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LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject: Position of the Council at first reading with a view to the adoption of a
DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE
COUNCIL on Deposit Guarantee Schemes (recast)
- Adopted by the Council on 3 March 2014

DIRECTIVE 2014/.../EU
OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of ...

on Deposit Guarantee Schemes
(recast)

(Text with EEA relevance)

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 53(1) 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 Bank¹,

Acting in accordance with the ordinary legislative procedure²,

¹ OJ C 99, 31.3.2011, p. 1.

² Position of the European Parliament of 16 February 2012 (OJ C 249 E, 30.8.2013, p. 81) and Decision of the Council at first reading of 3 March 2014 (not yet published in the Official Journal). Position of the European Parliament of ... (not yet published in the Official Journal).

Whereas:

- (1) Directive 94/19/EC of the European Parliament and of the Council¹ has been substantially amended². Since further amendments are to be made, that Directive should be recast in the interests of clarity.
- (2) In order to make it easier to take up and pursue the business of credit institutions, it is necessary to eliminate certain differences between the laws of the Member States as regards the rules on deposit-guarantee schemes (DGSs) to which those credit institutions are subject.
- (3) This Directive constitutes an essential instrument for the achievement of the internal market from the point of view of both the freedom of establishment and the freedom to provide financial services in the field of credit institutions, while increasing the stability of the banking system and the protection of depositors. In view of the costs of the failure of a credit institution to the economy as a whole and its adverse impact on financial stability and the confidence of depositors, it is desirable not only to make provision for reimbursing depositors but also to allow Member States sufficient flexibility to enable DGSs to carry out measures to reduce the likelihood of future claims against DGSs. Those measures should always comply with the State aid rules.

¹ Directive 94/19/EC of the European Parliament and of the Council of 30 May 1994 on deposit-guarantee schemes (OJ L 135, 31.5.1994, p. 5).

² See Annex III.

- (4) In order to take account of the growing integration in the internal market, it should be possible to merge the DGSs of different Member States or to create separate cross-border schemes on a voluntary basis. Member States should ensure sufficient stability and a balanced composition of the new and the existing DGSs. Adverse effects on financial stability should be avoided, for example where only credit institutions with a high-risk profile are transferred to a cross-border DGS.
- (5) Directive 94/19/EC of the European Parliament and of the Council requires the Commission, if appropriate, to put forward proposals to amend Directive 94/19/EC. This Directive encompasses the harmonisation of the funding mechanisms of DGSs, the introduction of risk-based contributions and the harmonisation of the scope of products and depositors covered.
- (6) Directive 94/19/EC is based on the principle of minimum harmonisation. Consequently, a variety of DGSs with very distinct features currently exist in the Union. As a result of the common requirements laid down in this Directive, a uniform level of protection should be provided for depositors throughout the Union while ensuring the same level of stability of DGSs. At the same time, those common requirements are of the utmost importance in order to eliminate market distortions. This Directive therefore contributes to the completion of the internal market.

- (7) As a result of this Directive, depositors will benefit from significantly improved access to DGSs, thanks to a broadened and clarified scope of coverage, faster repayment periods, improved information and robust funding requirements. This will improve consumer confidence in financial stability throughout the internal market.
- (8) Member States should ensure that their DGSs have sound governance practices in place and that they produce an annual report on their activities.
- (9) In the event of closure of an insolvent credit institution, the depositors at any branches situated in a Member State other than that in which the credit institution has its head office should be protected by the same DGS as the credit institution's other depositors.
- (10) This Directive should not prevent Member States from including within its scope credit institutions as defined in point (1) of Article 4(1) of Regulation (EU) No 575/2013 of the European Parliament and of the Council¹ which fall outside the scope of Directive 2013/36/EU of the European Parliament and of the Council² pursuant to Article 2(5) thereof. Member States should be able to decide that, for the purpose of this Directive, the central body and all credit institutions affiliated to that central body are treated as a single credit institution.

¹ Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 (OJ L 176, 27.6.2013, p. 1).

² Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC (OJ L 176, 27.6.2013, p. 338).

- (11) In principle, this Directive requires every credit institution to join a DGS. A Member State admitting branches of a credit institution having its head office in a third country should decide how to apply this Directive to such branches and should take account of the need to protect depositors and maintain the integrity of the financial system. Depositors at such branches should be fully aware of the guarantee arrangements which affect them.
- (12) It should be recognised that there are institutional protection schemes (IPS) which protect the credit institution itself and which, in particular, ensure its liquidity and solvency. Where such a scheme is separate from a DGS, its additional safeguard role should be taken into account when determining the contributions of its members to the DGS. The harmonised level of coverage provided for in this Directive should not affect schemes protecting the credit institution itself unless they repay depositors.
- (13) Each credit institution should be part of a DGS recognised under this Directive, thereby ensuring a high level of consumer protection and a level playing field between credit institutions, and preventing regulatory arbitrage. A DGS should be able to provide that protection at any time.
- (14) The key task of a DGS is to protect depositors against the consequences of the insolvency of a credit institution. DGSs should be able to provide that protection in various ways. DGSs should primarily be used to repay depositors pursuant to this Directive (the 'paybox' function).

- (15) DGSs should also assist in the financing of the resolution of credit institutions in accordance with Directive 2014/.../EU of the European Parliament and of the Council^{1*}.
- (16) It should also be possible, where permitted under national law, for a DGS to go beyond a pure reimbursement function and to use the available financial means in order to prevent the failure of a credit institution with a view to avoiding the costs of reimbursing depositors and other adverse impacts. Those measures should, however, be carried out within a clearly defined framework and should in any event comply with State aid rules. DGSs should, inter alia, have appropriate systems and procedures in place for selecting and implementing such measures and monitoring affiliated risks. Implementing such measures should be subject to the imposition of conditions on the credit institution involving at least more stringent risk-monitoring and greater verification rights for the DGSs. The costs of the measures taken to prevent the failure of a credit institution should not exceed the costs of fulfilling the statutory or contractual mandates of the respective DGS with regard to protecting covered deposits at the credit institution or the institution itself.
- (17) DGSs should also be able to take the form of an IPS. The competent authorities should be able to recognise IPSs as DGSs if they fulfil all criteria laid down in this Directive.

¹ Directive 2014/.../EU of the European Parliament and of the Council of ... establishing a framework for the recovery and resolution of credit institutions and investment firms and amending Council Directive 82/891/EEC and Directives 2001/24/EC, 2002/47/EC, 2004/25/EC, 2005/56/EC, 2007/36/EC, 2011/35/EC, 2012/30/EU and 2013/36/EU and Regulations (EU) No 1093/2010 and (EU) No 648/2012 (OJ L ...).

* OJ: please insert the number in the text as well as the date and the OJ publication reference in the footnote of the Directive in document 2012/0150 (COD).

- (18) This Directive should not apply to contractual schemes or IPS that are not officially recognised as DGSs, except as regards the limited requirements on advertising and information of depositors in the case of the exclusion or withdrawal of a credit institution. In any event, contractual schemes and IPSs are subject to State aid rules.
- (19) In the recent financial crisis, uncoordinated increases in coverage across the Union have in some cases led to depositors transferring money to credit institutions in countries where deposit guarantees were higher. Such uncoordinated increases have drained liquidity from credit institutions in times of stress. In times of stability it is possible that different coverage leads to depositors choosing the highest deposit protection rather than the deposit product best suited to them. It is possible that such different coverage results in competitive distortions in the internal market. It is therefore necessary to ensure a harmonised level of deposit protection by all recognised DGSs, regardless of where the deposits are located in the Union. However, for a limited time, it should be possible to cover certain deposits relating to the personal situation of depositors at a higher level.
- (20) The same coverage level should apply to all depositors regardless of whether a Member State's currency is the euro. Member States whose currency is not the euro should have the possibility to round off the amounts resulting from the conversion without compromising the equivalent protection of depositors.

- (21) On the one hand, the coverage level laid down in this Directive should not leave too great a proportion of deposits without protection in the interests both of consumer protection and of the stability of the financial system. On the other hand, the cost of funding DGSs should be taken into account. It is therefore reasonable to set the harmonised coverage level at EUR 100 000.
- (22) This Directive retains the principle of a harmonised limit per depositor rather than per deposit. It is therefore appropriate to take into consideration the deposits made by depositors who are not mentioned as holders of an account or who are not the sole holders of an account. The limit should be applied to each identifiable depositor. The principle that the limit be applied to each identifiable depositor should not apply to collective investment undertakings subject to special protection rules which do not apply to such deposits.

- (23) Directive 2009/14/EC introduced a fixed coverage level of EUR 100 000, which has put some Member States in the situation of having to lower their coverage level, with risks of undermining depositor confidence. While harmonisation is essential in order to secure the level playing field and financial stability in the internal market, risks of undermining depositor confidence should be taken into account. Therefore, Member States should be able to apply a higher coverage level if they provided for a coverage level that was higher than the harmonised level before the application of Directive 2009/14/EC. Such higher coverage level should be limited in time and in scope and the Member States concerned should adjust the target level and contributions paid to their DGSs proportionately. Given that it is not possible to adjust the target level if the coverage level is unlimited, it is appropriate to limit the option to Member States which on 1 January 2008 applied a coverage level within a range of between EUR 100 000 and EUR 300 000. In order to limit the impact of diverging coverage levels, and taking into account that the Commission will review the implementation of this Directive by 31 December 2018, it is appropriate to allow for this option until that date.
- (24) DGSs should be permitted to set off liabilities of a depositor against that depositor's claims for repayment only if those liabilities are due on or before the date of unavailability. Such set off should not impede the capacity of DGSs to repay deposits within the deadline set by this Directive. Member States should not be prevented from taking appropriate measures concerning the rights of DGSs in a winding up or reorganisation procedure of a credit institution.

- (25) It should be possible to exclude from repayment deposits where, in accordance with national law, the funds deposited are not at the disposal of the depositor because the depositor and the credit institution have contractually agreed that the deposit would serve only to pay off a loan contracted for the purchase of a private immovable property. Such deposits should be offset against the outstanding amount of the loan.
- (26) Member States should ensure that the protection of deposits resulting from certain transactions, or serving certain social or other purposes, is higher than EUR 100 000 for a given period. Member States should decide on a temporary maximum coverage level for such deposits and, when doing so, they should take into account the significance of the protection for depositors and the living conditions in the Member States. In all such cases, State aid rules should be complied with.
- (27) It is necessary to harmonise the methods of financing of DGSs. On the one hand, the cost of financing DGSs should, in principle, be borne by credit institutions themselves and, on the other, the financing capacity of DGSs should be proportionate to their liabilities. In order to ensure that depositors in all Member States enjoy a similarly high level of protection, the financing of DGSs should be harmonised at a high level with a uniform ex-ante financial target level for all DGSs.

- (28) However, in certain circumstances, credit institutions may operate in a highly concentrated market where most credit institutions are of such a size and degree of interconnection that they would be unlikely to be wound up under normal insolvency proceedings without endangering financial stability and would therefore be more likely to be subject to orderly resolution proceedings. In such circumstances, schemes could be subject to a lower target level.
- (29) Electronic money and funds received in exchange for electronic money should not, in accordance with Directive 2009/110/EC of the European Parliament and of the Council¹, be treated as a deposit and should not therefore fall within the scope of this Directive.
- (30) In order to limit deposit protection to the extent necessary to ensure legal certainty and transparency for depositors and to avoid transferring investment risks to DGSs, financial instruments should be excluded from the scope of coverage, except for existing savings products evidenced by a certificate of deposit made out to a named person.
- (31) Certain depositors should not be eligible for deposit protection, in particular public authorities or other financial institutions. Their limited number compared to all other depositors minimises the impact on financial stability in the case of a failure of a credit institution. Authorities also have much easier access to credit than citizens. However, Member States should be able to decide that the deposits of local authorities with an annual budget of up to EUR 500 000 are covered. Non-financial undertakings should in principle be covered, regardless of their size.

¹ Directive 2009/110/EC of the European Parliament and of the Council of 16 September 2009 on the taking up, pursuit and prudential supervision of the business of electronic money institutions amending Directives 2005/60/EC and 2006/48/EC and repealing Directive 2000/46/EC (OJ L 267, 10.10.2009, p. 7).

- (32) Depositors whose activities include money laundering within the meaning of Article 1(2) or (3) of Directive 2005/60/EC of the European Parliament and of the Council¹ should be excluded from repayment by a DGS.
- (33) The cost to credit institutions of participating in a DGS bears no relation to the cost that would result from a massive withdrawal of deposits not only from a credit institution in difficulty but also from healthy institutions, following a loss of depositor confidence in the soundness of the banking system.
- (34) It is necessary that the available financial means of DGSs amount to a certain target level and that extraordinary contributions may be collected. In any event, DGSs should have adequate alternative funding arrangements in place to enable them to obtain short-term funding to meet claims made against them. It should be possible for the available financial means of DGSs to include cash, deposits, payment commitments and low-risk assets, which can be liquidated within a short period of time. The amount of contributions to the DGS should take due account of the business cycle, the stability of the deposit-taking sector and existing liabilities of the DGS.
- (35) DGSs should invest in low-risk assets.

¹ Directive 2005/60/EC of the European Parliament and of the Council of 26 October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing (OJ L 309, 25.11.2005, p. 15).

- (36) Contributions to DGSs should be based on the amount of covered deposits and the degree of risk incurred by the respective member. This would allow the risk profiles of individual credit institutions to be reflected, including their different business models. It should also lead to a fair calculation of contributions and provide incentives to operate under a less risky business model. In order to tailor contributions to market circumstances and risk profiles, DGSs should be able to use their own risk-based methods. In order to take account of particularly low-risk sectors which are regulated under national law, Member States should be allowed to provide for corresponding reductions in the contributions while respecting the target level for each DGS. In any event, calculation methods should be approved by competent authorities. The European Supervisory Authority (European Banking Authority) ('EBA'), established by Regulation (EU) No 1093/2010 of the European Parliament and of the Council¹ should issue guidelines for specifying methods for calculating contributions.
- (37) Deposit protection is an essential element in the completion of the internal market and an indispensable complement to the system of supervision of credit institutions on account of the solidarity it creates among all the institutions in a given financial market in the event of the failure of any of them. Therefore, Member States should be able to allow DGSs to lend money to each other on a voluntary basis.

¹ Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC (OJ L 331, 15.12.2010, p. 12).

- (38) The existing repayment period runs counter to the need to maintain depositor confidence and does not meet depositors' needs. The repayment period should therefore be reduced to seven working days.
- (39) In many cases, however, the necessary procedures for a short time-limit for repayment do not yet exist. Member States should therefore be given the option, during a transitional period, to reduce the repayment period gradually to seven working days. The maximum repayment delay set out in this Directive should not prevent DGSs from making earlier repayments to depositors. In order to ensure that, during the transitional period, depositors do not encounter financial difficulties in the event of failure of their credit institution, depositors should, however, on request, be able to have access to an appropriate amount of their covered deposits to cover their cost of living. Such access should only be made on the basis of data provided by the credit institution. Given the different living costs between the Member States, that amount should be determined by the Member States.
- (40) The period necessary for the repayment of deposits should take into account cases where schemes have difficulty in determining the amount of repayment and the rights of the depositor, in particular if deposits arise from residential housing transactions or certain life events, if a depositor is not absolutely entitled to the sums held on an account, if the deposit is the subject of a legal dispute or competing claims to the sums held on the account or if the deposit is the subject of economic sanctions imposed by national governments or international bodies.

- (41) In order to secure repayment, DGSs should be entitled to subrogate into the rights of repaid depositors against a failed credit institution. Member States should be able to limit the time in which depositors whose deposits were not repaid, or not acknowledged within the deadline for repayment, can claim repayment of their deposits, in order to enable DGSs to exercise the rights into which it is subrogated by the date on which those rights are due to be registered in insolvency proceedings.
- (42) A DGS in a Member State where a credit institution has established branches should inform and repay depositors on behalf of the DGS in the Member State where the credit institution has been authorised. Safeguards are necessary to ensure that a DGS repaying depositors receives from the home DGS the necessary financial means and instructions prior to such repayment. The DGS that may be concerned should enter into agreements in advance in order to facilitate those tasks.
- (43) Information is an essential element in depositor protection. Therefore, depositors should be informed about their coverage and the responsible DGS on their statements of account. Intending depositors should be provided with the same information by way of a standardised information sheet, receipt of which they should be asked to acknowledge. The content of such information should be identical for all depositors. The unregulated use in advertising of references to the coverage level and the scope of a DGS could affect the stability of the banking system or depositor confidence. Therefore, references to DGSs in advertisements should be limited to short factual statements.

- (44) Directive 95/46/EC of the European Parliament and of the Council¹ applies to the processing of personal data carried out pursuant to this Directive. DGSs and relevant authorities should handle data relating to individual deposits with extreme care and should maintain a high standard of data protection in accordance with that Directive.
- (45) This Directive should not result in the Member States or their relevant authorities being made liable in respect of depositors if they have ensured that one or more schemes guaranteeing deposits or credit institutions themselves and ensuring the compensation or protection of depositors under the conditions prescribed in this Directive have been introduced and officially recognised.
- (46) Regulation (EU) No 1093/2010 has assigned a number of tasks concerning Directive 94/19/EC to EBA.
- (47) While respecting the supervision of DGSs by Member States, EBA should contribute to the achievement of the objective of making it easier for credit institutions to take up and pursue their activities while at the same time ensuring effective protection for depositors and minimising the risk to taxpayers. Member States should keep the Commission and EBA informed of the identity of their designated authority in view of the requirement for cooperation between EBA and the designated authorities provided for in this Directive.

¹ Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data (OJ L 281, 23.11.1995, p. 31).

- (48) There is a need to introduce guidelines in financial services to ensure a level playing field and an adequate protection of depositors across the Union. Such guidelines should be issued for specifying the method for calculating risk-based contributions.
- (49) In order to ensure efficient and effective functioning of DGSs and a balanced consideration of their positions in different Member States, EBA should be able to settle disagreements between them with binding effect.
- (50) Given the divergences in administrative practices relating to DGSs in Member States, Member States should be free to decide which authority determines the unavailability of deposits.
- (51) Competent authorities, designated authorities, resolution authorities, relevant administrative authorities and DGSs should cooperate with each other and exercise their powers in accordance with this Directive. They should cooperate from an early stage in the preparation and implementation of the resolution measures in order to set the amount by which the DGS is liable when the financial means are used to finance the resolution of credit institutions.

- (52) The power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in order to adjust the coverage level for the total deposits of the same depositor as laid down in this Directive in line with inflation in the Union on the basis of changes in the consumer price index. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council.
- (53) In accordance with the Joint Political Declaration of Member States and the Commission on explanatory documents¹, Member States have undertaken to accompany, in justified cases, the notification of their transposition measures with one or more documents explaining the relationship between the components of a directive and the corresponding parts of national transposition instruments. With regard to this Directive, the legislator considers the transmission of such documents to be justified.

¹ Joint Political Declaration of 28 September 2011 of Member States and the Commission on explanatory documents (OJ C 369, 17.12.2011, p. 14).

- (54) Since the objective of this Directive, namely the harmonisation of rules concerning the functioning of DGSs, cannot be sufficiently achieved by the Member States, but can rather be better achieved at 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 Directive does not go beyond what is necessary in order to achieve that objective.
- (55) The obligation to transpose this Directive into national law should be confined to those provisions which represent a substantive amendment as compared to the earlier Directives. The obligation to transpose the provisions which are unchanged arises under the earlier Directives.
- (56) This Directive should be without prejudice to the obligations of the Member States relating to the time-limits for the transposition into national law of the Directives set out in Annex II,

HAVE ADOPTED THIS DIRECTIVE:

Article 1
Subject matter and scope

1. This Directive lays down rules and procedures relating to the establishment and the functioning of Deposit Guarantee Schemes (DGSs).
2. This Directive shall apply to:
 - (a) statutory DGSs;
 - (b) contractual DGSs that are officially recognised as DGSs in accordance with Article 4(2);
 - (c) institutional protection schemes that are officially recognised as DGSs in accordance with Article 4(2);
 - (d) credit institutions affiliated to the schemes referred to in points (a), (b) or (c) of this paragraph.
3. Without prejudice to Article 16(5) and (7), the following schemes shall not be subject to this Directive:
 - (a) contractual schemes that are not officially recognised as DGSs, including schemes that offer an additional protection to the coverage level laid down in Article 6(1);

- (b) institutional protection schemes that are not officially recognised as DGSs;

Member States shall ensure that schemes referred to in points (a) and (b) of the first subparagraph have in place adequate financial means or relevant financing arrangements to fulfil their obligations.

Article 2

Definitions

1. For the purposes of this Directive the following definitions apply:
 - (a) 'deposit guarantee schemes' or 'DGSs' means schemes referred to in point (a), (b) or (c) of Article 1(2);
 - (b) 'institutional protection schemes' or 'IPS' means institutional protection schemes as referred to in Article 113(7) of Regulation (EU) No 575/2013;

- (c) 'deposit' means a credit balance which results from funds left in an account or from temporary situations deriving from normal banking transactions and which a credit institution is required to repay under the legal and contractual conditions applicable, including a fixed-term deposit and a savings deposit, but excluding a credit balance where:
- (i) its existence can only be proven by a financial instrument as defined in Article 4(17) of Directive 2004/39/EC of the European Parliament and of the Council¹, unless it is a savings product which is evidenced by a certificate of deposit made out to a named person and which exists in a Member State on ... *;
 - (ii) its principal is not repayable at par;
 - (iii) its principal is only repayable at par under a particular guarantee or agreement provided by the credit institution or a third party;
- (d) 'eligible deposits' means deposits that are not excluded from protection pursuant to Article 5;

¹ Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments amending Council Directives 85/611/EEC and 93/6/EEC and Directive 2000/12/EC of the European Parliament and of the Council and repealing Council Directive 93/22/EEC (OJ L 145, 30.4.2004, p. 1).

* OJ: please insert the date of entry into force of this Directive.

- (e) 'covered deposits' means the part of eligible deposits that does not exceed the coverage level laid down in Article 6;
- (f) 'depositor' means the holder or, in the case of a joint account, each of the holders, of a deposit;
- (g) 'joint account' means an account opened in the name of two or more persons or over which two or more persons have rights that are exercised by means of the signature of one or more of those persons;
- (h) 'unavailable deposit' means a deposit that is due and payable but that has not been paid by a credit institution under the legal or contractual conditions applicable thereto, where either:
 - (i) the relevant administrative authorities have determined that in their view the credit institution concerned appears to be unable for the time being, for reasons which are directly related to its financial circumstances, to repay the deposit and the institution has no current prospect of being able to do so; or
 - (ii) a judicial authority has made a ruling for reasons which are directly related to the credit institution's financial circumstances and which has the effect of suspending the rights of depositors to make claims against it;

- (i) 'credit institution' means a credit institution as defined in point (1) of Article 4(1) of Regulation (EU) No 575/2013;
- (j) 'branch' means a place of business in a Member State which forms a legally dependent part of a credit institution and which carries out directly all or some of the transactions inherent in the business of credit institutions;
- (k) 'target level' means the amount of available financial means which the DGS is required to reach in accordance with Article 10(2), expressed as a percentage of covered deposits of its members;
- (l) 'available financial means' means cash, deposits and low-risk assets which can be liquidated within a period not exceeding that referred to in Article 8(1) and payment commitments up to the limit set out in Article 10(3);
- (m) 'payment commitments' means payment commitments of a credit institution towards a DGS which are fully collateralised providing that the collateral:
 - (i) consists of low risk assets;
 - (ii) is unencumbered by any third-party rights and is at the disposal of the DGS;

- (n) 'low-risk assets' means items falling into the first or second category referred to in Table 1 of Article 336 of Regulation (EU) No 575/2013 or any assets which are considered to be similarly safe and liquid by the competent or designated authority;
- (o) 'home Member State' means a home Member State as defined in point (43) of Article 4(1) of Regulation (EU) No 575/2013;
- (p) 'host Member State' means a host Member State as defined in point (44) of Article 4(1) of Regulation (EU) No 575/2013;
- (q) 'competent authority' means a national competent authority as defined in point (40) of Article 4(1) of Regulation (EU) No 575/2013;
- (r) 'designated authority' means a body which administers a DGS pursuant to this Directive, or, where the operation of the DGS is administered by a private entity, a public authority designated by the Member State concerned for supervising that scheme pursuant to this Directive.

2. Where this Directive refers to Regulation (EU) No 1093/2010, a body which administers a DGS or, where the operation of the DGS is administered by a private entity, the public authority supervising that scheme, shall, for the purpose of that Regulation, be considered to be a competent authority as defined in Article 4(2) of that Regulation.

3. Shares in Irish or United Kingdom building societies apart from those of a capital nature covered in point (b) of Article 5(1) shall be treated as deposits.

Article 3

Relevant administrative authorities

1. Member States shall identify the relevant administrative authority in their Member State for the purpose of point (h)(i) of Article 2(1).
2. Competent authorities, designated authorities, resolution authorities and relevant administrative authorities shall cooperate with each other and exercise their powers in accordance with this Directive.

The relevant administrative authority shall make the determination referred to in point (h)(i) of Article 2(1) as soon as possible and in any event no later than five working days after first becoming satisfied that a credit institution has failed to repay deposits which are due and payable.

Article 4

Official recognition, membership and supervision

1. Each Member State shall ensure that within its territory one or more DGSs are introduced and officially recognised.

This shall not preclude the merger of DGSs of different Member States or the establishment of cross-border DGSs. Approval of such cross-border or merged DGSs shall be obtained from the Member States where the DGSs concerned are established.

2. A contractual scheme as referred to in point (b) of Article 1(2) of this Directive may be officially recognised as a DGS if it complies with this Directive.

An IPS may be officially recognised as a DGS if it fulfils the criteria laid down in Article 113(7) of Regulation (EU) No 575/2013 and complies with this Directive.

3. A credit institution authorised in a Member State pursuant to Article 8 of Directive 2013/36/EU shall not take deposits unless it is a member of a scheme officially recognised in its home Member State pursuant to paragraph 1 of this Article.
4. If a credit institution does not comply with the obligations incumbent on it as a member of a DGS, the competent authorities shall be notified immediately and, in cooperation with the DGS, shall promptly take all appropriate measures including if necessary the imposition of penalties to ensure that the credit institution complies with its obligations.

5. If the measures taken under paragraph 3 fail to secure compliance on the part of the credit institution, the DGS may, subject to national law and the express consent of the competent authorities, give not less than one month's notice of its intention to exclude the credit institution from membership of the DGS. Deposits made before the expiry of that notice period shall continue to be fully covered by the DGS. If, on expiry of that notice period, the credit institution has not complied with its obligations, the DGS shall exclude the credit institution.
6. Deposits held on the date on which a credit institution is excluded from membership of the DGS shall continue to be covered by that DGS.
7. The designated authorities shall supervise DGSs referred to in Article 1 on an ongoing basis as to their compliance with this Directive.

Cross-border DGSs shall be supervised by representatives of the designated authorities of the Member States where the affiliated credit institutions are authorised.

8. Member States shall ensure that a DGS, at any time and upon the DGS's request, receives from their members all information necessary to prepare for a repayment of depositors, including markings under Article 5(3).
9. DGSs shall ensure the confidentiality and the protection of the data pertaining to depositors' accounts. The processing of such data shall be carried out in accordance with Directive 95/46/EC.

10. Member States shall ensure that DGSs perform stress tests of their systems and that the DGSs are informed as soon as possible in the event that the competent authorities detect problems in a credit institution that are likely to give rise to the intervention of a DGS.

Such tests shall take place at least every three years and more frequently where appropriate. The first test shall take place by ...*.

Based on the results of the stress tests, EBA shall, at least every five years, conduct peer reviews pursuant to Article 30 of Regulation (EU) No 1093/2010 in order to examine the resilience of DGSs. DGSs shall be subject to the requirements of professional secrecy in accordance with Article 70 of that regulation when exchanging information with EBA.

11. DGSs shall use the information necessary to perform stress tests of their systems only for the performance of those tests and shall keep such information no longer than is necessary for that purpose.
12. Member States shall ensure that their DGSs have in place sound and transparent governance practices. DGSs shall produce an annual report on their activities.

* OJ please insert date: 3 years after the date of entry into force of this Directive.

Article 5
Eligibility of deposits

1. The following shall be excluded from any repayment by a DGS:
- (a) subject to Article 7(3) of this Directive, deposits made by other credit institutions on their own behalf and for their own account;
 - (b) own funds as defined in point (118) of Article 4(1) of Regulation (EU) No 575/2013;
 - (c) deposits arising out of transactions in connection with which there has been a criminal conviction for money laundering as defined in Article 1(2) of Directive 2005/60/EC;
 - (d) deposits by financial institutions as defined in point (26) of Article 4(1) of Regulation (EU) No 575/2013;
 - (e) deposits by investment firms as defined in point (1) of Article 4(1) of Directive 2004/39/EC;
 - (f) deposits the holder of which has never been identified pursuant to Article 9(1) of Directive 2005/60/EC of the European Parliament and of the Council¹, when they have become unavailable;

¹ Directive 2005/60/EC of the European Parliament and of the Council of 26 October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing (OJ L 309, 25.11.2005, p. 15).

- (g) deposits by insurance undertakings and by reinsurance undertakings as referred to in Article 13(1) to (6) of Directive 2009/138/EC of the European Parliament and of the Council¹;
 - (h) deposits by collective investment undertakings;
 - (i) deposits by pension and retirement funds;
 - (j) deposits by public authorities;
 - (k) debt securities issued by a credit institution and liabilities arising out of own acceptances and promissory notes.
2. By way of derogation from paragraph 1 of this Article, Member States may ensure that the following are included up to the coverage level laid down in Article 6(1):
- (a) deposits held by personal pension schemes and occupational pension schemes of small or medium-sized enterprises;
 - (b) deposits held by local authorities with an annual budget of up to EUR 500 000.
3. Member States may provide that deposits that may be released in accordance with national law only to pay off a loan on private immovable property whether made by the credit institution or another institution holding the deposit are excluded from repayment by a DGS.

¹ Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II) (OJ L 335, 17.12.2009, p. 1).

4. Member States shall ensure that credit institutions mark eligible deposits in a way that allows an immediate identification of such deposits.

Article 6

Coverage level

1. Member States shall ensure that the coverage level for the aggregate deposits of each depositor is EUR 100 000 in the event of deposits being unavailable.
2. In addition to paragraph 1, Member States shall ensure that the following deposits are protected above EUR 100 000 for at least three months and no longer than 12 months after the amount has been credited or from the moment when such deposits become legally transferable:
 - (a) deposits resulting from real estate transactions relating to private residential properties;
 - (b) deposits that serve social purposes laid down in national law and are linked to particular life events of a depositor such as marriage, divorce, retirement, dismissal, redundancy, invalidity or death;
 - (c) deposits that serve purposes laid down in national law and are based on the payment of insurance benefits or compensation for criminal injuries or wrongful conviction.

3. Paragraphs 1 and 2 shall not prevent Member States from maintaining or introducing schemes protecting old-age provision products and pensions, provided that such schemes do not only cover deposits but offer comprehensive coverage for all products and situations relevant in this regard.
4. Member States shall ensure that repayments are made in any of the following:
 - (a) the currency of the Member State where the DGS is located;
 - (b) the currency of the Member State where the account holder is resident;
 - (c) euro;
 - (d) the currency of the account;
 - (e) the currency of the Member State where the account is located.

Depositors shall be informed of the currency of repayment.

If accounts were maintained in a currency different from that of the payout, the exchange rate used shall be that of the date on which the relevant administrative authority makes a determination as referred to in point (h)(i) of Article 2(1) or when a judicial authority makes a ruling as referred to in point (h)(ii) of Article 2(1).

5. Member States that convert into their national currency the amount referred to in paragraph 1 shall initially use in the conversion the exchange rate prevailing on ...*.

Member States may round off the amounts resulting from the conversion, provided that such rounding off does not exceed EUR 5 000.

Without prejudice to the second subparagraph, Member States shall adjust the coverage levels converted into another currency to the amount referred to in paragraph 1 of this Article every five years. Member States shall make an earlier adjustment of coverage levels, after consulting the Commission, following the occurrence of unforeseen events such as currency fluctuations.

6. The amount referred to in paragraph 1 shall be reviewed periodically by the Commission and at least once every five years. If appropriate, the Commission shall submit to the European Parliament and to the Council a proposal for a Directive to adjust the amount referred to in paragraph 1, taking account in particular of developments in the banking sector and the economic and monetary situation in the Union. The first review shall not take place before ...** unless unforeseen events necessitate an earlier review.
7. The Commission shall be empowered to adopt delegated acts in accordance with Article 18 in order to adjust the amount referred to in paragraph 6 at least every five years, in accordance with inflation in the Union on the basis of changes in the harmonised index of consumer prices published by the Commission since the previous adjustment.

* OJ please insert the date: 12 months after the date of entry into force of this Directive.

** OJ please insert date: six years after the date of entry into force of this Directive.

Article 7

Determination of the repayable amount

1. The limit referred to in Article 6(1) shall apply to the aggregate deposits placed with the same credit institution irrespective of the number of deposits, the currency and the location within the Union.
2. The share of each depositor in a joint account shall be taken into account in calculating the limit provided for in Article 6(1).

In the absence of special provisions, such an account shall be divided equally among the depositors.

Member States may provide that deposits in an account to which two or more persons are entitled as members of a business partnership, association or grouping of a similar nature, without legal personality, may be aggregated and treated as if made by a single depositor for the purpose of calculating the limit provided for in Article 6(1).

3. Where the depositor is not absolutely entitled to the sums held in an account, the person who is absolutely entitled shall be covered by the guarantee, provided that that person has been identified or is identifiable before the date on which a relevant administrative authority makes a determination as referred to in point (h)(i) of Article 2(1) or a judicial authority makes a ruling referred to in point (h)(ii) of Article 2(1). Where several persons are absolutely entitled, the share of each under the arrangements subject to which the sums are managed shall be taken into account when the limit provided for in Article 6(1) is calculated.
4. The reference date for the calculation of the repayable amount shall be the date on which a relevant administrative authority makes a determination as referred to in point (h)(i) of Article 2(1) or when a judicial authority makes a ruling as referred to in point (h)(ii) of Article 2(1). Liabilities of the depositor against the credit institution shall not be taken into account when calculating the repayable amount.
5. Member States may decide that the liabilities of the depositor to the credit institution are taken into account when calculating the repayable amount where they have fallen due on or before the date on which a relevant administrative authority makes a determination as referred to in point (h)(i) of Article 2(1) or when a judicial authority makes a ruling as referred to in point (h)(ii) of Article 2(1) to the extent the set-off is possible under the statutory and contractual provisions governing the contract between the credit institution and the depositor.

Depositors shall be informed prior to the conclusion of the contract by the credit institution where their liabilities towards the credit institution are taken into account when calculating the repayable amount.

6. Member States shall ensure that DGSs may at any time request credit institutions to inform them about the aggregated amount of eligible deposits of every depositor.
7. Interest on deposits which has accrued until, but has not been credited at, the date on which a relevant administrative authority makes a determination as referred to in point (h)(i) of Article 2(1) or a judicial authority makes a ruling as referred to in point (h)(ii) of Article 2(1) shall be reimbursed by the DGS. The limit referred to in Article 6(1) shall not be exceeded.
8. Member States may decide that certain categories of deposits fulfilling a social purpose defined by national law, for which a third party has given a guarantee that complies with State aid rules, are not taken into account when aggregating the deposits held by the same depositor with the same credit institution as referred to in paragraph 1 of this Article. In such cases the third-party guarantee shall be limited to the coverage level laid down in Article 6(1).

9. Where credit institutions are allowed under national law to operate under different trademarks as defined in Article 2 of Directive 2008/95/EC of the European Parliament and of the Council¹, the Member State shall ensure that depositors are informed clearly that the credit institution operates under different trademarks and that the coverage level laid down in Article 6(1), (2) and (3) of this Directive applies to the aggregated deposits the depositor holds with the credit institution. That information shall be included in the depositor information referred to in Article 16 of this Directive and in Annex I hereto.

Article 8

Repayment

1. DGSs shall ensure that the repayable amount is available within seven working days of the date on which a relevant administrative authority makes a determination as referred to in point (h)(i) of Article 2(1) or a judicial authority makes a ruling as referred to in point (h)(ii) of Article 2(1).
2. However, Member States may, for a transitional period until 31 December 2023, establish the following repayment periods of up to:
 - (a) 20 working days until 31 December 2018;
 - (b) 15 working days from 1 January 2019 until 31 December 2020;
 - (c) 10 working days from 1 January 2021 and until 31 December 2023.

¹ Directive 2008/95/EC of the European Parliament and of the Council of 22 October 2008 to approximate the laws of the Member States relating to trade marks (OJ L 299, 8.11.2008, p. 25).

3. Member States may decide that deposits referred to in Article 7(3) are subject to a longer repayment period, which does not exceed three months from the date on which a relevant administrative authority makes a determination as referred to in point (h)(i) of Article 2 or a judicial authority makes a ruling as referred to in point (h)(ii) of Article 2.
4. During the transitional period until 31 December 2023, where DGSs cannot make the repayable amount available within seven working days they shall ensure that depositors have access to an appropriate amount of their covered deposits to cover the cost of living within five working days of a request.

DGSs shall only grant access to the appropriate amount as referred to in the first subparagraph on the basis of data provided by the DGS or the credit institution.

The appropriate amount as referred to in the first subparagraph shall be deducted from the repayable amount as referred to in Article 7.

5. Repayment as referred to in paragraphs 1 and 4 may be deferred where:
 - (a) it is uncertain whether a person is entitled to receive repayment or the deposit is subject to legal dispute;
 - (b) the deposit is subject to restrictive measures imposed by national governments or international bodies;

- (c) by way of derogation from paragraph 9 of this Article there has been no transaction relating to the deposit within the last 24 months (the account is dormant);
 - (d) the amount to be repaid is deemed to be part of a temporary high balance as defined in Article 6(2); or
 - (e) the amount to be repaid is to be paid out by the DGS of the host Member State in accordance with Article 14(2).
6. The repayable amount shall be made available without a request to a DGS being necessary. For that purpose, the credit institution shall transmit the necessary information on deposits and depositors as soon as requested by the DGS.
7. Any correspondence between the DGS and the depositor shall be drawn up:
- (a) in the official language of the Union institutions that is used by the credit institution holding the covered deposit when writing to the depositor; or
 - (b) in the official language or languages of the Member State in which the covered deposit is located.

If a credit institution operates directly in another Member State without having established branches, the information shall be provided in the language that was chosen by the depositor when the account was opened.

8. Notwithstanding the time-limit laid down in paragraph 1 of this Article, where a depositor or any person entitled to or interested in sums held in an account has been charged with an offence arising out of or in relation to money laundering as defined in Article 1(2) of Directive 2005/60/EC, the DGS may suspend any payment relating to the depositor concerned, pending the judgment of the court.
9. No repayment shall be made where there has been no transaction relating to the deposit within the last 24 months and the value of the deposit is lower than the administrative costs that would be incurred by the DGS in making such a repayment.

Article 9

Claims against DGSs

1. Member States shall ensure that the depositors' rights to compensation may be the subject of an action against the DGS.

2. Without prejudice to rights which it may have under national law, the DGS that makes payments under guarantee within a national framework shall have the right of subrogation to the rights of depositors in winding up or reorganisation proceedings for an amount equal to their payments made to depositors. Where a DGS makes payments in the context of resolution proceedings, including the application of resolution tools or the exercise of resolution powers in accordance with Article 11, the DGS shall have a claim against the relevant credit institution for an amount equal to its payments. That claim shall rank at the same level as covered deposits under national law governing normal insolvency proceedings as defined in Directive 2014/.../EU*.
3. Member States may limit the time in which depositors whose deposits were not repaid or acknowledged by the DGS within the deadlines set out in Articles 8(1) and (3) can claim the repayment of their deposits.

Article 10

Financing of DGSs

1. Member States shall ensure that DGSs have in place adequate systems to determine their potential liabilities. The available financial means of DGSs shall be proportionate to those liabilities.

DGSs shall raise the available financial means by contributions to be made by their members at least annually. This shall not prevent additional financing from other sources.

* OJ: please insert the number of the Directive in document 2012/0150 (COD).

2. Member States shall ensure that, by ...*, the available financial means of a DGS shall at least reach a target level of 0,8 % of the amount of the covered deposits of its members.

Where the financing capacity falls short of the target level, the payment of contributions shall resume at least until the target level is reached again.

If, after the target level has been reached for the first time, the available financial means have been reduced to less than two-thirds of the target level, the regular contribution shall be set at a level allowing the target level to be reached within six years.

The regular contribution shall take due account of the phase of the business cycle, and the impact procyclical contributions may have when setting annual contributions in the context of this Article.

Member States may extend the initial period referred to in the first subparagraph for a maximum of four years if the DGS has made cumulative disbursements in excess of 0,8 % of covered deposits.

3. The available financial means to be taken into account in order to reach the target level may include payment commitments. The total share of payment commitments shall not exceed 30 % of the total amount of available financial means raised in accordance with this Article.

In order to ensure consistent application of this Directive, EBA shall issue guidelines on payment commitments.

* OJ please insert date: 10 years after the date of entry into force of this Directive.

4. Notwithstanding paragraph 1 of this Article, a Member State may, for the purpose of fulfilling its obligations thereunder, raise the available financial means through the mandatory contributions paid by credit institutions to existing schemes of mandatory contributions established by a Member State in its territory for the purpose of covering the costs related to systemic risk, failure, and resolution of institutions.

DGSs shall be entitled to an amount equal to the amount of such contributions up to the target level set out in paragraph 2 of this Article, which the Member State will make immediately available to those DGSs upon request, for use exclusively for the purposes provided for in Article 11.

DGSs are entitled to that amount only if the competent authority considers that they are unable to raise extraordinary contributions from their members. DGSs shall repay that amount through contributions from their members in accordance with Article 10(1) and (2).

5. Contributions to resolution financing arrangements under Title VII of Directive 2014/.../EU*, including available financial means to be taken into account in order to reach the target level of the resolution financing arrangements under Article 93(1) of Directive 2014/.../EU*, shall not count towards the target level.

* OJ: Please insert the number of the Directive in document 2012/0150 (COD).

6. By way of derogation from paragraph 2, Member States may, where justified and upon approval of the Commission, authorise a minimum target level lower than the target level specified in paragraph 2, provided that the following conditions are met:
- (a) the reduction is based on the assumption that it is unlikely that a significant share of available financial means will be used for measures to protect covered depositors, other than as provided for in Article 11(2) and (6); and
 - (b) the banking sector in which the credit institutions affiliated to the DGS operate is highly concentrated with a large quantity of assets held by a small number of credit institutions or banking groups, subject to supervision on a consolidated basis which, given their size, are likely in case of failure to be subject to resolution proceedings.

That reduced target level shall not be lower than 0,5 % of covered deposits.

7. The available financial means of DGSs shall be invested in a low-risk and sufficiently diversified manner.
8. If the available financial means of a DGS are insufficient to repay depositors when deposits become unavailable, its members shall pay extraordinary contributions not exceeding 0,5 % of their covered deposits per calendar year. DGS may in exceptional circumstances and with the consent of the competent authority require higher contributions.

The competent authority may defer, in whole or in part, a credit institution's obligation to pay the contributions referred to in the first subparagraph if the contributions would jeopardise the liquidity or solvency of the credit institution.

Such deferral shall not be granted for a longer period than six months but may be renewed upon request of the credit institution.

The contributions deferred pursuant to the second and third subparagraph shall be paid when the payment no longer jeopardises the liquidity and solvency of the credit institution.

9. Member States shall ensure that DGSs have in place adequate alternative funding arrangements to enable them to obtain short-term funding to meet claims against those DGSs.
10. Member States shall, by 31 March each year, inform EBA of the amount of covered deposits in their Member State and of the amount of the available financial means of their DGSs on 31 December of the preceding year.

Article 11

Use of funds

1. The financial means referred to in Article 10 shall be primarily used in order to repay depositors pursuant to this Directive.

2. The financial means of a DGS shall be used in order to finance the resolution of credit institutions in accordance with Article 99 of Directive .../.../EU*. The resolution authority shall determine, after consulting the DGS, the amount by which the DGS is liable.
3. Member States may allow a DGS to use the available financial means for alternative measures in order to prevent the failure of a credit institution provided that the following conditions are met:
 - (a) the resolution authority has not taken any resolution action under Article 27 of Directive 2014/.../EU*;
 - (b) the DGS has appropriate systems and procedures in place for selecting and implementing alternative measures and monitoring affiliated risks;
 - (c) the costs of the measures do not exceed the costs of fulfilling the statutory or contractual mandate of the DGS;
 - (d) the use of alternative measures by the DGS is linked to conditions imposed on the credit institution that is being supported, involving at least more stringent risk monitoring and greater verification rights for the DGS;
 - (e) the use of alternative measures by the DGS is linked to commitments by the credit institution being supported with a view to securing access to covered deposits;

* OJ: please insert the number of the Directive in document 2012/0150 (COD).

- (f) the ability of the affiliated credit institutions to pay the extraordinary contributions in accordance with paragraph 5 of this Article is confirmed in the assessment of the competent authority.

The DGS shall consult the resolution authority and the competent authority on the measures and the conditions imposed on the credit institution.

4. Alternative measures as referred to in paragraph 3 of this Article shall not be applied where, the competent authority, after consulting the resolution authority, considers the conditions for resolution action under Article 27(1) of Directive 2014/.../...* to be met.
5. If available financial means are used in accordance with paragraph 3 of this Article, the affiliated credit institutions shall immediately provide the DGS with the means used for alternative measures, where necessary in the form of extraordinary contributions, where:
- (a) the need to reimburse depositors arises and the available financial means of the DGS amount to less than two-thirds of the target level;
- (b) the available financial means fall below 25 % of the target level.
6. Member States may decide that the available financial means may also be used to finance measures to preserve the access of depositors to covered deposits, including transfer of assets and liabilities and deposit book transfer, in the context of national insolvency proceedings, provided that the costs borne by the DGS do not exceed the net amount of compensating covered depositors at the credit institution concerned.

* OJ: please insert the number of the Directive in document 2012/0150 (COD).

Article 12
Borrowing between DGSs

1. Members States may allow DGSs to lend to other DGSs within the Union on a voluntary basis, provided that the following conditions are met:
 - (a) the borrowing DGS is not able to fulfil its obligations under Article 9(1) because of a lack of available financial means as referred to in Article 10;
 - (b) the borrowing DGS has made recourse to extraordinary contributions referred in Article 10(7);
 - (c) the borrowing DGS undertakes the legal commitment that the borrowed funds will be used in order to pay claims under Article 9(1).
 - (d) the borrowing DGS is not currently subject to an obligation to repay a loan to other DGSs under this Article;
 - (e) the borrowing DGS states the amount of money requested;
 - (f) the total amount lent does not exceed 0,5 % of covered deposits of the borrowing DGS;
 - (g) the borrowing DGS informs EBA without delay and states the reasons why the conditions set out in this paragraph are fulfilled and the amount of money requested.

2. The loan shall be subject to the following conditions:
 - (a) the borrowing DGS must repay the loan within five years. It may repay the loan in annual instalments. Interest shall be due only at the time of repayment;
 - (b) the interest rate set must be at least equivalent to the marginal lending facility rate of the European Central Bank during the credit period;
 - (c) the lending DGS must inform EBA of the initial interest rate and the duration of the loan.
3. Member States shall ensure that the contributions levied by the borrowing DGS are sufficient to reimburse the amount borrowed and to re-establish the target level as soon as possible.

Article 13

Calculation of contributions to DGSs

1. The contributions to DGSs referred to in Article 10 shall be based on the amount of covered deposits and the degree of risk incurred by the respective member.

Member States may provide for lower contributions for low-risk sectors which are regulated under national law.

Member States may decide that members of an IPS pay lower contributions to the DGS.

Member States may allow the central body and all credit institutions permanently affiliated to the central body as referred to in Article 10(1) of Regulation (EU) No 575/2013 to be subject as a whole to the risk weight determined for the central body and its affiliated institutions on a consolidated basis.

Member States may decide that credit institutions pay a minimum contribution, irrespective of the amount of their covered deposits.

2. DGSs may use their own risk-based methods for determining and calculating the risk-based contributions by their members. The calculation of contributions shall be proportional to the risk of the members and shall take due account of the risk profiles of the various business models. Those methods may also take into account the asset side of the balance sheet and risk indicators, such as capital adequacy, asset quality and liquidity.

Each method shall be approved by the competent authority in cooperation with the designated authority. EBA shall be informed about the methods approved.

3. In order to ensure consistent application of this Directive, EBA shall, by ...*, issue guidelines pursuant to Article 16 of Regulation (EU) No 1093/2010 to specify methods for calculating the contributions to DGSs in accordance with paragraphs 1 and 2 of this Article.

* OJ: please enter a date: one year after the date of entry into force of this Directive.

In particular, it shall include a calculation formula, specific indicators, risk classes for members, thresholds for risk weights assigned to specific risk classes, and other necessary elements.

By ...* and at least every five years thereafter, EBA shall conduct a review of the guidelines on risk-based or alternative own-risk-based methods applied by DGSs.

Article 14

Cooperation within the Union

1. DGSs shall cover the depositors at branches set up by their member credit institutions in other Member States.
2. Depositors at branches set up by credit institutions in another Member State shall be repaid by a DGS in the host Member State on behalf of the DGS in the home Member State. The DGS of the host Member State shall make repayments in accordance with the instructions of the DGS of the home Member State. The DGS of the host Member State shall not bear any liability with regard to acts done in accordance with the instructions given by DGS of the home Member State. The DGS of the home Member State shall provide the necessary funding prior to payout and shall compensate the DGS of the host Member State for the costs incurred.

* OJ please enter date: three years after the date of entry into force of this Directive.

The DGS of the host Member State shall also inform the depositors concerned on behalf of the DGS of the home Member State and shall be entitled to receive correspondence from those depositors on behalf of the DGS of the home Member State.

3. If a credit institution ceases to be member of a DGS and joins another DGS, the contributions paid during the 12 months preceding the end of the membership, with the exception of the extraordinary contributions under Article 10(7), shall be transferred to the other DGS. This shall not apply if a credit institution has been excluded from a DGS pursuant to Article 4(4).

If some of the activities of a credit institution are transferred to another Member State and thus become subject to another DGS, the contributions of that credit institution paid during the 12 months preceding the transfer, with the exception of the extraordinary contributions in accordance with Article 10(7), shall be transferred to the other DGS in proportion to the amount of covered deposits transferred.

4. Member States shall ensure that DGS of the home Member State exchange information referred to under Article 4(7) or 4(8) and (10) with those in host Member States. The restrictions set out in that Article shall apply.

If a credit institution intends to transfer from one DGS to another in accordance with this Directive, it shall give at least six months' notice of its intention to do so. During that period, the credit institution shall remain under the obligation to contribute to its original DGS in accordance with Article 10 both in terms of ex-ante and ex-post financing.

5. In order to facilitate an effective cooperation between DGSs, with particular regard to this Article and to Article 12, the DGSs, or, where appropriate, the designated authorities, shall have written cooperation agreements in place. Such agreements shall take into account the requirements laid down in Article 4(8).

The designated authority shall notify EBA of the existence and the content of such agreements and EBA may issue opinions in accordance with Article 34 of Regulation (EU) No 1093/2010. If designated authorities or DGSs cannot reach an agreement or if there is a dispute about the interpretation of an agreement, either party may refer the matter to EBA in accordance with Article 19 of Regulation (EU) No 1093/2010 and EBA shall act in accordance with that article.

The absence of such agreements shall not affect the claims of depositors under Article 9(1) or of credit institutions under paragraph 2 of this Article.

6. Member States shall ensure that appropriate procedures are in place to enable DGSs to share information and communicate effectively with other DGSs, their affiliated credit institutions and the relevant competent and designated authorities within their own jurisdictions and with other agencies on a cross-border basis, where appropriate.
7. EBA and the competent and designated authorities shall cooperate with each other and exercise their powers in accordance with the provisions of this Directive and with Regulation (EU) No 1093/2010.

Member States shall inform the Commission and EBA of the identity of their designated authority by ...*.

8. EBA shall cooperate with the European Systemic Risk Board (ESRB), established by Regulation (EU) No 1092/2010 of the European Parliament and of the Council¹ on systemic risk analysis concerning DGSs.

Article 15

Branches of credit institutions established in third countries

1. Member States shall check that branches established in their territory by a credit institution which has its head office outside the Union have protection equivalent to that prescribed in this Directive.

If protection is not equivalent, Member States may, subject to Article 47(1) of Directive 2013/36/EU, stipulate that branches established by a credit institution which has its head office outside the Union must join a DGS in operation within their territories.

When performing the check provided for in the first subparagraph of this paragraph, Member states shall at least check that depositors benefit from the same coverage level and scope of protection as provided for in this Directive.

* OJ: please insert date: 12 months after the date of entry into force of this Directive.
¹ Regulation (EU) No 1092/2010 of the European Parliament and of the Council of 24 November 2010 on European Union macro-prudential oversight of the financial system and establishing a European Systemic Risk Board (OJ L 331, 15.12.2010, p. 1).

2. Each branch established by a credit institution which has its head office outside the Union and which is not a member of a DGS operating in a Member State shall provide all relevant information concerning the guarantee arrangements for the deposits of actual and intending depositors at that branch.
3. The information referred to in paragraph 2 shall be made available in the language that was agreed by the depositor and the credit institution when the account was opened or in the official language or languages of the Member State in which the branch is established in the manner prescribed by national law and shall be clear and comprehensible.

Article 16

Depositor information

1. Member States shall ensure that credit institutions make available to actual and intending depositors the information necessary for the identification of the DGSs of which the institution and its branches are members within the Union. Member States shall ensure that credit institutions inform actual and intending depositors of the applicable exclusions from DGS protection.
2. Before entering into a contract on deposit-taking, depositors shall be provided with the information referred to in paragraph 1. They shall acknowledge the receipt of that information. The template set out in Annex I shall be used for that purpose.

3. Confirmation that the deposits are eligible deposits shall be provided to depositors on their statements of account including a reference to the information sheet set out in Annex I. The website of the relevant DGS shall be indicated on the information sheet. The information sheet set out in Annex I shall be provided to the depositor at least annually.

The website of the DGS shall contain the necessary information for depositors, in particular information concerning the provisions regarding the process for and conditions of deposit guarantees as envisaged under this Directive.

4. The information provided for in paragraph 1 shall be made available in the manner prescribed by national law in the language that was agreed by the depositor and the credit institution when the account was opened or in the official language or languages of the Member State in which the branch is established.

5. Member States shall limit the use in advertising of the information referred to in paragraphs 1, 2 and 3 to a factual reference to the DGS guaranteeing the product to which the advertisement refers and to any additional information required by national law.

Such information may extend to the factual description of the functioning of the DGS but shall not contain a reference to unlimited coverage of deposits.

6. In the case of a merger, conversion of subsidiaries into branches or similar operations, depositors shall be informed at least one month before the operation takes legal effect unless the competent authority allows a shorter deadline on the grounds of commercial secrecy or financial stability.

Depositors shall be given a three-month period following notification of the merger or conversion or similar operation to withdraw or transfer to another credit institution, without incurring any penalty, their eligible deposits including all accrued interest and benefits in so far as they exceed the coverage level pursuant to Article 6 at the time of the operation.

7. Member States shall ensure that if a credit institution withdraws or is excluded from a DGS, the credit institution shall inform its depositors within one month of such withdrawal or exclusion.
8. If a depositor uses internet banking, the information required to be disclosed by this Directive may be communicated by electronic means. Where the depositor so requests, it shall be communicated on paper.

Article 17

List of authorised credit institutions

1. Member States shall ensure that when notifying EBA of authorisations in accordance with Article 20(1) of Directive 2013/36/EU, competent authorities shall indicate of which DGS each credit institution is a member.
2. When publishing and updating the list of authorised credit institutions in accordance with Article 20(2) of Directive 2013/36/EU, EBA shall indicate of which DGS each credit institution is a member.

Article 18
Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The power to adopt delegated acts referred to in Article 6(7) shall be conferred on the Commission for an indeterminate period of time.
3. The delegation of power referred to in Article 6(7) may be revoked at any time by the European Parliament or by the Council. A decision to revoke 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.
4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
5. A delegated act adopted pursuant to Article 6(7) 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 of the Council.

Article 19

Transitional provisions

1. Where certain deposits or categories of deposits or other instruments cease to be covered wholly or partially by DGSs after the transposition of this Directive or Directive 2009/14/EC into national law, Member States may allow deposits and other instruments which have an initial maturity date to be covered until their initial maturity date if they were paid in or issued before ...*.
2. Member States shall ensure that depositors are informed about the deposits or categories of deposits or other instruments which will no longer be covered by a DGS from ...**.
3. Until the target level has been reached for the first time, Member States may apply the thresholds in Article 11(5) in relation to the available financial means.
4. By way of derogation from Article 6(1), Member States which, on 1 January 2008, provided for a coverage level of between EUR 100 000 and EUR 300 000, may reapply that higher coverage level until 31 December 2018. In that case, the target level and the contributions of the credit institutions shall be adjusted accordingly.
5. By ...***, the Commission shall submit a report, and, if appropriate, a legislative proposal to the European Parliament and the Council setting out how DGSs operating in the Union may cooperate through a European scheme to prevent risks arising from cross-border activities and protect deposits from such risks.

* OJ: please insert date: date of entry into force of this Directive.

** OJ please insert date: 12 months after the date of entry into force of this Directive.

*** OJ: please insert date: 5 years after the entry into force of this Directive.

6. By ...*, the Commission, supported by EBA, shall submit to the European Parliament and to the Council a report on the progress towards the implementation of this Directive. That report should, in particular, address:
- (a) the target level on the basis of covered deposits, with an assessment of the appropriateness of the percentage set, taking into account the failure of credit institutions in the Union in the past;
 - (b) the impact of alternative measures used in accordance with Article 11(3) on the protection of the depositors and consistency with the orderly winding up proceedings in the banking sector;
 - (c) the impact on the diversity of banking models;
 - (d) the adequacy of the current coverage level for depositors; and
 - (e) whether the matters referred to in this subparagraph have been dealt with in a manner that maintains the protection of depositors.

By ...*, EBA shall report to the Commission on calculation models and their relevance to the commercial risk of the members. When reporting, EBA shall take due account of the risk profiles of the various business models.

* OJ: please insert date: 5 years after the date of entry into force of this Directive.

Article 20
Transposition

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with Articles 1 to 4, points (d) to (k) of Article 5(1), Article 5(2) and (3), Article 6(2) to (7), Article 7(3) to (9), Article 8(1), (2), (3), (5), (6), (7) and (9) Article 9(2) and (3), Articles 10 to 16, 18 and 19 and Annex I by ... *. They shall forthwith communicate to the Commission the text of those measures.

Member States shall bring into force the laws, regulations and administrative provisions necessary for them to comply with Article 8(4) by 31 May 2016.

If, after a thorough examination, appropriate authorities establish that a DGS is not yet in a position to comply with Article 13 by ... *, the relevant laws, regulations and administrative provisions shall be brought into force by 31 May 2016.

When Member States adopt those measures, they shall contain a reference to this Directive or shall be accompanied by such a reference on the occasion of their official publication. They shall also include a statement that references in existing laws, regulations and administrative provisions to the directives repealed by this Directive shall be construed as references to this Directive. Member States shall determine how such reference is to be made and how that statement is to be formulated.

* OJ: please insert date: 12 months after the date of entry into force of this Directive.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

Article 21

Repeal

Directive 94/19/EC as amended by the Directives listed in Annex II is repealed with effect from ...*without prejudice to the obligations of the Member States relating to the time-limits for transposition into national law and the dates of application of the Directives set out in Annex II.

References to the repealed Directives shall be construed as references to this Directive and shall be read in accordance with the correlation table in Annex III.

* OJ: please insert date: 12 months after the date of entry into force of this Directive plus one day.

Article 22

Entry into force

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

Points (a), (b) and (c) of Article 5(1), Article 6(1), Article 7(1), (2) and (3), Article 8(8), Article 9(1) and Article 17 shall apply from*

Article 23

Addressees

This Directive is addressed to the Member States.

Done at ..., ...

For the European Parliament

The President

For the Council

The President

* OJ: please insert date: 12 months after the date of entry into force of this Directive plus one day.

ANNEX I

DEPOSITOR INFORMATION TEMPLATE

Basic information about the protection of deposit	
Deposits in (insert name of credit institution) are protected by:	[insert the name of the relevant DGS] ¹
Limit of protection:	EUR 100 000 per depositor per credit institution ² [replace by adequate amount if currency not EUR] [where applicable:] The following trademarks are part of your credit institution [insert all trademarks which operate under the same licence]
If you have more deposits at the same credit institution:	All your deposits at the same credit institution are "aggregated" and the total is subject to the limit of EUR 100 000 [replace by adequate amount if currency not EUR] ²
If you have a joint account with other person(s):	The limit of EUR 100 000 [replace by adequate amount if currency not EUR] applies to each depositor separately ³
Reimbursement period in case of credit institution's failure:	7 working days ⁴ [replace by another deadline if applicable]
Currency of reimbursement:	Euro [replace by another currency where applicable]
Contact:	[insert the contact data of the relevant DGS (address, telephone, e-mail etc)]
More information:	[insert the website of the relevant DGS]
Acknowledgement of receipt by the depositor:	

Additional information (all or some of the below)

¹ Scheme responsible for the protection of your deposit

[Only where applicable:] Your deposit is covered by a contractual scheme officially recognised as a Deposit Guarantee Scheme. If insolvency of your credit institution should occur, your deposits would be repaid up to EUR 100 000 [replace by adequate amount if currency not EUR].

[Only where applicable:] Your credit institution is part of an Institutional Protection Scheme officially recognised as a Deposit Guarantee Scheme. This means that all institutions that are members of this scheme mutually support each other in order to avoid insolvency. If insolvency should occur, your deposits would be repaid up to EUR 100 000 [replace by adequate amount if currency not EUR].

[Only where applicable:] Your deposit is covered by a statutory Deposit Guarantee Scheme and a contractual Deposit Guarantee Scheme. If insolvency of your credit institution should occur, your deposits would in any case be repaid up to EUR 100 000 [replace by adequate amount if currency not EUR].

[Only where applicable:] Your deposit is covered by a statutory Deposit Guarantee Scheme. In addition, your credit institution is part of an Institutional Protection Scheme in which all members mutually support each other in order to avoid insolvency. If insolvency should occur, your deposits would be repaid up to EUR 100 000 [replace by adequate amount if currency not EUR] by the Deposit Guarantee Scheme.

² General limit of protection

If a deposit is unavailable because a credit institution is unable to meet its financial obligations, depositors are repaid by a Deposit Guarantee Scheme. This repayment covers at maximum EUR 100 000 [replace by adequate amount if currency not EUR] per credit institution. This means that all deposits at the same credit institution are added up in order to determine the coverage level. If, for instance a depositor holds a savings account with EUR 90 000 and a current account with EUR 20 000, he or she will only be repaid EUR 100 000.

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

³ Limit of protection for joint accounts

In case of joint accounts, the limit of EUR 100 000 applies to each depositor.

[Only where applicable:] However, deposits in an account to which two or more persons are entitled as members of a business partnership, association or grouping of a similar nature, without legal personality, are aggregated and treated as if made by a single depositor for the purpose of calculating the limit of EUR 100 000 [replace by adequate amount if currency not EUR].

In some cases [insert cases defined in national law] deposits are protected above EUR 100 000 [replace by adequate amount if currency not EUR]. More information can be obtained under [insert the website of the relevant DGS].

⁴ Reimbursement

The responsible Deposit Guarantee Scheme is [insert name and address, telephone, e-mail and web site]. It will repay your deposits (up to EUR 100 000 [replace by adequate amount if currency not EUR]) within [insert repayment period as is required by national law] at the latest, from [31 December 2023] within [7 working days].

[Add info on emergency/interim payout if repayable amount(s) are not available within 7 working days.]

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

Other important information

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

ANNEX II

PART A

Repealed Directives together with their successive amendments (referred to in Article 21)

Directive 94/19/EC of the European Parliament and of the Council of 30 May 1994 on deposit-guarantee schemes

Directive 2009/14/EC of the European Parliament and of the Council of 11 March 2009 amending Directive 94/19/EC on deposit-guarantee schemes as regards the coverage level and the payout delay

PART B

Deadlines for transposition (referred to in Article 21)

Directive	Deadline for transposition
94/19/EC	1.7.1995
2009/14/EC	30.6.2009
2009/14/EC (second paragraph of point 3(i) of Article 1, Article 7(1a) and (3) and Article 10(1) of Directive 94/19/EC as amended by Directive 2009/14/EC)	31.12.2010

ANNEX III

CORRELATION TABLE

Directive 94/19/EC	Directive 2009/14/EC	This Directive
-	-	Article 1
Article 1(1)		Article 2(1)(a)
		Article 2(1)(c)
		Article 2(1)(d)
Article 1(2)		Article 2(1)(g)
Article 1(3)	Article 1(1)	Article 2(1)(h)
Article 1(4)		Article 2(1)(i)
Article 1(5)		Article 2(1)(j)
		Article 2(1)(k)-(r)
		Article 2(2)
Article 1(1)		Article 2(3)
		Article 2(4)
		Article 3
Article 3(1)		Article 4(1)
		Article 4(2)
Article 3(2)		Article 4(3)
Article 3(3)		Article 4(4)
Article 5		Article 4(5)
		Article 4(6)-(8)
	Article 1(6)(a)	Article 4(9)
		Article 4(10)-(11)

Directive 94/19/EC	Directive 2009/14/EC	This Directive
Article 2		Article 5(1)(a)-(c)
Article 7(2), Annex I (1)		Article 5(1)(d)
		Article 5(1)(e)
Article 7(2), Annex I (10)		Article 5(1)(f)
Article 7(2), Annex I (2)		Article 5(1)(g)
Article 7(2), Annex I (5)		Article 5(1)(h)
Article 7(2), Annex I (6)		Article 5(1)(i)
Article 7(2), Annex I (3), (4)		Article 5(1)(j)
Article 7(2), Annex I (12)		Article 5(1)(k)
Article 7(1)	Article 1(3)(a)	Article 6(1)
		Article 6(2)-(3)
	Article 1(3)(a)	Article 6(4)
		Article 6(5)
Article 7(5)		Article 6(6)
	Article 1(3)(d)	Article 6(7)
Article 8		Article 7(1)-(3)
		Article 7(4)-(9)
Article 10(1)	Article 1(6)(a)	Article 8(1)
		Article 8(2)-(6)
Article 10(4)		Article 8(7)
Article 10(5)		Article 8(8)
		Article 8(9)

Directive 94/19/EC	Directive 2009/14/EC	This Directive
Article 7(6)		Article 9(1)
Article 11		Article 9(2)
		Article 9(3)
		Article 10-13
Article 4(1)		Article 14(1)
		Article 14(2)-(8)
Article 6		Article 15
Article 9(1)	Article 1(5)	Article 16(1)-(3)
Article 9(2)		Article 16(4)
		Article 16(5)
Article 13		Article 17
	Article 1(4)	Article 18