, paragraph 3 is replaced by the following:

"3. This Article is without prejudice to the right of the national resolution authorities, participating DGS and designated authorities to levy fees in accordance with national law, in respect of their administrative expenditures of the types referred to in paragraphs 1 and 2, including expenditures for cooperating with and assisting the Board.";

28. the following Article 60a is inserted:

*"Article 60a*

*Part III of the Budget*

1. The revenues of Part III of the budget shall consist, in particular, of the following:

- (a) **transfers** paid by participating DGSs in accordance with Article 74c and Article 74d;
- (b) loans received from deposit guarantee schemes in non-participating Member States in accordance with Article 74f;
- (c) loans received from financial institutions or other third parties in accordance with Article 74g;
- (d) returns on the investments of the amounts held in the DIF in accordance with Article 75;
- (e) funding repaid by participating DGSs in accordance with Article 41o.

- (f) *loans received from participating DGS in accordance with Article 41ba (mandatory lending);*
2. The expenditure of Part III of the budget shall consist of the following:
- (a) funding provided to participating DGSs for the purposes of Article 41a ;
  - (b) investments in accordance with Article 75;
  - (c) interest paid on loans received from other deposit guarantee financing arrangements in non-participating Member States in accordance with Article 74f;
  - (d) interest paid on loans received from financial institutions or other third parties in accordance with Article 74g.";
- (f) *interest paid on loans received from participating DGS in accordance with Article 41ba (mandatory lending);*
29. in Article 61(2), the words "in its plenary session" are replaced by the words "in its joint plenary session";
30. in Article 63(8), the words "in its plenary session" are replaced by the words "in its joint plenary session";
31. Article 65 is amended as follows:
- (a) paragraph 1 is replaced by the following:  
"1. Entities referred to in Article 2(1) and respectively point (b) of Article 2(2) shall contribute to Part I of the budget of the Board in accordance with this Regulation and the delegated acts on contributions adopted pursuant to paragraph 5 of this Article.";
  - (b) in paragraph 5, point (a) is replaced by the following:  
"(a) determine the type of contributions, the matters for which contributions are due, taking into account the different tasks of the Board under this Regulation for the purposes of SRM and *EDIS I*, the manner in which the amount of the contributions is calculated, and the way in which they are to be paid;"
32. in Title V of Part III, the heading of Chapter 2 is replaced by "The Single Resolution Fund and the Deposit Insurance Fund";
33. in Chapter 2 of Title V of Part III, the heading of Section 1 is replaced by "Constitution of the Single Resolution Fund";
34. in Chapter 2 of Title V of Part III, the following section is inserted:

**"SECTION 1A  
CONSTITUTION OF THE DEPOSIT INSURANCE FUND**

*Article 74a  
General Provisions*

1. The DIF is hereby established. It shall be filled by *transfers from participating DGSs of contributions collected from* credit institutions affiliated to *that* DGSs. The *amounts of contributions to be transferred* shall be calculated *by* the Board, *in accordance with paragraph 2.*

2. *Each year the individual contribution of each participating credit institution shall be based on:*
  - a) *a flat contribution, that is pro-rata based on the amount of an institution's covered deposits, with respect to the total covered deposits in the credit institutions referred to in Article 2(2), point (b);*
  - b) *a risk-adjusted contribution.*
2. The Board shall use the DIF only in order to provide the funding to █ participating DGS █ in accordance with the objectives and the principles governing EDIS referred to in Article 6. Under no circumstances shall the Union budget or the national budgets be held liable for expenses or losses of the Fund.
3. The owner of the DIF shall be the Board. The Board's activities under this Regulation may under no circumstances engage the budgetary liability of the Member States.

#### *Article 74b*

#### *Target levels of the Deposit Insurance Fund*

1. *By 5 years from the date of entry into force of this amending Regulation, the available financial means of the DIF shall reach a target level of 50% of the target level referred to in Article 10(2) of 2014/49/EU calculated as a percentage of the amount of covered deposits in all credit institutions referred to in Article 2(2), point (b), of this Regulation. █*

#### *Article 74c*

#### *Funding the DIF*

1. Each year *until 5 years from the date of entry into force of this amending Regulation*, the Board shall, █ in close cooperation with the participating DGSs and designated authorities, determine for each participating DGS the total amount of █ contributions *to be transferred to the DIF* in order to reach the target levels provided for in Article 74b. The total amount of contributions *to be transferred* shall not exceed the target levels provided for in Article 74b █ .
2. *The amounts to be transferred referred to in paragraph 1 of this Article shall be spread out in time as evenly as possible until the target level referred to in Article 74b is reached. The Board shall determine the amount to be transferred by each participating DGS in accordance with Article 74a(2) and the method to calculate the risk-adjusted contributions laid down in the delegated act referred to in paragraph 9.*  
█  
█ *The transfers from the participating DGS to the board shall take place by 30 June of each year at the latest.*
3. The duly received *transfers from each participating DGS* shall not be reimbursed to *the participating DGSs*.
4. The *amounts transferred by* a participating DGS █ into the DIF in accordance with this Article shall count towards the minimum target level that *each* participating DGS shall reach in accordance with █ Article 10 of Directive 2014/49/EU. █  
█



5. *The Board, after consulting the participating DGS concerned and the designated authority, shall defer, in whole or in part, the transfer of the amount determined by Board in accordance with paragraph 2 of this Article when:*

*(a) a participating DGS does not have sufficient financial means to transfer the amounts due, due to having used DGS funds pursuant to Article 11 of Directive 2014/49/EU prior to the date where the first transfer from the participating DGS to the Board shall take place; or*

*(b) a participating DGS does not have sufficient financial means to transfer the amounts due – due to having used DGS funds for purposes as referred to in Article 41a before the target level referred to in Article 74b is reached.*

*The Board, after consulting the participating DGS and the designated authority, shall define a plan for the payment of the transfer owed by the participating DGS, taking into account the contributions that the participating DGS can raise pursuant to Article 10 of Directive 2014/49/EU and the need for the participating DGS to repay any amounts borrowed.*

*Deferrals granted cannot lead to increases in transfers for other participating DGSs aimed at maintaining the target level in accordance with paragraph 7 of this Article.*

6. *As long as participating DGS is benefiting from a deferral in accordance with paragraph 5 of this Article, any extraordinary contributions raised in accordance with Article 10(8) of Directive 2014/49/EU, any recoveries on the DGS's claims pursuant to Article 9(2) of Directive 2014/49/EU and Article 75 of Directive 2014/59/EU, any repayment of or income derived from measures taken in accordance with Article 109 of Directive 2014/59/EU or Article 11(3) of Directive 2014/49/EU shall be transferred to the DIF to comply with the obligations under paragraphs 1 and 2 before these financial means are used to reach the target level of the participating DGS again.*

7. *After 5 years from the date of entry into force of this amending Regulation the Board shall, in close cooperation with the participating DGSs and designated authorities, determine contributions to be collected from each credit institution referred to in Article 2(2), point (b), and to be transferred to DIF by the participating DGS in order to maintain the target level provided for in Article 74b.*

8. *After 5 years from the date of entry into force of this amending Regulation the Board may, in close cooperation with the participating DGSs and designated authorities, defer the required contributions to be collected in accordance with paragraph 7 to ensure that the amount to be transferred reaches an amount that is proportionate to the costs of the collection process for participating DGSs, provided that such deferral does not materially affect the capacity of the Board to use the DIF in accordance with Article 41a.*

9. *The EBA shall develop draft regulatory standards to specify a risk-based method for the calculation of the amounts to be transferred to the DIF by the participating DGSs in accordance with paragraph 1 of this Article.*

■

*The regulatory technical standards shall include a calculation formula, specific indicators, risk classes for members, thresholds for risk weights assigned to specific*

risk classes, and other necessary elements. The degree of risk *of each participating DGS* shall be assessed *taking into account all the credit institutions referred to in Article 2(2), point (b), affiliated to it* on the basis of the following criteria:

- (a) the level of loss absorbing capacity of the institution;
- (b) the institution's ability to meet its short- and long-term obligations;
- (c) the level of capitalisation of the institution;
- (d) the quality of the institution's assets;
- (e) the institution's business model and management;
- (f) the degree to which the institution's assets are encumbered;
- (g) *exposures to central government and central bank of the Member State where the credit institution is authorised;*
- (h) *whether the credit institution is subject to prudential requirements under Directive EU/2013/36 and Regulation (EU) No 575/2013.*

*The EBA shall submit those draft regulatory technical standards to the Commission by 6 months from the date of entry into force of this amending Regulation.*

*Power is delegated to the Commission to supplement this Directive by adopting the regulatory technical standards referred to in the first subparagraph of this paragraph in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010.*

#### *Article 74ca*

##### *Limits for mandatory lending during the build-up phase of the EDIS I*

*Participating DGS shall provide mandatory lending in accordance with Article 41ba starting from 1<sup>st</sup> of July following 1 year after date of entry into force of this amending Regulation within the following limits:*


- a) from the 1<sup>st</sup> of July following 1 year after date of entry into force of this amending Regulation, 65% of the minimum target level of each participating DGS;*
- b) from the 1<sup>st</sup> of July following 2 years after date of entry into force of this amending Regulation, 55% of the minimum target level of each participating DGS;*
- c) from the 1<sup>st</sup> of July following 3 years after date of entry into force of this amending Regulation, 45% of the minimum target level of each participating DGS;*
- d) from the 1<sup>st</sup> of July following 4 years after date of entry into force of this amending Regulation, 35% of the minimum target level of each participating DGS;*
- e) from the 1<sup>st</sup> of July following 5 years after date of entry into force of this amending Regulation and until the build-up of the DIF is completed, 25% of the minimum target level of each participating DGS.*



#### Article 74e

##### *Implementation of decisions under this Regulation*

1. The participating DGS shall take the necessary action to implement decisions referred to in this Regulation.

Subject to this Regulation, the participating DGS shall exercise its powers under national law transposing  Directive 2014/49/EU and in accordance with the conditions laid down in national law. The participating DGS shall fully inform the Board of the exercise of those powers.

2. Where a participating DGS has not applied or has not complied with a decision by the Board pursuant to this Regulation or has applied it in a way which poses a threat to the efficient implementation of **EDIS I** and to the objectives of this Regulation, the Board may order the participating DGS to adopt any necessary action to comply with the decision in question.
3. Where a participating DGS addressed a decision to a credit institution affiliated to it, including the invoicing of contributions, and the credit institution has intentionally or negligently not complied with that decision, the Board shall take a decision **to instruct a participating DGS to charge interest** on the credit institution in accordance with Article 38.

#### Article 74f

##### *Voluntary lending to and borrowing from non-participating DGS*

1. The Board shall decide to make a request to borrow for the DIF from deposit guarantee schemes within non-participating Member States in the event that:

- (a) **the available financing means of the DIF and the amounts raised under mandatory lending** are not sufficient to cover the losses, costs or other expenses incurred by the use of the DIF **pursuant to Article 41a**;

- (c) the alternative funding means provided for in Article 74g are not immediately accessible on reasonable terms.

2. Those deposit guarantee schemes shall decide on such a request in accordance with Article 12 of Directive 2014/49/EU.

3. The Board may decide to lend to other deposit guarantee schemes within non-participating Member States upon request. Article 12 of Directive 2014/49/EU shall apply by analogy with respect to the borrowing conditions, **except for paragraph (1), point (b)**.

#### Article 74g

##### *Alternative funding means*

1. The Board may contract for the DIF borrowings or other forms of support from institutions, financial institutions or other third parties, which offer better financial terms, at the most appropriate time so as to optimise the cost of funding and preserve

its reputation. The proceeds of such borrowings shall be used exclusively to ***provide liquidity support or*** meet payment obligations towards participating DGSs, in the event that the amounts raised in accordance with ***Article 74c*** are not immediately accessible or do not cover the amounts claimed from the DIF in relation to ***the use of DGS funds referred to in Article 41a***.

2. The borrowing or other forms of support referred to in paragraph 1 shall be fully recouped in accordance with ***Article 74c***.
  3. Any expenses incurred by the use of the borrowings specified in paragraph 1 shall be borne by Part III of the budget of the Board and not by the Union budget or the participating Member States.
  4. The Board may decide to invest proceeds from borrowings in accordance with Article 75 in order to protect their real value.";
35. in Chapter 2 of Title V of Part III, the heading of Section 2 is replaced by "Administration of the SRF and DIF".
36. Article 75 is replaced by the following:

*"Article 75  
Investments*

1. The Board shall administer the SRF and the DIF in accordance with this Regulation and delegated acts adopted under paragraph 4.
  2. The amounts received from an institution under resolution or a bridge institution, the interests and other earnings on investments and any other earnings shall benefit only the SRF and the DIF.
  3. The Board shall have a prudent and safe investment strategy that is provided for in the delegated acts adopted pursuant to paragraph 4 of this Article, and shall invest the amounts held in the SRF and the DIF in obligations of the Member States or intergovernmental organisations, or in highly liquid assets of high creditworthiness, taking into account the delegated act referred to in Article 460 of Regulation (EU) No 575/2013 as well as other relevant provisions of that Regulation. Investments shall be sufficiently sectorally, geographically and proportionally diversified. The return on those investments shall benefit the SRF and the DIF respectively.
  4. The Commission shall be empowered to adopt delegated acts on the detailed rules for the administration of the SRF and the DIF and general principles and criteria for their investment strategy, in accordance with the procedure laid down in Article 93.";
37. █
38. in Title VI of Part III, in Article 81(4), Article 83(2) and (3), Article 87(4), Article 88(2) and (6), the words "national resolution authority" are replaced by "national resolution authority, participating DGS or designated authorities where relevant" and the words "national resolution authorities" are replaced by "national resolution authorities, participating DGS or designated authorities where relevant";
39. Article 93 is amended as follows:
- (a) paragraph 2 is replaced by the following:

"2. The delegation of power referred to in Article 19(8), Article 65(5), Article 69(5), Article 71(3), Article 74b (5), Article 74c (5), Article 74d(4) and Article 75(4) shall be conferred for an indeterminate period of time from the relevant dates referred to in Article 99.";

(b) paragraph 4 is replaced by the following:

"4. The delegation of power referred to in Article 19(8), Article 65(5), Article 69(5), Article 71(3), Article 74b (5), Article 74c (5), Article 74d(4) and Article 75(4) may be revoked at any time by the European Parliament or by the Council. A decision of revocation shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.";

(c) paragraph 6 is replaced by the following:

"6. A delegated act adopted pursuant to Article 19(8), Article 65(5), Article 69(5), Article 71(3), Article 74b (5), Article 74c (5), Article 74d(4) and Article 75(4) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of three months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by three months at the initiative of the European Parliament or the Council.";

**39a. in Article 94, the following paragraph is added:**

**‘4. By 31 December one year after entry into force of this amending Regulation the Commission shall review the functioning of EDIS I. The review shall assess in particular the following:**

- (a) the adequacy of funding mechanism and target level of EDIS I and the cases of use of the liquidity mechanism;**
- (b) the scope of measures financed by EDIS I under article 41a and the entities referred to in Article 2(2), point (b);**
- (c) the appropriateness of an extension of EDIS I from providing liquidity support to deposit insurance mechanisms.**
- (d) the appropriateness of introducing a publicly funded backstop mechanism or the DIF.**

**The Commission shall submit a report to the European Parliament and the Council. Where appropriate the review shall be accompanied with a legislative proposal.**

40. in Article 99, the following paragraph 5a is inserted:

"5a. By way of derogation from paragraph 2, Article 1(2), Part IIa and Part III, Title V Chapter 2 Section 1a shall apply from one of *the following dates, whichever the latest*:

- a) date of entry into force of this amending Regulation;**
- b) date of entry into force of the Directive on accelerated extrajudicial collateral enforcement mechanism (AECE);**
- c) date of completion of a targeted asset quality review of all less significant institutions referred to in Article 6(4) of Council Regulation (EU) No 1024/2013 of 15 October**

***2013 conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions.***

41. throughout Regulation (EU) No 806/2014, the word "the Fund" is replaced with "the SRF".

*Article 2*

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Strasbourg,

*For the European Parliament*  
*The President*

*For the Council*  
*The President*