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2010/0207 (COD)

**COMMUNICATION FROM THE COMMISSION
TO THE EUROPEAN PARLIAMENT**

pursuant to Article 294(6) of the Treaty on the Functioning of the European Union

concerning the

**Council's position at first reading with a view to adopting a Directive of the European
Parliament and of the Council on Deposit Guarantee Schemes [recast]
2010/0207 (COD)**

(Text with EEA relevance)

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1. BACKGROUND

Date on which the proposal was sent to the European Parliament and to the Council (document COM(2010)368 final – 2010/0207 (COD):	12/07/2010.
Date of the opinion of the European Central Bank	17/02/2011.
Date of the opinion of the European Economic and Social Committee:	----
Date of the position of the European Parliament, first reading:	16/02/2012.
Date on which the amended proposal was sent:	Not applicable.
Date of endorsement of the political agreement in COREPER:	20 December 2013.
Date of adoption of the Council's position:	3 March 2014.

2. OBJECTIVE OF THE COMMISSION'S PROPOSAL

Deposit Guarantee Schemes (DGS) currently exist in all Member States under Directive 94/19/EC (DGS Directive). DGSs must compensate depositors up to EUR 100 000 for bank deposits which are unavailable. DGSs are an important instrument to preserve trust in the banking system and avoid bank runs.

In July 2010, the Commission adopted its legislative proposal on the recast of the DGS Directive. The proposal aimed to:

- improve depositors' access to the guarantee, with reduced repayment deadlines, single contact points for cross-border failures, and improved individual depositor information;
- introduce financing rules for DGSs, in particular requiring mandatory ex ante financing from the banking sector;

- further harmonise the scope of coverage;
- specify the role of DGSs in the crisis management framework.

3. COMMENTS ON THE POSITION OF THE COUNCIL

3.1. General Comments

Political agreement was reached between co-legislators at the trilogue meeting of 17 December 2013. COREPER endorsed the political agreement on 20 December 2013. The ECON Committee sent a non-objection letter to COREPER on 10 January 2014.

3.2. Follow up of amendments introduced by the European Parliament

- (1) **Scope of coverage:** The European Parliament aimed at maintaining higher coverage of deposits made before 31 December 2010 and which were held by depositors residing in a Member State which, before 1 January 2008, had a statutory DGS with a coverage level up to EUR 300 000. The political agreement clarifies this amendment. As a result of the compromise, Member States with a coverage level up to EUR 300 000 would apply this higher coverage until 31 December 2018. The Commission considers that this clarification is beneficial and respects the essence of the European Parliament’s amendment.
- (2) **Repayment deadlines:** The European Parliament suggested that Member States could maintain the current repayment period of 20 working days until the end of 2016 when it would be shortened to five working days. During the transitional period, an ‘emergency repayment’ of up to EUR 5 000 would be made available on request. According to the political agreement, repayment deadlines would be reduced in three phases:
 - fifteen working days as from 1 January 2019;
 - ten working days as from 1 January 2021; and eventually
 - seven working days as from 1 January 2024.
- (3) **Financing:** The European Parliament had requested a target level of DGS funds of 1.5% of covered deposits to be reached over 15 years (instead of 1.5% of eligible deposits¹ within 10 years proposed by the Commission). The political agreement envisages a target level of 0.8% of covered deposits to be reached within 10 years. The share of payment commitments that may be counted towards the target level is increased from 10% as suggested by Parliament, to 30%. In case of insufficient ex ante funds, DGSs would collect ex post contributions from the banking sector, and, as a last resort, get access to alternative funding arrangements such as loans from public or private parties. The political agreement endorses the originally proposed principle that bank contributions must be risk-weighted. However the originally proposed annex on the calculation of risk-weights would be substituted with guidelines from the European Banking Authority (EBA).
- (4) **Use of funds:** The political agreement maintains the principle, as proposed by the Commission and endorsed by the Parliament, that DGS funds are to be primarily used to repay depositors but may also be used for failure prevention or resolution measures under certain conditions.

¹ Covered deposits are eligible deposits below the coverage level of EUR 100 000.

With regard to failure prevention, qualitative conditions similar to those introduced by the Parliament are envisaged, in particular ensuring that:

- the scheme is equipped with appropriate systems and procedures for selecting and implementing alternative measures and monitoring affiliated risks;
- the measures are linked to conditions imposed on the credit institution that is being supported, including a minimum of more stringent risk monitoring and greater verification rights for the DGS; and
- the measures put in place by the DGS are linked to commitments made by the credit institution being supported, with a view to securing access to covered deposits.

However, the political agreement introduces further safeguards to prevent moral hazard and to secure sufficient funding for the scheme, such as a requirement that no resolution measure has been taken with regard to the credit institution.

3.3. New measures introduced by the political agreement

- (1) Financing: the political agreement introduces two main elements which did not feature in the Parliament's legislative resolution in the first reading.

First, the compromise aligns the DGS Directive with the political agreement on the proposal for a Bank Resolution and Recovery Directive² by introducing the possibility to raise contributions to existing DGS for the purpose of covering the costs related to systemic risk, failure and resolution. These funds will allow bank levies to count towards the target level, provided that they are not already counted towards resolution funds, and provided that the DGS is effectively entitled to these sums.

Moreover, the political agreement foresees that the Commission could authorise a Member States to have a target level between 0.5 and 0.8% of covered deposits under the following conditions:

- (a) The reduction is based on the assumption that it is unlikely that a significant share of available means will be used for measures other than to preserve access of depositors to deposits in resolution or in national insolvency proceedings; and
 - (b) The banking sector in that Member State is highly concentrated with a large quantity of assets held by a small number of credit institutions or banking groups. These are subject to supervision on a consolidated basis and, given their size, are likely to be subject to resolution proceedings in case of failure.
- (2) Use of funds: The political agreement also foresees a national option to use DGS funds 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.

² Proposal for a Directive of the European Parliament and of the Council establishing a framework for the recovery and resolution of credit institutions and investment firms and amending Council Directives 77/91/EEC and 82/891/EC, Directives 2001/24/EC, 2002/47/EC, 2004/25/EC, 2005/56/EC, 2007/36/EC and 2011/35/EC and Regulation (EU) No 1093/2010, COM(2012) 280 final, 6.6.2012.

4. CONCLUSION

Even though the political agreement diverges from the Commission proposal to a considerable extent, it achieves the objectives behind the original Commission proposal. The Commission therefore supports a Council position that reflects the political agreement of 17 December 2013 so that the co-legislators can adopt the final text in early second reading before the end of the legislature.