Deutscher Bundestag **Drucksache 17/3239**

17. Wahlperiode 06. 10. 2010

Beschlussempfehlung und Bericht

des Finanzausschusses (7. Ausschuss)

zu der Unterrichtung
– Drucksache 17/2994 Nr. A.23 –

Vorschlag für eine Richtlinie …/…/EU des Europäischen Parlaments und des Rates über Einlagensicherungssysteme [Neufassung]
(inkl. 12386/10 ADD 1 und 12386/10 ADD 2)
(ADD 1 in Englisch)

KOM (2010) 368 endg.; Ratsdok. 12386/10

hier: Stellungnahme gemäß Protokoll Nr. 2 zum Vertrag von Lissabon (Grundsätze der Subsidiarität- und Verhältnismäßigkeitsprüfung)

A. Problem

Mit der Einlagensicherung werden durch gesetzliche Vorgaben oder freiwillige Verpflichtungen die Einlagen der Bankkunden bei Kreditinstituten für den Fall wirtschaftlicher Schwierigkeiten des Instituts gesichert. In Deutschland bestehen nach Bankengruppen zu unterscheidende Systeme. Die Einlagensicherungssysteme des Sparkassen- sowie des Genossenschaftsbereichs sind auf eine Institutssicherung ausgerichtet. Die gesetzlichen und freiwilligen Einlagensicherungseinrichtungen der privaten und öffentlichen Banken sichern demgegenüber unmittelbar die Einlagen in unterschiedlicher Höhe. Nach dem Einlagensicherungs- und Anlegerentschädigungsgesetz werden Entschädigungsansprüche bis zu bestimmten Höchstgrenzen anerkannt.

Im Verlauf der globalen Finanz- und Wirtschaftskrise traten Befürchtungen auf, dass Kundeneinlagen nicht hinreichend abgesichert seien. Die Europäische Kommission hatte, um das Vertrauen der Einleger auf den Märkten wiederherzustellen, im Jahre 2009 die Mindestdeckungssumme auf 50 000 Euro mit der Maßgabe erhöht, bis Ende 2010 alle Aspekte der bestehenden Einlagensicherungssysteme zu überprüfen und eine Anhebung der Deckungssumme auf 100 000 Euro vorzusehen (Richtlinie 2009/14/EG).

Für die Bundesrepublik Deutschland ist der Richtlinie mit der Änderung des Einlagensicherungs- und Anlegerentschädigungsgesetz Rechnung getragen worden. Die Entschädigungsgrenze wurde bei Einlagen zunächst auf 50 000 Euro angehoben und wird zum 31. Dezember 2010 für Ansprüche an die gesetzlichen Entschädigungseinrichtungen 100 000 Euro betragen.

Mit dem vorliegenden Richtlinienvorschlag der Kommission wird nunmehr die feste Deckungssumme von 100 000 Euro bestätigt und angestrebt, die Auszahlungsfrist auf sieben Tage zu verkürzen sowie vorzuschreiben, dass sich Kreditinstitute ausnahmslos einem Einlagensicherungssystem anzuschließen haben, dessen Finanzierungsregeln gleichfalls von der Richtlinie näher vorgegeben werden.

B. Lösung

Feststellung, dass der Richtlinienvorschlag den Grundsatz der Subsidiarität gemäß Artikel 6 des Protokolls Nr. 2 zum Vertrag von Lissabon verletzt. Die Feststellung wird im Falle der Annahme der Beschlussempfehlung als Stellungnahme des Deutschen Bundestages an die Präsidenten des Europäischen Parlaments, des Europäischen Rates und der Europäischen Kommission übermittelt.

Annahme einer Entschließung mit den Stimmen der Fraktionen CDU/CSU, FDP und DIE LINKE. gegen die Stimmen der Fraktionen SPD und BÜNDNIS 90/DIE GRÜNEN.

C. Alternativen

Keine.

D. Kosten

Kosten wurden im Ausschuss nicht erörtert.

E. Bürokratiekosten

Informationspflichten wurden im Ausschuss nicht erörtert.

Beschlussempfehlung

Der Bundestag wolle beschließen,

in Kenntnis der Unterrichtung durch die Bundesregierung auf Drucksache 17/2994 Nr. A.23 folgende Entschließung gemäß Protokoll Nr. 2 zum Vertrag von Lissabon in Verbindung mit § 11 des Integrationsverantwortungsgesetzes anzunehmen:

„1. Der Deutsche Bundestag stellt fest, der Vorschlag für eine Richtlinie …/…/EU des Europäischen Parlaments und des Rates über Einlagensicherungssysteme - KOM (2010) 368 endg.; Ratsdok. 12386/10 – verletzt den Grundsatz der Subsidiarität gemäß Artikel 6 des Protokolls Nr. 2 zum Vertrag von Lissabon.

Der Bundestag ist der Auffassung, dass der Vorschlag mit dem Subsidiaritätsprinzip nicht in Einklang steht. Nach Artikel 5 EUV darf die Europäische Union nur tätig werden, sofern und soweit die Ziele der in Betracht gezogenen Maßnahmen von den Mitgliedstaaten weder auf zentraler noch auf regionaler oder lokaler Ebene ausreichend verwirklicht werden können.

Der Richtlinienvorschlag geht in einigen Aspekten über das zur Erreichung der Ziele des Richtlinienvorschlags erforderliche Maß hinaus. Der Richtlinienvorschlag sieht Regelungen vor bzw. regelt Bereiche sehr detailliert, obwohl sich die Ziele des Richtlinienvorschlags auf nationaler Ebene ebenso gut verwirklichen lassen.

Bedenklich im Hinblick auf die Einhaltung des Subsidiaritätsprinzips sind insbesondere die Vorschläge bezüglich institutssichernder Systeme sowie zur Finanzierung von Einlagensicherungssystemen und zur Beitragsbemessung.

In der Bundesrepublik Deutschland haben sich insbesondere das intensive Monitoring sowie umfangreiche Präventions-, Restrukturierungs- und Sanierungsmaßnahmen der genossenschaftlichen und öffentlich-rechtlichen Institutssicherungen für die Finanzmarktstabilität als vorteilhaft erwiesen. Diesen Systemen ist es zu verdanken, dass seit deren Existenz kein Kunde einer Sparkasse oder einer Genossenschaftsbank oder Raiffeisenbank in der Bundesrepublik Deutschland Einlagen eingebüßt hat.

Aus diesen Gründen haben die Mitgliedstaaten derzeit zu Recht die in der Bundesrepublik Deutschland wahrgenommene Möglichkeit, Mitgliedsinstitute institutssichernder Einrichtungen von der Mitgliedschaft in einer gesetzlichen Einrichtung zu befreien. Die vorgeschlagene Pflicht für diese Mitgliedsinstitute zur Mitgliedschaft in einem gesetzlichen Einlagensicherungssystem, dessen sie nicht bedürfen, würde die Funktionsfähigkeiten der institutssichernden Systeme zu Lasten des Einlegerschutzes erheblich gefährden. Die vorgeschlagene europarechtliche Regulierung im Hinblick auf die Institutssicherung ist vor diesem Hintergrund nicht erforderlich und zudem im Hinblick auf wesentliche Ziele des Richtlinienvorschlags kontraproduktiv. Daher sollte es den Mitgliedstaaten auch weiterhin möglich sein, unter Berücksichtigung ihrer nationalen Besonderheiten bestehende institutssichernde Systeme von der Pflicht zur Mitgliedschaft in einem Einlagensicherungssystem zu befreien.

Bedenklich im Hinblick auf die Einhaltung des Subsidiaritätsprinzips sind ferner die Vorschläge der Europäischen Kommission zur Finanzierung der Einlagensicherungssysteme. Nach dem Vorschlag der Europäischen Kommission sollen Einlagensicherungssysteme als „Zielaustattung“ ein Min-

destvermögen in Höhe von 1,5 Prozent der erstattungsfähigen Einlagen aufbauen und die Möglichkeit von Ex-Post-Beiträgen in Höhe von weiteren 0,5 Prozent der erstattungsfähigen Einlagen vorsehen. Damit soll erreicht werden, dass die verfügbaren Finanzmittel der Einlagensicherungssysteme in einem angemessenen Verhältnis zu ihren potenziellen Verbindlichkeiten stehen. Der Bundestag ist überzeugt, dass sich dieses Ziel besser durch Regelungen auf nationaler Ebene erreichen ließe. Eine europaweite Regelung wird der Heterogenität der Finanzmärkte der einzelnen Mitgliedstaaten nicht gerecht.

Aus dem gleichen Grund bezweifelt der Deutsche Bundestag, dass eine harmonisierte Berechnung der Beiträge von Kreditinstituten zu den Einlagensicherungssystemen gegenüber nationalen Regelungen Vorteile bietet.

2. Im Übrigen bleibt der Vorschlag für eine Richtlinie über Einlagensicherungssysteme einer späteren Befassung vorbehalten.“

Berlin, den 6. Oktober 2010

Der Finanzausschuss

Dr. Volker Wissing
Vorsitzender

Klaus-Peter Flosbach
Berichterstatter

Manfred Zöllmer
Berichterstatter

Björn Sänger
Berichterstatter

Dr. Gerhard Schick
Berichterstatter

Bericht der Abgeordneten Klaus-Peter Flosbach, Manfred Zöllmer, Björn Sänger und Dr. Gerhard Schick

I. Überweisung

Der Richtlinienvorschlag wurde mit Drucksache 17/2994 Nr. A.23 vom Präsidenten des Deutschen Bundestages gemäß § 93 Abs. 5 der Geschäftsordnung am 20. September 2010 dem Finanzausschuss zur federführenden Beratung sowie dem Ausschuss für Wirtschaft und Technologie, dem Ausschuss für Ernährung, Landwirtschaft und Verbraucherschutz und dem Ausschuss für die Angelegenheiten der Europäischen Union zur Mitberatung überwiesen.

Die federführende Finanzausschuss und die mitberatenden Ausschüsse haben die Vorlage jeweils in den Sitzungen am 6. Oktober 2010 beraten.

II. Wesentlicher Inhalt der Vorlage

Der Legislativvorschlag der Kommission sieht vor, dass die Richtlinie unterschiedslos für sämtliche Kreditinstitute und alle gesetzlichen oder vertraglichen Sicherungssysteme sowie für institutsbezogene Sicherungssysteme gelten soll und sich Kreditinstitute ausnahmslos einem Einlagensicherungssystem anzuschließen haben. Garantiegemeinschaften wie den deutschen Institutssicherungssystemen soll die Möglichkeit eingeräumt werden, sich als Einlagensicherungssystem anerkennen zu lassen und in diesem Fall die in der Richtlinie 2006/48/EG festgelegten Anforderungen zu erfüllen. Alternativ können sie neben einem gesetzlichen Einlagensicherungssystem getrennt errichtet werden. Bei der Bestimmung der Beitragshöhe für das Einlagensicherungssystem kann die Institutssicherung Berücksichtigung finden. An der Erhöhung der Deckungssumme auf 100 000 Euro bis Ende 2010 wird festgehalten. Ferner schreibt der Richtlinienvorschlag die Auszahlung der Erstattungssummen an die Einleger innerhalb einer Woche vor.

Zur Finanzierung der Einlagensicherungssysteme schreibt der Richtlinienvorschlag ein Stufenkonzept vor: Bis zum 31. Dezember 2010 haben die Einlagensicherungssysteme 1,5 Prozent der erstattungsfähigen Einlagen abrufbereit vorzuhalten. Soweit die Finanzmittel im Entschädigungsfall nicht ausreichen, müssen die Kreditinstitute bei Bedarf außerordentliche („Ex-post-“)Beiträge von bis zu 0,5 Prozent nachzahlen. Bei weiterem Bedarf soll eine gegenseitige Kreditfazilität den Einlagensicherungssystemen die Möglichkeit geben, bei allen anderen Einlagensicherungssystemen in der EU Kredite aufzunehmen. Die Beiträge zu den Einlagensicherungssystemen sollen dem Risikoprofil der Kreditinstitute entsprechen und sich aus risikounabhängigen und risikoabhängigen Komponenten zusammensetzen.

Im Rahmen der künftigen europäischen Aufsichtsstruktur soll die neue Europäische Bankenaufsichtsbehörde Vergleiche der Einlagensicherungssysteme durchführen, Kreditmöglichkeiten zwischen den Sicherungssystemen genehmigen und Konflikte beilegen.

III. Stellungnahmen der mitberatenden Ausschüsse

Der **Ausschuss für Wirtschaft und Technologie** hat den Richtlinienentwurf in seiner 25. Sitzung beraten und empfiehlt, Kenntnisnahme bei Annahme des von den Koalitionsfraktionen vorgelegten Antrags.

Der **Ausschuss für Ernährung, Landwirtschaft und Verbraucherschutz** hat in seiner 23. Sitzung empfohlen, die Vorlage unter Berücksichtigung der Ausschussdrucksachen 17(10)262 und 17(10)266 zur Kenntnis zu nehmen.

Der **Ausschuss für die Angelegenheiten der Europäischen Union** empfiehlt mit der Mehrheit der Koalitionsfraktionen und den Stimmen der Fraktion DIE LINKE. gegen die Stimmen der Fraktionen SPD und BÜNDNIS 90/DIE GRÜNEN den im federführenden Finanzausschuss eingebrachten Antrag der Fraktionen der CDU/CSU und der FDP anzunehmen. Ferner empfiehlt der Ausschuss für die Angelegenheiten der Europäischen Union mit demselben Abstimmungsverhalten, folgende Stellungnahme nach § 93a Abs. 1 der Geschäftsordnung abzugeben: „Der Vorschlag der Europäischen Kommission für eine Richtlinie des Europäischen Parlaments und des Rates über Einlagensicherungssysteme vom 12. Juli 2010 (Neufassung), KOM(2010) 368 endg., verstößt gegen die in Artikel 5 des Vertrages über die Europäische Union (EUV) niedergelegten Grundsätze der Subsidiarität und Verhältnismäßigkeit.

Insbesondere die weitreichenden Vorschläge zur Finanzierung der Einlagensicherungssysteme und zur Beitragsbemessung stehen mit Blick auf das angestrebte Ziel, den Binnenmarkt für Kreditinstitute zu harmonisieren wegen ihres Umfanges und ihrer Inten-

sität in keinem Verhältnis. Um die Schwachstellen in den bestehenden Einlagensicherungssystemen der Mitgliedstaaten zu beseitigen und die Vorzüge des Binnenmarktes für Finanzdienstleistungen auf europäischer Ebene sicherzustellen, ist eine Vollharmonisierung nicht erforderlich. Die Institutsgarantie ist der nunmehr geforderten Einlagensicherung mindestens gleichwertig. Daher müssen solche Kreditinstitute vom Anwendungsbereich der Richtlinie ausgenommen werden. Begründung:

1. Der Richtlinienentwurf nennt als Rechtsgrundlage Art. 53 Abs. 1 AEUV und dient der Koordinierung der Ausübung selbständiger Tätigkeiten im Finanzdienstleistungssektor. Diese Vorschrift ermächtigt den Rat und das Europäische Parlament, gemäß dem ordentlichen Gesetzgebungsverfahren Richtlinien zur Koordinierung der entsprechenden Rechts- und Verwaltungsvorschriften der Mitgliedstaaten zu erlassen.

Die in der vorgeschlagenen Richtlinie enthaltenen Regelungen über das anwendbare Recht sieht der Ausschuss für die Angelegenheiten der Europäischen Union von der Rechtsgrundlage des Art. 53 Abs. 1 AEUV gedeckt. Nach dieser Bestimmung darf die EU durch die Koordinierung der Rechts- und Verwaltungsvorschriften der Mitgliedstaaten Hindernisse für die Aufnahme und Ausübung selbständiger Tätigkeiten beseitigen. Dies umfasst nach der Rechtsprechung des Europäischen Gerichtshofs auch die Vorschriften für Einlagensicherungssysteme (EuGH, Rs. C-233/94).

2. Der EU-Ausschuss begrüßt prinzipiell den Ansatz der Kommission, die Einlagensicherung zu verstärken und für ein hohes Verbraucherschutzniveau zu sorgen. Die Finanzmarktkrise hat gezeigt, dass einige nationale Einlagensicherungssysteme für die Aufrechterhaltung des Vertrauens der Einleger nicht ausreichend waren, um die Finanzstabilität sicherzustellen. Der Zusammenbruch des Kreditinstituts Lehmann Brothers hatte eine europaweite Vertrauenskrise des gesamten Bankensystems und einen massiven Abzug von Bankeinlagen (Banken Run) zur Folge.

Es gilt daher, vergleichbare Anforderungen in der EU für die Einlagensicherung zu schaffen. Durch die Einführung gleicher Wettbewerbsbedingungen für Kreditinstitute in der EU wird ein Schutzniveau erreicht, welches die grenzüberschreitende Niederlassungs- und Dienstleistungsfreiheit im Finanzsektor gewährleistet.

Hierfür ist eine Vollharmonisierung jedoch nicht erforderlich. Vielmehr bestehen bereits ausreichende Einlagensicherungssysteme in den Mitgliedsstaaten. Die Institutsgarantie der deutschen Sparkassen und Genossenschaftsbanken beinhaltet sogar einen viel weiter reichenden Gewährleistungsumfang als die in der Richtlinie vorgeschlagene Einlagensicherung. Die stabilisierende Wirkung dieses Modells hat sich in der Finanzmarktkrise bewährt, wie erhebliche Zuflüsse an Bankeinlagen belegen. Eine zusätzliche Einlagensicherung würde die Sicherheit der Anleger in keiner Weise erhöhen, aber die Wettbewerbsbedingungen für Sparkassen und Genossenschaftsbanken massiv verschlechtern. Dies wäre mit dem Grundsatz der Subsidiarität nicht vereinbar. Die Europäische Union muss sich daher auf eine Mindestharmonisierung beschränken und institutsbezogene Einlagensicherungssysteme von der Richtlinie ausnehmen.

3. Der EU-Ausschuss erinnert andererseits daran, dass die Union auf dem Gebiet der Einlagensicherungssysteme bereits tätig geworden ist. Mit den bisherigen Richtlinien 94/19/EG und 2009/14/EG ist eine Harmonisierung der Einlagensicherungssysteme als Element des Binnenmarktes eingeführt worden. Jede zusätzliche Maßnahme in diesem Bereich muss umso mehr nach Art, Umfang und Intensität geeignet und erforderlich sein und darf nicht zu diesem Ziel außer Verhältnis stehen.

Die bisherige Richtlinie 94/19 sieht in Art. 3 Abs. 1 vor, dass die Mitgliedstaaten ein Kreditinstitut von der Pflicht zur Mitgliedschaft in einem Einlagensicherungssystem befreien können, wenn das betreffende Kreditinstitut einem System angeschlossen ist, durch welches das Kreditinstitut selbst geschützt wird und insbesondere seine Liquidität und Solvenz gewährleistet werden.

Der Haftungsverbund der Sparkassen-Finanzgruppe und die Sicherungseinrichtung des Bundesverbandes der Deutschen Volksbanken und Raiffeisenbanken e.V. haben eine solche Institutsgarantie geschaffen, die sich gerade auch in der Finanzkrise bewährt hat.

Durch die präventiv wirkende Institutsgarantie, die das Überleben eines Kreditinstituts an sich sichert, wird weder in die Dienstleistungsfreiheit der anderen Kreditinstitute eingegriffen noch die finanzielle Stabilität in der EU unterlaufen. Die Einlagen in den über die Institutsgarantie abgesicherten Kreditinstituten waren in der Finanzkrise nicht gefährdet. Durch den Zwang, diese Banken zukünftig einer einheitlichen Einlagensicherung zu unterwerfen, wird nicht berücksichtigt, dass die Kunden dieser Banken die gesetzlichen Einlagensicherungssysteme gar nicht in Anspruch nehmen mussten und müssen, da die Institutssicherung nach den bisherigen Erfahrungen bereits den Eintritt eines Entschädigungsfalles verhindert.

Zudem ist zur Zielerreichung auch nicht die Festschreibung einer maximalen Deckungssumme von 100 000 Euro erforderlich. Dies entspricht einer Voll-

harmonisierung, die regional weitergehende Sicherungssysteme mit höherem Schutzniveau ausschließt. In diesem Punkt hätte wie auch bisher die Festschreibung einer einheitlichen Mindestdeckungssumme ausgereicht. Jede Begrenzung der Deckungssumme über einen Mindestbetrag hinaus verletzt das Gebot des bestmöglichen Anlegerschutzes und nivelliert die wesentlichen Unterschiede zwischen nationalen Maßnahmen auf dem kleinsten gemeinsamen Nenner.

Damit stehen die Maßnahmen in einem Missverhältnis zu dem Richtlinienziel eines maximalen Schutzniveaus und verstoßen insoweit gegen das Subsidiaritäts- und Verhältnismäßigkeitsprinzip."

IV. Beratungsverlauf und Beratungsergebnisse im federführenden Ausschuss

Der federführende Finanzausschuss hat den Richtlinienvorschlag in seiner 28. Sitzung am 6. Oktober 2010 beraten und empfiehlt mit den Stimmen der Fraktionen CDU/CSU, FDP und DIE LINKE. gegen die Stimmen der Fraktionen SPD und BÜNDNIS 90/DIE GRÜNEN, Bedenken hinsichtlich der Einhaltung des Grundsatzes des Subsidiarität zu erheben.

Die **Koalitionsfraktionen der CDU/CSU und FDP** machten geltend, der Richtlinienvorschlag stehe nicht mit dem Subsidiaritätsprinzip in Einklang. Die Koalitionsfraktionen verwiesen auf Art. 5 Abs. 3 des Vertrages über die Europäische Union. Danach sei mit dem Subsidiaritätsgrundsatz festgelegt, dass die Europäische Union nur tätig werden solle, sofern und soweit die Ziele der Maßnahmen von den Mitgliedstaaten weder auf zentraler noch auf regionaler oder lokaler Ebene ausreichend verwirklicht werden können und wegen ihres Umfangs oder ihrer Wirkungen besser auf Unionsebene umzusetzen seien.

Die Koalitionsfraktionen verwiesen auf die Stellungnahme des Bundesrates und machten geltend, dass insbesondere die Begrenzung des Deckungsumfanges auf 100 000 Euro zu einer Verschlechterung der Einlagensicherung und einer Herabsetzung des Schutzniveaus für die Bankkunden führen werde, das derzeit in Deutschland durch die Institutssicherung und über den Einlagensicherungsfonds des Bundesverbandes deutscher Banken deutlich besser gestaltet sei. Darüber hinaus gebe auch die ausnahmslose Pflicht zur Mitgliedschaft in einem Einlagensicherungssystem Anlass zu rechtlichen Bedenken.

Die Koalitionsfraktionen verdeutlichten, dass die Bedeutung der Einlagensicherungssysteme für die deutschen Kreditinstitute die Geltendmachung der Subsidiaritätsbedenken angemessen erscheinen lasse, um auf diesem Wege der europäischen Ebene die Relevanz der Fragestellung für den deutschen Gesetzgeber deutlich werden zu lassen.

Die **Fraktion der SPD** sah dagegen die Voraussetzungen für eine Subsidiaritätsrüge nicht als gegeben an. In der Sache bestehe jedoch Anlass, den Richtlinienvorschlag der Kommission deutlich zu kritisieren, da er die im deutschen Einlagensicherungssystem bestehenden Besonderheiten unberücksichtigt lasse. Die Fraktion der SPD bezog sich auf Art. 23 Abs. 3 des Grundgesetzes und sprach sich für eine Stellungnahme des Deutschen Bundestages aus, um in angemessener Weise auf den Legislativvorschlag der Kommission zu reagieren. Dagegen seien die Erfolgsaussichten der Subsidiaritätsrüge angesichts der rechtlichen Zweifel und der Haltung der weiteren EU-Mitgliedstaaten als gering zu beurteilen. Das Instrument der Subsidiaritätsrüge werde durch die leichtfertige Anwendung entwertet.

Die Fraktion der SPD beanstandete zum Inhalt des Kommissionsvorschlags, dass gravierende Auswirkungen auf das Bankensystem in Deutschland zu erwarten seien und die Möglichkeiten der deutschen institutsbezogenen Einlagensicherung der Sparkassen und der Genossenschaftsbanken tiefgehend beschnitten würden. Es komme zu einer Absenkung des Schutzniveaus der Einlagen und das für Deutschland typische Drei-Säulen-Modell aus Geschäftsbanken, Genossenschaftsbanken und Sparkassen, das sich gerade in der Finanzkrise bewährt habe, werde grundsätzlich gefährdet.

Die Fraktion der SPD brachte einen entsprechenden Antrag in die Ausschussberatungen ein und verdeutlichte, dass besonders problematisch die Streichung der bisher geltenden Ausnahmeregelung für institutsbezogene Sicherungssysteme von der Pflicht zur Mitgliedschaft in einem gesetzlichen Einlagensicherungssystem sei. Künftig sollen alle Kreditinstitute einem gesetzlichen Einlagensicherungssystem angehören. Diese Streichung lasse unberücksichtigt, dass mit dem Haftungsverbund der Sparkassen-Finanzgruppe und der Sicherungseinrichtung des Bundesverbandes der Deutschen Volksbanken und Raiffeisenbanken e.V. in Deutschland bereits freiwillige institutsbezogene Sicherungssysteme existierten, die als gleichwertig anerkannt seien und sich bewährt hätten. Diese freiwilligen Sicherungssysteme verhinderten durch ihre institutssichernden Stützungsmaßnahmen bereits den Eintritt eines Entschädigungsfalls. Die den institutsbezogenen Sicherungssystemen angehörenden Mitglieder könnten somit die gesetzlichen Einlagensicherungssysteme, die auf eine unmittelbare Entschädigung der Anleger beschränkt seien, gar nicht in Anspruch nehmen.

Auch die im Richtlinienvorschlag enthaltene Möglichkeit einer „doppelten Mitgliedschaft“ sowohl in institutsbezogenen Sicherungssystemen als auch in gesetzlichen Sicherungssystemen sei keine effektive Alternative. Wegen der in jedem Fall zu entrichtenden Mindestbeiträge für die gesetzlichen Einlagensicherungssysteme würde sie zu einer erheblichen und ungerechtfertigten Mehrbelastung der Mitgliedsinstitute führen.

Ein weiterer Hauptkritikpunkt bestehe in der Vorgabe einer verbindlichen Obergrenze für die Deckungssumme im gesetzlichen Einlagensicherungssystem. Der Richtlinienvorschlag sehe vor, dass die Deckungssumme für die Gesamtheit der Einlagen desselben Einlegers maximal 100 000 Euro betragen dürfe. Von dieser Obergrenze sollen die Mitgliedstaaten, abgesehen von Sonderfällen, wie z.B. bei Einlagen zur Altersvorsorge, nicht abweichen dürfen. Diese Begrenzung des Schutzniveaus wiege umso schwerer, da der Richtlinienvorschlag insgesamt die Möglichkeiten der freiwilligen Sicherungssysteme beschneide, die bisher de facto einen unbegrenzten Einlagenschutz gewährten. Es bestehe somit die Gefahr, dass das derzeit bestehende Schutzniveau in Deutschland abgesenkt und das Vertrauen der Anleger in die Kreditinstitute geschwächt werde.

Bei den weiteren Beratungen des Richtlinienvorschlags müssten die bestehenden Besonderheiten in den Bankensystemen der einzelnen Mitgliedstaaten stärker berücksichtigt werden. Die Schaffung gleicher Wettbewerbsbedingungen erfordere keine maximale Harmonisierung der Einlagensicherungssysteme. Die Bankkunden sollten auch künftig die Möglichkeit erhalten, sich für ein über den Mindestvorgaben der EU liegendes Schutzniveau der Einlagen zu entscheiden.

Die Fraktion der SPD beantragte daher zu empfehlen, dass die Bundesregierung aufgefordert werde, im Rahmen der laufenden Verhandlungen auf Ratsebene als wesentliche Belange im Sinn des § 9 Abs. 4 EUZBBG durchzusetzen: Die vorgesehene Pflichtmitgliedschaft aller Kreditinstitute in einem gesetzlichen Einlagensicherungssystem solle gestrichen und die Ausnahmeregelung für institutsbezogene Sicherungssysteme bestehen bleiben. Die freiwillige Einlagensicherungssysteme sollen vom Anwendungsbereich der Einlagensicherungsrichtlinie ausgenommen werden und schließlich sollen keine Obergrenzen mit maximalen Deckungssummen oder andere Beschränkungen für ein höheres Schutzniveau von Kundeneinlagen im gesetzlichen Einlagensicherungssystem festgelegt werden.

Die Koalitionsfraktionen legten zu dem Antrag dar, sie sähen gleichwohl den Subsidiaritätsgrundsatz durch den Richtlinienvorschlag beeinträchtigt. Insoweit sei auf den ihrerseits vorgelegten Antrag zu verweisen. Die Erfolgsaussichten der Subsidiaritätsrüge seien im Vorhinein nicht vorherzusagen, so dass es auch in gewissem Umfang gelte, Erfahrung mit dem Instrumentarium zu sammeln. Fragen seien jedenfalls mit Blick auf den Detailierungsgrad des Vorschlags berechtigt.

Der Antrag der Fraktion der SPD wurde mit der Mehrheit der Koalitionsfraktionen von CDU/CSU und FDP gegen die Stimmen der antragstellenden Fraktion bei Stimmenthaltung der Fraktionen DIE LINKE. und BÜNDNIS 90/DIE GRÜNEN abgelehnt.

Die **Fraktion DIE LINKE.** unterstützte den von den Koalitionsfraktionen vorgelegten Antrag. Es gehe zum wiederholten Male darum, dass von europäischer Seite nicht den Besonderheiten des deutschen Bankensystems und insbesondere der Rolle des Sparkassen- und Genossenschaftsbereichs Rechnung getragen werde. Vor diesem Hintergrund erscheine das Instrument der Subsidiaritätsrüge angemessen.

Die **Fraktion BÜNDNIS 90/DIE GRÜNEN** äußerte Zweifel an den Erfolgsaussichten einer Subsidiaritätsrüge. Zum einen sei ungesichert, dass das erforderliche Quorum für eine erfolgreiche Rüge erreicht werde. Zu anderen beständen inhaltliche Bedenken gegen die rechtliche Begründetheit. Die in der Finanzkrise hinsichtlich der Einlagensicherheit der Bankkunden abgegebenen nationalen Zusagen und die Wettbewerbssituation der Kreditinstitute verdeutlichten den auf europäischer Ebene bestehenden Handlungsbedarf. Es bedürfe für grenzüberschreitende Bankgeschäfte konkreter europäischer Regeln. Gleichzeitig sei einzuräumen, dass die Institutssicherungssicherung bei Sparkassen und Genossenschaftsbanken in Deutschland erfolgreich gewesen und daher schützenswert sei. Vor diesem Hintergrund sprach sich die Fraktion BÜNDNIS 90/DIE GRÜNEN dafür aus, einen anderen Weg zu beschreiten und durch politische Argumentation in den europäischen Gremien eine Änderung des Legislativvorschlages zu erwirken. Darüber hinaus sei es erforderlich, neben den Bankkunden auch die Gesamtheit der Steuerzahler in den Blick zu nehmen, dessen zusätzliche Belastung im Sicherungsfall durch zu weitgehende Garantien vermieden werden müsse.

Berlin, den 6. Oktober 2010

Klaus-Peter Flosbach
Berichterstatter

Manfred Zöllmer
Berichterstatter

Björn Sänger
Berichterstatter

Dr. Gerhard Schick
Berichterstatter

RAT DER
EUROPÄISCHEN UNION

Brüssel, den 16. Juli 2010 (20.07)
(OR. en)

12386/10

Interinstitutionelles Dossier:
2010/0207 (COD)

EF 83
ECOFIN 460
CODEC 715

ÜBERMITTLUNGSVERMERK

Absender:	Herr Jordi AYET PUIGARNAU, Direktor, im Auftrag des Generalsekretärs der Europäischen Kommission
Eingangsdatum:	13. Juli 2010
Empfänger:	der Generalsekretär des Rates der Europäischen Union, Herr Pierre de BOISSIEU
Betr.:	Vorschlag für eine RICHTLINIE …/…/EU DES EUROPÄISCHEN PARLAMENTS UND DES RATES über Einlagensicherungssysteme [Neufassung]

Die Delegationen erhalten in der Anlage das Kommissionsdokument KOM(2010) 368 endgültig.

Anl.: KOM(2010) 368 endgültig

EUROPÄISCHE KOMMISSION
GENERALSEKRETARIAT

Brüssel, den 19.7.2010
SG-Greffe(2010) D/ 10972

Deutscher Bundestag
Platz der Republik 1
D-11011 Berlin

Übermittlung gemäß dem im Protokoll (Nr. 2) zum Vertrag über die Europäische Union und zum Vertrag über die Arbeitsweise der Europäischen Union vorgesehenen Verfahren über die Anwendung der Grundsätze der Subsidiarität und der Verhältnismäßigkeit

Betreff: COM(2010) 368 final, 12.7.2010

Die Kommission teilt hiermit mit, dass alle Sprachfassungen des genannten Entwurfs eines Gesetzgebungsakts den nationalen Parlamenten der Mitgliedstaaten und den Kammern der nationalen Parlamente zugeleitet wurden.

Mit dem vorliegenden Schreiben wird das im Protokoll (Nr. 2) vorgesehene Verfahren über die Anwendung der Grundsätze der Subsidiarität und der Verhältnismäßigkeit eröffnet.

Sie können innerhalb von acht Wochen[1] ab dem Datum dieses Schreibens in einer begründeten Stellungnahme an die Präsidenten des Europäischen Parlaments, des Rates und der Kommission darlegen, weshalb der Entwurf Ihres Erachtens nicht mit dem Subsidiaritätsprinzip vereinbar ist.

Für die Generalsekretärin

Jordi AYET PUIGARNAU
Direktor

[1] Der Zeitraum vom 1. bis 31. August wird bei der Berechnung des Acht-Wochen-Zeitraums nicht berücksichtigt.

Europäische Kommission, B-1049 Brüssel
Telefon: (32-2) 299 11 11.

EUROPÄISCHE KOMMISSION

Brüssel, den 12.7.2010
KOM(2010)368 endgültig

2010/0207 (COD)

Vorschlag für eine

RICHTLINIE …/…/EU DES EUROPÄISCHEN PARLAMENTS UND DES RATES

über Einlagensicherungssysteme [Neufassung]

KOM(2010)369
SEK(2010)835
SEK(2010)834

BEGRÜNDUNG

1. HINTERGRUND DES VORSCHLAGS

Keine Bank – ob gesund oder angeschlagen – hält so viel liquide Mittel vor, dass sie das gesamte bei ihr eingelegte Geld oder einen erheblichen Teil davon auf der Stelle zurückzahlen könnte. Ein „Bank-Run“, bei dem alle Einleger ihr Geld gleichzeitig abheben wollen, weil sie ihre Einlage nicht mehr für sicher halten, ist für die Banken daher nicht ohne Risiko. Ein Bank-Run kann für die gesamte Wirtschaft schwerwiegende Folgen haben. Kann trotz intensiver Beaufsichtigung nicht verhindert werden, dass eine Bank geschlossen werden muss, erstattet das jeweilige Einlagensicherungssystem den Einlegern ihre Guthaben bis zu einer bestimmten Höhe (der sogenannten „Deckungssumme“) zurück und sorgt so dafür, dass diese ihre finanziellen Bedürfnisse decken können. Einlagensicherungssysteme ersparen den Einlegern auch die Verwicklung in langwierige Insolvenzverfahren, nach deren Abschluss sie in aller Regel nur einen Bruchteil ihrer ursprünglichen Forderung zurückbekommen.

Nachdem 2006 die Mitteilung der Kommission zur Überprüfung der Richtlinie 94/19/EG über Einlagensicherungssysteme[1] veröffentlicht wurde, haben die Entwicklungen von 2007 und 2008 gezeigt, dass es mit der bestehenden fragmentierten Einlagensicherung nicht gelungen ist, bestimmte Ziele der Einlagensicherungsrichtlinie 94/19/EG – d.h. die Erhaltung von Anlegervertrauen und Finanzstabilität in wirtschaftlichen Stressphasen – zu erreichen. Die derzeit rund 40 Einlagensicherungssysteme in der EU, die verschiedene Einlegergruppen und Einlagen in unterschiedlicher Höhe schützen, erlegen den Banken unterschiedliche finanzielle Verpflichtungen auf und schränken so den Nutzen des Binnenmarkts für Banken wie Einleger ein. Hinzu kommt, dass sich diese Systeme in finanziellen Stressphasen als unterfinanziert erwiesen haben.

Am 7. Oktober 2008 erklärte sich der Rat der Europäischen Union darin einig, dass das Vertrauen in die Finanzmärkte wiederhergestellt werden müsse, und begrüßte die Absicht der Kommission, einen entsprechenden Vorschlag zur Förderung der Konvergenz der Einlagensicherungssysteme vorzulegen. Dies führte zur Verabschiedung der Richtlinie 2009/14/EG[2]. Da die Verhandlungen rasch zum Abschluss gebracht werden mussten und daher nicht alle offenen Fragen behandelt werden konnten, war diese Richtlinie jedoch nur eine Notmaßnahme, um das Einlegervertrauen zur erhalten, insbesondere durch Anhebung der Deckungssumme von 20 000 EUR auf feste 100 000 EUR spätestens ab Ende 2010. Die Richtlinie 2009/14/EG wurde daher mit der Klausel versehen, dass späterhin alle Aspekte der Einlagensicherungssysteme überprüft werden sollten. Dass die Einlagensicherungssysteme durch geeignete Legislativvorschläge verstärkt werden müssten, wurde auch in der Kommissionsmitteilung vom 4. März 2009 „*Impulse für den Aufschwung in Europa*“[3] betont.

Hauptgegenstand des vorliegenden Vorschlags sind:

- Vereinfachung und Harmonisierung, insbesondere in Bezug auf Deckungsumfang und Auszahlungsmodalitäten;

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1 KOM(2006) 729.

2 Richtlinie 2009/14/EG des Europäischen Parlaments und des Rates vom 11. März 2009 zur Änderung der Richtlinie 94/19/EG über Einlagensicherungssysteme im Hinblick auf die Deckungssumme und die Auszahlungsfrist (ABl. L 68 vom 13.3.2009, S. 3).

3 KOM(2009) 114, S. 4.

- weitere Verkürzung der Auszahlungsfrist und Verbesserung des Zugangs der Einlagensicherungssysteme zu Informationen über ihre Mitglieder (d.h. Banken);

- solide und glaubwürdige Einlagensicherungssysteme mit ausreichender Finanzausstattung;

- gegenseitige Kredite zwischen den Einlagensicherungssystemen, d.h. eine Kreditfazilität für bestimmte Fälle.

Auf die Aspekte, die nach Auffassung der Kommission nicht (bzw. noch nicht) gesetzlich geregelt werden sollten, wird im Begleitbericht zu diesem Vorschlag eingegangen. Der Bericht und der Vorschlag gehören zu einem Maßnahmenpaket zu den Sicherungssystemen im Finanzsektor, das auch eine Überprüfung der Anlegerentschädigungssysteme (Richtlinie 97/9/EG) und ein Weißbuch über Sicherungssysteme für Versicherungen umfasst.

2. ANHÖRUNG INTERESSIERTER KREISE UND HINZUZIEHUNG EXTERNER EXPERTEN

Vom 29. Mai bis 27. Juli 2009 wurde eine öffentliche Konsultation durchgeführt. Alle 104 Beiträge und eine Zusammenfassung wurden im August 2009[4] veröffentlicht, wobei die Stellungnahmen der interessierten Kreise generell berücksichtigt wurden. Vier Punkte wurden von vielen Konsultationsteilnehmern (vor allem Banken und ihren Verbände, Verbrauchern und ihren Verbänden, Mitgliedstaaten und Einlagensicherungssystemen) angesprochen und verdienen daher besondere Beachtung:

- Fast alle Teilnehmer sprachen sich dafür aus, die Anspruchsvoraussetzungen für die Einleger zu vereinfachen und zu harmonisieren. Dem wurde Rechnung getragen.

- Eine klare Mehrheit der Teilnehmer war gegen eine weitere Verkürzung der Auszahlungsfrist; viele vertraten die Auffassung, dass zunächst die Erfahrungen mit der in der Richtlinie 2009/14/EG festgelegten neuen Frist von vier bis sechs Wochen ausgewertet werden sollten, bevor über eine weitere Verkürzung nachgedacht werde. Die Kommission hält die aktuelle Frist jedoch nach wie vor für zu lang, um Bank-Runs zu verhindern und den finanziellen Bedürfnissen der Einleger gerecht zu werden. Eine klare Mehrheit der Teilnehmer sprach sich dafür aus, die Einlagensicherungssysteme frühzeitig hinzuzuziehen, wenn sich deren Inanspruchnahme abzeichne. Dies wurde als wesentliche Voraussetzung für eine kürzere Auszahlungsfrist angesehen und kommt im Vorschlag entsprechend zum Ausdruck.

- Eine große Mehrheit von Teilnehmern sprach sich für eine Ex-ante-Finanzierung der Systeme und für risikobasierte Beiträge zu den Systemen aus. Dem wurde Rechnung getragen.

- Bei der Frage, ob die Richtlinie auch für Garantiegemeinschaften gelten soll, waren die Meinungen geteilt. Hierbei handelt es sich um Gemeinschaften, die das Kreditinstitut selbst schützen und insbesondere dessen Liquidität und Zahlungsfähigkeit sichern. Solche Garantiegemeinschaften bieten dem Einleger eine andere Art von Schutz als ein Einlagensicherungssystem. Kann eine Bank mit Hilfe einer solchen Gemeinschaft die Insolvenz abwenden und ihre Dienstleistungen fortführen, wird eine

[4] Siehe: http://ec.europa.eu/internal_market/bank/guarantee/index_de.htm#consultation.

Einlegerentschädigung gar nicht erst notwendig. Ein Einlagensicherungssystem hingegen kommt erst dann zum Einsatz, wenn eine Bank insolvent geworden ist. Der aktuelle Vorschlag lässt die Stabilisierungsfunktion der Garantiegemeinschaften jedoch intakt; er stärkt lediglich die Position der Einleger, die fortan gegenüber diesen Gemeinschaften forderungsberechtigt sind, wenn diese die Insolvenz eines Mitglieds nicht verhindern konnten.

Bei der Ausarbeitung dieses Vorschlags wurden auch externe Experten hinzugezogen. Im März 2009 fand eine informelle Expertenrunde statt.[5] Das Expertenwissen der Mitgliedstaaten wurde bei den drei Sitzungen der Arbeitsgruppe für Einlagensicherungssysteme (Working Group on Deposit Guarantee Schemes - DGSWG) im Juni und November 2009 sowie im Februar 2010 zur Verfügung gestellt. Die Gemeinsame Forschungsstelle (JRC) der Kommission hat Berichte zur Deckungssumme (2005), zur etwaigen Harmonisierung der Finanzierungsmechanismen (2006 und 2007), zur Effizienz der Einlagensicherungssysteme (2008) und zu möglichen Modellen für die Einführung risikobasierter Beiträge in der EU (2008 und 2009) vorgelegt.[6] Diese Arbeiten wurden vom European Forum of Deposit Insurers (EFDI) unterstützt, das 2008 ebenfalls mehrere Berichte zu Einzelthemen erstellt hat.[7] All dies wurde bei der Formulierung des vorliegenden Vorschlags berücksichtigt. Die EZB war ebenfalls eng an der Ausarbeitung des vorliegenden Vorschlags beteiligt.

3. FOLGENABSCHÄTZUNG

Als Rechtsinstrument ist eine Richtlinie zur Änderung der geltenden Richtlinie am besten geeignet. Die Kommission ist sich der kumulativen Auswirkungen der aktuellen und künftigen Rechtsmaßnahmen für den Bankensektor bewusst.

3.1. Favorisierte Optionen

Insgesamt wurden über 70 verschiedene Politikoptionen geprüft. Im Ergebnis werden folgende Optionen favorisiert:

- Vereinfachung und Harmonisierung des Deckungsumfangs;
- Verkürzung der Auszahlungsfrist auf sieben Tage;
- Einstellung der derzeit üblichen Aufrechnung von Einlegerforderungen und -verbindlichkeiten;
- Einführung eines vom Einleger abzuzeichnenden Informationsbogens und eines Pflichthinweises auf das Einlagensicherungssystem auf Kontoauszügen und Werbung;
- Harmonisierung des Finanzierungskonzepts für Einlagensicherungssysteme;
- Festlegung einer Zielquote für die Finanzausstattung von Einlagensicherungssystemen;

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5 Siehe: http://ec.europa.eu/internal_market/bank/guarantee/index_de.htm#roundtable.

6 Sämtliche Berichte können über folgende Website heruntergeladen werden: http://ec.europa.eu/internal_market/bank/guarantee/index_de.htm.

7 Die vom EFDI im Mai 2008 veröffentlichten Berichte sind abrufbar unter www.efdi.eu.

- Festlegung des Verhältnisses von Ex-ante- zu Ex-post-Beiträgen der Banken zu den Einlagensicherungssystemen;

- Einführung risikobasierter Komponenten in den Beiträgen der Banken zu den Einlagensicherungssystemen;

- Einschränkungen für die Verwendung von Mitteln der Einlagensicherungssysteme für Bankensanierungen im weiteren Sinne, die allen Gläubigern einer Bank zugutekommen;

- Auftreten des Einlagensicherungssystems des Aufnahmemitgliedstaats als zuständige Kontaktstelle auch für Einleger von Zweigstellen in anderen Mitgliedstaaten.

3.2. Gesellschaftliche Auswirkungen

Durch den Vorschlag wird sichergestellt, dass Einleger bei einer Bankeninsolvenz innerhalb von sieben Kalendertagen von einem Einlagensicherungssystem bis zu 100 000 EUR zurückerhalten. Ein Einspringen der Sozialleistungssysteme dürfte damit praktisch überflüssig werden. Die Folgenabschätzung ist abrufbar unter: http://ec.europa.eu/internal_market/bank/guarantee/index_en.htm. Eine Zusammenfassung ist diesem Vorschlag beigefügt.

3.3. Bürokratieaufwand

Der Vorschlag verursacht keinen nennenswerten Bürokratieaufwand und vereinfacht die Anspruchsvoraussetzungen für die Einleger. Weitere Informationen enthält die Folgenabschätzung.

4. Überwachung und Bewertung

Da sich Insolvenzen von Banken nicht vorhersehen lassen und wo immer es geht vermieden werden, ist es nicht möglich, die Funktionsfähigkeit der Einlagensicherungssysteme regelmäßig anhand dessen zu überprüfen, wie Insolvenzen im Ernstfall bewältigt werden. Allerdings sollten die Einlagensicherungssysteme regelmäßigen Stresstests unterzogen werden, um festzustellen, ob sie – zumindest im Übungsszenario – in der Lage sind, ihre gesetzlichen Verpflichtungen zu erfüllen. Dies sollte Bestandteil eines Peer Reviews sein, der vom European Forum of Deposit Insurers (EFDI)[8] und der künftigen Europäischen Bankaufsichtsbehörde (European Banking Authority - EBA) durchgeführt wird.

5. Rechtliche Aspekte

Als Rechtsinstrument ist eine Richtlinie zur Änderung der geltenden Richtlinie am besten geeignet. Da die Richtlinie 2009/14/EG zur Änderung der Richtlinie 94/19/EG noch nicht vollständig umgesetzt ist, sollten die beiden Richtlinien konsolidiert und im Wege einer Neufassung geändert werden.

Die Richtlinie 94/19/EG trägt sowohl unter dem Aspekt der Niederlassungsfreiheit als auch des freien Dienstleistungsverkehrs im Finanzdienstleistungssektor wesentlich zur

[8] Siehe www.efdi.eu.

Verwirklichung des Binnenmarkts für Kreditinstitute bei. Ihre Rechtsgrundlage ist daher Artikel 57 Absatz 2 des Vertrags zur Gründung der Europäischen Gemeinschaft, der durch Artikel 53 Absatz 1 des Vertrags über die Arbeitsweise der Europäischen Union (AEUV) ersetzt wurde. In Verbindung mit Artikel 54 Absatz 1 sieht Artikel 53 AEUV den Erlass von Richtlinien für die Aufnahme und Ausübung unternehmerischer Tätigkeiten etwa des Kreditgeschäfts vor. Der vorliegende Vorschlag stützt sich folglich auf Artikel 53 Absatz 1 AEUV. Alle Bestandteile des Vorschlags dienen diesem Ziel und sind ihm untergeordnet.

Die Ziele der vorgeschlagenen Maßnahme können auf Ebene der Mitgliedstaaten nicht ausreichend verwirklicht werden und lassen sich daher im Einklang mit den Grundsätzen der Subsidiarität und der Verhältnismäßigkeit gemäß Artikel 5 AEUV besser auf EU-Ebene erreichen. Die vorgeschlagenen Bestimmungen gehen nicht über das zur Erreichung der Ziele notwendige Maß hinaus. Nur durch EU-Maßnahmen kann sichergestellt werden, dass für Kreditinstitute, die in mehr als einem Mitgliedstaat tätig sind, vergleichbare Anforderungen für die Einlagensicherung gelten, so dass gleiche Wettbewerbsbedingungen gewährleistet, unnötige Compliance-Kosten für eine grenzübergreifende Tätigkeit vermieden und eine weitere Integration des EU-Markts gefördert werden. Ein Tätigwerden der EU sorgt außerdem für ein hohes Maß an Finanzstabilität innerhalb der EU. Insbesondere eine Harmonisierung des Deckungsumfangs und der Auszahlungsfristen lässt sich auf Ebene der Mitgliedstaaten nicht in ausreichendem Maße verwirklichen, da hierfür eine Vielzahl unterschiedlicher Regelungen innerhalb der Rechtssysteme der verschiedenen Mitgliedstaaten angeglichen werden müsste, und kann daher besser auf EU-Ebene erreicht werden. Dies wird auch in den bestehenden Richtlinien über Einlagensicherungssysteme anerkannt.[9]

6. AUSWIRKUNGEN AUF DEN HAUSHALT

Der Vorschlag hat keine Auswirkungen auf den EU-Haushalt.

7. EINZELERLÄUTERUNG ZUM VORSCHLAG

Mit der Neufassung erhält die Richtlinie eine bessere und umfassendere Struktur. Zahlreiche veraltete Verweise wurden geändert. Artikelüberschriften verbessern die Lesbarkeit. Die Artikel zum Geltungsbereich der Richtlinie und verschiedene neue Begriffsbestimmungen erhöhen die Verständlichkeit. In der Richtlinie werden zunächst die Grundzüge der Einlagensicherungssysteme beschrieben und dann die Deckungssummen festgelegt. An die Artikel zur Auszahlung schließen sich Vorschriften zur Finanzierung und zu den Informationspflichten gegenüber den Einlegern an.

7.1. Geltungsbereich, Begriffsbestimmungen und Beaufsichtigung (Artikel 1-3)

Die Richtlinie gilt fortan unterschiedslos für alle Kreditinstitute und Sicherungssysteme. Alle Banken müssen sich einem Einlagensicherungssystem anschließen; Ausnahmen sind nicht möglich. Dadurch ist gewährleistet, dass alle Einleger Anspruch auf Entschädigung aus einem System haben und alle Systeme solide finanziert werden müssen.

[9] Erwägungsgrund 17 der Richtlinie 2009/14/EG und (nicht nummerierte) Erwägungsgründe der Richtlinie 94/19/EG.

Garantiegemeinschaften schützen die Einleger, indem sie das Kreditinstitut selbst schützen (siehe Abschnitt 2). Da sich künftig alle Banken einem Einlagensicherungssystem anschließen müssen, haben Garantiegemeinschaften zum einen die Möglichkeit, sich als Einlagensicherungssystem anerkennen zu lassen; in diesem Fall müssen sie im Sinne der EU-Rechtskohärenz auch die in der Richtlinie 2006/48/EG festgelegten Anforderungen erfüllen. Eine andere Möglichkeit besteht darin, Garantiegemeinschaften und Einlagensicherungssysteme getrennt zu errichten. In diesem Fall können die Mitgliedschaft einer Bank in beiden Systemen und die zusätzliche Schutzfunktion von Garantiegemeinschaften berücksichtigt werden, wenn die Beiträge zu den Einlagensicherungssystemen festgelegt werden.

Einlagen werden jetzt präziser abgegrenzt. Nur vollständig rückzahlbare Instrumente gelten als Einlagen, nicht aber strukturierte Produkte, Zertifikate oder Schuldverschreibungen. Dadurch wird verhindert, dass Einlagensicherungssysteme unvorhersehbare Risiken mit Anlageprodukten eingehen.

Alle Einlagensicherungssysteme müssen laufend überwacht werden und ihre Systeme regelmäßigen Stresstests unterziehen. Die Einlagensicherungssysteme haben fortan ein Recht darauf, von den Banken frühzeitig informiert zu werden, um rasche Auszahlungen zu ermöglichen. Die Mitgliedstaaten haben nun ausdrücklich die Möglichkeit, ihre Einlagensicherungssysteme zusammenzulegen. Die Kreditinstitute können künftig mit einer Kündigungsfrist von einem Monat statt wie zuvor zwölf Monaten aus einem Einlagensicherungssystem ausgeschlossen werden.

7.2. Anspruchsvoraussetzungen und Feststellung des Erstattungsbetrags (Artikel 4-6)

Die Anspruchsberechtigung der Einleger wurde vereinfacht und harmonisiert. Die meisten Einleger, die früher ausgeschlossen werden konnten, müssen jetzt ausgeschlossen werden, insbesondere die öffentliche Hand und Finanzinstitute aller Art. Dagegen sind Einlagen in Nicht-EU-Währungen fortan ebenso gesetzlich geschützt wie sämtliche Einlagen von Nichtfinanzunternehmen.

Die feste Deckungssumme von 100 000 EUR (die nach der Richtlinie 2009/14/EG bis Ende 2010 einzuführen ist) wurde nicht geändert. Die Mitgliedstaaten können allerdings beschließen, Einlagen, die aus Immobiliengeschäften resultieren, und Einlagen, die durch bestimmte Ereignisse im Leben des Einlegers bedingt sind, über die Grenze von 100 000 EUR hinaus abzusichern, sofern diese Sicherung auf 12 Monate beschränkt ist.

Bis zum Zeitpunkt der Insolvenz angefallene, aber noch nicht gutgeschriebene Zinsen müssen erstattet werden, solange die Deckungssumme nicht überschritten ist. Die Einleger müssen die Auszahlung künftig in der Währung erhalten, in der das Konto geführt wurde. Die Forderungen eines Einlegers dürfen bei einer Insolvenz künftig nicht mehr gegen seine Verbindlichkeiten aufgerechnet werden.

7.3. Auszahlung (Artikel 7 und 8)

Einlagensicherungssysteme müssen fortan dafür sorgen, dass die Einleger ihre Auszahlung innerhalb von einer Woche erhalten. Eine Antragstellung des Einlegers ist hierfür nicht erforderlich. Die Einleger müssen alle Informationen in der/den Amtssprache(n) desjenigen Mitgliedstaats erhalten, in dem sie ihre Einlage halten. Die Richtlinie sieht jetzt vor, dass

nicht festgestellte bzw. offene Forderungen der Einleger gegenüber den Einlagensicherungssystemen nur ausgesetzt werden dürfen, sofern die Forderungen des betreffenden Einlagensicherungssystems im Insolvenz- bzw. Restrukturierungsverfahren ausgesetzt sind.

Damit eine derart kurze Auszahlungsfrist eingehalten werden kann, sind die zuständigen Behörden verpflichtet, die Einlagensicherungssysteme grundsätzlich von drohenden Insolvenzen zu unterrichten. Außerdem müssen Einlagensicherungssysteme und Banken ohne Rücksicht auf etwaige Geheimhaltungsvorschriften sowohl innerhalb der Mitgliedstaaten als auch grenzübergreifend Informationen über Einleger austauschen. Ferner müssen die Kreditinstitute jederzeit darüber im Bilde sein, welche Einlagen ein Kunde insgesamt hält („Single Customer View“).

7.4. Finanzierung der Einlagensicherungssysteme und gegenseitige Kredite (Artikel 9 und 10)

Die Richtlinie sorgt dafür, dass die verfügbaren Finanzmittel der Einlagensicherungssysteme künftig in angemessenem Verhältnis zu ihren potenziellen Verbindlichkeiten stehen. Die Finanzmittel werden vor potenziellen Verlusten geschützt, indem vergleichbare Anlagebeschränkungen vorgesehen werden wie nach Artikel 7 der Richtlinie 2009/110/EG[10] für E-Geld-Institute und nach Artikel 52 der Richtlinie 2009/64/EG[11] für OGAW, wobei der Tatsache Rechnung getragen wird, dass das Risiko niedriger und die Liquidität höher sein muss. Finanziert werden die Einlagensicherungssysteme nach folgendem Stufenkonzept:

Um eine ausreichende Finanzierung sicherzustellen, müssen die Einlagensicherungssysteme – nach Ablauf einer zehnjährigen Übergangszeit – als Erstes 1,5 % der erstattungsfähigen Einlagen abrufbereit vorhalten (damit erreichen sie die so genannte „Zielausstattung“). Erweisen sich diese Finanzmittel im Falle einer Bankeninsolvenz als unzureichend, sind der nachstehende zweite und dritte Schritt zu unternehmen.

Als Zweites müssen die Banken bei Bedarf außerordentliche („Ex-post-“)Beiträge von bis zu 0,5 % der erstattungsfähigen Einlagen einzahlen. (Gefährdet diese Einzahlung die Existenz einer Bank, kann diese im Einzelfall von den zuständigen Behörden freigestellt werden). Die Ex-ante-Mittel werden also 75 % und die Ex-post-Beiträge 25 % der Finanzmittel der Einlagensicherungssysteme ausmachen.

Als Drittes gibt eine gegenseitige Kreditfazilität den Einlagensicherungssystemen bei Bedarf die Möglichkeit, bei allen anderen Einlagensicherungssystemen in der EU Kredite aufzunehmen. Die anderen Systeme müssen im Notfall kurzfristig bis zu 0,5 % ihrer erstattungsfähigen Einlagen als Kredit zur Verfügung stellen, und zwar anteilig entsprechend der Summe der erstattungsfähigen Einlagen im jeweiligen Mitgliedstaat. Der Kredit ist innerhalb von fünf Jahren zurückzuzahlen; hierfür müssen neue Beiträge zum

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10 Richtlinie 2009/110/EG des Europäischen Parlaments und des Rates vom 16. September 2009 über die Aufnahme, Ausübung und Beaufsichtigung der Tätigkeit von E-Geld-Instituten, zur Änderung der Richtlinien 2005/60/EG und 2006/48/EG sowie zur Aufhebung der Richtlinie 2000/46/EG (ABl. L 267 vom 10.10.2009, S. 7).

11 Richtlinie 2009/65/EG des Europäischen Parlaments und des Rates vom 13. Juli 2009 zur Koordinierung der Rechts- und Verwaltungsvorschriften betreffend bestimmte Organismen für gemeinsame Anlagen in Wertpapieren (OGAW) (Text von Bedeutung für den EWR) (ABl. L 302 vom 17.11.2009, S. 32).

Einlagensicherungssystem erhoben werden. Um die Kreditrückzahlung sicherzustellen, haben die kreditgebenden Einlagensicherungssysteme das Recht, in die Forderungen der Einleger gegenüber dem insolventen Kreditinstitut einzutreten; diese Forderungen erhalten im Insolvenzverfahren des Kreditinstituts, durch dessen Insolvenz die Mittel des kreditnehmenden Einlagensicherungssystems ausgeschöpft wurden, Vorrang.

Als vierter und letzter Schutz gegen eine Abwälzung auf den Steuerzahler müssen die Einlagensicherungssysteme über alternative Finanzierungsmöglichkeiten verfügen, wobei darauf hingewiesen wird, dass dabei das in Artikel 123 AEUV niedergelegte Verbot der monetären Finanzierung zu beachten ist.

Dieses Vierstufenkonzept wird erst nach zehn Jahren in Kraft treten. Um die Zielausstattung auf die potenziellen Verbindlichkeiten der Systeme abzustimmen, soll sie auf Basis der gedeckten Einlagen (d.h. unter Berücksichtigung der Deckungshöhe) neu kalibriert werden, jedoch ohne dass der Schutz verringert wird.

Die Mittel der Einlagensicherungssysteme sollten in erster Linie für Auszahlungen an die Einleger verwendet werden. Dies schließt indes nicht aus, dass sie auch bei beihilferechtskonformen Bankensanierungen zum Einsatz kommen können. Damit die Mittel jedoch nicht zugunsten der nicht versicherten Gläubiger einer Bank aufgebraucht werden, muss eine solche Verwendung auf den Betrag beschränkt bleiben, der für die Erstattung gedeckter Einlagen benötigt worden wäre. Da Bankensanierungen und Auszahlungen an die Einleger unterschiedlichen Zwecken dienen, sollten die Mittel der Einlagensicherungsfonds bereits beim Aufbau der Zielausstattung so geschützt werden, dass die vorrangige Funktion der Einlagesicherungssysteme, d.h. die Erstattung von Einlagen, nicht beeinträchtigt wird. Die künftige Politik der Kommission in Sachen Bankensanierungsfonds bleibt hiervon unberührt.

7.5. Risikobasierte Beiträge zu den Einlagensicherungssystemen (Artikel 11 sowie Anhang I und II)

Die Beiträge der Kreditinstitute zu den Einlagensicherungssystemen müssen ihrem Risikoprofil entsprechend auf harmonisierte Weise berechnet werden. Grundsätzlich setzen sich die Beiträge aus risikounabhängigen und risikoabhängigen Komponenten zusammen. Letztere werden anhand verschiedener Indikatoren berechnet, die die Risikoprofile der einzelnen Kreditinstitute widerspiegeln. Die vorgeschlagenen Indikatoren bilden die wichtigsten Risikoarten ab und werden gemeinhin zur Bewertung der finanziellen Solidität von Kreditinstituten herangezogen: Kapitaladäquanz, Vermögensqualität, Rentabilität und Liquidität. Die zur Ermittlung dieser Indikatoren benötigten Daten stehen im Rahmen der bestehenden Meldepflichten zur Verfügung.

Mit Rücksicht auf die Unterschiede zwischen den Bankensektoren der Mitgliedstaaten bietet die Richtlinie eine gewisse Flexibilität, indem sie eine Reihe von (für alle Mitgliedstaaten vorgeschriebenen) Basisindikatoren und eine weitere Reihe von (fakultativen) Zusatzindikatoren vorsieht. Bei den Basisindikatoren handelt es sich um gebräuchliche Kriterien wie Kapitaladäquanz, Vermögensqualität, Rentabilität und Liquidität. Die Basisindikatoren werden mit 75 % und die Zusatzindikatoren mit 25 % gewichtet.

Dieser Ansatz für die Berechnung der risikobasierten Beiträge stützt sich auf die Berichte der Kommission (Gemeinsame Forschungsstelle) von 2008 und 2009 und spiegelt auch die

aktuellen Ansätze einiger Mitgliedstaaten wider.[12] Generell ist nach der Richtlinie zunächst der Gesamtbetrag der Beiträge zu ermitteln, die von den Einlagensicherungssystemen erhoben werden müssen, um die Zielausstattung zu erreichen; dieser Gesamtbetrag ist dann den jeweiligen Risikoprofilen entsprechend auf die einzelnen Mitgliederbanken umzulegen. Auf diese Weise setzt die Richtlinie Anreize für ein solides Risikomanagement und gegen riskantes Verhalten, indem sie ganz klar zwischen den Beiträgen der risikoärmsten und der risikoreichsten Bank (die von 75 % bis 200 % des Standardbeitrags reichen können) differenziert.

Die risikounabhängige Beitragskomponente bemisst sich – wie zurzeit in den meisten Mitgliedstaaten üblich – nach der Höhe der *erstattungsfähigen Einlagen*. Mit der Zeit werden jedoch die *gedeckten Einlagen* (d.h. die erstattungsfähigen Einlagen bis zur Höhe der Deckungssumme) in allen Mitgliedstaaten zur Beitragsbemessungsgrundlage werden, da sie das Risiko, dem die Einlagensicherungssysteme ausgesetzt sind, besser widerspiegeln.

Eine vollständige Harmonisierung der Berechnung der risikobasierten Beiträge sollte zu einem späteren Zeitpunkt erreicht werden.

7.6. Grenzübergreifende Zusammenarbeit (Artikel 12)

Um Auszahlungen im grenzübergreifenden Kontext zu erleichtern, tritt das Einlagensicherungssystem des Aufnahmemitgliedstaats als einzig zuständige Kontaktstelle für Einleger von Zweigniederlassungen in anderen Mitgliedstaaten auf. Damit ist es (als „postalische Anlaufstelle“) nicht nur für die Kommunikation mit den Einlegern im betreffenden Mitgliedstaat zuständig, sondern (als „Zahlstelle“) auch für die Auszahlung im Namen des Einlagensicherungssystems des Herkunftsmitgliedstaats. Die Erfüllung dieser Funktion soll durch Vereinbarungen zwischen den Einlagensicherungssystemen erleichtert werden.

Die Systeme müssen einschlägige Informationen untereinander austauschen. Gegenseitige Vereinbarungen sollen dies erleichtern.

Hat die Restrukturierung einer Bank zur Folge, dass ihre Mitgliedschaft in einem Einlagensicherungssystem endet und sie stattdessen Mitglied in einem anderen System wird, so erhält sie ihren letzten Beitrag zurück und kann damit ihren ersten Beitrag zum neuen Einlagensicherungssystem finanzieren.

7.7. Informationspflichten gegenüber dem Einleger (Artikel 14 und Anhang III)

Die Einleger werden nun besser darüber informiert, ob ihre Einlagen gedeckt sind und wie ein Einlagensicherungssystem funktioniert. So müssen die Einleger künftig, bevor die Einlage erfolgt, einen Informationsbogen abzeichnen, der nach dem in Anhang III enthaltenen Muster alle einschlägigen Informationen über die Deckung der Einlagen durch das zuständige Einlagensicherungssystem enthält. Bereits vorhandene Einleger müssen auf ihren Kontoauszügen entsprechend informiert werden. Werbung für Einlageprodukte darf nur den bloßen Hinweis auf die Deckung durch ein Einlagensicherungssystem enthalten, damit die Systeme nicht als Verkaufsargument benutzt werden.

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[12] Siehe Berichte der Gemeinsamen Forschungsstelle unter http://ec.europa.eu/internal_market/bank/docs/guarantee/risk-based-report_en.pdf und http://ec.europa.eu/internal_market/bank/docs/guarantee/2009_06_risk-based-report_en.pdf.

Die regelmäßige Offenlegung bestimmter Informationen durch die Einlagensicherungssysteme (Ex-ante-Mittel, Ex-post-Kapazität, Ergebnisse regelmäßiger Stresstests) sichert Transparenz und Glaubwürdigkeit, wodurch die Finanzstabilität ohne signifikante Kosten erhöht wird (Näheres dazu im Folgenabschätzungsbericht).

7.8. Neue Aufsichtsarchitektur

Am 23. September 2009 hat die Kommission Vorschläge für Verordnungen zur Schaffung des Europäischen Finanzaufsichtssystems, d.h. zur Einrichtung der drei neuen Europäischen Finanzaufsichtsbehörden und des Europäischen Ausschusses für Systemrisiken angenommen. Die neue Europäische Bankaufsichtsbehörde sollte im Rahmen ihrer durch die Verordnung übertragenen Befugnisse Informationen über die Einlagenhöhe erheben, Peer Reviews durchführen, bestehende Kreditmöglichkeiten zwischen Einlagensicherungssystemen bestätigen und Konflikte zwischen Einlagensicherungssystemen beilegen.

2010/0207 (COD)

Vorschlag für eine

RICHTLINIE …/…/EU DES EUROPÄISCHEN PARLAMENTS UND DES RATES

vom […]

über Einlagensicherungssysteme [Neufassung]

(Text von Bedeutung für den EWR)

↓ 94/19/EG (angepasst)

DAS EUROPÄISCHE PARLAMENT UND DER RAT DER EUROPÄISCHEN UNION —

gestützt auf den Vertrag über die Arbeitsweise der Europäischen Union, insbesondere auf Artikel ⌦ 53 Absatz 1 ⌫~~57 Absatz 2 erster und dritter Satz~~,

auf Vorschlag der Europäischen Kommission[~~13~~],

nach Stellungnahme der Europäischen Zentralbank[14],nach Stellungnahme des ⌦ Europäischen Datenschutzbeauftragten[15] ⌫ ~~Wirtschafts- und Sozialausschusses~~[~~16~~],

⌦ nach Übermittlung des Vorschlags an die nationalen Parlamente, ⌫

gemäß dem ⌦ ordentlichen Gesetzgebungsverfahren ⌫~~Verfahren des Artikels 189b des Vertrages~~,

in Erwägung nachstehender Gründe:

⇩ neu

(1) Die Richtlinie 94/19/EG des Europäischen Parlaments und des Rates vom 30. Mai 1994[*] ist in wesentlichen Punkten zu ändern. Aus Gründen der Klarheit empfiehlt es sich, eine Neufassung dieser Richtlinie vorzunehmen.

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[*] ABl. L 135 vom 31.5.1994, S. 5.

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13 ~~ABl. Nr. C 163 vom 30.6.1992, S. 6, und ABl. Nr. C 178 vom 30.6.1993, S. 14.~~

14 ABl. C […].

15 ABl. C […].

16 ~~ABl. Nr. C 332 vom 16.12.1992, S. 13.~~

↓ 94/19/EG, Erwägungsgrund 1 (neu)

(2) Um Kreditinstituten die Aufnahme und Ausübung ihrer Tätigkeit zu erleichtern, müssen die Unterschiede zwischen den für diese Institute geltenden Rechtsvorschriften der Mitgliedstaaten über Einlagensicherungssysteme beseitigt werden. ~~Gemäß den Zielen des Vertrages empfiehlt es sich, die harmonische Entwicklung der Tätigkeiten der Kreditinstitute in der Gemeinschaft durch die Aufhebung aller Beschränkungen der Niederlassungsfreiheit und des freien Dienstleistungsverkehrs zu fördern und gleichzeitig die Stabilität des Bankensystems und den Schutz der Sparer zu erhöhen.~~

↓ 94/19/EG, Erwägungsgrund 2 (neu)

(3) Diese Richtlinie trägt sowohl unter dem Aspekt der Niederlassungsfreiheit als auch unter dem Aspekt des freien Dienstleistungsverkehrs im Finanzdienstleistungssektor wesentlich zur Verwirklichung des Binnenmarkts für Kreditinstitute bei und erhöht gleichzeitig die Stabilität des Bankensystems und den Schutz der Einleger. ~~Werden die Beschränkungen der Tätigkeiten von Kreditinstituten aufgehoben, so ist es zweckmäßig, sich zugleich mit der Situation zu befassen, die im Falle des Nichtverfügbarwerdens der Einlagen in einem Kreditinstitut mit Zweigstellen in anderen Mitgliedstaaten entstehen kann. Ein Mindestmaß an Harmonisierung der Einlagensicherung muß gewährleistet sein ohne Rücksicht darauf, wo in der Gemeinschaft die Einlagen lokalisiert sind. Für die Vollendung des einheitlichen Bankenmarktes ist die Einlagensicherung genauso wichtig wie die aufsichtsrechtlichen Vorschriften.~~

⇩ neu

(4) Nach der Richtlinie 2009/14/EG des Europäischen Parlaments und des Rates vom 11. März 2009 zur Änderung der Richtlinie 94/19/EG über Einlagensicherungssysteme im Hinblick auf die Deckungssumme und die Auszahlungsfrist[17] muss die Kommission gegebenenfalls Vorschläge zur Änderung der Richtlinie 94/19/EG vorlegen. Dies betrifft die Harmonisierung der Finanzierungsmechanismen für Einlagensicherungssysteme, mögliche Modelle zur Einführung risikoabhängiger Beiträge, die Vorteile und Kosten einer möglichen Einführung eines unionsweiten Einlagensicherungssystems, die Auswirkungen abweichender Rechtsvorschriften zu Verrechnung und Gegenforderungen, die Effizienz des Systems und die Harmonisierung des Umfangs der erfassten Produkte und Einleger.

[17] ABl. L 68 vom 13.3.2009, S. 3.

↓ 94/19/EG, Erwägungsgrund 8 (neu)

(5) Die Richtlinie 94/19/EG beruht auf dem Grundsatz der Mindestharmonisierung. Infolgedessen wurde in der Europäischen Union eine Vielzahl von Einlagensicherungssystemen mit sehr unterschiedlichen Merkmalen geschaffen. Dies brachte für Kreditinstitute Marktverzerrungen mit sich und schmälerte für die Einleger den Nutzen des Binnenmarkts. ~~Die Harmonisierung muß sich auf die wesentlichen Aspekte der Einlagensicherungssysteme beschränken und die Zahlung der entsprechend der harmonisierten Mindestdeckung berechneten Entschädigung aus der Einlagensicherung innerhalb kürzester Frist gewährleisten.~~

⇩ neu

(6) Die Richtlinie sollte für die Kreditinstitute Wettbewerbsgleichheit gewährleisten, den Einlegern die Eigenschaften von Einlagensicherungssystemen verständlich machen und im Interesse der Finanzstabilität eine rasche Entschädigung der Einleger durch solide und glaubwürdige Einlagensicherungssysteme erleichtern. Die Einlagensicherung sollte deshalb so weit wie möglich harmonisiert und vereinfacht werden.

↓ 94/19/EG, Erwägungsgrund 3

~~(7)~~ Im Falle der Schließung eines zahlungsunfähigen Kreditinstituts müssen die Einleger der Zweigstellen, die in einem anderen Mitgliedstaat als demjenigen gelegen sind, in dem das Kreditinstitut seinen Sitz hat, durch dasselbe Sicherungssystem wie die übrigen Einleger des Instituts geschützt sein.

↓ 94/19/EG, Erwägungsgrund 15 (angepasst)

(8) Diese Richtlinie sieht grundsätzlich vor, dass alle Kreditinstitute einem Einlagensicherungssystem beitreten müssen.~~Die Richtlinien für die Zulassung von Kreditinstituten mit Sitz in Drittländern, insbesondere die Erste Richtlinie 77/780/EWG des Rates vom 12. Dezember 1977 zur Koordinierung der Rechts- und Verwaltungsvorschriften über die Aufnahme und Ausübung der Tätigkeit der Kreditinstitute (1) überlassen den Mitgliedstaaten die Entscheidung darüber, ob und unter welchen Bedingungen sie die Zweigstellen solcher Kreditinstitute zur Ausübung ihrer Geschäfte in ihrem Hoheitsgebiet zulassen. Derartige Zweigstellen kommen nicht in den Genuß der Dienstleistungsfreiheit nach Artikel 59 Absatz 2 des Vertrages und können auch nicht die Niederlassungsfreiheit in einem anderen Mitgliedstaat als dem ihrer Errichtung nutzen.~~ Ein Mitgliedstaat, der ~~solche~~ Zweigstellen ⊠ eines Kreditinstituts mit Sitz in einem Drittland ⌫ zulässt, sollte ~~daher~~ entscheiden, wie ~~auf sie~~ die ~~Grundsätze dieser~~ Richtlinie ⊠ auf diese Zweigstellen anzuwenden ist und dabei ⌫ ~~im Einklang mit Artikel 9 Absatz 1 der Richtlinie 77/780/EWG und in~~

~~Übereinstimmung mit~~ der Notwendigkeit des Schutzes der Einleger und des Erhalts eines intakten Finanzsystems ⌦ Rechnung tragen ⌫ ~~zur Anwendung zu bringen sind~~. Es ist von wesentlicher Bedeutung, dass Einleger bei solchen Zweigstellen von den für sie geltenden Sicherungsvorkehrungen in vollem Umfang Kenntnis erhalten.

⇩ neu

(9) Auch wenn im Prinzip jedes Kreditinstitut Mitglied eines Einlagensicherungssystems sein sollte, ist der Tatsache Rechnung zu tragen, dass es Systeme gibt, die das Kreditinstitut selbst schützen (institutsbezogene Sicherungssysteme) und insbesondere dessen Liquidität und Solvenz sicherstellen. Systeme dieser Art garantieren den Einlegern einen von den Einlagensicherungssystemen unabhängigen Schutz. Sind solche Systeme von Einlagensicherungssystemen getrennt, sollte bei Festlegung der Beiträge ihrer Mitglieder an Einlagensicherungssysteme ihrer Schutzfunktion für das System Rechnung getragen werden. Die harmonisierte Deckungssumme sollte Systeme, die das Kreditinstitut selbst schützen, nur dann betreffen, wenn diese eine Entschädigung der Einleger vorsehen. Einleger sollten bei allen Systemen Ansprüche anmelden können, was insbesondere dann gilt, wenn kein Schutz durch eine Garantiegemeinschaft gewährleistet werden kann. Das heißt, dass kein System von dieser Richtlinie ausgenommen werden sollte.

(10) Institutsbezogene Sicherungssysteme sind in Artikel 80 Absatz 8 der Richtlinie 2006/48/EG des Europäischen Parlaments und des Rates vom 14. Juni 2006 über die Aufnahme und Ausübung der Tätigkeit der Kreditinstitute (Neufassung)[18] definiert und können von den zuständigen Behörden als Einlagensicherungssysteme anerkannt werden, wenn sie alle in dem genannten Artikel und in der vorliegenden Richtlinie festgelegten Kriterien erfüllen.

(11) Die EU-weit unkoordinierte Aufstockung der Deckungssummen während der Finanzkrise hat dazu geführt, dass Einleger ihre Einlagen auf Banken in Ländern mit höherer Einlagensicherung umgeschichtet haben. Dadurch wurde den Banken in Krisenzeiten Liquidität entzogen. In stabilen Zeiten können unterschiedlich hohe Deckungssummen die Einleger dazu veranlassen, anstatt des für sie geeignetsten Produkts die höchste Deckungssumme zu wählen. Dies kann zu Wettbewerbsverzerrungen im Binnenmarkt führen. Aus diesem Grund muss bei der Einlagensicherung ein harmonisierter Deckungsumfang gewährleistet werden, unabhängig davon, an welcher Stelle der Europäischen Union sich die Einlagen befinden. Bestimmte Einlagen, die durch persönliche Umstände von Einlegern bedingt sind, können allerdings für begrenzte Zeit in höherem Umfang gedeckt sein.

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[18] ABl. L 177 vom 30.6.2006, S. 1.

↓ 2009/14/EG, Erwägungsgrund 4 ⇨ neu

(12) Für alle Einleger sollte die gleiche Deckungssumme gelten, unabhängig davon, ob die Währung des betreffenden Mitgliedstaats der Euro ist ⇨ und ob eine Bank Mitglied eines Systems ist, das das Institut selbst schützt ⇦. Mitgliedstaaten außerhalb des Euroraums sollten die Umrechnungsbeträge auf- oder abrunden können, was aber nicht zu Lasten der Gleichwertigkeit des Einlegerschutzes gehen darf.

↓ 94/19/EG, Erwägungsgrund 16 (angepasst)

(13) Zum einen sollte das in dieser Richtlinie festzusetzende ~~Mindestd~~Deckungsniveau so festgelegt werden, dass sowohl im Interesse des Verbraucherschutzes als auch der Stabilität des Finanzsystems möglichst viele Einlagen erfasst werden. Zum anderen ~~wäre es unangebracht, gemeinschaftsweit ein Schutzniveau vorzuschreiben, das in manchen Fällen eine unsolide Geschäftsführung der Kreditinstitute fördern könnte~~ ⌦ sollten ⌫ ~~D~~die Finanzierungskosten für solche Systeme ~~sollten~~ berücksichtigt werden. Es erscheint deshalb zweckmäßig, den harmonisierten ~~Mindestd~~Deckungsbetrag auf ⌦ 100 000 EUR ⌫ ~~20 000 ECU~~ festzusetzen. ~~In beschränktem Maße dürften Übergangsbestimmungen notwendig sein, um es den betreffenden Systemen zu gestatten, diesen Wert einzuhalten.~~

↓ 94/19/EG, Erwägungsgrund 20 (angepasst)

~~(14)~~ Die~~Der~~ harmonisierte Obergrenze ~~Mindestbetrag~~ gilt grundsätzlich pro Einleger und nicht pro Einlage. Zu berücksichtigen sind daher auch die Einlagen von Einlegern, die nicht als Inhaber figurieren oder die nicht die ausschließlichen Inhaber sind. Der Schwellenwert gilt daher für jeden identifizierbaren Einleger. Organismen für gemeinsame Anlagen, für die besondere Schutzvorschriften gelten, die auf die vorgenannten Einlagen keine Anwendung finden, sollten allerdings von dieser Regelung ausgenommen werden.

⇩ neu

(15) Die Mitgliedstaaten sollten nicht an der Errichtung von Systemen gehindert werden, die generell die Altersvorsorge absichern und die getrennt von Einlagensicherungssystemen geführt werden sollten. Die Mitgliedstaaten sollten nicht daran gehindert werden, bestimmte Einlagen aus sozialen Gründen zu schützen oder im Zusammenhang mit Immobilientransaktionen, die auf privat genutzte Wohnimmobilien abzielen, abzusichern. In allen genannten Fällen sollten die Bestimmungen über staatliche Beihilfen eingehalten werden.

↓ 94/19/EG, Erwägungsgrund 23 (neu)
⇨ neu

(16) Es ist ~~nicht~~ unbedingt erforderlich, ~~in dieser Richtlinie~~ die Verfahren für die Finanzierung ~~der~~ von Einlagens~~S~~icherungssystemen ~~für die Einlagen~~ oder ~~für die~~ von Kreditinstituten selbst zu harmonisieren. ~~da e~~Einerseits sollten die Kosten dieser Finanzierung ⇨ hauptsächlich ⇦ ~~grundsätzlich~~ von den Kreditinstituten selbst getragen werden~~müssen~~; ~~und~~ andererseits muss die Finanzierungskapazität dieser Systeme in einem angemessenen Verhältnis zu ihren Verbindlichkeiten stehen~~muss~~. ⇨ Um zu gewährleisten, dass die Einleger in allen Mitgliedstaaten einen vergleichbar hohen Schutz genießen und Einlagensicherungssysteme sich nur dann gegenseitig Kredite gewähren, wenn das betroffene Einlagensicherungssystem bereits erhebliche eigene Finanzierungsanstrengungen unternommen hat, sollte die Finanzierung von Einlagensicherungssystemen auf hohem Niveau harmonisiert werden. ⇦ Allerdings sollte~~darf~~ die Stabilität des Bankensystems in dem betreffenden Mitgliedstaat hierdurch nicht gefährdet werden.

⇩ neu

(17) Um die Einlagensicherung auf das zur Gewährleistung von Rechtssicherheit und Transparenz für die Einleger notwendige Maß zu beschränken und die Übertragung von Anlagerisiken auf Einlagensicherungssysteme zu vermeiden, sollten bestimmte Finanzprodukte mit Anlagecharakter von der Deckung ausgenommen werden, insbesondere solche, die nicht zum Nennwert rückzahlbar sind und solche, deren Existenz lediglich durch eine Bescheinigung nachgewiesen werden kann.

(18) Bestimmte Einleger sollten von der Einlagensicherung ausgenommen werden, insbesondere Behörden oder andere Finanzinstitute. Ihre im Vergleich zu allen anderen Einlegern geringe Zahl mindert bei einem Bankenausfall die Auswirkungen auf die Stabilität des Finanzsystems. Behörden haben darüber hinaus einen weitaus besseren Zugang zu Krediten als Bürger. Nichtfinanzunternehmen sollten unabhängig von ihrer Größe grundsätzlich abgedeckt sein.

(19) In Artikel 1 der Richtlinie 91/308/EWG des Rates vom 10. Juni 1991 zur Verhinderung der Nutzung des Finanzsystems zum Zwecke der Geldwäsche[19] ist der Begriff der Geldwäsche definiert. Diese Definition sollte beim Ausschluss von Einlegern von Zahlungen aus Einlagensicherungssystemen zugrunde gelegt werden.

↓ 94/19/EG, Erwägungsgrund 4

~~(20)~~ Die den Kreditinstituten aus der Teilnahme an einem Sicherungssystem erwachsenden Kosten stehen in keinem Verhältnis zu denjenigen, die bei einem massiven Abheben von Einlagen nicht nur bei dem sich in Schwierigkeiten befindlichen Unternehmen,

[19] ABl. L 166 vom 28.6.1991, S. 77.

sondern auch bei an sich gesunden Unternehmen entstehen würden, wenn das Vertrauen der Einleger in die Stabilität des Bankensystems erschüttert wird.

⇩ neu

(21) Die verfügbaren Finanzmittel von Einlagensicherungssystemen müssen auf jeden Fall einer bestimmten Zielausstattung entsprechen und es müssen Sonderbeiträge erhoben werden können. Einlagensicherungssysteme sollten bei Bedarf auf angemessene alternative Finanzierungsmöglichkeiten zurückgreifen können, die es ihnen ermöglichen, zur Erfüllung der gegen sie erhobenen Forderungen eine kurzfristige Finanzierung aufzunehmen.

(22) Die Finanzmittel von Einlagensicherungssystemen sollten in erster Linie zur Entschädigung der Einleger eingesetzt werden. Sie könnten jedoch auch zur Finanzierung des Transfers von Einlagen zu einem anderen Kreditinstitut genutzt werden, sofern die Kosten, die hierbei vom Einlagensicherungssystem getragen werden, nicht über die bei dem betreffenden Kreditinstitut gedeckten Einlagen hinausgehen. Bis zu einem gewissen, in der Richtlinie eingegrenzten Grad könnten sie auch zur Vorbeugung von Bankinsolvenzen verwendet werden. Derartige Maßnahmen sollten mit den Beihilfevorschriften in Einklang stehen. Dem künftigen Vorgehen der Kommission in Bezug auf die Errichtung nationaler Bankensanierungsfonds wird dadurch nicht vorgegriffen.

(23) In Anhang 1 Nummer 14 Tabelle 1 der Richtlinie 2006/49/EG des Europäischen Parlaments und des Rates vom 14. Juni 2006 über die angemessene Eigenkapitalausstattung von Wertpapierfirmen und Kreditinstituten (Neufassung)[20] werden Vermögenswerte bestimmten Risikogruppen zugeordnet. Dieser Anhang sollte berücksichtigt werden, um zu gewährleisten, dass Einlagensicherungssysteme nur in risikoarme Vermögenswerte investieren.

(24) Die Beiträge zu Einlagensicherungssystemen sollten der Höhe des Risikos Rechnung tragen, dem ihre Mitglieder ausgesetzt sind. Dies würde es ermöglichen, dem Risikoprofil einzelner Banken Rechnung zu tragen, zu einer fairen Beitragsbemessung führen und Anreize schaffen, risikoärmere Geschäftsmodelle zu verfolgen. Durch die Entwicklung eines für alle Mitgliedstaaten verbindlichen Satzes von Basisindikatoren und eines Satzes fakultativer Zusatzindikatoren würde eine solche Harmonisierung schrittweise erreicht.

🡻 94/19/EG, Erwägungsgrund 25 (neu)
⇨ neu

(25) Die Einlagensicherung ist ein wichtiger Aspekt der Vollendung des Binnenmarkts und aufgrund der Solidarität, die sie unter den Kreditinstituten eines Finanzmarktes bei Zahlungsunfähigkeit eines Instituts schafft, eine unentbehrliche Ergänzung des

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[20] ABl. L 177 vom 30.6.2006, S. 201.

Systems der Bankenaufsicht. ⇨ Aus diesem Grund sollten Einlagensicherungssysteme einander bei Bedarf Kredite gewähren können. ⇦

↓ 2009/14/EG, Erwägungsgrund 10 (angepasst)
⇨ neu

(26) Die derzeitige Auszahlungsfrist von ~~drei Monaten, die auf neun Monate verlängert werden kann,~~ ⌦ maximal sechs Wochen ab dem 31. Dezember 2010 ⌫ trägt in keiner Weise der Notwendigkeit Rechnung, das Vertrauen der Einleger zu erhalten, und entspricht nicht deren Bedürfnissen. Die Auszahlungsfrist sollte deshalb auf ⇨ eine Woche ⇦ ~~20 Arbeitstage~~ verkürzt werden. ~~Dieser Zeitraum sollte nur in Ausnahmefällen und nach Zustimmung der zuständigen Behörden verlängert werden. Zwei Jahre nach Inkrafttreten dieser Richtlinie sollte die Kommission dem Europäischen Parlament und dem Rat einen Bericht über die Effizienz und die Fristen der Auszahlungsverfahren unterbreiten, in dem geprüft wird, inwieweit eine weitere Verringerung der Frist auf zehn Arbeitstage angemessen ist.~~

⇩ neu

(27) Die Einlagensicherungssysteme von Mitgliedstaaten, in denen ein Kreditinstitut Zweigstellen errichtet hat oder unmittelbar Dienstleistungen erbringt, sollten die Einleger im Namen des Systems des Mitgliedstaats, in dem das Kreditinstitut zugelassen wurde, unterrichten und entschädigen. Zur Erleichterung dieser Aufgabe sollten die möglicherweise betroffenen Einlagensicherungssysteme vorab Vereinbarungen schließen.

↓ 94/19/EG, Erwägungsgrund 21 (angepasst)
⇨ neu

(28) ~~Die~~ Information ist ein wesentlicher Bestandteil des Einlegerschutzes ~~und ist deshalb ebenfalls durch bestimmte Mindestvorschriften zu regeln, die bindend sind~~. ⇨ . Aus diesem Grund sollten die bereits vorhandenen Einleger auf ihren Kontoauszügen und die künftigen Einleger auf einem von ihnen abzuzeichnenden Standard-Informationsbogen über ihre Deckung und das zuständige System unterrichtet werden. Alle Einleger sollten die gleichen Informationen erhalten. ⇦ Eine nicht geregelte Werbung mit Hinweisen auf den Entschädigungsbetrag und den Umfang des Einlagensicherungssystems könnte allerdings die Stabilität des Bankensystems oder das Vertrauen der Einleger beeinträchtigen. ~~Die Mitgliedstaaten sollten daher Vorschriften zur Beschränkung derartiger Hinweise erlassen.~~ ⇨ Wenn in Werbung auf Einlagensicherungssysteme verwiesen wird, sollte dies daher auf einen bloßen Hinweis beschränkt sein. Systeme, die das Kreditinstitut selbst schützen, sollten die Einleger klar über ihre Funktion informieren, ohne dabei uneingeschränkten Einlegerschutz zu versprechen. ⇦

⇩ neu

(29) Für die Verarbeitung personenbezogener Daten in Durchführung dieser Richtlinie gilt die Richtlinie 95/46/EG des Europäischen Parlaments und des Rates vom 24. Oktober 1995 zum Schutz natürlicher Personen bei der Verarbeitung personenbezogener Daten und zum freien Datenverkehr[21].

⇩ 94/19/EG, Erwägungsgrund 24

~~(30)~~ Die Mitgliedstaaten oder ihre zuständigen Behörden können aufgrund dieser Richtlinie den Einlegern gegenüber nicht haftbar gemacht werden, wenn sie für die Einrichtung bzw. die amtliche Anerkennung eines oder mehrerer Systeme Sorge getragen haben, die die Einlagen oder die Kreditinstitute selbst absichern und die Zahlung von Entschädigungen oder den Schutz der Einleger nach Maßgabe dieser Richtlinie gewährleisten.

⇩ neu

(31) Mit ihrem Vorschlag für eine Verordnung des Europäischen Parlaments und des Rates zur Einrichtung einer Europäischen Bankaufsichtsbehörde[22] vom 23. September 2009 legte die Kommission einen Legislativentwurf zur Schaffung eines Europäischen Finanzaufsichtsssystems vor; sie lieferte darin nähere Einzelheiten zur Architektur dieses neuen Aufsichtsrahmens, der auch die Schaffung einer Europäischen Bankaufsichtsbehörde einschließt.

(32) Unter Beachtung der Zuständigkeit der Mitgliedstaaten für die Beaufsichtigung der Einlagensicherungssysteme sollte die Europäische Bankaufsichtsbehörde zur Erreichung des Ziels beitragen, Kreditinstituten die Aufnahme und Ausübung ihrer Tätigkeit zu erleichtern und dabei gleichzeitig einen wirksamen Einlegerschutz zu gewährleisten. Zu diesem Zweck sollte die Behörde bestätigen, dass die in dieser Richtlinie festgelegten Bedingungen für Kredite zwischen Einlagensicherungssystemen erfüllt sind und unter Einhaltung der in dieser Richtlinie festgesetzten strengen Obergrenzen die Beträge, die von den einzelnen Systemen zu verleihen sind, sowie den Ausgangszinssatz und die Laufzeit des Kredits nennen. Die Europäische Bankaufsichtsbehörde sollte ferner Informationen über Einlagensicherungssysteme erheben, was insbesondere für die von den zuständigen Behörden bestätigte Höhe der von diesen Systemen gedeckten Einlagen gilt.

(33) Die Behörde sollte außerdem bestätigen, ob ein Einlagensicherungssystem bei anderen Einlagensicherungssystemen einen Kredit aufnehmen kann, und nach Maßgabe dieser Richtlinie den Kreditbetrag ermitteln. Sie sollte die anderen Einlagensicherungssysteme über ihre Pflicht zur Kreditvergabe in Kenntnis setzen.

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21 ABl. L 281 vom 23.11.1995, S. 31.

22 Vorschlag für eine Verordnung des Europäischen Parlaments und des Rates zur Einrichtung einer Europäischen Bankaufsichtsbehörde, KOM(2009) 501.

(34) Um europaweit gleiche Wettbewerbsbedingungen und einen angemessenen Einlegerschutz zu gewährleisten, muss ein wirksames Instrument zur Festlegung harmonisierter technischer Standards im Finanzdiestleistungsbereich eingeführt werden. Solche Standards sollten zwecks Vereinheitlichung der Ermittlung der risikoabhängigen Beiträge entwickelt werden.

(35) Um reibungslos und effizient funktionierende Einlagensicherungssysteme und eine ausgewogene Berücksichtigung ihrer Positionen in unterschiedlichen Mitgliedstaaten zu gewährleisten, sollte die Behörde Meinungsverschiedenheiten zwischen ihnen verbindlich beilegen können.

(36) Der Kommission sollte die Befugnis übertragen werden, gemäß Artikel 290 des Vertrags über die Arbeitsweise der Europäischen Union delegierte Rechtsakte in Bezug auf Artikel 5 Absatz 5 zu erlassen.

(37) Entsprechend dem in Artikel 5 des Vertrags über die Europäische Union niedergelegten Subsidiaritätsprinzip können die Ziele der vorliegenden Maßnahme, nämlich die Harmonisierung der Vorschriften für Einlagensicherungssysteme nur auf Ebene der Europäischen Union verwirklicht werden. Entsprechend dem in demselben Artikel genannten Grundsatz der Verhältnismäßigkeit geht diese Richtlinie nicht über das zur Erreichung dieser Ziele erforderliche Maß hinaus.

(38) Die Verpflichtung zur Umsetzung dieser Richtlinie in innerstaatliches Recht sollte nur jene Bestimmungen betreffen, die im Vergleich zu den bisherigen Richtlinien inhaltlich geändert wurden. Die Verpflichtung zur Umsetzung der inhaltlich unveränderten Bestimmungen ergibt sich aus den bisherigen Richtlinien.

(39) Diese Richtlinie sollte die Verpflichtungen der Mitgliedstaaten hinsichtlich der Fristen für die Umsetzung der in Anhang IV genannten Richtlinien in innerstaatliches Recht unberührt lassen —

↓ 94/19/EG

HABEN FOLGENDE RICHTLINIE ERLASSEN:

⇩ neu

Artikel 1

Gegenstand und Geltungsbereich

(1) Diese Richtlinie regelt die Funktionsweise von Einlagensicherungssystemen.

(2) Sie gilt für alle gesetzlichen oder vertraglichen Einlagensicherungssysteme sowie für institutsbezogene Sicherungssysteme, die als Einlagensicherungssysteme anerkannt sind.

(3) Die in Artikel 80 Absatz 8 der Richtlinie 2006/48/EG definierten institutsbezogenen Sicherungssysteme können von den zuständigen Behörden als Einlagensicherungssysteme anerkannt werden, wenn sie alle in dem genannten Artikel und in der vorliegenden Richtlinie festgelegten Kriterien erfüllen.

(4) Institutsbezogene Sicherungssysteme, die nicht nach Absatz 3 anerkannt sind und keine Einlagen garantieren, sind abgesehen von Artikel 14 Absatz 5 und Anhang III letzter Unterabsatz von dieser Richtlinie ausgenommen.

🡻 94/19/EG, Artikel 1 Absatz 1 (neu)

Artikel 2

Begriffsbestimmungen

(1) Im Sinne dieser Richtlinie bedeuten:

a) ~~1.~~ *Einlage*: ein Guthaben, das sich aus auf einem Konto verbliebenen Beträgen oder aus Zwischenpositionen im Rahmen von normalen Bankgeschäften ergibt und vom Kreditinstitut nach den geltenden gesetzlichen und vertraglichen Bedingungen zurückzuzahlen ist~~, sowie Forderungen, die das Kreditinstitut durch Ausstellung einer Urkunde verbrieft hat~~.

Anteile an britischen und irischen Bausparkassen, ausgenommen solche, die im Sinne des Artikels 2 ihrem Wesen nach als Kapital anzusehen sind, gelten als Einlagen.

~~Schuldverschreibungen, die die Voraussetzungen des Artikels 22 Absatz 4 der Richtlinie 85/611/EWG des Rates vom 20. Dezember 1985 zur Koordinierung der~~

~~Rechts- und Verwaltungsvorschriften betreffend bestimmte Organismen für gemeinsame Anlagen in Wertpapieren (OGAW)[23] erfüllen, gelten nicht als Einlagen.~~

~~Zur Berechnung des Guthabens wenden die Mitgliedstaaten die für Aufrechnungen und Gegenforderungen geltenden Vorschriften und Regelungen entsprechend den für die Einlage geltenden gesetzlichen und vertraglichen Bedingungen an;~~

⇩ neu

⇨ Ein Instrument gilt nicht als Einlage, wenn

seine Existenz nur durch eine andere Bescheinigung als einen Kontoauszug nachgewiesen werden kann,

es nicht zum Nennwert rückzahlbar ist oder

es nur im Rahmen einer bestimmten, vom Kreditinstitut oder einem Dritten gestellten Garantie oder Vereinbarung rückzahlbar ist. ⇦

b) *erstattungsfähige Einlagen*: Einlagen, die nicht nach Artikel 4 von einer Deckung ausgenommen sind;

c) *gedeckte Einlagen*: erstattungsfähige Einlagen, die die in Artikel 5 genannte Deckungssumme nicht übersteigen;

🡻 94/19/EG, Artikel 1 Absatz 2

d)~~2.~~ *Gemeinschaftskonto*: ein Konto, das im Namen von zwei oder mehreren Personen eröffnet wurde oder an dem zwei oder mehrere Personen Rechte haben und über das mit der Unterschrift von einer oder mehreren dieser Personen verfügt werden kann;

🡻 94/19/EG, Artikel 1 Absatz 3

e)~~3.~~ *nichtverfügbare Einlage*: eine Einlage, die gemäß den für sie geltenden gesetzlichen und vertraglichen Bedingungen zwar fällig und von einem Kreditinstitut zu zahlen ist, jedoch noch nicht gezahlt wurde, wobei einer der beiden folgenden Fälle vorliegt:

i) Die jeweils zuständigen Behörden haben festgestellt, dass ihrer Auffassung nach das Kreditinstitut aus Gründen, die mit seiner Finanzlage unmittelbar zusammenhängen, vorerst nicht in der Lage ist, die Einlage zurückzuzahlen, und gegenwärtig keine Aussicht auf eine spätere Rückzahlung besteht.

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[23] ~~ABl. Nr. C 163 vom 30.6.1992, S. 6, und ABl. Nr. C 178 vom 30.6.1993, S. 14.~~

🡻 2009/14/EG Artikel 1 Absatz 1 (angepasst)

Die zuständigen Behörden treffen diese Feststellung so rasch wie möglich, ~~jedenfalls~~ spätestens aber~~jedoch spätestens~~ fünf Arbeitstage, nachdem sie erstmals festgestellt haben, dass ein Kreditinstitut die fälligen und rückzahlbaren Einlagen nicht zurückgezahlt hat.

🡻 94/19/EG, Artikel 1 Absatz 1 (neu)
⇨ neu

ii) Ein Gericht hat aus Gründen, die mit der Finanzlage des Kreditinstituts unmittelbar zusammenhängen, eine Entscheidung getroffen, die ein Ruhen der Forderungen der Einleger gegen das Institut bewirkt, sofern diese Entscheidung vor der Feststellung nach Ziffer i) erfolgt ist.

f)~~4.~~ *Kreditinstitut*: ein Unternehmen~~, dessen Tätigkeit darin besteht, Einlagen oder andere rückzahlbare Gelder des Publikums entgegenzunehmen und Kredite für eigene Rechnung zu gewähren~~ ⇨ im Sinne von Artikel 4 Absatz 1 der Richtlinie 2006/48/EG ⇦;

g)~~5.~~ *Zweigstelle*: eine Betriebsstelle, die einen rechtlich unselbständigen Teil eines Kreditinstituts bildet und unmittelbar sämtliche oder einen Teil der Geschäfte betreibt, die mit der Tätigkeit eines Kreditinstituts verbunden sind;

⇩ neu

⇨ h) *Zielausstattung*: 1,5 % der erstattungsfähigen Einlagen, für die ein Einlagensicherungssystem aufkommen muss; ⇦

⇨ i) *verfügbare Finanzmittel*: Bargeld, Einlagen und risikoarme Schuldtitel mit einer Restlaufzeit von maximal 24 Monaten, die innerhalb der in Artikel 7 Absatz 1 genannten Frist liquidiert werden können; ⇦

⇨ j) *risikoarme Schuldtitel*: Titel, die unter die ersten beiden der in Anhang I Nummer 14 Tabelle 1 der Richtlinie 2006/49/EG genannten Kategorien fallen, die unter Nummer 15 dieses Anhangs definierten anderen qualifizierten Schuldtitel aber nicht einschließen;⇦

⇨ k) *Herkunftsmitgliedstaat*: der Mitgliedstaat, in dem ein Kreditinstitut seinen Sitz hat; ⇦

⇨ l) *Aufnahmemitgliedstaat*: der Mitgliedstaat, in dem ein Kreditinstitut eine Zweigstelle hat oder Dienstleistungen erbringt; ⇦

⇨ m) *zuständige Behörden*: zuständige Behörden im Sinne von Artikel 4 Absatz 4 der Richtlinie 2006/48/EG; ⇦

(2) Wird in dieser Richtlinie auf die [EBA-Verordnung] Bezug genommen, sind Stellen, die Einlagensicherungssysteme verwalten, für die Zwecke dieser Verordnung als zuständige Behörden nach Artikel 2 Absatz 2 der [EBA-Verordnung] zu betrachten.

🡻 94/19/EG, Artikel 3 (angepasst)
➔$_1$ 2005/1/EG, Artikel 2
⇨ neu

Artikel 3

Mitgliedschaft und Aufsicht

(1) Jeder Mitgliedstaat sorgt in seinem Hoheitsgebiet für die Errichtung und amtliche Anerkennung eines oder mehrerer Einlagensicherungssysteme.

⇨ Dies schließt die Zusammenlegung von Systemen verschiedener Mitgliedstaaten nicht aus. ⇦

~~Außer in den im nachstehenden Unterabsatz sowie in Absatz 4 genannten Fällen darf ein in dem Mitgliedstaat nach Artikel 3 der Richtlinie 77/780/EWG zugelassenes~~Ein Kreditinstitut darf Einlagen nur annehmen, wenn es einem dieser Systeme angeschlossen ist.

~~Die Mitgliedstaaten können jedoch ein Kreditinstitut von der Pflicht zur Mitgliedschaft in einem Einlagensicherungssystem befreien, wenn das betreffende Kreditinstitut einem System angeschlossen ist, durch welches das Kreditinstitut selbst geschützt wird und insbesondere seine Liquidität und Solvenz gewährleistet werden, wodurch den Einlegern in einem Einlagensicherungssystem zumindest gleichwertiger Schutz geboten wird, und sofern das betreffende System nach Auffassung der zuständigen Behörden die folgenden Voraussetzungen erfüllt:~~

~~– es besteht bereits zum Zeitpunkt der Annahme dieser Richtlinie und ist amtlich anerkannt;~~

~~– es soll dazu dienen, ein Nichtverfügbarwerden der Einlagen der diesem System angeschlossenen Kreditinstitute zu vermeiden, und verfügt über die dazu erforderlichen Mittel;~~

~~– es handelt sich dabei nicht um eine Sicherung, die den Kreditinstituten durch den Mitgliedstaat selbst oder seine lokalen oder regionalen Behörden gewährt wird;~~

~~– es stellt die Unterrichtung der Einleger entsprechend Artikel 6 sicher.~~

~~Die Mitgliedstaaten, die von dieser Befugnis Gebrauch machen, teilen dies der Kommission mit; sie unterrichten sie vor allem über die Beschaffenheit dieser Schutzsysteme und die davon erfaßten Kreditinstitute sowie über spätere~~

~~Änderungen gegenüber den zunächst übermittelten Informationen. Die Kommission setzt den~~ → 1 ~~Europäischen Bankenausschuss~~ ← ~~davon in Kenntnis.~~

(2) Kommt ein Kreditinstitut seinen~~den~~ Verpflichtungen als Mitglied eines Einlagensicherungssystems nicht nach, so werden die zuständigen Behörden, die die Zulassung erteilt haben, hiervon in Kenntnis gesetzt; sie ergreifen im Zusammenwirken mit dem Sicherungssystem alle erforderlichen Maßnahmen, einschließlich der Verhängung von Sanktionen, um sicherzustellen, dass das Kreditinstitut seinen Verpflichtungen nachkommt.

(3) Kommt das Kreditinstitut trotz dieser Maßnahmen seinen Verpflichtungen nicht nach, so kann das System — wenn das einzelstaatliche Recht dies zulässt — mit ausdrücklicher Zustimmung der zuständigen Behörden dem Kreditinstitut die Mitgliedschaft in dem System mit einer Frist von mindestens ⇨ einem ⇦ ~~zwölf~~ Monat~~en~~ kündigen. Vor Ablauf der Kündigungsfrist getätigte Einlagen werden von dem System weiterhin voll geschützt. Ist das Kreditinstitut bei Ablauf der Kündigungsfrist seinen Verpflichtungen nicht nachgekommen, ⇨ vollzieht ⇦ ~~kann~~ das Sicherungssystem~~mit erneuter ausdrücklicher Zustimmung der zuständigen Behörden~~ den Ausschluss~~vollziehen~~.

~~4. Wenn das einzelstaatliche Recht es zuläßt, kann ein aus einem Einlagensicherungssystem ausgeschlossenes Kreditinstitut mit ausdrücklicher Zustimmung der zuständigen Behörden, die die Zulassung erteilt haben, weiterhin Einlagen annehmen, sofern es vor seinem Ausschluß anderweitige Vorkehrungen zur Einlagensicherung getroffen hat, die den Einlegern einen Schutz garantieren, der dem des amtlich anerkannten Systems nach Höhe und Umfang mindestens gleichwertig ist.~~

~~5. Vermag ein Kreditinstitut, dessen Ausschluß gemäß Absatz 3 vorgesehen ist, keine anderweitigen Vorkehrungen zu treffen, die die Anforderungen nach Absatz 4 erfüllen, so widerrufen die zuständigen Behörden, die die Zulassung erteilt haben, diese umgehend.~~

↓ 94/19/EG, Artikel 5 (angepasst)

(4) Einlagen, die von einem nach Artikel ⌦ 6 der Richtlinie 2006/48/EG ⌫ ~~3 der Richtlinie 77/780/EWG~~ zugelassenen Kreditinstitut zum Zeitpunkt des Widerrufs seiner Zulassung gehalten werden, sind weiterhin durch das Sicherungssystem geschützt.

⇩ neu

(5) Alle in Artikel 1 genannten Einlagensicherungssysteme werden hinsichtlich der Einhaltung dieser Richtlinie laufend von den zuständigen Behörden beaufsichtigt.

↓ 2009/14/EG, Artikel 1 Absatz 6 Buchstabe a (neu)

(6) Die Mitgliedstaaten gewährleisten, dass die Einlagensicherungssysteme ihre Systeme regelmäßigen Tests~~Prüfungen~~ unterziehen und dass sie ~~gegebenenfalls~~ unterrichtet werden, wenn die zuständigen Behörden Probleme in einem Kreditinstitut feststellen, die voraussichtlich zur Inanspruchnahme der Einlagensicherungssysteme führen.

⇩ neu

Solche Tests finden mindestens alle drei Jahre statt oder wenn die Umstände es verlangen. Der erste Test findet vor dem 31. Dezember 2013 statt.

Die Europäische Bankaufsichtsbehörde führt in dieser Hinsicht regelmäßig Peer Reviews nach Artikel 15 der [EBA-Verordnung] durch. Einlagensicherungssysteme unterliegen beim Austausch von Informationen mit der Europäischen Bankaufsichtsbehörde dem in Artikel 56 dieser Verordnung genannten Berufsgeheimnis.

(7) Die Mitgliedstaaten sorgen dafür, dass Einlagensicherungssysteme von ihren Mitgliedern auf Verlangen jederzeit alle Informationen erhalten, die sie zur Vorbereitung einer Einlegerentschädigung benötigen, wozu auch die Kennzeichnung nach Artikel 4 Absatz 2 zählt. Die zur Durchführung von Stresstests notwendigen Informationen werden den Einlagensicherungssystemen laufend übermittelt. Diese Angaben werden anonymisiert. Die erhaltenen Informationen dürfen nur zur Durchführung von Stresstests oder zur Vorbereitung von Entschädigungen verwendet und nur so lange aufbewahrt werden, wie für die genannten Zwecke erforderlich.

↓ 94/19/EG, Artikel 2 (angepasst)

Artikel 4

Erstattungsfähigkeit von Einlagen

(1) Folgende Einlagen sind von einer Erstattung~~Rückzahlung~~ durch ~~die~~ Einlagensicherungssysteme ausgenommen~~schlossen~~:

a) vorbehaltlich des Artikels 6~~8~~ Absatz 3 Einlagen, die andere Kreditinstitute im eigenen Namen und auf eigene Rechnung getätigt haben;

b) alle Instrumente, die unter die Definition der „Eigenmittel“ in Artikel ⌦ 57 der Richtlinie 2006/48/EG ⌫ ~~2 der Richtlinie 89/299/EWG des Rates vom 17. April 1989 über die Eigenmittel von Kreditinstituten[24]~~ fallen;

c) Einlagen im Zusammenhang mit Transaktionen, aufgrund deren Personen in einem Strafverfahren wegen Geldwäsche im Sinne von~~des~~ Artikel~~s~~ 1 ⌦ Buchstabe C ⌫ der Richtlinie 91/308/EWG ~~des Rates vom 10. Juni 1991 zur Verhinderung der Nutzung des Finanzsystems zum Zwecke der Geldwäsche~~ verurteilt worden sind;

⇩ neu

d) Einlagen von Finanzinstituten im Sinne von Artikel 4 Nummer 5 der Richtlinie 2006/48/EG;

e) Einlagen von Wertpapierfirmen im Sinne von Artikel 4 Absatz 1 Nummer 1 der Richtlinie 2004/39/EG;

f) Einlagen, von deren Inhaber niemals nach Artikel 3 Absatz 1 der Richtlinie 91/308/EWG die Identität festgestellt wurde, wenn diese nicht mehr verfügbar sind;

g) Einlagen von Versicherungsunternehmen;

h) Einlagen von Organismen für gemeinsame Anlagen;

i) Einlagen von Pensions- und Rentenfonds;

j) Einlagen von Behörden;

k) Schuldverschreibungen eines Kreditinstituts und Verbindlichkeiten aus eigenen Akzepten und Solawechseln.

(2) Die Mitgliedstaaten sorgen dafür, dass die Kreditinstitute die in Absatz 1 genannten Einlagen so kennzeichnen, dass sie sofort ermittelt werden können.

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24 ~~*ABl. L 124 vom 5.5.1989, S. 16.*~~

↓ 2009/14/EG Artikel 1 Absatz 3 Buchstabe a (angepasst)

Artikel 5

Deckungssumme

(1) Für den Fall, dass Einlagen nicht verfügbar sind, gewährleisten die Mitgliedstaaten, dass die Deckungssumme für die Gesamtheit der Einlagen desselben Einlegers ~~mindestens~~ ⌦ 100 000 ⌫ ~~50000~~ EUR beträgt.

~~1a. Ab 31. Dezember 2010 gewährleisten die Mitgliedstaaten, dass die Deckungssumme für die Gesamtheit der Einlagen desselben Einlegers auf 100000 EUR festgesetzt ist, wenn die Einlagen nicht verfügbar sind.~~

~~Gelangt die Kommission in dem Bericht gemäß Artikel 12 zu dem Schluss, dass eine solche Erhöhung und eine solche Harmonisierung unangemessen und nicht für alle Mitgliedstaaten finanziell tragbar sind, um den Verbraucherschutz und die Finanzmarktstabilität in der Gemeinschaft zu gewährleisten und grenzübergreifende Verzerrungen zwischen den Mitgliedstaaten zu vermeiden, so legt sie dem Europäischen Parlament und dem Rat einen Vorschlag zur Änderung von Unterabsatz 1 vor.~~

⇩ neu

(2) Die Mitgliedstaaten sorgen dafür, dass Einlagensicherungssysteme nicht von der in Absatz 1 festgelegten Deckungssumme abweichen. Die Mitgliedstaaten können allerdings auch für die nachstehend genannten Einlagen eine Sicherung beschließen, sofern die Kosten der damit verbundenen Erstattungen nicht unter die Artikel 9, 10 und 11 fallen:

(a) Einlagen, die aus Immobilientransaktionen für die Zwecke privat genutzter Wohnimmobilien resultieren, für eine Dauer von maximal zwölf Monaten nach Gutschrift des Betrags;

(b) Einlagen, die soziale, im einzelstaatlichen Recht definierte Zwecke erfüllen, und an bestimmte Ereignisse geknüpft sind, wie Heirat, Scheidung, Berufsunfähigkeit oder Ableben eines Einlegers. Einlagen dieser Art sind maximal zwölf Monate nach Eintreten des Ereignisses gedeckt.

(3) Absatz 2 hindert die Mitgliedstaaten nicht daran, Regelungen zur Absicherung von Altersvorsorgeprodukten und Renten beizubehalten oder einzuführen, sofern diese Regelungen nicht nur die Einlagen absichern, sondern auch einen umfassenden Schutz für alle in dieser Hinsicht relevanten Produkte und Situationen bieten.

↓ 2009/14/EG Artikel 1 Absatz 3 Buchstabe a (neu)

⇨ neu

(4)~~1b~~. Einlagen werden in der Währung erstattet, in der das Konto geführt wurde. Wenn ⇦~~Die Mitgliedstaaten, die nicht dem Euroraum angehören, gewährleisten bei der Umrechnung der~~ die in Absatz~~den Absätzen~~ 1 ~~und 1a~~ genannten auf Euro lautenden~~in Euro ausgedrückten~~ Beträge in ⇨ andere ⇦ ~~ihre Landesw~~Währungen ⇨ umgerechnet werden, müssen ⇦~~, dass~~ die an die Einleger tatsächlich gezahlten Beträge ~~in ihrer Landeswährung~~ den in dieser Richtlinie genannten Beträgen entsprechen.

⇩ neu

(5) Mitgliedstaaten, die die auf Euro lautenden Beträge in ihre Landeswährung umrechnen, verwenden bei erstmaliger Umrechnung den am Tag des Inkrafttretens dieser Richtlinie geltenden Kurs.

Die Mitgliedstaaten können die aus der Umrechnung resultierenden Beträge auf- oder abrunden, sofern eine solche Auf- bzw. Abrundung nicht über 2 500 EUR hinausgeht.

Unbeschadet des vorangegangenen Unterabsatzes passen die Mitgliedstaaten die in eine andere Währung umgerechneten Deckungssummen alle fünf Jahre an den in Absatz 1 genannten Betrag an. Bei unvorhergesehenen Ereignissen, wie Währungsschwankungen, können die Mitgliedstaaten die Deckungssummen nach Konsultation der Kommission zu einem früheren Zeitpunkt anpassen.

↓ 94/19/EG, Artikel 7 Absatz 2 (neu)

~~(2) Die Mitgliedstaaten können jedoch vorsehen, daß bestimmte Einleger oder bestimmte Einlagen von dieser Sicherung ausgenommen oder in geringerem Umfang gesichert werden. Die Liste dieser Ausnahmen ist in Anhang I beigefügt.~~

↓ 2009/14/EG Artikel 1 Absatz 3 Buchstabe b (neu)

~~3. Absatz 1a schließt nicht aus, dass Vorschriften beibehalten werden, die vor dem 1. Januar 2008 bestimmte Arten von Einlagen insbesondere aus sozialen Erwägungen in voller Höhe gedeckt haben.~~

↓ 2009/14/EG Artikel 1 Absatz 3 Buchstabe c

↓ 94/19/EG, Artikel 7 Absatz 5 (angepasst)
⇨ neu

(6) Der in Absatz 1 genannte Betrag wird regelmäßig, mindestens jedoch alle fünf Jahre von der Kommission überprüft. Diese legt gegebenenfalls dem Europäischen Parlament und dem Rat einen Richtlinienvorschlag vor, um den in Absatz 1 genannten Betrag unter Berücksichtigung insbesondere der Entwicklung im Bankensektor und der Wirtschaftslage sowie der währungspolitischen Situation in der ⌦ Europäischen Union ⌫ ~~Gemeinschaft~~ anzupassen. Die erste Überprüfung findet ⌦ nicht vor dem 31. Dezember 2015 ⌫ ~~erst fünf Jahre nach Ablauf des in Absatz 1 Unterabsatz 2 genannten Zeitraums~~ statt, ⇨ es sei denn, unvorhergesehene Ereignisse machen eine frühere Überprüfung erforderlich. ⇦.

↓ 2009/14/EG Artikel 1 Absatz 3 Buchstabe d (neu)

(7)~~7~~. Die Kommission kann die in Absatz~~den Absätzen~~ 1 ~~und 1a~~ genannten Beträge entsprechend der Inflation in der Europäischen Union auf der Grundlage von Änderungen des von der Kommission veröffentlichten harmonisierten Verbraucherpreisindex anpassen.

Diese Maßnahme zur Änderung nicht wesentlicher Bestimmungen dieser Richtlinie wird nach ~~dem in~~ Artikel ⌦ 16 ⌫ ~~7a Absatz 2 genannten Regelungsverfahren mit Kontrolle~~ erlassen.

↓ 94/19/EG, Artikel 8 (angepasst)

Artikel 6

Feststellung des zu erstattenden Betrags

(1) Die in Artikel 5~~7~~ Absatz~~Absätze~~ 1~~, 3 und 4~~ genannte~~n~~ Obergrenze~~n~~ gilt~~gelten~~ für die Gesamtheit der~~alle~~ Einlagen bei ein und demselben Kreditinstitut unbeschadet der Anzahl, der Währung und der Belegenheit der Einlagen in der ⌦ Europäischen Union ⌫~~Gemeinschaft~~.

(2) Der auf jeden Einleger entfallende Anteil an der Einlage auf einem Gemeinschaftskonto wird bei der Berechnung der Obergrenze~~n~~ nach Artikel 5~~7~~ Absatz~~Absätze~~ 1~~, 3 und 4~~ berücksichtigt.

Fehlen besondere Bestimmungen, so wird der Einlagebetrag zu gleichen Teilen auf die Einleger verteilt.

Die Mitgliedstaaten können vorsehen, dass Einlagen auf einem Konto, über das zwei oder mehr Personen als Mitglieder einer Personengesellschaft oder Sozietät, einer Vereinigung oder eines ähnlichen Zusammenschlusses ohne Rechtspersönlichkeit verfügen können, bei der Berechnung der Obergrenze~~n~~ nach Artikel 5~~7~~ Absatz~~Absätze~~ 1~~, 3 und 4~~ zusammengefasst und als Einlage eines einzigen Einlegers behandelt werden.

(3) Kann der Einleger nicht uneingeschränkt über den Einlagebetrag verfügen, so wird der uneingeschränkt Nutzungsberechtigte gesichert, sofern dieser bekannt ist oder ermittelt werden kann, bevor die zuständigen Behörden die Feststellung nach Artikel 2 Nummer 1 Buchstabe e~~1 Nummer 3~~ Ziffer i) treffen oder das Gericht die Entscheidung nach Artikel 2 Nummer 1 Buchstabe e~~1 Nummer 3~~ Ziffer ii) fällt~~trifft~~. Gibt es mehrere uneingeschränkt~~e~~ Nutzungsberechtigte, so wird der auf jeden von ihnen gemäß den für die Verwaltung der Einlagen geltenden Vorschriften entfallende Anteil bei der Berechnung der Obergrenze~~n~~ nach Artikel 5~~7~~ Absatz~~Absätze~~ 1~~, 3 und 4~~ berücksichtigt.

⇩ neu

(4) Stichtag für die Berechnung des Erstattungsbetrags ist der Tag, an dem die zuständigen Behörden die Feststellung nach Artikel 2 Nummer 1 Buchstabe e Ziffer i treffen oder ein Gericht die Entscheidung nach Artikel 2 Nummer 1 Buchstabe e Ziffer ii fällt. Verbindlichkeiten des Einlegers gegenüber dem Kreditinstitut bleiben bei der Berechnung des Erstattungsbetrags unberücksichtigt.

(5) Die Mitgliedstaaten sogen dafür, dass Einlagensicherungssysteme Kreditinstitute jederzeit auffordern können, sie über die Gesamteinlagen der einzelnen Einleger zu informieren.

(6) Einlagenzinsen, die bis zu dem Tag, an dem die zuständigen Behörden die Feststellung nach Artikel 2 Nummer 1 Buchstabe e Ziffer i treffen oder ein Gericht die Entscheidung nach Artikel 2 Nummer 1 Buchstabe e Ziffer ii fällt, aufgelaufen, zu diesem Tag aber noch nicht gutgeschrieben sind, werden vom Einlagensicherungssystem erstattet. Die in Artikel 5 Absatz 1 genannte Obergrenze wird nicht überschritten.

Werden die Zinsen vom Wert eines anderen Finanzinstruments bestimmt und können somit nicht ermittelt werden, ohne die Auszahlung innerhalb der in Artikel 7 Absatz 1 genannten Frist zu gefährden, wird die Erstattung dieser Zinsen auf die nach nationalem Recht geltenden Verzugszinsen begrenzt.

(7) Die Mitgliedstaaten können beschließen, dass bestimmte Einlagenkategorien, die einen durch einzelstaatliches Recht definierten sozialen Zweck erfüllen und für die

ein Dritter eine mit den Beihilfevorschriften vereinbare Garantie abgegeben hat, bei Aggregierung der Einlagen eines Einlegers bei ein und demselben Kreditinstitut gemäß Absatz 1 nicht berücksichtigt werden. In solchen Fällen ist die Garantie des Dritten auf den in Artikel 5 Absatz 1 festgelegten Deckungsumfang beschränkt.

~~4. Diese Vorschrift findet keine Anwendung auf Organismen für gemeinsame Anlagen.~~

↓ 2009/14/EG Artikel 1 Absatz 6 Buchstabe a (neu)
⇨ neu

Artikel 7

Erstattung

(1) Die Einlagensicherungssysteme treffen Vorkehrungen, um ~~ordnungsgemäß geprüfte Forderungen der Einleger in Bezug auf~~ nicht verfügbare Einlagen binnen ⇨ 7 ⇦ ~~20 Arbeitst~~Tagen ab dem Zeitpunkt erstatten~~zahlen~~ zu können, zu dem die zuständigen Behörden eine Feststellung nach Artikel 2 Nummer 1 Buchstabe e Ziffer i getroffen haben oder ein Gericht eine Entscheidung nach Artikel 2 Nummer 1 Buchstabe e Ziffer ii getroffen hat.

~~Diese Frist umfasst die Erhebung und Übermittlung der einschlägigen Angaben zu den Einlegern und Einlagen, die für die Überprüfung der Forderungen erforderlich sind.~~

~~Bei in jeder Hinsicht außergewöhnlichen Umständen kann ein Einlagensicherungssystem bei den zuständigen Behörden eine Fristverlängerung beantragen. Diese Verlängerung darf zehn Arbeitstage nicht überschreiten.~~

~~Bis zum 16. März 2011 legt die Kommission dem Europäischen Parlament und dem Rat einen Bericht über die Effizienz und die Fristen der Auszahlungsverfahren vor, in dem geprüft wird, inwieweit eine Verringerung der in Unterabsatz 1 genannten Frist auf zehn Arbeitstage in Frage kommt.~~

↓ 2009/14/EG Artikel 1 Absatz 6 Buchstabe b

~~2.~~

⇩ neu

Die Mitgliedstaaten können für die in Artikel 6 Absatz 3 genannten Einlagen eine längere Erstattungsfrist beschließen. Diese Frist darf jedoch ab dem Tag, an dem die zuständigen Behörden die Feststellung nach Artikel 2 Nummer 1 Buchstabe e Ziffer i

treffen oder ein Gericht die Entscheidung nach Artikel 2 Nummer 1 Buchstabe e Ziffer ii fällt, drei Monate nicht überschreiten.

Kann ein Einleger gemäß Artikel 6 Absatz 3 nicht uneingeschränkt über den Einlagebetrag verfügen, wird er innerhalb der in Unterabsatz 1 genannten Frist entschädigt. Diese Zahlung wird bei der Entschädigung der uneingeschränkt Nutzungsberechtigten berücksichtigt.

(2) Um eine Entschädigung zu erhalten, muss ein Einleger keinen Antrag beim Einlagensicherungssystem stellen. Die hierzu notwendigen Angaben zu Einlagen und Einlegern übermittelt das Kreditinstitut so schnell wie vom Einlagensicherungssystem verlangt.

↓ 94/19/EG, Artikel 10 (neu)

~~3. Ein Sicherungssystem darf sich nicht auf die in den Absätzen 1 und 2 genannte Frist berufen, um einem Einleger das Recht auf Sicherung zu verweigern, der seinen Anspruch auf Entschädigung aus der Einlagensicherung nicht rechtzeitig geltend machen konnte.~~

(3) ⇨ Jeder Schriftwechsel zwischen dem Einlagensicherungssystem und dem Einleger ⇦ ~~Die Unterlagen über die einzuhaltenden Bedingungen und Formalitäten für die in Absatz 1 genannte Entschädigung aus der Einlagensicherung sind in ausführlicher Form entsprechend den einzelstaatlichen Rechtsvorschriften~~ ist in der oder den Amtssprachen des Mitgliedstaats, in dem sich die gesicherte Einlage befindet, abzufassen. ⇨ Ist ein Kreditinstitut unmittelbar in einem anderen Mitgliedstaat tätig, ohne Zweigstellen errichtet zu haben, sind die Informationen in der Sprache zu liefern, die der Einleger bei Kontoeröffnung gewählt hat. ⇦

(4)~~5~~. Wenn dem Einleger oder einer anderen Person, die Anspruch auf den Einlagebetrag hat oder daran beteiligt ist, eine strafbare Handlung infolge von oder im Zusammenhang mit Geldwäsche im Sinne des Artikels 1 der Richtlinie 91/308/EWG zur Last gelegt wird, können unbeschadet der Frist nach Absatz~~den Absätzen~~ 1 ~~und~~ ~~2~~Entschädigungszahlungen aus dem Einlagensicherungssystem ausgesetzt werden, bis ein Urteil ergangen ist.

↓ 94/19/EG, Artikel 7 Absatz 6

Artikel 8

Forderungen gegen Einlagensicherungssysteme

(1) Die Mitgliedstaaten sorgen dafür, dass der Einleger die Möglichkeit hat, hinsichtlich seines Entschädigungsanspruchs mit einem Abhilfeersuchen gegen das Einlagensicherungssystem vorzugehen.

↓ 94/19/EG, Artikel 11 ⇨ neu

(2) Unbeschadet anderer Rechte aufgrund einzelstaatlicher Rechtsvorschriften ⇨ und vorbehaltlich des Absatzes 3 ⇦ sind Systeme, die im Rahmen der Einlagensicherung Zahlungen leisten, berechtigt, beim Liquidationsverfahren in Höhe der von ihnen geleisteten Zahlung in die Rechte der Einleger einzutreten.

⇩ neu

(3) Vergeben Einlagensicherungssysteme nach dem Verfahren des Artikels 10 einen Kredit an ein anderes Einlagensicherungssystem, so haben die kreditgebenden Systeme proportional zum Kreditbetrag das Recht, beim Liquidationsverfahren in Höhe der von ihnen geleisteten Zahlungen in die Rechte der Einleger einzutreten.

Das Recht auf Forderungsübergang wird erst ausgeübt, wenn der Kredit nach Artikel 10 Absatz 2 Buchstabe b fällig wird. Endet das Liquidationsverfahren vor diesem Termin, weitet sich das Recht auf Forderungsübergang auf die Liquidationserlöse aus, die an das kreditgebende System gezahlt wurden.

Ansprüche, bei denen das in diesem Absatz dargelegte Recht auf Forderungsübergang besteht, sind dem in Absatz 1 beschriebenen Anspruch der Einleger im Rang unmittelbar nachgeordnet und gehen allen anderen Ansprüchen gegenüber dem Liquidator vor.

(4) Die Mitgliedstaaten können die Zeitspanne begrenzen, innerhalb deren Einleger, deren Einlagen nicht innerhalb der in Artikel 7 Absatz 1 genannten Frist von dem System erstattet oder anerkannt wurden, die Erstattung ihrer Einlagen fordern können. Diese Frist richtet sich nach dem Termin, zu dem die Ansprüche, die nach Absatz 2 auf das Einlagensicherungssystem übergegangen sind, nach einzelstaatlichem Recht im Rahmen eines Liquidationsverfahrens anzumelden sind.

Die Mitgliedstaaten tragen bei der Festlegung dieser Frist der Zeit Rechnung, die das Einlagensicherungssystem benötigt, um diese Ansprüche vor der Anmeldung festzustellen.

⇩ neu

Artikel 9

Finanzierung von Einlagensicherungssystemen

(1) Die Mitgliedstaaten sorgen dafür, dass Einlagensicherungssysteme über angemessene Systeme zur Feststellung ihrer potenziellen Verbindlichkeiten verfügen. Die verfügbaren Finanzmittel von Einlagensicherungssystemen müssen in einem angemessenen Verhältnis zu diesen Verbindlichkeiten stehen.

Einlagensicherungssysteme erhalten die verfügbaren Finanzmittel, indem sie alljährlich am 30. Juni und 30. Dezember bei ihren Mitgliedern Beiträge erheben. Einer Zusatzfinanzierung aus anderen Quellen steht dies nicht entgegen. Einmalige Aufnahmegebühren dürfen nicht verlangt werden.

Die verfügbaren Finanzmittel entsprechen zumindest der Zielausstattung. Bleibt die Finanzierungskapazität hinter der Zielausstattung zurück, werden die Beitragszahlungen zumindest so lange wiederaufgenommen, bis die Zielausstattung wieder erreicht ist. Liegen die verfügbaren Finanzmittel bei weniger als zwei Dritteln der Zielausstattung, darf der regelmäßige Beitrag nicht weniger als 0,25 % der erstattungsfähigen Einlagen betragen.

(2) Die Einlagen und Anlagen, die ein Sicherungssystem zusammengenommen von einem einzigen Einleger hält, dürfen nicht über 5 % seiner verfügbaren Finanzmittel hinausgehen. Gesellschaften, die zwecks Erstellung konsolidierter Abschlüsse im Sinne der Richtlinie 83/349/EWG oder nach den anerkannten internationalen Rechnungslegungsvorschriften derselben Unternehmensgruppe angehören, werden für die Berechnung dieser Obergrenze als ein einziger Einleger angesehen.

(3) Reichen die verfügbaren Finanzmittel eines Einlagensicherungssystems nicht aus, um die Einleger bei Nichtverfügbarkeit ihrer Einlagen zu entschädigen, zahlen dessen Mitglieder pro Kalenderjahr Sonderbeiträge von maximal 0,5 % ihrer erstattungsfähigen Einlagen. Diese Zahlung wird einen Tag vor der in Artikel 7 Absatz 1 genannten Frist ausgeführt.

(4) Die in den Absätzen 1 und 2 genannten Beiträge dürfen pro Kalenderjahr zusammengenommen nicht mehr als 1 % der erstattungsfähigen Einlagen ausmachen.

Die zuständigen Behörden können ein Kreditinstitut ganz oder teilweise von der in Absatz 2 genannten Pflicht ausnehmen, wenn die in den Absätzen 1 und 2 genannten Zahlungen insgesamt die Erfüllung der Forderungen anderer Gläubiger gegen dieses Kreditinstitut gefährden würden. Eine solche Freistellung wird für maximal sechs Monate gewährt, kann auf Antrag des Kreditinstituts aber verlängert werden.

(5) Die in den Absätzen 1, 2 und 3 genannten Finanzmittel werden hauptsächlich dazu verwendet, Einleger gemäß dieser Richtlinie zu entschädigen.

Sie können allerdings auch zur Finanzierung des Transfers der Einlagen zu einem anderen Kreditinstitut verwendet werden, sofern die vom Einlagensicherungssystem getragenen Kosten nicht höher sind als die bei dem betreffenden Kreditinstitut gedeckten Einlagen. In diesem Fall legt das Einlagensicherungssystem der Europäischen Bankaufsichtsbehörde innerhalb eines Monats nach dem Einlagentransfer einen Bericht vor, in dem es nachweist, dass die oben genannte Obergrenze nicht überschritten wurde.

Die Mitgliedstaaten können Einlagensicherungssystemen gestatten, ihre Finanzmittel zur Verhinderung einer Bankeninsolvenz einzusetzen, ohne dabei auf die Finanzierung des Einlagentransfers an ein anderes Kreditinstitut beschränkt zu sein, wenn folgende Bedingungen erfüllt sind:

a) die Finanzmittel des Systems gehen nach der Maßnahme über 1 % der erstattungsfähigen Einlagen hinaus;

b) das Einlagensicherungssystem legt der Europäischen Bankaufsichtsbehörde innerhalb eines Monats nach seiner Entscheidung, die Maßnahme zu treffen, einen Bericht vor, in dem es nachweist, dass die oben genannte Obergrenze nicht überschritten wurde.

Der unter Buchstabe a genannte Prozentsatz kann im Einzelfall und nur mit Genehmigung der zuständigen Behörden auf begründeten Antrag des betreffenden Einlagensicherungssystems auf einen Wert zwischen 0,75 und 1 % festgesetzt werden.

(6) Die Mitgliedstaaten sorgen dafür, dass Einlagensicherungssysteme über angemessene alternative Finanzierungsmöglichkeiten verfügen, die ihnen eine kurzfristige Finanzierung ermöglichen, wenn dies zur Erfüllung der gegen sie bestehenden Forderungen erforderlich ist.

(7) Die Mitgliedstaaten teilen der Europäischen Bankaufsichtsbehörde monatlich die Höhe der erstattungsfähigen und gedeckten Einlagen sowie die Höhe der verfügbaren Finanzmittel ihrer Einlagensicherungssysteme mit. Diese Angaben werden von den zuständigen Behörden bestätigt und innerhalb von zehn Tagen nach Ende jedes Monats zusammen mit dieser Bestätigung an die Europäische Bankaufsichtsbehörde weitergeleitet.

Die Mitgliedstaaten sorgen dafür, dass die in Unterabsatz 1 genannten Angaben mindestens einmal jährlich auf der Website der Einlagensicherungssysteme veröffentlicht werden.

⇩ neu

Artikel 10

Kreditvergabe zwischen Einlagensicherungssystemen

(1) Ein System darf innerhalb der Europäischen Union bei allen in Artikel 1 Absatz 2 genannten Einlagensicherungssystemen Kredite aufnehmen, sofern alle nachstehend genannten Bedingungen erfüllt sind:

a) das kreditnehmende System ist aufgrund früherer Zahlungen nach Artikel 9 Absatz 5 Unterabsätzen 1 und 2 nicht in der Lage, seine Verpflichtungen aus Artikel 8 Absatz 1 zu erfüllen;

b) die unter Buchstabe a beschriebene Situation ist auf eine unzureichende Verfügbarkeit von Finanzmitteln im Sinne von Artikel 9 zurückzuführen;

c) das kreditnehmende System hat die in Artikel 9 Absatz 3 vorgesehenen Sonderbeiträge erhoben;

d) das kreditnehmende System verpflichtet sich rechtlich, den aufgenommenen Kredit zur Deckung von Ansprüchen nach Artikel 8 Absatz 1 zu verwenden;

e) das kreditnehmende System muss derzeit gemäß diesem Artikel keinen Kredit an andere Einlagensicherungssysteme zurückzahlen;

f) das kreditnehmende System teilt mit, welcher Betrag beantragt wurde;

g) die Gesamtkreditsumme darf 0,5 % der erstattungsfähigen Einlagen des kreditnehmenden Systems nicht überschreiten;

h) das kreditnehmende System informiert umgehend die Europäische Bankaufsichtsbehörde und teilt mit, weshalb die genannten Voraussetzungen erfüllt sind und welcher Betrag beantragt wird.

Der unter Buchstabe f genannte Betrag errechnet sich wie folgt:

[Höhe der gemäß Artikel 8 Absatz 1 zurückzuzahlenden gedeckten Einlagen] – [verfügbare Finanzmittel + Höchstbetrag der Sonderbeiträge nach Artikel 9 Absatz 3]

Die anderen Einlagensicherungssysteme fungieren als kreditgebende Systeme. Zu diesem Zweck benennen Mitgliedstaaten, in denen mehr als ein System niedergelassen ist, ein System als ihr kreditgebendes System und teilen dies der Europäischen Bankaufsichtsbehörde mit. Die Mitgliedstaaten können entscheiden, ob und wie das kreditgebende System durch andere im gleichen Mitgliedstaat niedergelassene Einlagensicherungssysteme entschädigt wird.

Einlagensicherungssysteme, die gemäß diesem Artikel einen Kredit an andere Einlagensicherungssysteme zurückzahlen müssen, vergeben keine Kredite an andere Einlagensicherungssysteme.

(2) Die Kredite werden an folgende Bedingungen geknüpft:

a) jedes System gewährt Kredit proportional zu den erstattungsfähigen Einlagen jedes Systems ohne Berücksichtigung des kreditnehmenden Systems und der unter Buchstabe a genannten Einlagensicherungssysteme. Die Beträge werden auf der Grundlage der letzten gemäß Artikel 9 Absatz 7 bestätigten monatlichen Informationen berechnet;

b) das kreditnehmende System zahlt den Kredit spätestens nach fünf Jahren zurück. Der Kredit kann in Jahresraten zurückgezahlt werden. Zinsen werden erst zum Zeitpunkt der Rückzahlung fällig;

c) als Zinssatz gilt der Zinssatz für die Spitzenrefinanzierungsfazilität der Europäischen Zentralbank während des Kreditzeitraums.

(3) Die Europäische Bankaufsichtsbehörde bestätigt, dass die in Absatz 1 genannten Anforderungen erfüllt sind, und teilt die nach Absatz 2 Buchstabe a berechnete Höhe der von jedem System zu gewährenden Kredite sowie den Anfangszinssatz gemäß Absatz 2 Buchstabe c und die Laufzeit des Kredits mit.

Die Europäische Bankaufsichtsbehörde übermittelt den kreditgebenden Einlagensicherungssystemen ihre Bestätigung zusammen mit den in Absatz 1 Buchstabe h genannten Informationen. Die Einlagensicherungssysteme erhalten die Bestätigung und die Informationen innerhalb von zwei Arbeitstagen. Die kreditgebenden Einlagensicherungssysteme zahlen den Kredit ohne Verzögerungen, spätestens jedoch innerhalb von zwei weiteren Arbeitstagen nach Eingang dieser Unterlagen, an das kreditnehmende System aus.

Die Mitgliedstaaten stellen sicher, dass die vom kreditnehmenden System erhobenen Beiträge ausreichen, um den aufgenommenen Kredit zurückzuerstatten und die Zielausstattung so schnell wie möglich wieder zu erreichen.

⇩ neu

Artikel 11

Berechnung der Beiträge an Einlagensicherungssysteme

(1) Die in Artikel 9 genannten Beiträge an Einlagensicherungssysteme werden für jedes Mitglied auf der Grundlage seines Risikos festgelegt. Kreditinstitute zahlen mindestens 75 % und höchstens 200 % des Betrags, den eine Bank mit durchschnittlichem Risiko als Beitrag entrichten müsste. Die Mitgliedstaaten können beschließen, dass Mitglieder der in Artikel 1 Absätze 3 und 4 genannten Systeme niedrigere Beiträge entrichten, die aber 37,5 % des Betrags, den eine Bank mit durchschnittlichem Risiko zahlen müsste, nicht unterschreiten dürfen.

(2) Die Bestimmung der Höhe des Risikos, dem Mitglieder ausgesetzt sind, und die Berechnung der Beiträge erfolgen auf der Grundlage der in Anhang I und II aufgeführten Elemente.

(3) Absatz 2 gilt nicht für die in Artikel 1 Absatz 2 genannten Einlagensicherungssysteme.

(4) Der Kommission wird die Befugnis übertragen, die Einzelheiten der in Anhang II Teil A beschriebenen Definitionen und Methoden festzulegen. Die Entwürfe für diese Regulierungsstandards werden gemäß Artikel 7 bis 7d [EBA-Verordnung] angenommen. Die Europäische Bankaufsichtsbehörde kann Entwürfe für Regulierungsstandards erstellen, die der Kommission vorzulegen sind.

(5) Die Europäische Bankaufsichtsbehörde veröffentlicht bis zum 31. Dezember 2012 Leitlinien zur Anwendung von Anhang II Teil B gemäß [Artikel 8 der EBA-Verordnung].

↓ 94/19/EG, Artikel 4 (neu)

Artikel 12

Zusammenarbeit innerhalb der Union

(1) ~~In einem Mitgliedstaat nach Artikel 3 Absatz 1 errichtete und amtlich anerkannte~~ Einlagensicherungssysteme schützen auch die Einleger von Zweigstellen, die Kreditinstitute in anderen Mitgliedstaaten errichtet haben.

~~Bis zum 31. Dezember 1999 dürfen weder Höhe noch Umfang — einschließlich der Quote — der dort gebotenen Deckung den Höchstbetrag und Höchstumfang der von dem entsprechenden Sicherungssystem des Aufnahmemitgliedstaats in dessen Hoheitsgebiet gewährten Deckung überschreiten.~~

~~Vor dem genannten Termin erstellt die Kommission anhand der bei der Anwendung von Unterabsatz 2 gemachten Erfahrungen einen Bericht und prüft, ob diese Regelung weiterhin erforderlich ist. Gegebenenfalls unterbreitet die Kommission dem Europäischen Parlament und dem Rat einen Richtlinienvorschlag zur Verlängerung der Gültigkeit dieser Regelung.~~

~~2. Übersteigen Höhe oder Umfang — einschließlich der Quote — der von dem Sicherungssystem im Aufnahmemitgliedstaat gewährten Deckung Höhe oder Umfang der Deckung, die in dem Mitgliedstaat geboten wird, in dem das Kreditinstitut zugelassen ist, so sorgt der Aufnahmemitgliedstaat dafür, daß in seinem Hoheitsgebiet ein amtlich anerkanntes Einlagensicherungssystem vorhanden ist, dem sich eine Zweigstelle freiwillig anschließen kann, um die Sicherung zu ergänzen, über die ihre Einleger bereits aufgrund ihrer Mitgliedschaft im System des Herkunftsmitgliedstaats verfügen.~~

~~Die Zweigstelle soll sich dem System anschließen, das für den Institutstyp vorgesehen ist, dem sie im Aufnahmemitgliedstaat zuzurechnen ist oder am ehesten entspricht.~~

~~3. Die Mitgliedstaaten sorgen dafür, daß objektive und allgemein geltende Bedingungen für die Mitgliedschaft von Zweigstellen im System eines Aufnahmemitgliedstaats nach Absatz 2 festgelegt werden. Voraussetzung für die Aufnahme ist, daß alle einschlägigen mit der Mitgliedschaft einhergehenden Verpflichtungen erfüllt und insbesondere alle Beiträge und sonstigen Gebühren entrichtet werden. Die Umsetzung dieses Absatzes durch die Mitgliedstaaten erfolgt im Einklang mit den in Anhang II niedergelegten Leitprinzipien.~~

~~4. Kommt eine Zweigstelle, die von der freiwilligen Mitgliedschaft gemäß Absatz 2 Gebrauch gemacht hat, ihren Verpflichtungen als Mitglied des Einlagensicherungssystems nicht nach, so werden die zuständigen Behörden, die die Zulassung erteilt haben, hiervon in Kenntnis gesetzt; sie ergreifen im Zusammenwirken mit dem Sicherungssystem alle erforderlichen Maßnahmen, um sicherzustellen, daß den genannten Verpflichtungen nachgekommen wird.~~

~~Kommt die Zweigstelle trotz dieser Maßnahmen den genannten Verpflichtungen nicht nach, so kann das Sicherungssystem die Zweigstelle nach Ablauf einer angemessenen Kündigungsfrist von mindestens zwölf Monaten mit Zustimmung der zuständigen Behörden, die die Zulassung erteilt haben, von dem System ausschließen. Vor dem Zeitpunkt des Ausschlusses getätigte Einlagen bleiben bis zu ihrer Fälligkeit unter dem Schutz der freiwilligen Einlagensicherung. Die Einleger sind vom Wegfall der ergänzenden Deckung zu unterrichten.~~

↓ 2009/14/EG Artikel 1 Absatz 7 (angepasst)

~~Artikel 12~~

~~1. Die Kommission legt dem Europäischen Parlament und dem Rat bis zum 31. Dezember 2009 einen Bericht vor über:~~

~~a) die Harmonisierung der Finanzierungsmechanismen für Einlagensicherungssysteme, wobei sie insbesondere die Auswirkungen einer fehlenden Harmonisierung im Falle einer grenzüberschreitenden Krise in Bezug auf die Verfügbarkeit der Erstattungsauszahlungen der Einlagen und in Bezug auf den fairen Wettbewerb sowie die Vorteile und Kosten einer solchen Harmonisierung behandelt;~~

~~b) die Angemessenheit und die Bedingungen der Bereitstellung einer umfassenden Deckung für bestimmte vorübergehend erhöhte Kontoguthaben;~~

~~c) mögliche Modelle zur Einführung risikoabhängiger Beiträge;~~

~~d) die Vorteile und Kosten einer möglichen Einführung eines gemeinschaftlichen Einlagensicherungssystems;~~

~~e) die Auswirkungen abweichender Rechtsvorschriften zu Verrechnungen, wenn das Guthaben eines Einlegers gegen seine Schulden verrechnet wird, auf die Effizienz des Systems und auf mögliche Verzerrungen unter Berücksichtigung grenzüberschreitender Liquidationen;~~

~~f) die Harmonisierung des Umfangs der erfassten Produkte und Einleger, einschließlich der besonderen Bedürfnisse von kleinen und mittleren Unternehmen und örtlichen Behörden;~~

~~g) die Beziehung zwischen Einlagensicherungssystemen und alternativen Verfahren zur Entschädigung von Einlegern, wie etwa Sofortauszahlungsmechanismen.~~

~~Die Kommission legt erforderlichenfalls geeignete Vorschläge zur Änderung dieser Richtlinie vor.~~

~~2. Die Mitgliedstaaten unterrichten die Kommission und den Europäischen Bankenausschuss, wenn sie den Umfang oder die Höhe der Deckung für Einlagen ändern wollen sowie über alle~~

~~Schwierigkeiten, auf die sie bei der Zusammenarbeit mit anderen Mitgliedstaaten gestoßen sind.~~

↓ 2009/14/EG Artikel 1 Absatz 2 Buchstabe a (neu)

~~5. Die Mitgliedstaatengewährleisten, dass die Einlagensicherungssysteme in den in den Absätzen 1 bis 4 genannten Fällen zusammenarbeiten.~~

↓ 2009/14/EG Artikel 1 Absatz 2 Buchstabe b (neu)

~~6. Die Kommission überprüft die Funktionsweise dieses Artikels mindestens alle zwei Jahre und schlägt gegebenenfalls Änderungen dieses Artikels vor.~~

⇩ neu

(2) Einleger von Zweigstellen, die Kreditinstitute in anderen Mitgliedstaaten errichtet haben, oder von Zweigstellen in Mitgliedstaaten, in denen ein in einem anderen Mitgliedstaat zugelassenes Kreditinstitut tätig ist, erhalten die Erstattung vom System des Aufnahmemitgliedstaats im Namen des Systems des Herkunftsmitgliedstaats. Das System des Herkunftsmitgliedstaats entschädigt das System des Aufnahmemitgliedstaats.

Das System des Aufnahmemitgliedstaats informiert ferner die betroffenen Einleger im Namen des Systems des Herkunftsmitgliedstaats und ist befugt, die Korrespondenz dieser Einleger im Namen des Systems des Herkunftsmitgliedstaats entgegenzunehmen.

(3) Verlässt ein Kreditinstitut ein System und schließt sich einem anderen an, so werden die Beiträge, die in den sechs Monaten vor Beendigung der Mitgliedschaft gezahlt wurden, erstattet oder auf das andere System übertragen. Diese Regelung kommt nicht zur Anwendung, wenn ein Kreditinstitut von einem System gemäß Artikel 3 Absatz 3 ausgeschlossen wurde.

(4) Die Mitgliedstaaten sorgen dafür, dass Einlagensicherungssysteme des Herkunftsmitgliedstaats die in Artikel 3 Absatz 7 genannten Informationen mit den Systemen von Aufnahmemitgliedstaaten austauschen. Hierbei finden die in Artikel 3 niedergelegten Einschränkungen Anwendung.

(5) Um – insbesondere im Hinblick auf diesen Artikel und auf Artikel 10 – eine effiziente Zusammenarbeit zwischen den Einlagensicherungssystemen zu erleichtern, schließen die Einlagensicherungssysteme oder gegebenenfalls die zuständigen Behörden schriftliche Kooperationsvereinbarungen. Bei diesen Vereinbarungen sind die Anforderungen der Richtlinie 95/46/EG zu berücksichtigen.

Die Europäische Bankaufsichtsbehörde wird über das Bestehen und den Inhalt derartiger Vereinbarungen unterrichtet. Sie kann gemäß Artikel 6 Absatz 2 Buchstabe f und Artikel 19 der [EBA-Verordnung] Stellungnahmen zu diesen Vereinbarungen abgeben. Wenn zuständige Behörden oder Einlagensicherungssysteme keine Einigung erzielen können oder es Streitigkeiten über die Auslegung einer solchen Vereinbarung gibt, so schlichtet die Europäische Bankaufsichtsbehörde diese Meinungsverschiedenheiten gemäß [Artikel 11 der EBA-Verordnung].

Das Fehlen solcher Vereinbarungen berührt nicht die Ansprüche von Einlegern gemäß Artikel 8 Absatz 2 oder von Kreditinstituten gemäß Absatz 3 dieses Artikels.

↓ 94/19/EG, Artikel 6 (angepasst)
⇨ neu

Artikel 13

Zweigstellen von Kreditinstituten mit Sitz in einem Drittland

(1) Die Mitgliedstaaten überprüfen, ob die Zweigstellen von Kreditinstituten mit Sitz außerhalb der ⌦ Europäischen Union ⌫ ~~Gemeinschaft~~ über ~~eine Deckung~~ ⇨ einen Schutz ⇦ verfügen, der dem~~die der~~ in dieser Richtlinie vorgesehenen ~~Deckung~~ ⇨ Schutz ⇦ gleichwertig ist.

Verfügen sie nicht über eine solche Deckung, so können die Mitgliedstaaten vorbehaltlich des Artikels ⌦ 38 Absatz 1 der Richtlinie 2006/48/EG ⌫ ~~9 Absatz 1 der Richtlinie 77/780/EWG~~ verlangen, dass sich die Zweigstellen von Kreditinstituten mit Sitz außerhalb der ⌦ Europäischen Union ⌫ ~~Gemeinschaft~~ einem in ihrem Hoheitsgebiet bestehenden Einlagensicherungssystem anschließen.

(2) Tatsächlichen und potenziellen Einlegern von Zweigstellen von Kreditinstituten mit Sitz außerhalb der ⌦ Europäischen Union ⌫ ~~Gemeinschaft~~ ⇨ , die nicht Mitglied eines Systems in einem Mitgliedstaat sind, ⇦ sind von dem Kreditinstitut alle wichtigen Informationen über die ihre Einlagen schützenden Sicherungsvorkehrungen zur Verfügung zu stellen.

(3) Die in Absatz 2 bezeichneten Informationen müssen in der oder den Amtssprachen des Mitgliedstaats, in dem die Zweigstelle errichtet wurde, gemäß den innerstaatlichen Rechtsvorschriften zur Verfügung gestellt werden und in klarer und verständlicher Form abgefasst sein.

↓ 2009/14/EG Artikel 1 Absatz 5 (neu)

Artikel 14

Informationen für die Einleger

(1) Die Mitgliedstaaten gewährleisten, dass das Kreditinstitut seinen Einlegern und potenziellen Einlegern die erforderlichen Angaben zur Verfügung stellt, damit sie das Einlagensicherungssystem, dem das Kreditinstitut und seine Zweigstellen innerhalb der ⌦ Europäischen Union ⌫ ~~Gemeinschaft~~ angehören~~, bzw. die gegebenenfalls gemäß Artikel 3 Absatz 1 Unterabsatz 2 oder Artikel 3 Absatz 4 getroffenen Alternativvorkehrungen~~ ermitteln können. ~~Die Einleger sind über die Bestimmungen des Einlagensicherungssystems oder der anzuwendenden Alternativvorkehrungen, einschließlich der Höhe und des Umfangs der von dem Einlagensicherungssystem gebotenen Deckung, zu unterrichten.~~ Wird eine Einlage nicht von einem Einlagensicherungssystem nach Maßgabe von Artikel ⌦ 4 ⌫ ~~7 Absatz 2~~ gesichert, so unterrichtet das Kreditinstitut den Einleger entsprechend.

(2) ~~Alle~~ Angaben ⇨ für potenzielle Einleger ⇦ sind ~~in leicht verständlicher Form~~ zur Verfügung zu stellen ⇨ , bevor ein Vertrag über die Entgegennahme von Einlagen geschlossen und von potenziellen Einlegern unterzeichnet wird. Hierfür ist die Vorlage aus Anhang III zu verwenden. ⇦

(3) Vorhandene Einleger erhalten die Informationen auf ihren Kontoauszügen. Diese Informationen bestehen aus einer Bestätigung, dass die Einlagen im Sinne von Artikel 2 Absatz 1 und Artikel 4 erstattungsfähig sind. Ferner wird auf den Informationsbogen in Anhang III verwiesen und mitgeteilt, wo dieser erhältlich ist. Die Website des zuständigen Einlagensicherungssystems kann ebenfalls angegeben werden.

~~Auf Anfrage werden Informationen über die Bedingungen der Entschädigung zur Verfügung gestellt sowie über die Formalitäten, die erfüllt werden müssen, um die Entschädigung zu erhalten.~~

↓ 94/19/EG, Artikel 9
⇨ neu

(4) Die in Absatz 1 vorgesehenen Angaben müssen entsprechend den einzelstaatlichen Rechtsvorschriften in der oder den Amtssprachen des Mitgliedstaats verfügbar sein, in dem die Zweigstelle errichtet wurde.

(5) Die Mitgliedstaaten beschränken ~~legen Regeln fest, die~~ die Nutzung der in Absatz 1 genannten Angaben zu Werbezwecken ~~begrenzen, damit die Stabilität des Bankensystems oder das Vertrauen der Einleger durch eine derartige Nutzung nicht beeinträchtigt wird. Die Mitgliedstaaten können diese Werbung insbesondere~~ auf einen bloßen Hinweis auf das System zur Sicherung ~~Sicherungssystem~~ ⇨ des

Produkts, auf das in der Werbung Bezug genommen wird ⇦~~dem das Kreditinstitut angehört, beschränken~~.

⇩ neu

Kreditinstitute, die Mitglied eines in Artikel 1 Absätze 3 und 4 genannten Systems sind, informieren die Einleger angemessen über die Funktionsweise des Systems. Solche Informationen dürfen keinen Verweis auf eine unbegrenzte Deckung von Einlagen enthalten.

(6) Im Falle einer Verschmelzung von Kreditinstituten werden deren Einleger spätestens einen Monat, ehe die Verschmelzung Rechtswirkung erlangt, darüber informiert. Die Einleger werden darüber informiert, dass bei Wirksamwerden der Verschmelzung alle Einlagen, die sie bei jeder der verschmelzenden Banken halten, nach der Verschmelzung aggregiert werden, um die Deckung im Rahmen des Einlagensicherungssystems zu bestimmen.

(7) Nutzt ein Einleger das Internetbanking, so werden die gemäß dieser Richtlinie zur Verfügung zu stellenden Informationen elektronisch übermittelt, wobei sicherzustellen ist, dass der Einleger sie zur Kenntnis nimmt.

🡻 2009/14/EG, Artikel 1 Absatz 7 (angepasst)

~~*Artikel 12*~~

~~1. Die Kommission legt dem Europäischen Parlament und dem Rat bis zum 31. Dezember 2009 einen Bericht vor über:~~

~~a) die Harmonisierung der Finanzierungsmechanismen für Einlagensicherungssysteme, wobei sie insbesondere die Auswirkungen einer fehlenden Harmonisierung im Falle einer grenzüberschreitenden Krise in Bezug auf die Verfügbarkeit der Erstattungsauszahlungen der Einlagen und in Bezug auf den fairen Wettbewerb sowie die Vorteile und Kosten einer solchen Harmonisierung behandelt;~~

~~b) die Angemessenheit und die Bedingungen der Bereitstellung einer umfassenden Deckung für bestimmte vorübergehend erhöhte Kontoguthaben;~~

~~c) mögliche Modelle zur Einführung risikoabhängiger Beiträge;~~

~~d) die Vorteile und Kosten einer möglichen Einführung eines gemeinschaftlichen Einlagensicherungssystems;~~

~~e) die Auswirkungen abweichender Rechtsvorschriften zu Verrechnungen, wenn das Guthaben eines Einlegers gegen seine Schulden verrechnet wird, auf die~~

~~Effizienz des Systems und auf mögliche Verzerrungen unter Berücksichtigung grenzüberschreitender Liquidationen;~~

~~f) die Harmonisierung des Umfangs der erfassten Produkte und Einleger, einschließlich der besonderen Bedürfnisse von kleinen und mittleren Unternehmen und örtlichen Behörden;~~

~~g) die Beziehung zwischen Einlagensicherungssystemen und alternativen Verfahren zur Entschädigung von Einlegern, wie etwa Sofortauszahlungsmechanismen.~~

~~Die Kommission legt erforderlichenfalls geeignete Vorschläge zur Änderung dieser Richtlinie vor.~~

~~2. Die Mitgliedstaaten unterrichten die Kommission und den Europäischen Bankenausschuss, wenn sie den Umfang oder die Höhe der Deckung für Einlagen ändern wollen sowie über alle Schwierigkeiten, auf die sie bei der Zusammenarbeit mit anderen Mitgliedstaaten gestoßen sind.~~

↓ 94/19/EG, Artikel 13 (angepasst)

Artikel 15

Liste zugelassener Kreditinstitute

Die Kommission gibt in der von ihr gemäß Artikel ~~3 Absatz 7 der Richtlinie 77/780/EWG~~ ⌦ 14 der Richtlinie 2006/48/EG ⌫ zu erstellenden Liste zugelassener Kreditinstitute den Status jedes einzelnen Kreditinstituts in Bezug auf diese Richtlinie an.

⇩ neu

Artikel 16

Ausübung der Befugnisübertragung

(1) Die Befugnis zum Erlass der in Artikel 5 Absatz 7 genannten delegierten Rechtsakte wird der Kommission auf unbestimmte Zeit übertragen.

(2) Sobald die Kommission einen delegierten Rechtsakt erlässt, teilt sie dies dem Europäischen Parlament und dem Rat gleichzeitig mit.

(3) Die der Kommission übertragene Befugnis zum Erlass delegierter Rechtakte unterliegt den in den Artikeln 17 und 18 festgelegten Bedingungen.

Artikel 17

Widerruf der Befugnisübertragung

(1) Die in Artikel 16 genannte Befugnisübertragung kann vom Europäischen Parlament oder vom Rat jederzeit widerrufen werden.

(2) Das Organ, das ein internes Verfahren eingeleitet hat, um darüber zu beschließen, ob die Befugnisübertragung widerrufen werden soll, unterrichtet nach Möglichkeit das andere Organ und die Kommission innerhalb angemessener Frist vor der endgültigen Beschlussfassung darüber, welche übertragenen Befugnisse widerrufen werden sollen, und legt die möglichen Gründe hierfür dar.

(3) Der Beschluss über den Widerruf beendet die Übertragung der in diesem Beschluss angegebenen Befugnisse. Der Beschluss wird unmittelbar oder zu einem darin angegebenen späteren Zeitpunkt wirksam. Die Gültigkeit von delegierten Rechtsakten, die bereits in Kraft sind, wird davon nicht berührt. Der Beschluss wird im *Amtsblatt der Europäischen Union* veröffentlicht.

Artikel 18

Einwände gegen delegierte Rechtsakte

(1) Das Europäische Parlament und der Rat können gegen einen delegierten Rechtsakt innerhalb von zwei Monaten nach seiner Übermittlung Einwände erheben. Auf Initiative des Europäischen Parlaments oder des Rates wird diese Frist um einen Monat verlängert.

(2) Falls nach Ablauf dieser Frist weder das Europäische Parlament noch der Rat Einwände gegen den delegierten Rechtsakt erhoben haben, wird dieser im *Amtsblatt der Europäischen Union* veröffentlicht und tritt an dem darin genannten Tag in Kraft.

Der delegierte Rechtsakt kann im Amtsblatt der Europäischen Union veröffentlicht werden und bereits vor Ablauf dieser Frist in Kraft treten, wenn sowohl das Europäische Parlament als auch der Rat die Kommission über ihre Absicht informiert haben, keine Einwände zu erheben.

(3) Erheben das Europäische Parlament oder der Rat Einwände gegen einen delegierten Rechtsakt, so tritt dieser nicht in Kraft. Das Organ, das Einwände erhebt, legt die Gründe für seine Einwände gegen den delegierten Rechtsakt dar.

Artikel 19

Übergangsbestimmungen

(1) Die Beiträge an die in Artikel 9 genannten Einlagensicherungssysteme werden so gleichmäßig wie möglich verteilt, bis die in Artikel 9 Absatz 1 Unterabsatz 3 genannte Zielausstattung erreicht ist.

(2) Einleger, die Schuldverschreibungen des gleichen Kreditinstituts und Verbindlichkeiten aus eigenen Akzepten oder Solawechseln, Einlagen, die nicht durch Kontoauszüge, sondern nur durch andere Bescheinigungen nachgewiesen werden können, oder Einlagen, die nicht zum Nennwert rückzahlbar sind oder nur im Rahmen einer vom Kreditinstitut oder einem Dritten gebotenen speziellen Garantie oder Vereinbarung zum Nennwert rückzahlbar sind, halten, werden darüber informiert, dass ihre Einlagen nicht mehr durch ein Einlagensicherungssystem gedeckt sind.

(3) Sind bestimmte Einlagen nach der Umsetzung dieser Richtlinie oder der Richtlinie 2009/14/EG in innerstaatliches Recht nicht mehr ganz oder teilweise durch Einlagensicherungssysteme gedeckt, können die Mitgliedstaaten zulassen, dass diese Einlagen bis zum 31. Dezember 2014 weiterhin gedeckt sind, wenn sie vor dem 30. Juni 2010 eingezahlt wurden. Nach dem 31. Dezember 2014 sorgen die Mitgliedstaaten dafür, dass – unabhängig vom Zeitpunkt der Einzahlung der Einlagen – kein System höhere oder umfassendere Garantien bietet als in dieser Richtlinie vorgesehen.

(4) Die Kommission unterbreitet dem Europäischen Parlament und dem Rat bis zum 31. Dezember 2015 einen gegebenenfalls durch einen Legislativvorschlag begleiteten Bericht, in dem sie prüft, ob die bestehende Einlagensicherungssysteme durch ein einziges System für die gesamte Union ersetzt werden sollten.

(5) Die Kommission unterbreitet mit Unterstützung der [Europäischen Bankaufsichtsbehörde] dem Europäischen Parlament und dem Rat bis zum 31. Dezember 2015 einen Bericht über die Fortschritte bei der Umsetzung dieser Richtlinie. In diesem Bericht ist insbesondere zu prüfen, ob die Zielausstattung auf der Grundlage der gedeckten Einlagen ermittelt werden kann, ohne den Einlegerschutz zu mindern.

🡻 94/19/EG, Artikel 14 ⇨ neu

Artikel 20

Umsetzung

(1) Die Mitgliedstaaten setzen die Rechts- und Verwaltungsvorschriften, die erforderlich sind, um ⇨ Artikel 1, Artikel 2 Absatz 1 Buchstaben a, c, d, f und h-m, Artikel 2 Absatz 2, Artikel 3 Absätze 1, 3 und 5-7, Artikel 4 Absatz 1 Buchstaben d-k, Artikel 5 Absätze 2-5, Artikel 6 Absätze 4-7, Artikel 7 Absätze 1-3, Artikel 8

Absätze 2-4, Artikel 9-11, Artikel 12, Artikel 13 Absätze 1-2, Artikel 14 Absätze 1-3 und 5-7, Artikel 19 sowie den Anhängen I-III bis spätestens zum 31. Dezember 2012 ⇦ ~~dieser Richtlinie~~ nachzukommen, ~~vor dem 1. Juli 1995~~ in Kraft. Sie ~~setzen die Kommission unverzüglich davon in Kenntnis~~ ⇨ teilen der Kommission den Wortlaut dieser Vorschriften unverzüglich mit und übermitteln ihr zugleich eine Entsprechungstabelle zwischen den genannten Vorschriften und dieser Richtlinie. ⇦

Abweichend von Unterabsatz 1 setzen die Mitgliedstaaten die Rechts- und Verwaltungsvorschriften, die erforderlich sind, um Artikel 9 Absätze 1 und 3 sowie Artikel 10 nachzukommen, bis zum 31. Dezember 2020 in Kraft.

Abweichend von Unterabsatz 1 setzen die Mitgliedstaaten die Rechts- und Verwaltungsvorschriften, die erforderlich sind, um Artikel 7 Absatz 1 und Artikel 9 Absatz 5 nachzukommen, bis zum 31. Dezember 2013 in Kraft Der in Artikel 9 Absatz 5 Buchstabe a genannte Prozentsatz erstattungsfähiger Einlagen gilt allerdings nicht vor dem 1. Januar 2014. Bis zum 31. Dezember 2017 gilt ein Prozentsatz von 0,5 %. Nach diesem Datum und bis zum 31. Dezember 2020 gilt ein Prozentsatz von 0,75 %.

Wenn die Mitgliedstaaten diese Vorschriften erlassen, nehmen sie in den Vorschriften selbst oder durch einen Hinweis bei der amtlichen Veröffentlichung auf diese Richtlinie Bezug. ~~Die Mitgliedstaaten regeln die Einzelheiten der Bezugnahme.~~ ⇨ In diese Vorschriften fügen sie die Erklärung ein, dass Bezugnahmen in den geltenden Rechts- und Verwaltungsvorschriften auf die durch die vorliegende Richtlinie geänderten Richtlinien als Bezugnahmen auf die vorliegende Richtlinie gelten. Die Mitgliedstaaten regeln die Einzelheiten dieser Bezugnahme und die Formulierung dieser Erklärung. ⇦

(2) Die Mitgliedstaaten teilen der Kommission den Wortlaut der wichtigsten Rechts- und Verwaltungsvorschriften mit, die sie auf dem unter diese Richtlinie fallenden Gebiet erlassen.

⇩ neu

Artikel 21

Aufhebung

Die Richtlinie 94/19/EWG einschließlich ihrer nachfolgenden Änderungen wird unbeschadet der Verpflichtung der Mitgliedstaaten, die in Anhang IV aufgeführten Richtlinien zu den festgelegten Terminen in innerstaatliches Recht umzusetzen und anzuwenden, mit Wirkung vom 31. Dezember 2012 aufgehoben.

Verweise auf die aufgehobenen Richtlinien gelten als Verweise auf die vorliegende Richtlinie nach der Entsprechungstabelle in Anhang V.

↓ 94/19/EG, Artikel 15 (angepasst) ⇨ neu

Artikel 22

Inkrafttreten

Diese Richtlinie tritt am ⇨ zwanzigsten ⇦ Tag ⇨ nach ⇦ ihrer Veröffentlichung im Amtsblatt der Europäischen ⌦ Union ⌫ ~~Gemeinschaften~~ in Kraft.

⇨ Artikel 2 Absatz 1 Buchstaben b, e und g, Artikel 4 Absatz 1 Buchstaben a-c, Artikel 5 Absatz 1, Artikel 6 Absätze 1-3, Artikel 7 Absatz 4, Artikel 8 Absatz 1, Artikel 12 Absatz 1, Artikel 13 Absatz 3, Artikel 14 Absatz 4 und Artikel 15-18 gelten ab dem 1. Januar 2013.

↓ 94/19/EG, Artikel 16

Artikel 23

Diese Richtlinie ist an die Mitgliedstaaten gerichtet.

Geschehen zu Brüssel am […]

Im Namen des Europäischen Parlaments	*Im Namen des Rates*
Der Präsident	*Der Präsident*
[…]	*[…]*

⇩ neu

ANHANG I

Festlegung der risikoabhängigen Beiträge an Einlagensicherungssysteme (ESS)

1. Folgende Formeln sind anzuwenden:

a) Höhe der risikoabhängigen Beiträge eines Mitglieds

$$C_i = TC * RS_i$$

b) Risikoanteil eines Mitglieds

$$RS_i = \frac{RA_i}{\sum_{k=1}^{n} RA_k}$$

c) risikogewichteter Beitrag eines Mitglieds

$$RA_i = CB * \beta_i$$

Dabei sind:

C_i die Höhe des Beitrags des *i*-ten ESS-Mitglieds

TC der Gesamtbetrag der vom System zu erhebenden Beiträge

RS_i der Risikoanteil des *i*-ten Mitglieds

RA_i der risikogewichtete Beitrag des *i*-ten Mitglieds

RA_k der risikogewichtete Beitrag jedes der *n* Mitglieder

CB die Beitragsbasis (d. h. die erstattungsfähigen Einlagen)

β_i der dem *i*-ten Mitglied gemäß Anhang II zugewiesene Risikokoeffizient.

2. Folgende Formeln sind anzuwenden:

a) Gesamtpunktzahl eines Mitglieds

$$\rho_i = ¾ \rho_i^{COR} + ¼ \rho_i^{SUP}$$

b) Zwischenpunktzahl eines Mitglieds in Bezug auf die Kernindikatoren

$$\rho_i^{COR} = ¼ [\rho_i^{CA1} + \rho_i^{AQ1} + \rho_i^{P1} + \rho_i^{L1}]$$

c) Zwischenpunktzahl eines Mitglieds in Bezug auf die ergänzenden Indikatoren

$$\rho_i^{SUP} = {}^{1}\!/_{n} \left[\rho_i^{x_1} + \rho_i^{x_2} + \ldots + \rho_i^{x_n} \right]$$

Dabei sind:

ρ_i die Gesamtpunktzahl des *i*-ten Mitglieds

ρ_i^{COR} die Zwischenpunktzahl des *i*-ten Mitglieds in Bezug auf die Kernindikatoren

ρ_i^{SUP} die Zwischenpunktzahl des *i*-ten Mitglieds in Bezug auf die ergänzenden Indikatoren

ρ_i^{x} eine Variable zur Bewertung des Risikos des *i*-ten Mitglieds in Bezug auf einen spezifischen Kernindikator oder ergänzenden Indikator aus Anhang II

x das Symbol für einen bestimmten Kernindikator oder zusätzlichen Indikator.

⇩ neu

ANHANG II

Indikatoren, Punktzahlen und Risikogewichte für die Berechnung der risikoabhängigen Beiträge

TEIL A

Kernindikatoren

1. Bei der Berechnung der risikoabhängigen Beiträge werden folgende Kernindikatoren verwendet:

Risikoklasse	Indikator	Verhältnis
Kapitaladäquanz	In Artikel 57 Buchstaben a bis ca der Richtlinie 2006/48/EG genannte Eigenmittelbestandteile und in Artikel 76 der Richtlinie 2006/48/EG genannte risikogewichtete Aktiva	$\frac{\text{Eigenmittel}}{\text{risikogewichtete Aktiva}}$
Qualität der Aktiva	Notleidende Kredite	$\frac{\text{Notleidende Kredite}}{\text{Bruttokredite}}$
Rentabilität	Erträge aus Aktiva	$\frac{\text{Nettoertrag}}{\text{Durchschnitt der Gesamtaktiva}}$
Liquidität	Von den Mitgliedstaaten nach Artikel 11 Absatz 4 zu ermitteln	

2. Folgende Punktzahlen werden zur Berücksichtigung der Risikoprofile in Bezug auf die Kernindikatoren verwendet:

Risikograd	Kapitaladäquanz	Qualität der Aktiva	Rentabilität	Liquidität
Sehr geringes Risiko	1	1	1	1
Geringes Risiko	2	2	2	2
Mittleres Risiko	3	3	3	3
Hohes Risiko	4	4	4	4
Sehr hohes Risiko	5	5	5	5

3. Folgende Punktzahlen werden den Mitgliedern auf der Grundlage des tatsächlichen Werts der Indikatoren einer gegebenen Risikoklasse zugeteilt:

Element	Symbol (x)	$\rho^x = 1$	$\rho^x = 2$	$\rho^x = 3$	$\rho^x = 4$	$\rho^x = 5$
Kapitaladäquanz	CA	x > 12,3 %	12,3 % ≥ x > 9,6 %	9,6 % ≥ x > 8,2 %	8,2 % ≥ x > 7 %	x ≤ 7 %
Qualität der Aktiva	AQ	x ≤ 1 %	1 % < x ≤ 2,1 %	2,1 % < x ≤ 3,7 %	3,7 % < x ≤ 6 %	x > 6 %
Rentabilität	P	x > 1,2 %	1,2 % ≥ x > 0,9 %	0,9 % ≥ x > 0,7 %	0,7 % ≥ x > 0,5 %	x ≤ 0,5 %
Liquidität	L	Die Mitgliedstaaten können nach Artikel 11 Absatz 4 die Schwellen für jedes ρ^x ermitteln				

4. Je nach Gesamtpunktzahl werden den Mitgliedern folgende Risikogewichte (Koeffizienten) zugeteilt:

Gesamtpunktzahl (ρ)	$1 < \rho \leq 1{,}5$	$1{,}5 < \rho \leq 2{,}5$	$2{,}5 < \rho \leq 3{,}5$	$3{,}5 < \rho \leq 4{,}5$	$4{,}5 < \rho \leq 5$
Risikokoeffizient (β)	75 %	100 %	125 %	150 %	200 %

TEIL B

Ergänzende Indikatoren

1. Die Mitgliedstaaten bestimmen ergänzende Indikatoren zur Berechnung der risikoabhängigen Beiträge. Zu diesem Zweck können einige oder alle der folgenden Indikatoren verwendet werden:

Risikoklasse	Indikator / Verhältnis	Definition
Kapitaladäquanz	Gesamtkapital	$\frac{\text{Gesamtkapital}}{\text{risikogewichtete Aktiva}}$
	überschüssiges Kapital *	$\frac{\text{überschüssiges Kapital}}{\text{Gesamtaktiva}}$ oder $\frac{\text{überschüssiges Kapital}}{\text{risikogewichtete Aktiva}}$
Qualität der Aktiva	Rückstellungen für Kreditverluste	$\frac{\text{Rückstellungen für Kreditverluste}}{\text{Nettozinsertrag}}$ oder $\frac{\text{Rückstellungen für Kreditverluste}}{\text{betriebliche Erträge}}$
	risikogewichtete Aktiva	$\frac{\text{risikogewichtete Aktiva}}{\text{Gesamtaktiva}}$
Rentabilität	Kosten/Ertrag	$\frac{\text{Betriebliche Ausgaben}}{\text{betriebliche Erträge}}$
	Nettomarge	$\frac{\text{Nettomarge}}{\text{Gesamtkapital}}$
Liquidität	Von den Mitgliedstaaten nach Artikel 11 Absatz 5 zu ermitteln	

* Überschüssiges Kapital = Kapital – Eigenmittel gemäß Artikel 57 Buchstaben a bis h der Richtlinie 2006/48/EG.

2. Folgende Punktzahlen werden zur Berücksichtigung des Risikoprofils in Bezug auf die ergänzenden Indikatoren verwendet:

Risikograd	Kapitaladäquanz	Qualität der Aktiva	Rentabilität	Liquidität
Sehr geringes Risiko	1	1	1	1
Geringes Risiko	2	2	2	2
Mittleres Risiko	3	3	3	3
Hohes Risiko	4	4	4	4
Sehr hohes Risiko	5	5	5	5

3. Je nach Gesamtpunktzahl werden den Mitgliedern folgende Risikogewichte (Koeffizienten) zugeteilt:

Gesamtpunktzahl (ρ)	$1 < \rho \leq 1{,}5$	$1{,}5 < \rho \leq 2{,}5$	$2{,}5 < \rho \leq 3{,}5$	$3{,}5 < \rho \leq 4{,}5$	$4{,}5 < \rho \leq 5$
Risikokoeffizient (β)	75 %	100 %	125 %	150 %	200 %

⇩ neu

ANHANG III

Informationsbogen für den Einleger

Wenn ein Kreditinstitut fällige und rückzahlbare Einlagen aus Gründen, die unmittelbar mit seiner Finanzlage zusammenhängen, nicht zurückgezahlt hat, erhalten die Einleger die Rückzahlung von einem Einlagensicherungssystem. Das [Produkt einfügen] von [Name des kontoführenden Kreditinstituts einfügen] wird im allgemeinen durch das zuständige Einlagensicherungssystem gedeckt.

Die Deckungssumme beträgt maximal 100 000 EUR pro Bank. Das heißt, dass bei der Ermittlung dieser Summe alle bei der gleichen Bank gehaltenen Einlagen aggregiert werden. Hält ein Einleger beispielsweise 90 000 EUR auf einem Sparkonto und 20 000 EUR auf einem Girokonto, so werden ihm lediglich 100 000 EUR zurückerstattet.

[Nur wenn zutreffend:] Diese Methode wird auch angewandt, wenn eine Bank unterschiedliche Firmennamen verwendet. Die [Name des kontoführenden Kreditinstituts einfügen] ist auch unter dem Namen [alle anderen Firmennamen des gleichen Kreditinstituts einfügen] tätig. Das heißt, dass die Gesamtsumme aller Einlagen bei einem oder mehreren dieser Firmennamen in Höhe von bis zu 100 000 EUR gedeckt ist.

Bei Gemeinschaftskonten gilt die Obergrenze von 100 000 EUR für jeden Einleger.

[*Nur wenn zutreffend*:] Einlagen auf einem Konto, über das zwei oder mehr Personen als Mitglieder einer Personengesellschaft oder Sozietät, einer Vereinigung oder eines ähnlichen Zusammenschlusses ohne Rechtspersönlichkeit verfügen können, werden bei der Berechnung der Obergrenze von 100 000 EUR allerdings zusammengefasst und als Einlage eines einzigen Einlegers behandelt.

Einlagen von Privatkunden und Unternehmen sind im allemeinen durch Einlagensicherungssysteme gedeckt. Für bestimmte Einlagen geltende Ausnahmen werden auf der Website des zuständigen Einlagensicherungssystems mitgeteilt. Ihre Bank wird Sie auf Anfrage auch darüber informieren, ob bestimmte Produkte gedeckt sind oder nicht. Wenn Einlagen gedeckt sind, wird die Bank dies auch auf dem Kontoauszug bestätigen.

Das zuständige Einlagensicherungssystem ist [*Name, Adresse, Telefon, E-Mail und Website einfügen*]. Es wird Ihnen Ihre Einlagen (bis zu 100 000 EUR) innerhalb von sechs Wochen, ab dem 31. Dezember 2013 innerhalb von einer Woche zurückerstatten.

Haben Sie die Erstattung innerhalb dieser Fristen nicht erhalten, sollten Sie mit dem Einlagensicherungssystem Kontakt aufnehmen, da der Gültigkeitszeitraum für Erstattungsforderungen nach einer bestimmten Frist abgelaufen sein kann. Weitere Informationen sind erhältlich bei [Website des zuständigen Einlagensicherungssystems einfügen].

[*Nur wenn zutreffend*:] Ihre Einlage wird von einem institutsbezogenen Sicherungssystem garantiert, das [nicht] als Einlagensicherungssystem anerkannt ist. Das heißt, alle Banken, die

Mitglieder dieses Systems sind, unterstützen sich gegenseitig, um eine Bankinsolvenz zu vermeiden. Sollte es jedoch dennoch zu einer solchen Insolvenz kommen, werden Ihre Einlagen bis zu einem Betrag von 100 000 EUR zurückerstattet.

⇩ neu

ANHANG IV

TEIL A

Aufgehobene Richtlinien einschließlich ihrer sukzessiven Änderungen (gemäß Artikel 21)

Richtlinie 94/19/EG des Europäischen Parlaments und des Rates vom 30. Mai 1994 über Einlagensicherungssysteme

Richtlinie 2009/14/EG des Europäischen Parlaments und des Rates vom 11. März 2009 zur Änderung der Richtlinie 94/19/EG über Einlagensicherungssysteme im Hinblick auf die Deckungssumme und die Auszahlungsfrist

TEIL B

Umsetzungsfristen (gemäß Artikel 21)

Richtlinie	Frist für die Umsetzung
94/19/EWG	1.7.1995
2009/14/EG	30.6.2009
2009/14/EG (Artikel 1 Nummer 3 Ziffer i Absatz 2, Artikel 7 Absatz 1a und Absatz 3 und Artikel 10 Absatz 1 der Richtlinie 94/19/EG, geändert durch die Richtlinie 2009/14/EG)	31.12.2010

⇩ neu

ANHANG V

Entsprechungstabelle

Vorliegende Richtlinie	Richtlinie 2009/14/EG	Richtlinie 94/19/EWG
Artikel 1	-	-
Artikel 2 Absatz 1 Buchstabe a		Artikel 1 Absatz 1
Artikel 2 Absatz 1 Buchstabe d		Artikel 1 Absatz 2
Artikel 2 Absatz 1 Buchstabe e	Artikel 1 Absatz 1	Artikel 1 Absatz 3
Artikel 2 Absatz 1 Buchstabe f		Artikel 1 Absatz 4
Artikel 2 Absatz 1 Buchstabe g		Artikel 1 Absatz 5
Artikel 3 Absatz 1		Artikel 3 Absatz 1
Artikel 3 Absatz 2		Artikel 3 Absatz 2
Artikel 3 Absatz 3		Artikel 3 Absatz 3
Artikel 3 Absatz 4		Artikel 5
Artikel 3 Absatz 6	Artikel 1 Absatz 6 Buchstabe a	
Artikel 4 Absatz 1 Buchstaben a-c		Artikel 2
Artikel 4 Absatz 1 Buchstabe d		Artikel 7 Absatz 2, Anhang I Punkt 1
Artikel 4 Absatz 1 Buchstabe f		Artikel 7 Absatz 2, Anhang I Punkt 10
Artikel 4 Absatz 1 Buchstabe g		Artikel 7 Absatz 2, Anhang I Punkt 2

Artikel 4 Absatz 1 Buchstabe h		Artikel 7 Absatz 2, Anhang I Punkt 5
Artikel 4 Absatz 1 Buchstabe i		Artikel 7 Absatz 2, Anhang I Punkt 6
Artikel 4 Absatz 1 Buchstabe j		Artikel 7 Absatz 2, Anhang I Punkte 3 und 4
Artikel 4 Absatz 10 Buchstabe k		Artikel 7 Absatz 2, Anhang I Punkt 12
Artikel 5 Absatz 1	Artikel 1 Absatz 3 Buchstabe a	Artikel 7 Absatz 1
Artikel 5 Absatz 4	Artikel 1 Absatz 3 Buchstabe a	
Vorliegende Richtlinie	Richtlinie 2009/14/EG	Richtlinie 94/19/EWG
Artikel 5 Absatz 6		Artikel 7 Absätze 4 und 5
Artikel 5 Absatz 7	Artikel 1 Absatz 3 Buchstabe d	
Artikel 6 Absätze 1-3		Artikel 8
Artikel 7 Absatz 1	Artikel 1 Absatz 6 Buchstabe a	Artikel 10 Absatz 1
Artikel 7 Absatz 3		Artikel 10 Absatz 4
Artikel 7 Absatz 4		Artikel 10 Absatz 5
Artikel 8 Absatz 1		Artikel 7 Absatz 6
Artikel 8 Absatz 2		Artikel 11
Artikel 12 Absatz 1		Artikel 4 Absatz 1
Artikel 13		Artikel 6
Artikel 14 Absätze 1-3	Artikel 1 Absatz 5	Artikel 9 Absatz 1
Artikel 14 Absatz 4		Artikel 9 Absatz 2
Artikel 14 Absatz 5		Artikel 9 Absatz 3
Artikel 15		Artikel 13
Artikel 16 bis 18	Artikel 1 Absatz 4	

↓ 94/19/EG, Anhang I (neu)

~~ANHANG I~~

~~Liste der Ausnahmen gemäß Artikel 7 Absatz 2~~

~~1. Einlagen von Finanzinstituten im Sinne des Artikels 1 Nummer 6 der Richtlinie 89/646/EWG;~~

~~1. Einlagen von Versicherungsunternehmen;~~

~~2. Einlagen des Staates und der Zentralverwaltungen;~~

~~3. Einlagen von regionalen und örtlichen Gebietskörperschaften;~~

~~4. Einlagen von Organismen für gemeinsame Anlagen;~~

~~5. Einlagen von Pensions- und Rentenfonds;~~

~~6. Einlagen der Verwaltungsratsmitglieder, der Geschäftsleiter, der persönlich haftenden Gesellschafter, der Personen, die mindestens 5 v. H. des Kapitals des Kreditinstituts halten, der Personen, die mit der gesetzlichen Kontrolle der Rechnungsunterlagen des Kreditinstituts betraut sind, und der Einleger, die vergleichbare Funktionen in anderen Gesellschaften derselben Unternehmensgruppe innehaben;~~

~~7. Einlagen naher Verwandter und Dritter, die für Rechnung der unter Nummer 7 genannten Einleger handeln;~~

~~8. Einlagen anderer Gesellschaften derselben Unternehmensgruppe;~~

~~9. nicht auf einen Namen lautende Einlagen;~~

~~10. Einlagen, für die der Einleger von dem Kreditinstitut auf individueller Basis Zinssätze und finanzielle Vorteile erhalten hat, die zu einer Verschlechterung der finanziellen Lage des Kreditinstituts beigetragen haben;~~

~~11. Schuldverschreibungen des Kreditinstituts und Verbindlichkeiten aus eigenen Akzepten und Solawechseln;~~

~~12. Einlagen in anderen Währungen als:~~

~~– der Landeswährung eines der Mitgliedstaaten,~~

~~– Ecu;~~

~~13. Einlagen von Gesellschaften, die so groß sind, daß die in Artikel 11 der Vierten Richtlinie 78/660/EWG des Rates vom 25. Juli 1978 aufgrund von Artikel 54 Absatz 3 Buchstabe g) des Vertrages über den Jahresabschluß von Gesellschaften~~

~~bestimmter Rechtsformen vorgesehene Möglichkeit, eine verkürzte Bilanz aufzustellen, für sie nicht in Frage kommt[25].~~

↓ 94/19/EG, Anhang II (neu)

~~ANHANG II~~

~~Leitprinzipien~~

~~Beantragt eine Zweigstelle zur Ergänzung der Sicherung den Anschluß an ein Einlagensicherungssystem des Aufnahmemitgliedstaats, so legt dieses Sicherungssystem gemeinsam mit dem Einlagensicherungssystem des Herkunftsmitgliedstaats geeignete Regeln und Verfahren für die Zahlung von Entschädigungen an die Einleger dieser Zweigstelle fest. Sowohl für die Ausarbeitung dieser Verfahren als auch für die Festlegung der Bedingungen für die Mitgliedschaft einer Zweigstelle (im Sinne von Artikel 4 Absatz 2) gelten die nachstehenden Prinzipien:~~

~~a) Das Sicherungssystem des Aufnahmemitgliedstaats hat weiterhin das uneingeschränkte Recht, den angeschlossenen Kreditinstituten seine eigenen objektiven und allgemein geltenden Vorschriften aufzuerlegen; es darf die Übermittlung aller einschlägigen Angaben fordern und hat das Recht, diese Angaben im Benehmen mit den zuständigen Behörden des Herkunftsmitgliedstaats zu überprüfen;~~

~~b) das Sicherungssystem des Aufnahmemitgliedstaats erfüllt die Forderungen auf Zahlung einer ergänzenden Entschädigung, wenn die zuständigen Behörden des Herkunftsmitgliedstaats die Erklärung über die Nichtverfügbarkeit der Einlagen abgegeben haben. Das Sicherungssystem des Aufnahmemitgliedstaats hat weiterhin das uneingeschränkte Recht, vor der Zahlung einer ergänzenden Entschädigung gemäß seinen eigenen Regeln und Verfahren zu prüfen, ob der Einleger anspruchsberechtigt ist;~~

~~c) die Sicherungssysteme des Herkunfts- und des Aufnahmemitgliedstaats arbeiten eng zusammen, um sicherzustellen, daß die Einleger unverzüglich und ordnungsgemäß entschädigt werden. Sie treffen insbesondere Vereinbarungen darüber, wie etwaige Gegenforderungen, die nach den Vorschriften des einen oder des anderen Systems Anlaß zu einer Aufrechnung geben können, sich auf die Entschädigung des Einlegers aus jedem der beiden Systeme auswirken;~~

~~d) die Sicherungssysteme des Aufnahmemitgliedstaats sind berechtigt, Zweigstellen mit den Kosten der ergänzenden Sicherung in angemessener Weise zu belasten, wobei die vom Sicherungssystem des Herkunftsmitgliedstaats geleistete Deckung mitberücksichtigt wird. Zur Vereinfachung der Kostenberechnung kann das Sicherungssystem des Aufnahmemitgliedstaats davon ausgehen, daß seine Verbindlichkeiten unter allen Umständen auf den Teil der Sicherung begrenzt sind, der über die vom Sicherungssystem des Herkunftsmitgliedstaats geleistete Deckung hinausgeht, und zwar unabhängig davon, ob der Herkunftsmitgliedstaat tatsächlich eine Entschädigung für im Hoheitsgebiet des Aufnahmemitgliedstaats gehaltene Einlagen zahlt oder nicht.~~

---

25 ~~ABl. Nr. L 222 vom 14.8.1978, S. 11. Zuletzt geändert durch die Richtlinie 90/605/EWG (ABl. Nr. L 317 vom 16.11.1990, S. 60).~~

↓ 2009/14/EG Artikel 1 Nummer 8

COUNCIL OF THE EUROPEAN UNION

Brussels, 16 July 2010

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COVER NOTE

from:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
date of receipt:	13 July 2010
to:	Mr Pierre de BOISSIEU, Secretary-General of the Council of the European Union
Subject:	COMMISSION STAFF WORKING DOCUMENT IMPACT ASSESSMENT Accompanying document to the Proposal for a DIRECTIVE …/…/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on Deposit Guarantee Schemes [recast] and to the REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND TO THE COUNCIL Review of Directive 94/19/EC on Deposit Guarantee Schemes

Delegations will find attached Commission document SEC(2010) 834 final.

Encl.: SEC(2010) 834 final

EUROPEAN COMMISSION

Brussels, 12.7.2010
SEC(2010) 834 final

COMMISSION STAFF WORKING DOCUMENT

IMPACT ASSESSMENT

Accompanying document to the

Proposal for a

DIRECTIVE …/…/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on Deposit Guarantee Schemes [recast]

and to the

REPORT FROM THE COMMISSION
TO THE EUROPEAN PARLIAMENT AND TO THE COUNCIL

Review of Directive 94/19/EC on Deposit Guarantee Schemes

COM(2010) 368
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TABLE OF CONTENTS

1. INTRODUCTION 5
2. PROCEDURAL ISSUES AND CONSULTATION OF INTERESTED PARTIES 6
3. POLICY CONTEXT AND SCOPE OF THE IMPACT ASSESSMENT 7
3.1. Policy context 7
3.2. Scope of the impact assessment 8
4. PROBLEM DEFINITION 9
4.1. Differences in the level and scope of coverage of DGS 9
4.2. Inadequate payout procedures 16
4.3. Insufficient depositor information 18
4.4. Inappropriate financing of DGS 19
4.5. Limited mandates of DGS 21
4.6. Fragmentation and limited cross-border cooperation between DGS 22
4.7. Exemption of mutual and voluntary guarantee schemes from the DGS Directive 23
4.8. Baseline scenario 24
5. SUBSIDIARITY 27
6. OBJECTIVES 27
7. POLICY OPTIONS: IMPACT AND COMPARISON 30
7.1. Level of coverage 31
7.2. Exemptions from the coverage level 34
7.3. Scope of coverage: eligibility of depositors 37
7.4. Scope of coverage: protected products 39
7.5. Payout delay and modalities 42
7.6. Capability of DGS to deal with payout situations 48
7.7. Depositor information 50
7.8. Funding mechanisms and levels 52
7.9. Bank contributions to DGS 59
7.10. Mandate of DGS 64
7.11. Cross-border cooperation of DGS and a pan-EU DGS 67
7.12. Other issues 70
8. OVERALL IMPACT OF THE PREFERRED POLICY OPTIONS 71
8.1. Micro- and macroeconomic impacts of the preferred policy options 71
8.2. Social impact 78
8.3. Administrative burden 78
9. MONITORING AND EVALUATION 79

LIST OF ANNEXES

ANNEX A: Comparison of the Commission proposal with the final text of Directive 2009/14/EC 80

ANNEX B: Inclusions in the scope of coverage applied in Member States 81

ANNEX C: Differences between DGS and other financial protection schemes 82

ANNEX D: DGS mandates broader than 'payboxes' in Member States 83

ANNEX E: Comparison of selected provisions of Directives DGS (94/19/EC) and CRD (2006/48/EC) 84

ANNEX F: Topping up 85

ANNEX G: Mutual and voluntary guarantee schemes 87

ANNEX H: Additional issues raised by stakeholders 91

ANNEX J: Preferred options (summary) 92

ANNEX K: Costs analysis: impact on DGS and member banks (summary) 94

LIST OF STATISTICAL ANNEXES

Statistical annexes: sources, definitions and methodologies 97

ANNEX 1: Coverage levels in EU Member States and EEA countries before and after the aggravation of the financial crisis (as of 30 October 2009) 100

ANNEX 2: Data on the amount and number of deposits in Member States (as of 31 December 2007) 103

ANNEX 3: Potential impact of the harmonised coverage levels in terms of deposit protection 104

ANNEX 4: Potential impact of the harmonised coverage levels on bank contributions to DGS 106

ANNEX 5: Potential impact of the harmonised coverage levels on operating profits of banks 107

ANNEX 6: Potential impact of the harmonised coverage levels on depositors 108

ANNEX 7: Average deposits held by households in Member States 109

ANNEX 8: Selected data on house prices in Member States 110

ANNEX 9: Potential exemptions from the fixed level of coverage – temporary high deposit balances 111

ANNEX 10: Selected data on deposits and depositors in the EU (incl. enterprises) 114

ANNEX 11: Potential impact of the inclusion or exclusion of some depositors into/from the scope of coverage 116

ANNEX 12: Selected data relating to the payout process in the EU 118

ANNEX 13: DGS funds and contributions to DGS 121

ANNEX 14: Potential total costs of setting a target level for DGS under various scenarios 125

ANNEX 15: Number of Member States able to handle the costs under various scenarios on a target level for DGS 129
ANNEX 16: Current capability of DGS to cope with a bank failure of a certain size (using ex-ante funds, contributions and additional contributions available under the current regime) 130
ANNEX 17: Current capability of DGS to cope with a bank failure of a certain size (using ex-ante and additional contributions available under the current regime) 131
ANNEX 18: Harmonized scenarios on DGS funding: potential impact on total DGS funds and bank contributions 133
ANNEX 19: Harmonized scenarios on DGS funding: potential impact on banks – variation in bank operating profits 136
ANNEX 20: Harmonized scenarios on DGS funding: potential impact on depositors 137
ANNEX 21: Potential cumulative impact on banks and depositors during the first 5 years: harmonized scenario on payout, funding and scope/level ofcoverage 139
ANNEX 22: Potential cumulative impact of various harmonised scenarios on banks 141
ANNEX 23: Results for the harmonized scenario on borrowing by DGS 142
ANNEX 24: Estimated administrative costs if the de-minimis rule is applied 143
ANNEX 25: Potential models for calculating risk-based contributions 144
ANNEX 26: Funds invested by ex-ante DGS 146
ANNEX 27: Permanent, temporary and additional workforce of DGS 147
ANNEX 28: Potential structure of a pan-EU DGS 148
ANNEX 29: Mutual borrowing of DGS – maximum amount to be lent by DGS to face potential failures 149
ANNEX 30: Historical database of DGS interventions 150

This document commits only the Commission services involved in its preparation and does not prejudge the final form of any decision to be taken by the Commission

1. INTRODUCTION

No bank, whether sound or ailing, holds enough liquid funds to redeem all or a significant share of its deposits on the spot. This is why banks are susceptible to the risk of bank runs if depositors believe that their deposits are not safe and try to withdraw them all at the same time. This can seriously affect the whole economy.

Since 1994, Directive 94/19/EC on Deposit Guarantee Schemes[1] (DGS) has ensured that all EU Member States have in place a safety net for depositors if banks fail to pay. First and foremost, bank failures are prevented by the prudential supervision ensured by national supervisory authorities and harmonised throughout the EU to a relatively high extent. If nevertheless a bank has to be closed, its DGS steps in and reimburses depositors up to a certain ceiling (i.e. the coverage level), thereby financing depositors' needs. The existence of DGS also means that most depositors (those who are fully covered) do not have to participate in lengthy insolvency procedures which usually lead to insolvency dividends representing only a fraction of the original claims.

The events in 2007 and 2008 have shown that the existing fragmented system of DGS has not delivered on the objectives set by the Directive in terms of ensuring depositor confidence and maintaining financial stability in times of economic stress. The Commission has therefore been requested to comprehensively review Directive 94/19/EC. This impact assessment aims at providing for an evidence-based analysis of the existing and potential problems stemming from the current guarantee system, spells out possible policy options designed to address the problems in line with the objectives set, shows the possible impacts of the policy options and tests these options against the effectiveness, efficiency and consistency criteria.

The Commission work on DGS is part of a package on guarantee schemes in the financial sector consisting of DGS, insurance guarantee schemes (IGS) and investor compensation schemes (ICS). The main objective of IGS is the protection of policyholders in the event of an insurance company failure. The main purpose of ICS is to compensate investors if a firm fails and is unable to repay money in connection with investment services or if it is unable to return a financial instrument to its client. Such a claim typically arises if there is fraud or theft. However, a decline in the value of an investment (market risk) is not covered by any scheme. More details about the commonalities and differences between these schemes are set out in Annex C.

The revision of the Directive on Deposit Guarantee Schemes will be only one among numerous ongoing initiatives to enhance financial stability (e.g. the revisions of the Capital requirements Directive 2006/48/EC and ongoing work on crisis management and bank resolution).

[1] OJ L 135, 31.5.1994.

2. PROCEDURAL ISSUES AND CONSULTATION OF INTERESTED PARTIES

This impact assessment accompanies both the legislative proposal and the report fulfilling the Commission's obligations under Article 12 of Directive 2009/14/EC that entered into force on 16 March 2009[2]. The Directorate-General Internal Market and Services (DG MARKT) has been in the lead (items 74 and 76 on its work programme). Sections 4.1.1, 4.4.2, 4.5, 4.6, 7.9, 7.10 and 7.12 relate to the report and all other chapters concern the legislative proposal.

The Inter-Service Steering Group included the following Directorates-General: Secretariat General, Legal Service, Economic and Financial Affairs, Employment and Social Affairs, Health and Consumers, Competition, Enterprise and Industry, Taxation and Customs Union, and the Joint Research Centre (JRC). The group met in February, April, May, July, September, November 2009 and January 2010. The minutes of the last meeting have been transmitted to the IA Board. The European Central Bank was also consulted in the course of preparation of the IA report. The JRC gathered numerical and statistical information for the IA report[3]. All figures are quoted from a draft JRC report unless indicated otherwise[4].

External expertise was used to prepare this proposal. In March 2009, an informal roundtable with experts was held[5]. Member States' expertise was provided at the three meetings of the Working Group on Deposit Guarantee Schemes (DGSWG) – in June and November 2009 and February 2010. In the context of the Commission Communication of 2006 on the review of the DGS Directive, the JRC was asked to submit reports on the coverage level (2005), the possible harmonisation of funding mechanisms (2006 and 2007), the efficiency of deposit guarantee schemes (2008) and the possible models for introducing risk-based contributions in the EU (2008 and 2009)[6]. This work was supported by the European Forum of Deposit Insurers (EFDI), which in 2008 also finalised several reports on specific issues[7]. This work has been taken into account for the current proposal.

A public consultation was held from 29 May to 27 July 2009. All 104 contributions and a summary report have been published in August 2009[8] and stakeholders' views have been taken into account in this impact assessment.

This impact assessment was presented to the Impact Assessment Board on 24 March 2010. In its opinion issued after the meeting, the Board assessed that *"the report* [i.e. this impact assessment] *presents a large amount of analysis in a clear manner"* and *"quantitative estimates are provided for most impacts"*. Moreover, as stated by the Board, *"the report largely respects the standards set out in the IA guidelines and presents complex issues in understandable language"*. At the same time, the Board made some recommendations for improvement. They were related to (i) strengthening the evidence and the arguments underpinning the problems with the current level of harmonisation; (ii) providing a stronger justification for the preferred options; (iii) assessing the size of the most relevant impacts and the possibility of mitigating measures for individual stakeholders; and (iv) integrating more

---

2 OJ L 68, 13.3.2009.

3 In principle, the JRC calculations are based on the data from all Member States (if the data from some Member States are unavailable, the calculations are based on the remaining Member States).

4 The final JRC report will be published in spring 2010.

5 For more details, see http://ec.europa.eu/internal_market/bank/guarantee/index_en.htm.

6 Ibid.

7 The relevant reports issued by EFDI in May 2008 are all available at www.efdi.eu.

8 See http://ec.europa.eu/internal_market/consultations/2009/deposit_guarantee_schemes_en.htm.

transparently the results of the public consultation. These recommendations were taken into account in the following way:

The evidence base has been further strengthened given the scale of the suggested policy changes and the cost implications (see in particular 7.8). Several quantitative annexes have been added. A more extensive analysis of the problems with the current level of harmonisation has been provided (see in particular 4.1). The subsidiarity and proportionality of the suggested increase in harmonisation and the phasing-out of national DGS features offering higher coverage has been assessed in greater depth (see 5.). The report has also provided a stronger justification for specific parameters, notably the nominal coverage level (see 7.1), the preference for a single payout within a short delay (see 7.5), the split between ex-ante and ex-post financing and the target level for funds at DGS disposal (see 7.8). The report has indicated clearly (where appropriate) where these will be particularly relevant for certain Member States or stakeholders. Finally, the results of the public consultation have been visibly and transparently integrated into the analysis (see in particular Chapter 7). Some annexes were added in order to accommodate the comments of the Board.

3. POLICY CONTEXT AND SCOPE OF THE IMPACT ASSESSMENT

3.1. Policy context

The Council of the European Union agreed on 7 October 2008 that it was a priority to restore confidence and proper functioning of the financial sector. It committed to take all necessary measures to protect the deposits of individual savers and welcomed the intention of the Commission to bring forward urgently an appropriate proposal to promote convergence of DGS. The Council also agreed that all Member States would, for an initial period of at least one year, provide deposit guarantee protection for individuals for an amount of at least €50 000, acknowledging that many Member States determined to raise their minimum to at least €100 000.

Following that, on 15 October 2008, the Commission adopted a proposal to amend the DGS Directive. It underwent some changes during the legislative proceedings and the final text was published on 13 March 2009 (see Annex A).

There was general agreement between the Council, the European Parliament and the Commission that those amendments could only be an emergency quick-fix measure when the crisis aggravated in order to restore and maintain the confidence of depositors. The need for swift negotiations (adoption by the European Parliament within two months) would not have allowed a satisfactory response to all open issues. This is why the amendments include a broad review clause on all aspects of DGS.

The need to reinforce DGS by appropriate legislative proposals has been reiterated in the Commission Communication of 4 March 2009 on 'Driving European recovery'[9] and is part of the political guidelines of President Barroso of 3 September 2009.

In its Communication of 20 October 2009[10], the Commission consulted on the tools that are considered necessary for an EU crisis management framework. These tools range from 'early

[9] COM(2009)114, p. 4.
[10] COM(2009)561.

intervention' actions by banking supervisors aimed at correcting irregularities at banks, to bank resolution measures which involve the reorganisation of ailing banks, to insolvency frameworks under which failed banks are wound up. The current review of DGS should be seen in this context as well since DGS are only triggered if a bank cannot be saved by other measures. The better the crisis management tools are, the lower the probability that DGS are triggered. Moreover, a discussion of crisis management also raises the question to which extent DGS should be actively involved in it provided that they are soundly financed, which will be dealt with in section 7.10 of this report and in forthcoming initiatives on crisis management.

3.2. Scope of the impact assessment

This impact assessment is a basis for both the report to the European Parliament and the Council and for the legislative proposal to amend Directive 94/19/EC. It covers the following issues which are determined by the review clause of Article 12(1) of the Directive:

> *"(a) the harmonisation of the funding mechanisms of deposit-guarantee schemes addressing, in particular, the effects of an absence of harmonisation in the event of a cross-border crisis, in regard to the availability of the compensation payouts of the deposit and in regard to fair competition, and the benefits and costs of such harmonisation;*
>
> *(b) the appropriateness and modalities of providing for full coverage for certain temporarily increased account balances;*
>
> *(c) possible models for introducing risk-based contributions;*
>
> *(d) the benefits and costs of a possible introduction of a Community deposit-guarantee scheme;*
>
> *(e) the impact of diverging legislations as regards set-off, where a depositor's credit is balanced against its debts, on the efficiency of the system and on possible distortions, taking into account cross-border winding-up;*
>
> *(f) the harmonisation of the scope of products and depositors covered, including the specific needs of small and medium enterprises and local authorities;*
>
> *(g) the link between deposit-guarantee schemes and alternative means for reimbursing depositors, such as emergency payout mechanisms.*
>
> *If necessary, the Commission shall put forward appropriate proposals to amend this Directive."*

Furthermore, Article 10(1) of Directive 2009/14/EC sets out that:

> *"by 16 March 2011, the Commission shall submit to the European Parliament and to the Council a report on the effectiveness and delays of the payout procedures assessing whether reduction to 10 working days of the delay referred to in the first subparagraph could be implemented."*

Article 7 of Directive 2009/14/EC required Member States to increase the coverage level to at least €50 000 by the end of June 2009 and obliged them to implement the coverage level of €100 000 by the end of 2010. This level will be fixed, i.e. in general DGS will not be permitted to offer higher or lower coverage.

The Commission has been tasked to assess retroactively whether this increase is appropriate and whether it is viable for Member States. In this context, it has to be borne in mind that DGS are financed by banks and the Commission intends to maintain this requirement. That means that the budget of Member States is not directly concerned by the DGS Directive. The recent crisis has shown that in a systemic crisis, DGS may reach their limits. However, even if in such cases governments stepped in under strict obedience of state aid rules, this would not

be triggered under a legal obligation in the DGS Directive and 'viability for Member States' is therefore not subject of this impact assessment[11].

4. PROBLEM DEFINITION

Currently, there are 39 DGS in 27 Member States. They are very different as regards the number of member banks (ranging between 6 and 1209 in 2008), their human and financial resources (between 0 and 168 persons of permanent staff – see Annex 27), their administrative setup (16 schemes are private, 13 schemes are public, 10 schemes are characterised by both public and private elements) and the available ex-ante financial resources (between €0 and €6.5 billion in 2007 – see, for example, Annex 13). In some Member States, notably in DE and AT, there are also mutual and voluntary guarantee schemes, which reinforce or replace statutory DGS subject to the Directive.

The problems inherent to this fragmentation of DGS are spelled out below and summarised in a 'problem tree' at the end of this chapter.

4.1. Differences in the level and scope of coverage of DGS

4.1.1. Diverging and inappropriate level of coverage

The approach of minimum harmonisation, introduced by the Directive 94/19/EC, has resulted in significant differences between the coverage levels in the EU. They currently range from the minimum of €50 000 in nine Member States to €103 291 in IT[12] (see Annex 1 for more details). The coverage ratios, i.e. the ratios between available DGS funds and eligible deposits, are also very different throughout the EU (see Annex 16).When the financial crisis aggravated in autumn 2008, most Member States either raised their coverage levels to €50 000 or €100 000 or issued unlimited guarantees, sometimes covering not only deposits but all liabilities of banks. First, on 20 September 2008, the Irish government announced its commitment to provide increased coverage of €100 000 for Irish banks but for a few days excluding subsidiaries of foreign banks. Moreover, the government law of 30 September 2008 gave temporary unlimited state guarantees for major Irish banks. As a result, depositors quickly shifted money to banks covered by higher or unlimited guarantees, notably from UK to IE[13]. This created heavy liquidity strains to the banks not covered by such guarantees. In this situation, in early October 2008, the UK authorities were forced to raise the coverage level from £35 000 to £50 000. In order to avoid competitive disadvantages and prevent the outflow of deposits, other Member States were also forced to increase radically their coverage (for example, in early October 2008, AT adopted law on temporary unlimited coverage for individuals, and the governments in GR and DE also declared unlimited deposit guarantees but they were not followed by any legislative action). Those actions were undertaken unilaterally in an uncoordinated way, and – as they were followed by other Member States – contributed to serious competitive distortion between Member States, undermining depositor confidence and threatening the overall stability of the EU financial markets. In order to

[11] However, since the fiscal support measures for banks in the financial crisis, in particular the recapitalisation measures (expressed as a percentage of eligible deposits) were by far more expensive than the measures proposed here, it can be concluded that the increase in coverage level introduced by Directive 2009/14/EC would be viable even if governments were forced to repay depositors.

[12] In Norway (EEA country), the coverage level is equivalent to over €240 000.

[13] http://www.breakingnews.ie/ireland/savers-shifting-cash-to-irish-banks-379909.html; http://www.guardian.co.uk/politics/2008/oct/02/alistairdarling.ireland.

maintain depositor confidence and prevent runs on banks, the ECOFIN Council had to intervene urgently[14].

Therefore, the above experience confirms two aspects:

- the approach of minimum harmonisation as to coverage levels lead to unwanted side-effects and seriously jeopardised financial stability, and, on the other hand

- the level of coverage as stipulated by Directive 94/19 (minimum €20 000) was too low .

This current level of coverage is insufficient since even before the crisis (in 2007), the average household deposits amounted to more than €50 000 in at least five Member States and were only slightly below this amount in two other Member States (see Annex 7).[15] The events have also shown that there is a lack of cooperation between Member States, which is aggravated by the fragmentation of DGS (several DGS in many Member States) that makes cooperation even more difficult.

Moreover, under a coverage level of €50 000[16], only 91% of the number of eligible deposits would be covered[17]. This means that at least 9% of depositors are likely to run on a bank. Given that many depositors perceive themselves wealthier than they are, at a coverage level of € 50 000, there might even be more than 9% running on their bank. Papers of the Basel Committee for Banking Supervision define deposits as 'unstable' if there is a run-off-factor of 7.5% of depositors[18]. A coverage level at €50 000 would therefore be dangerously low.

As to the minimum harmonisation, the threat to consumer's confidence and financial stability will exist as long as there are different coverage levels in Member States. In this context, it should be noted that sizeable deposit movements, based solely on one factor (the coverage level), may involve significant costs for depositors (as, for example, they may lose some interest rate earnings due to switching from one bank to another), banking industry (as such sudden and significant outflow of deposits may create heavy liquidity strains to the banks experiencing it), as well as real economy (as banks may limit their lending activity in times of financial instability, and eventually government intervention and the use of public funds may be necessary).

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14 The ECOFIN Council agreed on 7 October 2008 that all Member States would, for an initial period of at least one year, provide deposit protection for individuals for at least € 50 000, acknowledging that many Member States had already determined to raise their minimum to at least € 100 000. The ECOFIN Council also welcomed the intention of the Commission to bring forward urgently an appropriate proposal to promote convergence of DGS.

15 In particular, the coverage level of €50 000 is inappropriate for the old Member States (EU-15). The average size of household deposits in the EU-15 was about €41 400 as of end-2007. Assuming similar deposit growth rates as in the previous years (about 5% per year), one could expect an average deposit in those Member States of roughly €53 000 or €58 000 within the next 3-5 years respectively.

16 Directive 2009/14/EC required Member States to increase the coverage level to at least €50 000 by end of June 2009 and obliges them to implement coverage level of €100 000 by the end of 2010

17 It would not be useful to refer to total deposits since they contain a large part of ineligible deposits (i.e. by financial institutions) and their comparison with covered deposits would consequently not lead to relevant results.

18 Basel Committee on Banking Supervision, International framework for liquidity risk measurement, standards and monitoring, December 2009/April 2010.

As indicated in recent international research[19], differences in deposit insurance guarantees across countries (as well as within a given country, i.e. co-existing different levels of deposit insurance for host-country banks and branches of foreign banks) may have implications for competition among banks operating in these markets as well as give rise to consumer protection issues. It is also argued that deposit insurance coverage – like any guarantee – gives rise to moral hazard and it is most relevant in the case of either implicit or explicit provision of unlimited coverage (such as those announced by some governments in autumn 2008). Finally, speaking of moral hazard and unlimited coverage, it is argued that once a government granted (limited or unlimited) guarantees, there may be a general perception that a government guarantee will always be made available during a crisis situation.

Moreover, in times of stability, some depositors might base their choice of product or service not on its price and quality but on the merits of the DGS that covers it, potentially distorting competition and limiting the benefits of the Internal Market since banks cannot choose their DGS. On the contrary, it could be argued that depositors might, in order to avoid having deposits above the coverage level, split up deposits and open accounts at several banks, which could actually enhance competition. However, it should be considered that such behaviour would seem to highly depend on the product (with savings accounts seeming easier to split than current accounts), on banks' policies, in particular 'product tying', i.e. offering better conditions if savings and current accounts are held at the same bank, and on the bank fees that could multiply. In UK, splitting up deposits was considered 'accidental'[20] and in the public consultation, on request only anecdotal evidence was provided that sometimes such splitting had been observed.

The current Directive intends to mitigate such distortions by topping up arrangements. For a better understanding of their function, it is essential to know that the sole responsibility to reimburse depositors lies with the DGS of the country where the bank has its registered seat, regardless whether the bank is a stand-alone company or a subsidiary controlled by another company. This responsibility extends to all legally dependent parts of a bank, i.e. its branches, even if they are located in another Member State.

However, in case of branches, if the coverage in the host country is higher or more comprehensive than in the home country, the current regime provides the option for the bank to join the host country DGS for the difference in coverage. This is called 'topping up arrangement' and means that two DGS (from home and host country) are involved when depositors of such a branch are to be paid out. Topping up arrangements are very complex because the current Directive has only harmonised DGS on a minimum level and frictions occur if DGS operating under different national rules must cooperate. Topping up can also lead to delays in payout since two DGS, which have to coordinate their actions, are involved in the process. Such arrangements cause confusion for depositors who do not understand why they have to deal with two DGS for one account as is evident from complaints in the context of the failure of Icelandic banks.

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19 See S. Schich, Challenges associated with the expansion of deposit insurance coverage during fall 2008, May 2009 (http://www.economics-ejournal.org/economics/journalarticles/2009-20).

20 FSA, Consumer awareness of the Financial Services Compensation Scheme, Research Paper no. 75, January 2009, p. 9 (http://www.fsa.gov.uk/pubs/consumer-research/crpr75.pdf).

4.1.2. Non-harmonised exemptions from a fixed coverage level

From end-2010, Member States will be required to fix coverage at a certain level for the DGS being subject to the Directive. Currently, exceptions from this fixed level are only granted to Member States where they had been in force on 1 January 2008 ('grandfathering'). Such exceptions, if limited to a few Member States, could lead to an unlevel playing field as described below in the context of diverging scope and eligibility criteria throughout the EU.

In particular, in DK, pension deposits are covered far beyond the coverage level, and in FI, temporary high account balances resulting from real estate transactions are also covered at a higher level. UK is considering the introduction of such protection extended to pension payments and compensations for damages or injuries (if paid as lump sums) and other life events, such as inheritance, divorce, etc. On the one hand, such exemptions could improve depositor confidence by better protecting their wealth in exceptional circumstances. On the other hand, the more numerous and complicated the exemptions, the more resources of the DGS (staff, time and money) are bound during the payout process.

4.1.3. Eligibility of depositors – discretionary exclusions

Annex I of Directive 94/19/EC allows Member States to exclude protection for many different types of depositors. Currently, Member States exclude most deposits and depositors enumerated in Annex I of the Directive (see Annex B to this report).

In general, the fact that the exclusions are discretionary entails some problems. First, it is questionable whether the protection is appropriate, i.e. if the depositors and deposits subject to the discretionary exclusions should be protected or not. While the inclusion of certain depositors or products could improve depositor confidence by better protecting their wealth, their exclusion would save money to DGS and banks financing them. Second, the wide range of discretion may lead to the same problems as widely diverging coverage levels: market distortions if depositors choose the most comprehensive DGS, not the best product. (see Section 4.3). Only well-informed depositors would act in this way. However, the fact that some depositors were alerted by the media in the financial crisis as far as failures of particular banks were considered likely does not mean that the majority of depositors were profoundly informed about their function. Consequently, it is also relevant that depositors may not always be informed whether they are eligible or not. Finally, differences in depositor and product eligibility stemming from the lack of harmonisation affect the ability of DGS to make fast payouts since such differences (notably if numerous) complicate the process of claims verification.

The discretionary exclusions and specific problems resulting from them can be categorised as follows:

- Enterprises in the financial sector, i.e. financial institutions, insurance, investment funds, pension funds (Annex I no. 1, 2, 5 and 6 of the Directive). Banks are ineligible under Article 2 of the Directive.

- Authorities at central and local level (Annex I no. 3 and 4). Authorities can be expected to act responsibly and not to run on banks. They are also quite limited in numbers in

comparison with depositors[21] and are subject to DGS coverage only in 7 Member States (CZ, DE (partially), DK, FI, GR, LT, PL and SE).

- Depositors having a relationship with the failed bank, like managers, directors, important shareholders (>5%), auditors (and their close relatives), companies in the same group, depositors that obtained special conditions aggravating the financial situation of the bank (Annex I no. 7, 8, 9 and 11). Most of these depositors are difficult to identify and it leads to unnecessary payout delays to verify their eligibility. Moreover, such exclusions generally punish depositors who might not at all be responsible for the bank failure. In case of such exclusions, individual responsibility would be insinuated by law or determined by the DGS and not by the competent authorities and courts..

- Depositors who opened their account anonymously (Annex I no. 10). Anonymous accounts are now forbidden under Article 6(1) of Directive 2005/60/EC on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing[22].

- Small and medium enterprises (SME). Currently, only deposits of *companies* that are permitted to draw up abridged balance sheets[23] must be covered (Annex I no. 14). This definition deviates from the Commission Recommendation on micro, small and medium enterprises[24] (Annex 10a to this impact assessment contains a comparison of the different categories of SME).

The Commission has been explicitly tasked to examine whether the coverage of SME is appropriate. Since, according to Eurostat, there are 20 million SME representing the majority of enterprises in the EU (99.8%), their confidence is crucial as to the risk of bank runs. Among micro, small and medium enterprises, the largest group is the first one, but they are comparable in terms of the amount of their eligible deposits (see Annex 10c-d).

The existence of smaller enterprises may be jeopardised if they have no access to their deposits after a bank failure, which may lead to negative consequences for the economy as a whole and strain public welfare. Moreover, determining during the payout procedure whether a company is an SME, i.e. if it is *permitted* to draw up abridged balance sheets (this comprises even companies whose balance sheet is not abridged), is time consuming, resource binding and therefore delaying payout for *all* depositors.

---

[21] Throughout the EU, there are 121 000 local authorities and more than 450 million depositors.

[22] OJ L 309, 25.11.2005.

[23] More precisely, companies which – as of their balance sheet dates – exceed the limits of at least two of the three following criteria: a balance sheet total of €4.4 million, a net turnover: €8.8 million or an average number of 50 employees during the financial year. Only *companies* can be excluded, i.e. not self-employed natural persons or partnerships (unless they are special partnerships where shares are issued; for details see Article 1(1) of Directive 78/660/EEC).

[24] Article 8(1) of the Annex to the Commission Recommendation 2003/361/EC of 6 May 2003, OJ L 124, p.36: *"Any Community legislation or any Community programme to be amended or adopted and in which the term 'SME', 'microenterprise', 'small enterprise' or 'medium-sized enterprise', or any other similar term occurs, should refer to the definition contained in this Recommendation."* In contrast to the current regime that allows the exclusion of certain *companies*, an SME can have any legal form.

4.1.4. Scope of covered products

Currently, coverage of at least €50 000 per depositor and per bank[25] is required by the Directive. Several deposits at the same bank are aggregated. There are considerable differences in the scope of deposits covered by DGS across the Member States (see Annex B). The mere existence of these differences raises level-playing field issues since depositors may choose the product according to the deposit protection offered, which a bank cannot choose and banks which cannot 'offer' such protection may suffer from competitive disadvantages.

Structured products

The current definition of 'deposit' in Article 1(1) of the Directive[26] leaves some room for interpretation as regards the coverage of so-called 'structured products'[27]. A structured product is a combination of a deposit and an investment product, where the return is dependent on the performance of some underlying financial instrument such as market indices, equities, interest rates, commodities, foreign exchange, etc. These products incur market risk (i.e. the risk of a changing market price of the underlying) which is not covered by any protection scheme if the underlying is acquired directly. If only the interest is subject to a certain underlying, the principal of the deposit should be repaid in the worse case scenario at par; otherwise, the depositor could be repaid less than 100% of his deposit. Even though the current definition in Article 1(1) is not very concise and there is no other definition of deposits in Community law on financial services, it seems to be clear from the general meaning of the word deposit (i.e. to place for safekeeping or in trust) that deposited items usually have to be returned in full. Moreover, deposits have an inherent 'guarantee' as it is their key feature that they are 100% repayable so that there is no need for a guarantee apart from a deposit guarantee[28].

If products (i) which incur market risk, (ii) are subject to a particular guarantee, or (iii) whose principal is not repaid at par, were to be covered by DGS, it could lead to additional losses for DGS if they had to cover particular risks incurred by such products. As explained above, ICS would not cover market risk either (for more information on ICS, see Annex C).

Debt certificates issued by a credit institution

The coverage of debt certificates issued by a credit institution (Annex I of the Directive, no. 12) is subject to the discretion of Member States. In case of debt securities issued by a bank, their market price (if any) depends mainly on the insolvency risk of the issuer (i.e. the bank) and a change of interest rates.

In contrast to this, in case of debt securities issued by non-banks these risks are covered neither by DGS nor by ICS. Consequently, banks as issuers of debt securities are privileged

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25 Exceptions apply, see Article 8 of Directive 94/19/EC.

26 *"'Deposit' shall mean any credit balance which results from funds left in an account or from temporary situations deriving from normal banking transactions and which a credit institution must repay under the legal and contractual conditions applicable, and any debt evidenced by a certificate issued by a credit institution."*

27 See also the Communication on Packaged Retail Investment Products (PRIPS), COM(2009)402 (p.4) for a distinction between structured securities and structured deposits

28 It should be noted that guaranteed repayments are also subject to a different prudential treatment than deposits. Repayment guarantees concerning a product incurring a loss when repayment is due, have to be treated as off-balance sheet items under Article 78 of Directive 2006/48/EC and its Annex II. Provision thus has to be taken *in addition* to the general prudential requirements that indirectly also aim at protecting deposits.

over other issuers. This argument was also raised during the public consultation by investment funds associations who feared competitive distortions since deposits of investment funds are not covered by DGS either.

Moreover, holders of debt securities can in general not exercise their claims against the bank before maturity, so unlike with regard to holders of savings or current accounts, there is a limited risk for bank runs.

More specifically, the current setup regarding debt securities is inconsistent in itself. While 'debt evidenced by a certificate' is covered by DGS, 'debt securities and liabilities arising out of own acceptances and promissory notes' can be excluded from coverage. However, despite the different terms both categories seem identical since a debt security is typically a debt evidenced by a certificate. Own acceptances and promissory notes are also debt evidenced by a certificate.

This is also confusing for depositors. In all but three Member States (HU, LV and SE)[29] 'debt securities and liabilities arising out of own acceptances and promissory notes' are excluded (see Annex B).

Deposits in currencies of non-EU countries

The coverage of deposits in currencies of non-EU countries (Annex I no. 13) is subject to the discretion of Member States. In 6 Member States, such accounts are currently excluded (AT, BE, CY, DE, LT and MT). However, exclusion of such deposits may lead to an inappropriate coverage, in particular for SME which might need such accounts for dealing with non-EU countries. Moreover, in a globalised world, such accounts may be necessary where some members of families live abroad. Their exclusion could thus be regarded unfair for them.

Overlap between DGS and investor compensation schemes (ICS)

In contrast to the DGS Directive, Directive 97/9/EC on ICS shall cover losses of investors in securities, such as equities and bonds, but also money linked to transactions in those investments in specific cases (see Chapter 1 and Annex C).

However, securities (i.e. debt evidenced by a certificate issued by a credit institution) and money linked to transactions in investments (such as the proceeds arising from a sale of an investment product or money paid for buying an investment product so long as the transaction has not been executed yet) can fall within the scope of both the DGS and ICS Directives. In such cases Member States have discretion to choose one scheme they consider appropriate so as to prevent a reimbursement taking place twice[30].

However, ICS and DGS provide different kinds of safeguards for consumers. The recent changes of DGS by Directive 2009/14/EC (notably the increase of the coverage level to €100 000) have not been taken over by the ICS Directive. In particular, compared with DGS there are no strict time limits for triggering the ICS. Whereas from end-2010 onwards the DGS has to be triggered at the latest one week after the inability to repay deposits, there is no comparable deadline for ICS but changes are underway.

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29 In DE, such products are included by mutual guarantee schemes. However, these schemes are not subject to Directive 94/19/EC.

30 Directive 97/9/EC on investor compensation schemes, Article 2(3).

An unlimited discretion for Member States to choose the scheme if the products concerned fall both within the scope of ICS and DGS could therefore circumvent the improvements achieved for depositors. This could in extremis mean that it is in the discretion of Member States to pay depositors much less after a longer period of time.

4.2. Inadequate payout procedures

4.2.1. Inappropriate payout delay

Under the current regime, depositors must be paid out within 3 months after the bank has declared to be unable to repay deposits. From the end of 2010, this delay has to be reduced to 20 working days with a possible extension of further 10 working days (i.e. 4 to 6 weeks). Currently, competent authorities must determine the 'inability to repay deposits' (i.e. the triggering date) within 21 days and from end-2010 onwards within 5 working days (i.e. one week)[31]. These delays must be taken into account for calculating the actual payout delay. The maximum delay from 2010 onwards will thus be 7 weeks. However, there are better practices. Even if the US scheme (which pays depositors out within two working days[32]) is not a fully relevant example for EU DGS at the moment[33], it should be noted that the UK authorities envisaged shortening the payout delay to one week[34].

The payout delay of 4-6 weeks is simply too long since depositors need constant access to their funds in order to buy food, pay bills, etc. If depositors have the choice to withdraw their deposits before the DGS is triggered or to wait several weeks after the DGS steps in, they will run on their banks since most of them would not have the funds for their usual expenses available for more than a few days[35]. Thus, the possibility of long delays would prompt a run on a bank even if deposits were 100% covered. Furthermore, bank customers with a current account need access to basic banking services.

Long payout delays are also caused by late access to information about deposits and the lack of human and technical resources of DGS[36]. Three quarters of all DGS have to rely on external workforce (see Annex 27), half of DGS have no regular access to deposit information and only one third has any contingency planning in place[37].

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31 According to the collected data, 93% of deposits were repaid within 3 months, and around 97% within 9 months; concerning the number of reimbursed depositors, the average ranged from 72%, within 3 months, to 82%, within 9 months.

32 *"It is the FDIC's goal to make deposit insurance payments within two business days of the failure of the insured institution"* (see http://www.fdic.gov/consumers/banking/facts/payment.html).

33 The US FDIC has a much broader mandate than EU DGS (it acts as supervisor, paybox and receiver). Moreover, it makes payouts after a 90-day pre-closing period.

34 Bank of England, HM Treasury, FSA, Financial stability and depositor protection: further consultation, July 2008, p. 74 (http://www.fsa.gov.uk/pubs/cp/jointcp_stability.pdf); see also Ernst & Young, Fast payout study – final report, November 2008 (report commissioned by the FSA, BBA and FSCS, available at http://www.fsa.gov.uk/pubs/other/fast_payout_report.pdf).

35 FSA, Consumer awareness of the Financial Services Compensation Scheme, op.cit., p. 11: *"With regard to how long they felt they could cope if they were cut off from their current or deposit accounts (i.e. if their bank failed), respondents' answers varied with their circumstances: those with only a current account, limited savings and few or no cards to fall back on felt they could only manage for up to a couple of weeks, which they would do by borrowing, primarily from family members. Some felt they could not manage for more than a few days or a week."*

36 EFDI, Report on improvement of payment delays to depositors and promotion of best practices, May 2008, pp. 35, 37, 42 and 43.

37 Ibid, p. 38.

At any rate, the forthcoming deadline being calculated in working days (according to the proposal as finally adopted – see Annex A) entails additional problems. Since there are different national holidays, this is not only opaque for depositors but can also lead to different payout delays in cross-border cases.

4.2.2. Inadequate payout modalities

In their correspondence to the Commission, depositors raised concerns about the payout modalities. Many depositors were concerned that in some recent bank failures there was no information provided by DGS in depositors' language about the state of play and on how to submit claims (or information was late and outdated). The mere need for claims – often still to be submitted on paper and based on information that in case of 'internet banks' may not be accessible when websites of such a bank are not operational – constituted a serious problem for depositors. Any difficulty and lack of transparent processes before and during the payout procedure may undermine depositor confidence in DGS.

Currently, 30 DGS pay depositors out in the currency of their Member State whereas 5 DGS pay them out in the currency 'as paid in'[38]. Some depositors were worried that they would receive their reimbursement in the currency of the bank's home country even though their deposits were denominated in euro. The possibility to transfer currency risk to depositors may undermine their confidence in DGS and – at least together with other problems – induce a run on banks. Moreover, a payout in a different currency than the one of the DGS is likely to delay the process.

It should be noted that this risk of delay does not only materialise in case of deposits in currencies other than the currency of the Member State where a bank or a branch is located but also in the situation where e.g. a bank from a country outside the euro area opens its branch in a euro-area country and deposits are taken in euro. In this respect, a payout in another currency than paid in could also have distortive effects since deposits with branches of foreign banks would become less attractive then.

Currently, two thirds of DGS pay interest until the date of failure; those paying longer apply a fixed rate, a market rate or the originally agreed rate[39]. Depositors were worried that payout might not include interest payments if those would only be due after the time of failure.

This shows that under the current approach depositors have no clear picture about how payout is executed and what they receive in case interest has not yet been credited to their account, in particular when the failure happens before interests are due, i.e. before maturity. The impact of this uncertainty on the possibility of bank runs may be low since interest rates on current accounts, are normally quite low and savings deposits may - pending their conditions - not be eligible for withdrawal before maturity or if so, interest payments would be reduced anyway. However, any uncertainty does not contribute to trust in DGS which is a prerequisite for financial stability.

Moreover, with regard to structured products, the calculation of the interest payment may be difficult and time-consuming or may even sometimes not be calculable at all. Similarly, banks offering exceptionally high interest rates could lead to financing problems of DGS if this has

[38] Ibid, p. 27.
[39] Ibid, p. 40.

not been taken into account when calculating the contributions of such banks. Both issues are not dealt with by the current Directive.

4.2.3. Inappropriate set-off arrangements

Currently, 22 Member States allow that deposits are set off against due liabilities of the depositor (e.g. instalments of mortgages) at the same bank or counterclaims against the depositor (e.g. the entire mortgage loan). This is not the case under normal circumstances if instalments are duly paid. In such case, if liabilities reach or exceed deposits, set off with due claims or counterclaims reduces and, in extreme cases, eliminates any payout from a DGS. If depositors know that their deposits and liabilities will be set off, they will prefer to run on their banks in order to get their deposits paid out in full. Those who do not do so might be paid out nothing and put under financial stress. Moreover, determining liabilities and matching them with deposits is time consuming and therefore likely to delay payout[40].

4.3. Insufficient depositor information

Currently, actual and intending depositors must receive the information about the DGS covering their deposits including the amount and scope of coverage and whether their deposits are eligible or not. That information must be made available in a readily comprehensible manner. Information must also be given on request on the conditions for compensation and the formalities which must be completed to obtain compensation. All information must be given in the languages of the Member State in which the bank or the branch is established. It is within the discretion of Member States how exactly the information is provided.

If depositors do not know whether and to what extent their deposits are protected, there is a risk that they will run on their banks in times of crisis. They may also hesitate to deposit their money at foreign banks or branches if they do not know how other country schemes function. They might be concerned that in case of a bank failure, they might not get their money back since they might not know or understand the procedures to follow. Depositors might be susceptible to financial losses if they discovered only after the fact that they are not eligible or that not all their financial products are covered or that all their deposits at one bank are aggregated in order to determine whether they are covered. And if they are uncertain about any of these aspects of deposit protection, it could lead to the lack of confidence in DGS, thus contributing to the possibility of a run on banks.

In 2008 and 2009, the Commission received many requests from citizens who wanted to know how their deposits are protected. The Commission services understand that DGS or consumer organisations also received many such requests. The lack of awareness about the key features of the responsible DGS is illustrated by recent consumer research undertaken in the UK[41].

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[40] Ibid, p.23: *"Out of those DGS that apply set-off, 40% have experienced deposit payout. Five DGS applying set-off had asked for an extension of the three months period (45%)."*

[41] FSA, Consumer awareness of the Financial Services Compensation Scheme, op.cit., p. 19: *"Although awareness of the FSCS* [the UK DGS] *by name was very low among the groups, many respondents thought there was 'something', and a few of the wealthier respondents mentioned a figure of around £30,000-£35,000 of savings which was guaranteed. All the Northern Rock customers knew it was £35,000 but were still unfamiliar with the FSCS by name. Almost nobody knew anything more about the scheme or how it worked (e.g. with regard to protection being based on a bank's authorisation or debt and savings relationships), and none knew how it was funded.* (…) *Without guidance, most assumed it to be a government scheme or some form of private sector insurance."*

Even though a relatively high number of depositors was alerted by the media in the financial crisis about the strength of their DGS in particular cases and sometimes this led to shifting deposits elsewhere as described above, the correspondence addressed to the Commission services shows that many depositors did not feel profoundly informed about the function of DGS.

For example, depositors at branches of Icelandic banks complained to the Commission that the distinction between branches and subsidiaries, which can lead to different DGS dealing with payout, was confusing (see Section 4.6). Those depositors preferred a point of contact in their country of residence and consequently, in their language. Others were worried that payout might not include interest payments if the interest payments would only be due after the time of failure. Currently, these issues are indeed not dealt with by the Directive. This lack of clarity compromises depositor confidence.

All deposits of a depositor at a bank including its branches are aggregated. If a depositor has e.g. a savings account of €30 000 and a current account of €40 000 at the same bank, the depositor would only receive €50 000 if this is the coverage level in a Member State. This may lead to problems if different products such as savings and current accounts are traded under different brand names even if they are sold by the same bank[42]. In such a case, the depositor may not know that both accounts are aggregated for the purpose of calculating the coverage level.

A lack of information about what and to which extent products are covered by DGS may also lead to choosing inappropriate products and consumers may thus not fully exploit all options available in the Internal Market.

4.4. Inappropriate financing of DGS

4.4.1. Different DGS funding mechanisms and bank financing obligations across the EU

DGS are principally funded by banks paying contributions to them. Currently, in 21 Member States such contributions are paid in advance on a regular basis (ex-ante) while in six Member States (AT, IT, LU, NL, SI and UK) banks only contribute after a failure (ex-post). Other financing sources are loans taken by the DGS or direct state interventions.

Consequently, the level of DGS funding is very different throughout the EU. Ex-post funded DGS have no funds available when there is no bank failure. In terms of the ratio between ex-ante funds and eligible deposits (coverage ratio, see also Annex 16), there is a range between 0.01% and 2.3%. For smaller banks (i.e. banks not belonging to the top-10 deposit takers at each DGS), these ratios are much higher with an average of 7.9%. To illustrate these percentages, the amount of ex-ante funds ranged in 2007 between €6.9 million in MT and €6.5 billion in ES. At the same time, the maximum resources available to DGS (ex-ante schemes plus ex-post contributions) amounted to between €27 million and €8.1 billion in those Member States respectively. For comparison, the amount of eligible deposits in the EU is about €9.3 trillion and the amount of covered deposits (under Directive 2009/14/EC and the coverage level of €100 000) is about €6.7 trillion (see Annexes 2, 3 and 13a).

When the financial crisis aggravated in autumn 2008, DGS have turned out to be underfinanced. The most prominent example is Iceland, an EEA country where the DGS

[42] This situation occurs in particular in UK.

Directive applies. The DGS had available ISK 15 billion (approx. €120 million as of 1 September 2008) in ex-ante funds, equivalent to 0.5% of deposits and ISK 6 billion guarantees as additional resources[43]. The savings deposits at branches of two Icelandic banks (Landsbanki and Kaupthing) in DE, NL and UK alone amounted to more than €8 billion[44].

In the context of the above, it is argued that in order to make deposit guarantees credible it is important to specify how they will financially be provided. The need for sound funding to ensure the effectiveness and credibility of DGS was emphasized by the developments in autumn 2008 when most Member States raised their coverage levels without any financial strengthening of their DGS. Therefore, there may be questions regarding the capacity of (some) governments to provide for the implicit or explicit guarantee that they have announced[45].

The Commission's research has shown that DGS in 6 Member States would not be capable to cope with a medium-sized bank failure[46]. In one Member State (SK), the scheme has just overcome a deficit in which it had been for years. In DE, the voluntary DGS had to apply for a state guarantee of €6.7 billion following the failure of a subsidiary of Lehman Brothers[47]. Even if a single DGS might never be able to cope with a failure of a large cross-border banking group, they should at least be able to deal with medium-sized failures. It should be noted that the DGS Directive is applicable regardless of whether there is a systemic crisis or not. Otherwise it could not fulfil its objective to prevent bank runs. If DGS have insufficient funds, depositors may be paid out only after a very long delay or not paid out at all. If depositors are aware of this, they will lose confidence in DGS and may potentially run on their banks.

The lack of harmonisation as regards DGS funding may affect not only depositor confidence but also banks' competitiveness and behaviour (as it leads to significant differences in bank contributions to DGS). First of all, mere ex-post funding is pro-cyclical: it encourages risk-taking in good times, but drains liquidity from banks in times of stress which might have implications on the level and conditions of credit supply by banks. Moreover, unlike in ex-ante schemes the failed bank does not contribute to payout (moral hazard). Banks that do not have to pay ex-ante contributions are able to generate returns on these funds, which constitutes a competitive advantage vis-à-vis their competitors in other Member States with ex-ante funded DGS. This was raised by many banks and banking associations in the public consultation conducted by the Commission last year.[48]

The access to funding beyond ex-ante funds is different, too. All but 7 DGS can borrow money from different sources, but 3 DGS only to a limited extent. This is problematic since

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43 K. Jännäri, Report on banking supervision in Iceland: past, present and future, 30 March 2009, p. 8.

44 Ibid, p. 17.

45 S. Schich, Challenges associated with the expansion of deposit insurance coverage during fall 2008, op.cit.

46 The six Member States were BE, CY, IE, IT, LV and MT. A medium-sized failure was defined in this context (representing a failure of intermediate size which occurred in an EU-12 country in 2003) as a failure concerning 0.81% of eligible deposits. Many other Member States had to rely on unlimited borrowing facilities in order to cope with a failure of that size (see JRC Report on the efficiency of DGS, May 2008).

47 Commission Decision no. 17/2009 of 21 January 2009 (see press release IP/09/114).

48 In contrast to this, there is research concluding that *"mispriced deposit insurance and capital regulation were of second order importance in determining the capital structure of large US and European banks"* (see R. Gropp, F. Heider, The determinants of bank capital structure, ECB Working Paper No. 1096, September 2009).

ex-ante funds alone may not be sufficient to pay out depositors. Where ex-ante funds are collected, the ratio between extraordinary (including ex-post) funds and total funds is between 1.4% in SE and 82% in CY (see Annex 13a). If needed, all ex-ante funded DGS can request supplementary contributions from banks but the extent is very different (see Annex 13b). Taking into account additional ex-post financing facilities for ex-ante financed schemes, the coverage ratio ranges between 0.1% and 3.1%, while for smaller banks (as defined above) the average is 19.6%.

If not all DGS are equally sound and capable to deal with a bank failure of a certain size, there may also be repercussions for the functioning of the Internal Market. Banks from Member States with very weak DGS, which establish branches in another Member State, can do so without being hindered by the host country. However, if the home country DGS is considered incapable by the host country to deal with a bank failure, the host country may not like to rely on the prudential supervision exercised by the home country. In the context of the recent Icelandic bank failures, this has led to Member States reflecting upon measures which might create obstacles to the freedom of establishment (i.e. to set up branches), implying a less open Internal Market[49].

Moreover, banking groups intending to reorganise themselves under the European Company statute have perceived it as tedious and burdensome to change the DGS when their subsidiaries would turn into branches, in particular because they did not receive their previously paid contributions back from the scheme they left but also had to pay contributions to the new scheme.

4.4.2. Banks contributions to DGS not adjusted to risk

In most Member States banks pay their contributions to DGS as a fixed percentage of deposits (usually eligible deposits). The degree of risk incurred by a given bank is not taken into account. This may be perceived by risk-averse banks as a competitive disadvantage and as a disincentive for sound risk management which may also make the financial system more vulnerable and induce adverse selection.

This report does not, however, deal with systemic risk since criteria for measuring it are only being developed on international level.

4.5. Limited mandates of DGS

The powers to manage bank crises are split between different domestic authorities, ranging from supervisory authorities to central banks, governments, judicial authorities and in some cases DGS. Also, the extent of powers and the conditions governing their use differ according to each national system. This entails inefficient cross border bank resolutions process and suboptimal outcomes[50].

In this context, the Commission Communication on an EU framework for cross-border crisis management in the banking sector (COM(2009)561) states the following:

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[49] FSA, The Turner Review – A regulatory response to the global banking crisis, March 2009, p. 100 et seq. (http://www.fsa.gov.uk/pubs/other/turner_review.pdf).

[50] Impact Assessment accompanying the Communication on an EU framework for cross-border crisis management in the banking sector, SEC(2009)1389, p. 30.

"*Deposit guarantee schemes could include the possibility of funding resolution measures. This would have the advantage that the banking sector would contribute directly to ensuring its own stability. However, this should not be to the detriment of compensating retail depositors in the event of a bank failure. In its review of the operation of deposit guarantee schemes to be brought forward in early 2010, the Commission will examine the use of deposit guarantee schemes in the context of the crisis. Alternatively, as some Member States do, the Commission could explore the creation of a resolution fund, potentially funded by charges on financial institutions which might be calibrated to reflect size or market activity.*"

An assessment of the creation of a resolution fund would go beyond this impact assessment and will be performed as a follow-up to the Communication referred to above.

Currently, in 11 Member States DGS have varying powers beyond the mere payout of depositors ('paybox' function) such as liquidity support, restructuring support or liquidation role (see Annex D). Such transactions may be rational if the cost for successful reorganisation is smaller for the DGS than the total payout to the same bank in the event of bankruptcy (the so-called 'least-cost principle'). The lack of coherence between national DGS roles may further impede coordinated actions on a cross-border basis. If a DGS can use its funds to support a bank in one Member State but this is not the case in another Member State, private sector in the former may not be willing to participate in the negotiations concerning e.g. a reorganisation of the bank[51] if the private sector does not contribute to a similar extent than in the latter. A reorganisation of a bank could fail for such a reason, leaving the taxpayer to pay or causing financial and economic turmoil when a bank has to be liquidated. This is aggravated by the fragmentation of DGS since even a reorganisation in a Member State may be difficult if only one of several DGS can provide support and the other schemes refuse.

The funds of a soundly financed DGS originate from the banks themselves. However, the current financial crisis has shown that when banks threatened to fail, they were bailed out mainly with taxpayers' money amounting to almost €13 billion in the EU[52].

In most Member States, the funds of DGS are either not sufficiently financed to even fulfil their 'paybox' role (see Section 4.4) or lack the power to participate in early interventions aiming at preventing a failure. If DGS have broader mandates, there could be a double impact by a restructuring and a payout at the same time even if occurring at different banks.

4.6. Fragmentation and limited cross-border cooperation between DGS

The high degree of fragmentation may mean that DGS with fewer resources would be hit more by a relatively big failure than a DGS with more resources be hit by a failure of a bank of the same size ('insurance effect'). This uneven distribution of risk is aggravated by the fact that there is no mutual borrowing between schemes of different Member States and sometimes not even between schemes within the same country. As a result, it is likely that the taxpayer would have to step in if a DGS has insufficient financial resources.

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51 As defined in Article 2 of Directive 2001/24/EC: *"measures which are intended to preserve or restore the financial situation of a credit institution and which could affect third parties' pre-existing rights, including measures involving the possibility of a suspension of payments, suspension of enforcement measures or reduction of claims"*.

52 Without guarantees that are only commitments and not effective when granted (source: Public Finances in EMU (2009), p. 44, http://ec.europa.eu/economy_finance/publications/publication15390_en.pdf).

This is illustrated by the failure of an Icelandic bank that operated mainly via Internet and had a branch with 30 000 depositors in DE. Many depositors complained that German authorities and German DGS referred depositors to the Icelandic DGS. This is why a general obligation to mutually cooperate has already been introduced by Directive 2009/14/EC. However, this obligation is rather generic and does not require the host country DGS to assist and pay out depositors whose deposits are with a branch of a bank from another Member State (and the home DGS is primarily responsible). A payout by the host DGS on behalf of the home DGS has been requested in many complaints and petitions from depositors[53]. It can thus be concluded that currently there is no incentive for home country DGS to care about depositors in other Member States (i.e. host countries).

In the context of the new EU financial supervisory architecture[54] it has become more and more obvious that the supervisory cooperation for cross-border banking groups must be improved. Since banking supervisors are involved in the decision whether a bank should be saved or the DGS triggered, the fragmentation of DGS does not provide incentives for supervisors to reach a solution that is in the interest of all depositors of a banking group and takes into account the potential impact on the financial stability of all Member States concerned as required by Article 42a(3), second subparagraph, of Directive 2006/48/EC. While progress on burden sharing and resolution mechanisms is deemed critical to reinforcing trust between national authorities, the current degree of fragmentation would set incentives to deal separately with each subsidiary which could favour some creditors or depositors in one country compared to others[55].

Moreover, on 23 September 2009, the Commission adopted proposals for three Regulations establishing the European System of Financial Supervisors including the creation of the three European Supervisory Authorities. The new European Banking Authority will further coordinate banking supervision, in particular by setting technical standards and settling disagreements.

4.7. Exemption of mutual and voluntary guarantee schemes from the DGS Directive

Mutual guarantee schemes are schemes ensuring mutual protection of their members, i.e. preventing a bank failure[56]. They exist mainly in the sector of cooperative and savings banks in AT and DE. Consequently, there is in principle no need to pay out depositors since their banks' operations would not cease. Voluntary guarantee schemes do not protect banks from failures but, based on a contract between members, in case of failure offer coverage of deposits that is higher and/or wider in scope than the statutory DGS subject to the Directive. Currently, there is only one such a scheme in DE that offer quasi-unlimited protection.

Mutual guarantee schemes are exempt from the Directive if they fulfil the criteria under Article 3(1) and are acknowledged under Article 80(8) of Directive 2006/48/EC in another context (zero risk-weight of exposures between banks adhering to such scheme). Both articles

53 See e.g. Petition no. 1567/2008.

54 Commission Communication of 27 May 2009 on European financial supervision (COM(2009)252) and Proposal for a Regulation establishing a European Banking Authority (COM(2009)501).

55 COM(2009)561, p. 8.

56 A mutual guarantee system protects the credit institution itself and ensures its liquidity and solvency. In an emergency, the other members of the system step in and support the bank. Such systems have in particular been established by cooperative and savings banks in AT and DE.

are not consistent with each other (see Annex E for details). Voluntary schemes are not covered by the Directive at all.

Mutual guarantee schemes have been advertising with 'unlimited protection'[57] even though they do not offer higher coverage as such. Depositors have thus not been adequately informed about their functioning. Maintaining the status quo, i.e. leaving such schemes apart and further advertising with 'unlimited protection', could lead to competitive distortions if from end-2010 onwards all DGS under the Directive are prohibited to increase their coverage levels above €100 000.

Voluntary and mutual schemes are based on a contract between their members and most of them do not provide rights to depositors to claim reimbursement in the event of a bank failure[58]. However, Article 10 sets out that depositors shall have a claim against DGS under the Directive (for those DGS that are not exempt like the mutual schemes). This is not clearly mentioned on the above schemes' websites leading to the lack of depositor information.

Moreover, since mutual schemes are exempt from the Directive, depositors would not be covered if a mutual system collapses[59]. In this context, it should be noted that details about the funds available to mutual and voluntary schemes have not been disclosed, even on request. It leaves plenty of room for speculation about their financial capacity. The voluntary scheme for private banks in DE, which promises coverage of up to one third of the bank's own funds per depositor (i.e. de facto unlimited), asked for €6.7 billion state aid in 2008 (see Section 4.4.1) and has recently doubled contributions to be paid by its members[60]. A large insurance company has recently explained that it did not trust the deposit insurance of the private banks[61]. Despite the voluntary and mutual schemes in Germany, political unlimited deposit guarantee was given. Moreover, many of the German Landesbanken in distress which are members of the mutual guarantee scheme of German savings banks (except WestLB[62]) received state aid so that this scheme did not have to be tested. The protection of depositors could thus be compromised if they are not protected by a DGS under the Directive.

4.8. Baseline scenario

If the status quo is maintained, the fixed coverage level of €100 000 – paid out by DGS within maximum 4 to 6 weeks from the moment a bank is declared insolvent – will apply EU-wide from end-2010 onwards. This long payout delay together with the lack of financial capacity of some schemes would be insufficient to deter depositors from running to their banks in order to get all their deposits immediately (which happened in UK in 2007 under a coverage of only £ 35 000) and could have severe economic consequences. Moreover, the perspective of depositors who owe money to their bank to be reimbursed less or not at all (set-off) in case of a bank failure will not calm down the depositors concerned. Consequently, the Directive

57 See references in the consultation paper: http://ec.europa.eu/internal_market/consultations/2009/deposit_guarantee_schemes_en.htm.

58 A notable exception is the 'Raiffeisen-Kundengarantiegemeinschaft Österreich' for cooperative banks in AT. Article 14 of their statutes stipulates: *"[In case of insolvency of a member], the association has to honour the protected claims against the [member] (...). To the extent that the claims are also subject to the statutory DGS, the claims are honoured on behalf of the statutory DGS."*

59 This is the case in DE, but not in AT where all banks including members of a mutual scheme ('Haftungsverbund' or 'Solidaritätsverein') have to be members of a DGS.

60 Handelsblatt, 18 January 2010.

61 Süddeutsche Zeitung, 20 January 2010, www.sueddeutsche.de/finanzen/440/500704/text/print.html.

62 Frankfurter Allgemeine Zeitung of 25 November 2009, p. 13.

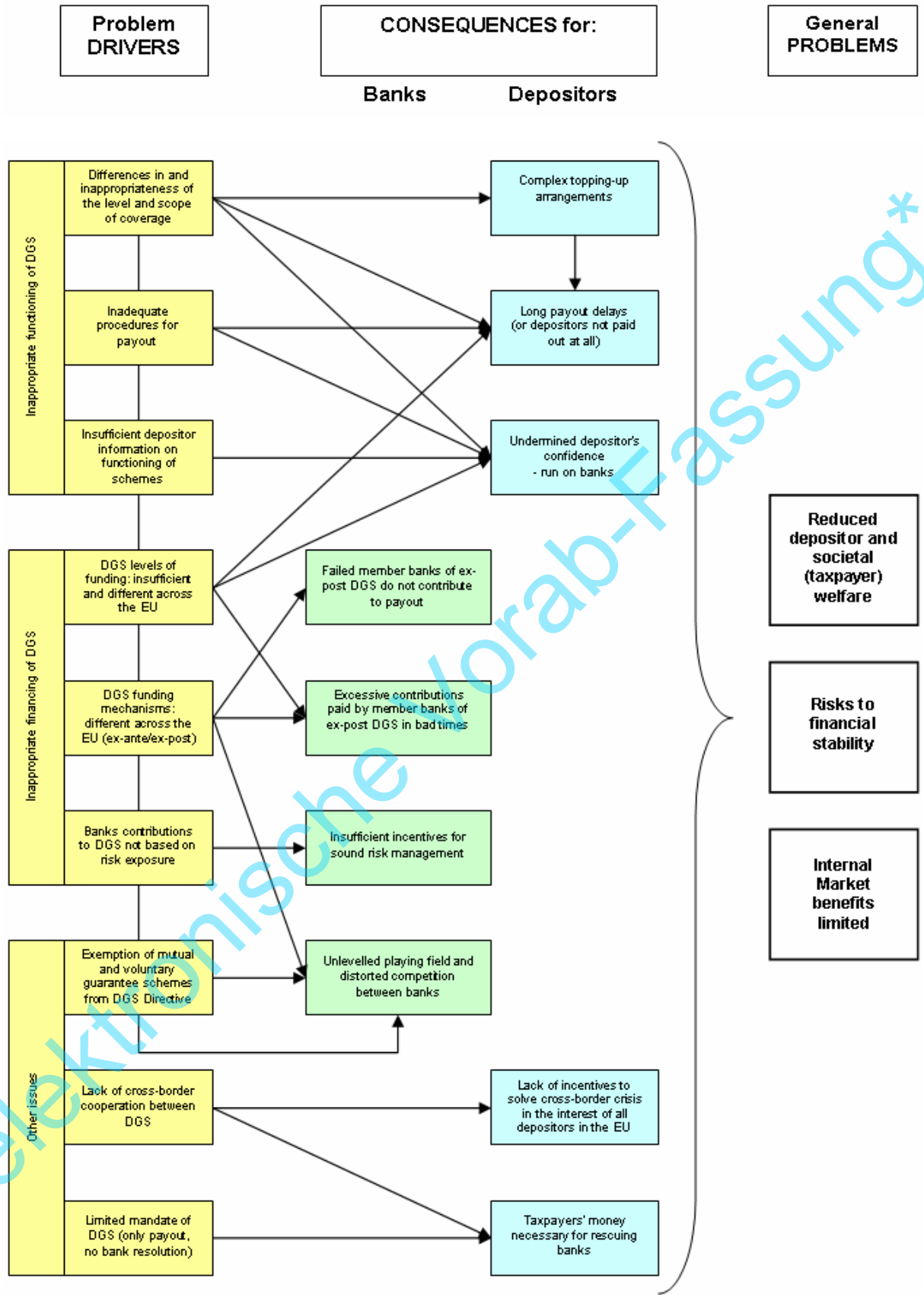
would not meet its objectives in terms of protecting depositor wealth, preventing bank runs and contributing to financial stability.

A varying scope of covered products and different eligibility criteria for protected depositors in the EU, combined with the lack of information on whether deposits are covered, would lead to depositors searching for the 'best DGS' when depositing their money instead of looking for the 'best product' or 'best service' (see 4.1).

This and the lack of mutual cooperation between schemes in cross-border situations and the perspective of having to deal with a DGS in another language (as shown after the failure of the Icelandic banks) would lead to choosing between domestic banks only. The potential of the Internal Market would thus remain untapped. The new supervisory architecture described under would also be hampered by fragmentation and a lack of coordination (see above 4.5 and 4.6).

Banks, in particular those operating cross-border, would still suffer from an unlevel playing field if they have to pay high contributions in one Member State, but none in another one so long as there is no bank failure. In the latter case, they would have to provide liquidity to the DGS in times of general stress on banks' liquidity. Banks will also suffer from adverse selection, if a sound and prudent bank has to pay the same contributions as a bank of the same size operating under an aggressive business model at the margin of prudential regulation and incurring higher risks.

Graph 1: Problem tree



Source: Commission services.

5. SUBSIDIARITY

Only EU action can ensure that credit institutions operating in more than one Member State are subject to the same requirements concerning DGS, which ensures a level playing field, avoids unwarranted compliance costs for cross-border activities and thereby promotes further integration within the Internal Market. Without harmonising the financing of DGS, depositor confidence could not be maintained. EU action therefore ensures a high level of financial stability in the EU.

Namely the harmonisation of coverage, scope and eligibility of depositors, and of payout delays cannot be sufficiently achieved by Member States because it requires the harmonisation of a multitude of different rules existing in the legal systems of various Member States and can therefore be better achieved at EU level.

This has already been acknowledged by the existing Directives on DGS[63], which are all based on Article 53(1) TFEU. The extent of harmonisation, which goes far beyond the minimum harmonisation approach taken in 1994, when the Directive entered into force, is the only measure achieving the objective of protecting depositors, ensuring financial stability and enhancing the Internal Market since the minimum harmonisation approach has failed in the recent crisis. This has been acknowledged by the ECOFIN Council of October 2008 and Article 12 of Directive 1994/19/EC as amended by Directive 2009/14/EC, according to which a far-reaching review was necessary.

6. OBJECTIVES

The overarching objectives of the revision of the DGS Directive are identical with the objectives enshrined in the Directive: maintaining financial stability by strengthening depositor confidence and protecting their wealth. The pursuit of these objectives is driven by the need to enhance the Internal Market, which lies at the heart of the Directive. The following general objectives result from the recitals of the Directive and the Treaty[64]:

- protecting a portion of depositor wealth in order to avoid bank runs, personal hardship and stress for social welfare systems;
- ensuring financial stability by strengthening depositor confidence and a more effective supervision and resolution of cross-border banks;
- enhancing the Internal Market:

[63] Recital 17 of Directive 2009/14/EC and Recitals (not numbered) of Directive 94/19/EC.

[64] A general discussion of whether DGS as such induce moral hazard is not part of this impact assessment. This general question has been decided when DGS were introduced by Community legislation in 1994. Adverse selection from the perspective of banks, however, is addressed in Sections 4.4 and 7.9. More specifically, there is no moral hazard for banks since DGS are only triggered if they are closed and DGS offer thus no incentives in this regard. Moreover, from the perspective of depositors moral hazard is not discussed either since co-insurance, a portion of losses to be borne by depositors, has been abandoned by Directive 2009/14/EC and it cannot be assumed that depositors can assess the solidity of banks or that banks offering more than a certain interest rate have to be considered unstable. Supervision is the task of the competent authorities.

– ensuring a level playing field between banks wherever headquartered in the EU;

– allowing banks to choose the way of providing cross-border services (i.e. via direct operations in another Member State, branch or subsidiary) without restraints concerning the DGS regime.

Last but not least, it should be noted that the review maintains the principle set out in the recitals of the Directive that banks, not taxpayers, should in principle finance DGS. Therefore, this impact assessment does not deal with fiscal support for DGS[65].

The table below shows the hierarchy of the objectives (from general to operational) applicable to specific issues.

[65] The Directive does not distinguish between systemic crises and 'normal times' and it is not intended to change this approach. Were it changed, depositors would have no confidence since they would be implicitly told that their deposits were not safe in a systemic crisis. The Directive could then not achieve its goal to prevent bank runs.

Table 1: General, specific and operational objectives

	Problem drivers	Specific problems stemming from the problem drivers	Operational objectives	Specific objectives	General objec-tives
1	**Differences in and appropriateness of the level and scope of coverage**	If depositors feel that a significant part of their deposits is not covered, they will run on their banks. Differences lead to complex topping up arrangements and long payout delays in cross-border situations. Potential depositors may not choose the best product but the most comprehensive scheme, potentially distorting competition and limiting the benefits of the Internal Market.	Ensure that deposits are covered to the highest economically feasible and cost-efficient extent also in relation to the potential number of bank failures. Reduce differences in the level and scope of coverage. Provide alternative solutions to the current 'topping up' regime.	Determine the appropriate coverage level. Provide for level playing field and enhanced product selection. Simplify arrangements applicable in cross-border situations	**Strengthen depositor confidence - Enhance financial stability - Protect a part of depositors' wealth – Enhance the Internal Market**
2	**Inadequate payout procedures**	If depositors have the choice to withdraw their deposits before the DGS is triggered or to wait several weeks after the DGS steps in, they will run on their banks in order to get money for the food, bills etc.	Ensure clear and fair payout modalities. Ensure that DGS are capable to deal with payout situations. Involve DGS at an early stage. Improve information exchange between banks and DGS.	Reduce payout delays.	
3	**Insufficient depositor information on functioning of schemes**	If depositors do not know whether their deposits are protected, they will run on their banks. They may also hesitate to deposit their money at foreign banks or branches if they do not know how other schemes function.	Clarify and elaborate existing information obligations of banks.	Inform potential and existing depositors of their deposit protection conditions.	
4	**DGS funding mechanisms different across the EU (ex-ante / ex-post)**	Different funding mechanisms potentially distort competition. Mere ex-post funding would be pro-cyclical: it drains liquidity from banks in times of stress. Moreover, unlike in ex-ante schemes, the failed bank does not contribute to payout.	Increase convergence between DGS.	Provide for a level playing field.	
5	**Level of funding of DGS: insufficient and different across the EU**	If DGS have insufficient funds, depositors may not be paid out. If they are aware beforehand, depositors will lose confidence and will run on their banks. Mere ex-post funding would be pro-cyclical: it drains liquidity from banks in times of stress. Moreover, unlike in ex-ante schemes the failed bank does not contribute to the payout.	Strengthen funding mechanisms and reduce differences between them.	Enhance funding of DGS. Provide for a level playing field.	
6	**Banks contributions to DGS not based on risk exposure**	Lack of incentives for sound risk management may make financial system more vulnerable.	Provide for contributions to schemes which adequately reflect the degree of risk incurred by banks.	Provide incentives for sound risk management. Ensure that bank finance DGS.	
7	**Limited mandate of DGS (only payout, no bank resolution)**	If DGS had a broader mandate, their funds originating from the private sector could be used to support ailing banks – this may reduce the need for taxpayers' money for support measures.	Ensure adequate funding for DGS with additional tasks. Ensure that DGS with intervention powers remain sufficiently funded to fulfil their payout obligation if charged with additional tasks.	Facilitate private sector solutions in crisis situations.	
8	**Lack of cross-border cooperation between DGS**	High degree of fragmentation may mean that DGS with fewer resources would be hit more by a big failure than a DGS with more resources. This is aggravated by the lack of mutual borrowing between schemes across the EU. As a result the taxpayer might have to step in if a DGS has insufficient financial resources.	Provide for a solution which would make the schemes cooperate effectively.	Protect depositor and taxpayer welfare regardless where in the EU deposits and their holders are located.	
9	**Mutual and voluntary schemes exempted from DGS**	Depositors would not be covered if a mutual system collapses. Letting these schemes further advertising an 'unlimited protection' could lead to competitive distortions if from end-2010 all DGS are prohibited to increase their coverage levels above €100 000.	Consider including mutual and voluntary guarantee schemes in the DGS Directive	Enhance depositor protection. Provide for a level playing field for the banks across the EU.	

Source: Commission services.

7. POLICY OPTIONS: IMPACT AND COMPARISON

This section compares the impacts of policy options for each area on the relevant stakeholders (DGS, banks and depositors). The policy options have been assessed in terms of effectiveness (i.e. the extent to which they achieve the objectives of the proposal), efficiency (notably cost-effectiveness) and coherence with other overarching objectives of EU policies. The following score system has been used for the assessment of a potential impact: from slightly positive (+) to strongly positive (+ + +), from slightly negative (–) to strongly negative (– – –), no impact: 0.

For simplification purposes, with regard to most issues, a step-up approach has been taken, i.e. already chosen preferred options serve as the baseline for the assessment of the following issues.

The analysis is mostly based on the figures from the study elaborated by the Commission's Joint Research Centre (JRC); in areas not covered by this study other sources have been used[66]. The JRC developed numerous scenarios (changes in the level and scope of coverage, funding mechanisms, payout, etc.) in order to facilitate the assessment of the potential impact of various policy options on stakeholders. In this context, it should be noted that:

- The impact on banks has been presented both regarding *normal times* (when only ex-ante contributions are being collected and they influence operating profits of banks) and in a *crisis situation* (when also additional (ex-post) contributions need to be paid by banks). The latter, assuming that additional contributions are paid up to the maximum required ceiling (i.e. ¼ of all contributions), would have the strongest impact on bank profitability, and thereby it should be regarded as the worst-case scenario[67].

- Higher costs and lower profits for banks may render them less attractive for investors, mitigating their own funds and thus diminishing the capacity to grant credits. However, this effect cannot be measured and it is not expected to be significant in the context of the preferred options.

- The impact on depositors has been presented as the worst-case scenario assuming that *all* additional bank costs are *entirely* passed on to depositors. In practice, however, these costs may be passed on not necessarily fully but only partially keeping in mind competition between banks. The real impact is thus expected to be lower.

As most of the parts of the impact assessment pertain to the provisions of existing EU legislation, the analysis of the type of policy instrument was assumed to be superfluous. Some issues presented in this impact assessment, such as the level of coverage, risk-based contributions, DGS mandate and a pan-EU DGS, will likely be subject of a report rather than a legislative proposal at this stage.

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66 See the overview preceding the statistical annexes.

67 The figures on the potential impact on banks should be interpreted very carefully as the samples of banks in most Member States (based on available data) are usually small (see ibid).

7.1. Level of coverage

The following policy options were taken into account as regards the extent of harmonisation of coverage levels in Member States:

- *Option 1 (current temporary approach):* Minimum harmonisation of the coverage level set at €50 000 (Member States are not allowed to apply coverage levels lower than the minimum set in the Directive, but they are allowed to apply higher coverage levels).

- *Option 2:* Maximum harmonisation of the coverage level (all Member States must apply the same fixed coverage level specified in the Directive). As regards this option, the following sub-options related to the level of coverage were taken into account: [68]

    (a) fixed coverage level of €50 000 (current approach);

    (b) fixed coverage level of €100 000 (according to Directive 2009/14/EC, this level of coverage is to be applied from 31 December 2010 onwards);

    (c) higher fixed level of coverage (e.g. €150 000 or €200 000).

The above options and sub-options within Option 2 are mutually exclusive. The options implying unlimited coverage and a coverage level based on selected financial or economic indicators, e.g. the size of deposits or GDP per capita, have been discarded at an early stage.

The approach of minimum harmonisation (Option 1) resulted in significant differences between the coverage levels in Member States. If reverted to, potential serious competitive distortions between Member States would remain, i.e. in times of financial distress deposits could be shifted from banks in Member States with a lower coverage level to those with higher protection. Such movements of deposits, based solely on one factor (the level of coverage), may involve some significant costs for (a) depositors (interest rate earnings potentially lost due to switching from one bank to another), (b) banking industry (a sudden and significant outflow of deposits may create heavy liquidity strains) and (c) real economy (banks may sizeably limit their lending activity in times of financial instability, and eventually government intervention and the use of public funds may be necessary).

The approach of maximum harmonisation (Option 2), which requires a fixed level of coverage in all Member States and does not allow any differences in coverage levels within the EU would result in creating a level playing field within the Internal Market, avoiding cross-border competitive distortions, strengthening depositor confidence, abandoning complex topping up arrangements, etc.

Various levels of coverage have been considered as to maximum harmonisation (Options 2a, 2b, 2c). The expected impact of various coverage levels in terms of the amount of covered deposits and the number of fully covered deposits (in relation to the amount/number of eligible deposits) have been presented in Table 2.

[68] The analysed options assume that the coverage level is applied on a 'per depositor per bank' basis (as stipulated by the Directive (see Annex F).

Table 2: The amount and the number of covered deposits with relation to the eligible deposits in the EU

Ratio	As of end-2007	Coverage level			
		€50 000	€100 000	€150 000	€200 000
Amount of covered deposits / Amount of eligible deposits	61.1 %	58.6 %	71.8 %	81.0 %	88.4 %
Number of fully covered deposits / Number of eligible deposits	88.8 %	91.0 %	95.4 %	96.5 %	97.2 %

Source: European Commission (JRC).

As Table 2 shows, setting the fixed coverage level at €50 000 (Option 2a) would decrease the amount of covered deposits from 61% (as of end-2007) to 59% of eligible deposits[69]. It would, however, raise the number of fully covered deposits from 89% to 91% of eligible deposits. Adopting the above coverage level would increase total bank contributions from €1.8 billion (in 2008) to €2.2 billion (see Annex 4). At the same time, it would decrease operating profits of banks by 1.9% (with a stronger impact in EU-12 – see Annex 5). If, in theory, bank costs are fully passed on to depositors, the expected reduction of interest rates on saving accounts would be less than 0.1% or bank fees on current account maintenance would increase by less than €2 per year per account (see Annex 6).

This option could negatively influence both depositor confidence and financial stability. Currently, 16 Member States either already apply the coverage level of at least €100 000 or have legislation in place stipulating the introduction of such coverage in 2010 (see Annex 1). Reverting to the coverage level of €50 000 would thus be confusing for depositors and could undermine their confidence again, unnecessarily aggravating a risk of runs on banks. It could also be misinterpreted by the general public and financial markets as a lack of a clear vision and consistent overall strategy in the EU related to reforming DGS which are a key element of the financial safety net. Therefore, the idea to revert to the coverage level of €50 000 would be counter-productive to gradually restoring the still fragile financial stability in the EU.

Setting the fixed coverage level at €100 000 (Option 2b) would increase the amount of covered deposits from 61% (as of end-2007) to 72% of eligible deposits. It would also raise the number of fully covered deposits from 89% to 95% of eligible deposits (see Annex 3a-b). Adopting the above coverage level would increase total bank contributions from €1.8 billion (in 2008) to €2.6 billion (see Annex 4). At the same time, it would decrease operating profits of banks by 4% (with a stronger impact in EU-12 – see Annex 5[70]). If bank all costs are

69 In its legislative proposal of 15 October 2008, the Commission stated that, according to estimates, about 65% of the amount of eligible deposits were covered under the previous regime (i.e. the minimum coverage level of €20 000) and the newly proposed coverage levels of €50 000 and €100 000 would cover about 80% and 90% of eligible deposits respectively. However, those figures were calculated on the then available data (as of 2003) and since then the amount of eligible deposits noticeably increased in the EU, while the amount of covered deposits remained almost unchanged. It is related to the fact that the average deposit size has increased in recent years (see Annex 3a).

70 According to Annex 5, the average 5.5% decrease in bank profits is expected in EU-12. The strongest impact is expected in BG, EE and LV (about 10-15% decreases). The impact is related to the amount of eligible deposit and the corresponding operating profit of each bank. If in a sample there are banks with a small operating profit (as in the case of BG and EE), the variation of the operating profit will be very affected when increasing contributions (additionally, in EE, the sample includes only two banks). Moreover, as regards EE and LV the expected impact is high because of their low levels of coverage in 2007 (less or equal to €15 000).

passed on to depositors, they may expect a maximum reduction of interest rates on saving accounts of less than 0.1% or increasing current account maintenance fees of around €3.5 per year per account (see Annex 6).

Setting the fixed coverage level at €150 000 or €200 000 (Option 2c) would bring quite substantial benefits in terms of increasing the *amount* of covered deposits (see Table 2). At the same time, however, it would bring only very marginal (almost negligible) benefits in terms of increasing the *number* of fully covered deposits – comparable to those that could already be achieved by adopting the fixed coverage level of €100 000. Moreover, the coverage levels of €150 000 or €200 000 would have higher cost implications for banks (a decrease in operating profits of about 6-7%) and depositors in comparison with the two lower levels (see Annexes 5 and 6).

Finally, it should be noted that during the Commission public consultation conducted last year[71], most stakeholders were in favour of setting the coverage level at €100 000 (about 50% of those who responded – compared to about 20% who preferred maintaining coverage at €50 000). The proponents of the €100 000 level regarded it as simple, transparent, stable, adequate for restoring depositor confidence, etc. The opponents were afraid that the costs for banks would not outweigh the rather marginal benefits. About half of the remaining contributors either suggested raising the level to between €50 000 and €100 000 or notably higher or even unlimited coverage. About 80% of respondents were of the opinion that the level of coverage should be fixed to create a level playing field. This issue has also been consulted with Member States after the public consultation. At the last meetings of DGSWG and EBC (in February and March 2009 respectively), only a few Member States still considered the level of €100 000 as too high; the others explicitly or implicitly supported it[72].

Conclusion: The approach of minimum harmonisation proved to be ineffective as regards protecting depositor wealth and is incoherent with the Treaty objective to ensure the proper functioning of the Internal Market. The approach of maximum harmonisation would create a level playing field for all Member States. Among the harmonised coverage levels, €100 000 seems to be the most effective one as it would ensure a substantial progress in terms of increased deposit protection compared to the pre-crisis period. Moreover, keeping in mind that it was stipulated in the Directive quite a long time ago that the level of coverage would be applied from end-2010, it may be regarded as a kind of 'exit strategy' for Member States which introduced unlimited deposit guarantees as a result of the aggravation of the financial crisis in autumn 2008. All scenarios involve both benefits (extended depositor protection) and costs (increased bank contributions, reduced operating profits, potentially lower interest rates on savings or higher bank fees). In general, the higher the level of coverage, the higher benefits but also costs. It seems that the level of €100 000 is the balanced solution in terms of cost/benefit efficiency since the costs increase more or less proportionally in all scenarios (see Annexes 4-6) while the benefits of adopting a higher coverage level than €100 000 are very limited.

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71 See http://ec.europa.eu/internal_market/consultations/2009/deposit_guarantee_schemes_en.htm.

72 Depositors in NO are covered up to about €240 000. However, the average deposits amount to only €33 000 so that a reduction is unlikely to cut off many depositors from protection. If a neighbouring EEA country could apply a 140% higher coverage level, this would lead to a significant competitive distortion, in particular in the other bordering Nordic Member States. For sake of completeness, it should be noted that there is no particular impact on Member State with very low average deposits per depositor since then the coverage level is less relevant but does not lead to higher costs since the target level (see Section 7.8) would be accordingly lower in absolute figures.

The preferred policy option is therefore Option 2b.

Operational objectives	Policy options	Comparison criteria		
		Effectiveness	Efficiency	Coherence
Ensure that deposits are covered to the highest economically feasible and cost-efficient extent also in relation to the potential number of bank failures. Reducing differences in coverage levels Providing alternative solutions to topping up	1. Minimum harmonisation – coverage level of €50 000	-	n.a.	-
	2a. Fixed coverage level of €50 000 (current temporary approach)	o	o	o
	2b. Fixed coverage level of €100 000 (final approach – from end-2010 onwards)	**+ + +**	**+ +**	**+ + +**
	2c. Higher fixed level of coverage (e.g. €150 000 or €200 000)	+ + +	+	+ + +

**n.a. – efficiency (cost-effectiveness) of a measure cannot be estimated if the measure does not achieve the objectives set*

7.2. Exemptions from the coverage level

The following policy options were taken into account (of which Option 1 and 2 are cumulative and Option 3 is mutually exclusive in relation to Options 1 and 2):

- *Option 1 (current approach):* Indefinitely maintaining exemptions for social considerations in place on 1 January 2008 (i.e. not accepting new exemptions);
- *Option 2:* Higher coverage for temporary high deposit balances (THDB) stemming from some specific life events (e.g. real estate transactions) and limited in both amount and time;
- *Option 3:* Phasing-out the grandfathering after a transition period without particular coverage of THDB[73] but allowing a general protection of old-age provision products.

Maintaining the grandfathering for exemptions for social considerations existing before 2008 (Option 1) would be related to one Member State (unlimited protection of certain tax-privileged deposit savings accounts[74] in DK[75]). Therefore, it could lead to competitive distortions within the EU (see Section 4.1.2).

A higher coverage for temporary high deposit balances (Option 2) refers to a sudden (one-off) increase of the amount deposited on a bank account as a result of some specific life events.

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73 This would not prevent Member States from repaying deposits exceeding the coverage level if these deposits result from real estate transactions or are linked to particular life events such as marriage, divorce, invalidity or decease of a depositor provided that the costs for such repayments are not borne by DGS.

74 These include savings index-linked accounts, lump-sum pension accounts, personal pension accounts, instalment pension accounts, children's savings accounts, home savings contracts, educational savings accounts and establishment accounts.

75 It is worth noting that the Danish solution is similar but much more generous than the one existing in the US where so-called 'certain retirement accounts' (e.g. all types of individual retirement accounts, deferred compensation plan accounts provided by state and local governments, self-directed defined contribution plan accounts, etc.) enjoy a higher coverage level than standard deposits. The FDIC adds together all retirement accounts owned by the same person at the same insured bank, and insures the total amount up to $250 000 (see http://www.fdic.gov/deposit/deposits/insured/ownership2.html). This will remain even after the standard coverage level (now temporarily increased to $250 000 until end-2013) will return to $100 000 in 2014 (see http://www.fdic.gov/deposit/deposits/difactsheet.html).

This has so far been applied only in FI and DK (limited to real estate transactions). It has also been considered in the UK. This option would have to entail the following elements:

– definition of covered events[76];

– definition of a maximum coverage level;

– definition of a maximum time limit.

The Commission analysed only the impact of real estate transactions since it was regarded as the most relevant case and data on other events (e.g. personal injury compensations or inheritance) were not available on EU level. The following coverage levels were taken into account: €200 000, €300 000 and €500 000. The impact was calculated for the time limits of 3, 6, and 12 months.

In general, the higher the coverage level for THDB and the longer the time limit, the more costs for banks and for depositors (see Annex 9). The impact of coverage for THDB set at €200 000 for 3 months (the THDB scenario with the lowest impact analysed) would lead to an increase in annual contributions to DGS of €46 million after 2010 and a decrease in banks' operating profits of 0.6%. If, in theory, all additional bank costs were completely passed on to depositors, a decrease in interest rates on savings would be negligible (almost zero) and an increase in bank fees on current accounts should not exceed €0.2 per account per year. On the other hand, under the scenario with the highest impact analysed (a THDB coverage of €500 000 for 12 months), annual bank contributions would increase by €371 million after 2010 and their operating profits would decrease by 2.7%. If bank costs were entirely passed on to depositors, bank interest rates would decrease only very slightly (by 0.02%) or fees would increase by less than €1 per account per year.

The impact on depositors will be low since only a very limited number of depositors will have THDB just at the time of a bank failure. According to the Commission (JRC) estimates, in 2007, the average house price was above €100 000 in 15 Member States, of which it was above €200 000 only in 3 Member States (see Annex 8).[77] Therefore, in many Member States, an average house transaction already falls within the coverage level of €100 000. Many depositors with high balances can be assumed to have sought financial advice on how to invest a THDB, thereby lowering it (e.g. by investing it). The low number of depositors concerned also means that THDB coverage would not have an impact on financial stability.

The introduction of THDB coverage would also lead to an increase of human and financial resources needed for DGS. The definition of the three elements referred to above would be difficult to harmonise since the need to protect certain events (e.g. inheritance or divorce or real estate transactions) would likely be seen differently by Member States. If this was left to the discretion of Member States, the risk of competitive distortions would even be higher. Member States could also improve the rank of such depositors in an insolvency procedure,

[76] For example, in its consultation paper of March 2009, the FSA proposed that temporary high balances should benefit from additional protection where they arise from: (i) sale of a primary residence and property bought for dependent relatives, for use as their primary residence; (ii) pension lump sums; (iii) inheritance; (iv) divorce settlements; (v) redundancy payments; (vi) proceeds of pure protection contracts; (vii) court awards / out-of-court settlements for personal injury (for more details, see http://www.fsa.gov.uk/pubs/cp/cp09_11.pdf).

[77] According to European Mortgage Federation, there are 7 Member States with the average house price above €200 000.

e.g. by allowing the segregation of ownership as to such claims. Moreover, payout would likely be delayed.

Moreover, one could argue that if payments for social reasons or old age provision deposits are not covered, there may be an impact on public welfare. In general, there are no lump sum payouts in the mandatory state pension schemes in Member States (all Member States pay out monthly instalments instead of lump sums), or where it is possible, there is a limit of the entitlements (e.g. 25% in UK and SE). Lump sum payouts are much more wide-spread in privately funded pension schemes, and in this case a 100% payout in lump sum is also often used[78]. However, DGS are not designed to cover pensions since old age provision can take many different forms (e.g. investment, insurance, deposits or state payments). It would therefore seem preferable to examine pension protection in a broader context. Although there were no sufficient data to evaluate exactly the potential impact and costs of protecting pension lump sum payouts, the size of these lump sum payouts is unlikely to be very high implying that only a small fraction of them can be expected to be above the protection level of €100 000. Therefore, the impact would be very limited as most pension lump sum payouts would be protected under the standard coverage level. This also means that the impact on public welfare would be limited.

Phasing out the grandfathering without introducing particular coverage for THDB (Option 3) would have a very limited negative impact since currently only depositors in DK and FI (the latter limited to real estate transactions) profit from it. For DK this would mean abandoning unlimited protection of certain tax-privileged savings accounts. Moreover, only depositors exceeding the coverage level would profit from such exemptions. On average in the EU, their number is very low (4.6%). However, their number in DK is much higher (18.8%). Leaving it open to Member States to introduce a general system for protecting old-age provision products would address social issues but not lead to market distortion since deposits would then not be privileged among other old-age provision products.

Finally, it should be noted that during the public consultation conducted by the Commission last year, interest in potential exemptions from a fixed coverage level – including temporary high balances – was rather low (only half of the respondents replied to the questions on that issue). Most of those who responded (60 %) were against any exemptions because it was perceived as running counter to harmonisation of the coverage level and confusing for depositors. About two thirds of respondents argued that covering temporary high balances would be complicated, distorting competition and delaying the payout process.

Conclusion: Option 3, as compared to Option 1, is particularly effective as to the prevention of competitive distortion, i.e. reaching a level-playing field. Option 3 is not as effective as Option 2 to protect depositor wealth but more effective than Option 2 as to the avoidance of competitive distortions. In comparison with Option 2, Option 3 is very efficient since it saves administrative costs and limits contributions of banks to DGS. As regards cost efficiency of Option 2, it does not depend too much on a coverage level for THDB (€200 000, €300 000 or €500 000), but it depends quite heavily on a time limit for such protection (3, 6, or 12 months) (see Annex 9).

The preferred policy option is therefore Option 3. Moreover, Option 2 could be considered as well provided the time for THDB protection is limited.

[78] http://ec.europa.eu/employment_social/spsi/docs/social_protection_commitee/final_050608_en.pdf.

Operational objectives	Policy options	Comparison criteria		
		Effectiveness	Efficiency	Coherence
Determining an appropriate level of coverage	1. Indefinitely maintaining exemptions for social considerations existing before 1 January 2008 (current approach)	0	0	0
	2. Higher (limited in time) coverage for temporary high deposit balances	+ +	–	+
	3. Phasing out the grandfathering after a transition period without particular coverage of THDB	**+**	**+**	**+**

7.3. Scope of coverage: eligibility of depositors

The following policy options were taken into account (of which Options 1 and 2 are mutually exclusive while the sub-options are cumulative):

- *Option 1 (current approach):* Leaving all eligibility criteria to the discretion of Member States and mandatorily include only SME permitted to draw up an abridged balance sheet.

- *Option 2:* Harmonised approach to the eligibility criteria. The following sub-options have been considered:

  (a) excluding enterprises in the financial sector, i.e. financial institutions, insurance companies, investment funds, pension funds;

  (b) excluding authorities at all levels;

  (c) including depositors having a relationship with the failed bank, like managers, directors, important shareholders (>5%), auditors (and their close relatives), companies in the same group, depositors that obtained special conditions aggravating the financial situation of the bank;

  (d) including all enterprises.

If all categories of depositors were *included* (apart from banks and the depositors who opened their account anonymously that are excluded mandatorily), there would be an increase in contributions for each DGS of 7.6% and it would reflect into a maximum decrease in banks' operating profits of 1.1% at EU level. If all categories referred to in Annex I of the Directive were *excluded* from protection, contributions to DGS would decrease on average by 8.7% and consequently banks' operating profits would increase by around 0.7% at EU level (Annex 11a-c).

If costs were (in theory) fully passed on to depositors, an inclusion of all categories (the most expensive scenario for banks) would lead to a reduction of 0.02% in interest rates on savings or an average increase in current account fees of €0.5 per account per year. A partial inclusion of only some categories would presumably even have a lower impact.

Leaving the eligibility criteria to the discretion of Member States (Option 1) is ineffective as to ensuring appropriate coverage for all depositors in the EU, reducing differences in scope of coverage, enhancing depositor confidence, avoiding market distortions and improving depositor information (see Section 4.1.3).

Excluding enterprises in the financial sector (Option 2a) would have a rather limited impact[79] since they are already excluded in all Member States but for DK, GR, FI and UK[80]. Enterprises in the financial sector can assess the risk of their operations. Some investment funds associations argued in the public consultation that their deposits should be mandatorily covered by DGS since these deposits belong in the end to unit holders. The impact of bank failures on collective investment undertakings is already taken into account by Article 52(1)b of Directive 2009/65/EC[81], which limits *any* investment (including deposits) to 20% of the fund's size. Such deposits are only covered in 3 Member States (DK, FI and SE)[82].

Excluding authorities at central and local level (Option 2b) would have a limited impact since for the majority of them, the coverage level of €100 000 would be insignificant (around 83% of local authorities in the EU are estimated to have deposits of more than €50 000 and about 72% of more than €100 000). Since central authorities are likely to hold even higher deposits than local authorities, the impact on them would even be lower. The impact would also be limited because authorities are currently included only in 7 Member States (CZ, DK, FI, GR, LT, PL and SE[83]). The amount of their total deposits (i.e. before application of the coverage level) can be found in Annex 10e. Since in all other Member States they are excluded from coverage, this would not have any impact in 20 Member States. This corresponds to a rather small impact on each DGS (a decrease in contributions of 0.2% at EU level). The impact on banks' operating profits would be negligible (see Annex 11c). In particular, local and central authorities also have easier access to credits than citizens[84] and even if municipalities are technically insolvent, there will be means under national law to ensure that they can continue to fulfil their basic tasks towards citizens. Their limited number compared to all other depositors does also minimise the impact on financial stability in case of a bank failure.

Including depositors having a relationship with the failed bank (Option 2c) would have an impact on depositors in 20 Member States where they have been excluded. They are covered only in CY, DK, FI, PL, SK, SI and SE. Dropping the timely verification of eligibility criteria would contribute to a reduction of payout and of administrative costs for DGS, which would have to be borne by banks contributing to DGS. Only competent authorities and courts would decide about the individual responsibility for a bank failure. Since the number of concerned depositors seems very low, their inclusion would not lead to a significant increase of costs for DGS and banks and may even be counterbalanced by the savings of administrative costs. If,

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79 Even though only the impact on certain categories of financial institution could be calculated, for the following assessment it is deemed that the impact on all kinds of financial institutions would not be significantly different. Furthermore, no data were available as to financial institutions in general, since they are a quite inhomogeneous group.

80 On the contrary, if only insurance companies and pension funds were included into the scope of coverage, this would lead to an increase in contributions for most DGS (on average in the EU about 5%), and a decrease of banks' operating profit of 0.2% at EU level (see Annex 11b-c).

81 Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS), OJ L 302, 17.11.2009, p. 32.

82 In DE, such deposits are included by mutual guarantee schemes. However, these schemes are not subject to the German legislation on DGS.

83 However, in CZ and LT the average deposits of municipalities in these Member States are the lowest in the EU so that the impact there might be higher than in DK and SE (see Annex 10e). However, no data are available as to the covered deposits...

84 Under Annex VI, no. 8, 9, 23, 29 and 32, of Directive 2006/48/EC, exposures to local authorities with a maturity of less than 3 months are assigned a risk weight of only 20% compared with a risk weight of 75% for retail exposures. This means that for short-term loans to authorities, banks have to maintain less own funds, which makes loans to local authorities more attractive.

however, these depositors were excluded, high investigation costs would be incurred with little savings due to their low number.

Including all enterprises regardless of their size (Option 2d) would have an impact on medium and large enterprises currently excluded in 13 Member States (AT, BE, DE, EE, IE, LU, MT, NL, PL, RO, SK, SI and UK)[85]. If they were included, contributions to DGS would increase by 1.3%. This would result in a 0.7% decrease in banks' operating profits at EU level (see Annex 11c). On the other hand, if only micro and small enterprises were covered as it is now the case, the contributions would drop by €254 million, i.e. by 13% (see Annex 11d).

Finally, as regards the public consultation conducted by the Commission last year, almost all respondents were in favour of harmonisation of eligibility criteria for depositors to ensure a level playing field. Nearly all respondents suggested excluding financial institutions (regarded as professional entities) and a clear majority was in favour of excluding all kinds of authorities (since taxpayers' money should not be covered by privately-financed DGS and authorities should be expected to behave reasonably in a crisis, thus minimising the risk of a bank run). Some suggested covering only local authorities because the coverage level of € 100 000 would be significant to them. A majority suggested maintaining coverage for SMEs and excluding larger enterprises since they deemed €100 000 relevant to smaller companies. *Conclusion:* Options 2a-d are effective as regards creating a level playing field and ensuring a better protection of depositor wealth and they could highly contribute to reducing payout delay. In this context it should be noted that it is relatively easy to distinguish between categories of depositors but time-consuming and costly to distinguish within them. These options would also be efficient since they save administrative costs for verifications of eligibility during payout and only moderately increase contributions of banks to DGS.

The preferred policy options are therefore Options 2a-d.

Operational objectives	Policy options	Comparison criteria		
		Effectiveness	Efficiency	Coherence
Reducing differences in the scope of coverage	1. Leaving all eligibility criteria to the discretion of Member States (current approach)	0	0	0
	2. Harmonised approach to the eligibility criteria	**+++**	**++**	**+**
	2a. Excluding enterprises in the financial sector	**++**	**++**	**+**
	2b. Excluding authorities	**++**	**++**	**+**
	2c. Including depositors having a relationship with the failed bank	**++**	**+**	**+**
	2d. Including all enterprises	**+**	**+**	**+**

7.4. Scope of coverage: protected products

The following policy options were taken into account (they are cumulative, not mutually exclusive – except for Option 1):

- *Option 1 (current approach)*: Broad definition of deposits but discretionary exclusion of certain deposits: structured products and debt securities / liabilities arising out of own acceptances or promissory notes; allowing Member States to choose between DGS and ICS if products covered by both schemes are concerned by a bank failure.

[85] Based on the current criterion, i.e. the option to abridge balance sheets (see Annex B).

- *Option 2*: Excluding coverage of debt evidenced by a certificate issued by the same bank and debt securities and liabilities arising out of own acceptances and promissory notes (currently optional).

- *Option 3*: Excluding structured products whose principal is not repayable in full (currently unclear).

- *Option 4*: Including deposits in non-EU currencies (currently optional).

- *Option 5*: The approach to products covered by DGS and ICS: clarifying that in the event of a claim on a credit institution subject to both ICS and DGS, the claim should be dealt with by the DGS.

Retaining the current approach is ineffective (see Section 4.1.4) since depositors may choose the 'best DGS' covering the deposits they hold but not the 'best product or service'. The inclusion of products that have investment character could lead to a double protection of depositors under DGS and ICS and the identification of depositors and covered products would be complicated and therefore delay payout.

The impact of excluding debt certificates (Option 2) on depositors would be low since in all Member States but HU, LV and SE debt securities and liabilities arising out of own acceptances and promissory notes are excluded (see Annex B)[86]. Exclusion would only have an impact on depositors at banks registered in these three countries. The impact on DGS and, in turn, on banks financing them is that costs are lower since less deposits must be covered.

Structured products (Option 3) have not been defined in the Directive and it is unclear whether their coverage is required by the Directive or not[87]. However, they are only covered at a minority of DGS[88] so their exclusion would lead to only slightly lower costs for DGS and banks financing them as fewer deposits would have to be covered.

Deposits in non-EU currencies (Option 4) are covered in all Member States but for AT, BE, CY, DE, LT and MT. The only figures available on the amount of such deposits are from AT (7% of eligible deposits), BE (8% of total deposits), LT (11% of eligible deposits) and BG (14% of eligible deposits). However, in the public consultation conducted by the Commission last year, stakeholders from only few Member States referred to the importance of such depositors in their country. On the basis of an average of 5% of eligible deposits, this would lead to the rough estimation that there are €273 million of covered deposits in non-EU currencies in the EU. Correspondingly, DGS had to cover this additional amount. The impact

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[86] By nature, also mutual schemes cover them since they protect the bank as such and thus indirectly cover all liabilities of a bank.

[87] Since the current definition in Article 1(1) of the Directive focuses on repayable credit balances in an account, it could be argued that products that are not repayable in par would not fall under this definition.

[88] EFDI asked DGS whether deposits with embedded derivatives were covered with the result that the position of EFDI-members differs but if the terms of repayment are fixed and cover at least the originally paid-in capital then the DGS-protection works in all countries. But if there is a market risk to the capital amount, not only with the earning of interest but also linked to financial performances of share (or other) indices, the protection is not granted by the DGS in most of the countries. From the (not published) annex to the report on scope of coverage under national DGS (2008) it seems that such deposits are only covered in HU.

on banks contributions to DGS under the chosen target level 1.96% of eligible deposits (see Section 7.8) would be at maximum €5.3 million (€273 million x 1.96%).[89]

If the DGS Directive prevails over ICS in case of a double coverage (Option 5), depositors would be confident that deposits are always reimbursed under the DGS Directive. Compared to the 'worst case scenario' of the status quo (that a Member State chooses to reimburse depositors by using the ICS) depositors enjoy – under the current rules – a higher coverage (at minimum €50 000 and soon €100 000 compared to a current minimum coverage in the framework of ICS of €20 000 raised to €50 000). There is no impact on banks because the amount of covered deposits does not change – only the right to choose ceases to exist.

All options but Option 1 effectively reduce differences in the coverage level since they lead to harmonisation. Moreover, Options 3 and 4 ensure a high level of protection with a resulting higher depositor confidence into DGS. Options 2 and 3 contribute to reducing the payout delay. Options 3 to 5 lead to slightly higher costs but this should be more than outweighed by the gain in depositor confidence and financial stability.

During the public consultation conducted by the Commission last year, most respondents (about two thirds) were in favour of covering structured deposits. Opponents indicated the market risk incurred by such deposits and regarded them as investments that should only be covered by ICS and not DGS. As to debt certificates, a slight majority was against including them in the scope of deposit protection since securities should only be covered by ICS and that they are usually not redeemable before maturity, meaning that a run on banks caused by debt certificates would be unlikely. Proponents of including certificates highlighted their role as easily accessible savings products (important in some Member States). An overwhelming majority supported harmonising coverage for both structured deposits and debt certificates and having clear definitions of such products. Finally, most respondents (about three quarters) were in favour of coverage for non-EU currencies. Opponents emphasised the currency risk.

Conclusion: Options 2-5 are effective in order to achieve a level playing field and to reduce the payout delay. These options are also efficient since administrative costs will be saved and contributions can be expected to remain stable (higher contributions to cover non-EU currencies but lower contributions since structured products and debt certificates will not be covered). Option 5 is also coherent with the ICS Directive (see Annex C).

The preferred policy options are therefore Options 2-5.

[89] The data in this paragraph are from the (not published) annex to the EFDI report on scope of coverage (see the previous footnote).

Operational objectives	Policy options	Comparison criteria		
		Effectiveness	Efficiency	Coherence
Reducing differences in the scope of coverage. Providing alternative solutions to current topping up regime.	1. Retain current approach (all optional)	0	0	0
	2. Exclude structured products not repaid at par	**+**	**+**	**+**
	3. Exclude debt certificates	**+**	**+ +**	**+**
	4. Include accounts in non-EU currencies	**+**	**–**	**+**
	5. DGS prevails over ICS	**+**	**-**	**+**

7.5. Payout delay and modalities

The following policy options were taken into account as regards the payout delay (Options 1-4 are mutually exclusive):

- *Option 1 (current approach):* Retaining the payout delay of 20-30 working days (from end-2010 onwards). DGS can require depositors to submit application forms on paper.

- *Option 2:* Emergency payout (e.g. €10 000 in 3 days), but retaining the standard delay of 20-30 working days for the exceeding deposits.

- *Option 3:* Reducing the payout delay to one week, i.e. 7 calendar days[90] (without extension) after a transition period of 3 years. Payments by DGS on their own initiative without the need for applications[91]. Requirements for banks to tag eligible deposits and to provide a single customer view aggregating all deposits of a depositor.

- *Option 4:* Requiring a transfer of deposits to another bank or a bridge bank within the one-week delay set in Option 3 (if the transfer is not feasible, Option 3 should be applied).

The following policy options were taken into account as regards payout modalities (Options 5-8 are cumulative, but their sub-options are mutually exclusive):

- *Option 5:* Payout of covered deposits must be made:

  (a) in the currency chosen by the DGS concerned *(current approach)*;

  (b) in the same currency as the deposits were paid in;

  (c) in the currency of the DGS (counter value of the deposits on date of payout).

- *Option 6:* Interests that have not been credited at the time of a bank failure:

  (a) are paid or not, within the discretion of the Member States *(current approach)*;

90 It would lead to a clear definition of the payout delay, not blurred by different dates of national holidays in Member States and possibly different definitions of a 'working day'.

91 Without prejudice to request to depositors to (preferably electronically) indicate their new account if necessary (unless e.g. cheques are used for payout).

(b) are paid out according to the rate agreed with the bank until the date of failure but replaced with interest payments on the basis of current average market rates if interest cannot be calculated with reasonable efforts;

(c) are not paid by the DGS at all.

- *Option 7:* Dealing with small deposits:

(a) all deposits regardless of their size must be paid out by DGS in full up to the coverage level *(current approach)*;

(b) introduction of a 'de minimis' rule (i.e. deposits below a certain size, e.g. €10 or €20, would not have to be paid out).

- *Option 8:* Set-off arrangements:

(a) set-off and counterclaims unlimited but optional *(current approach)*;

(b) limiting set-off to claims that have fallen due or are delinquent;

(c) discontinuing set-off for depositors, but limiting set-off in the insolvency procedure (against the DGS that has subrogated into the depositors' claims against the bank);

(d) discontinuing set-off completely.

Retaining the current approach (Option 1) would mean that depositors have to wait 1 month to 6 weeks for their money. This delay would likely lead depositors to withdrawing their money and running on a bank in order to avoid this delay.

The option stipulating an emergency payout (Option 2) would mean that DGS would have to pay out twice (for most depositors, i.e. those who have more deposits than e.g. €10 000). Even though the costs assigned to payout (stemming from involving human and technical resources) cannot be precisely estimated due to the lack of data, they would likely almost double as a result of making the payout exercise twice. Making a rapid payout without a proper verification of claims (due to time pressure) may result in a relatively high rate of erroneous payments compared to normal circumstances. As a result, it would involve further costs for DGS – stemming from involving resources required to recover erroneously paid money. It may be practically very difficult and time consuming as it would likely force DGS to challenge claims before the courts. It would also make false impression of DGS incompetence. In general, making an emergency payment would send a very negative market signal to depositors who could think that the DGS does not have sufficient funds to pay the whole amount; this, in turn, could lead to contagious effects and a run on banks.

As to reducing the payout delay to one week (without extension) after a transition period (Option 3), it would entail tagging eligible deposits (i.e. marking them in bank books so that, in case of a bank failure, no eligibility test has to be made), data cleansing (i.e. any IT and manual data cleansing undertaken - e.g. postcode or date of birth of accounts' holders - to allow the unique identification of a customer) and creating a single customer view (i.e. a comprehensive identification of the complete position of each depositor). They have been

identified in the UK study[92] as indispensable for a payout within a week[93]. The cost analysis conducted for the UK and extrapolated to the EU suggests that tagging would incur one-off costs for EU banks around €1.1 billion, data cleansing about €1.7 billion and the single customer view about €3.5 billion. These total costs of €6.2 billion are assumed to be faced over 5 years (thus, annual costs would be about €1.2 billion)[94]. They are expected to be higher for medium-sized banks than for large ones (see Annex 12d). The above costs would translate in an average 1.4% decrease of bank operating profits at EU level. In the unlikely case that all those costs were passed on to depositors, it would mean a 0.02% decrease in interest rates on savings or an increase in bank fees of less than €2 per year per account (see Annex 12 e-f). However, the single customer view would also lead to benefits for banks since they would better know their customers and could offer them products they have not bought yet.

The option requiring the transfer of deposits to another bank or a bridge bank within one week (Option 4) goes beyond the typical DGS mandate in the EU and is typically part of a bank resolution.[95] This option is similar to the insured deposit transfer (IDT) transaction used in the US as an alternative to the straight deposit payoff; it may ensure the continuity of service to depositors[96]. This option is also similar to the purchase and assumption (P&A) transaction[97], which is the preferred resolution method used for failing banks in the US (deposit payoffs are only used when no acquiring institution can be found or if a bid for a P&A transaction is not the least costly option to the insurance fund)[98]. More recently, the 2009 Banking Act in the UK created the Special Resolution Regime (SRR) which allowed the UK authorities to transfer all or part of a bank to a private sector purchaser, and to transfer all or part of a bank to a bridge bank (a subsidiary of the Bank of England) pending a future sale[99].

As regards the currency used for payout of deposits, Option 5b would not lead to costs for the depositor but for the DGS that may have to bear currency risk and transaction costs. Option 5c

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92 Ernst & Young, Fast payout study – final report, November 2008 (report commissioned by the FSA, BBA and FSCS, available at http://www.fsa.gov.uk/pubs/other/fast_payout_report.pdf).

93 For example, it was stated that the lack of common unique customer identifiers in many UK banks (such as e.g. the social security number used by the FDIC in the US) slowed down calculation of compensation across multiple accounts held by a customer. In this context, creating a single customer view (SCV) was indicated as a key factor to allow faster calculation of individual compensation (see ibid).

94 However, if eligibility criteria are radically simplified, the costs can even be expected to be lower since the tagging will be made easier and nearly obsolete (as only financial institutions, authorities and structured products are excluded which should be easy to identify).

95 See COM(2009)561.

96 The IDT transaction was created by the FDIC in 1983. In an IDT, the insured deposits and secured liabilities of a failed bank are transferred to a healthy institution or institutions – the so-called 'agent institution(s)'. The agent institution does not assume the direct liability in regard to these deposits; it acts as a 'paying agent' on behalf of the FDIC and disburses insured funds to depositors (it reduces the FDIC's costs to handle the failure). If a depositor requests it, the agent institution may open an account for them, which means that service to customers with insured deposits continues uninterrupted. See FDIC Resolutions Handbook (http://www.fdic.gov/bank/historical/reshandbook/ch4payos.pdf) or FDIC Claims Manual (http://www.fdic.gov/about/freedom/DRRClaimsManualVol1.pdf).

97 A P&A is a resolution transaction in which a healthy institution purchases some or all of the assets of a failed bank or thrift and assumes some or all of the liabilities, including all insured deposits. A popular type of P&A is a bridge bank (introduced in the US in 1987), i.e. a newly created national bank designed to maintain the operations of a failed bank until a more permanent solution, i.e. an acquisition of the failed bank by a third party (http://www.fdic.gov/bank/historical/reshandbook/ch3pas.pdf).

98 Ibid and http://www.fdic.gov/about/strategic/report/2008annualreport/ARfinal.pdf. During the current financial crisis P&A transactions have also been widely used by the FDIC.

99 For more details: http://www.bankofengland.co.uk/financialstability/role/risk_reduction/srr/index.htm, http://www.bankofengland.co.uk/financialstability/role/risk_reduction/banking_reform_bill/index.htm.

would have the inverse impact on depositors and DGS. Option 5c would make it less attractive for euro-area depositors to hold deposits with a bank registered in a Member State outside the euro area. In turn, this would affect competition within the Internal Market. Option 5b would consequently put banks outside the euro area on an equal footing with banks from the euro area.

As to interests that have not been credited at the time of a bank failure, Option 6b would lead to costs for the depositor only if interest cannot be calculated. As to structured deposits, the calculation of the interest payment may be difficult and time-consuming or sometimes may even not be calculable at all. In order to avoid a negative impact on the duration of payout, in such cases the DGS would be permitted to pay interest on the basis of current average market rate. It would of course lead to costs for the DGS and contributing banks. Option 6c would not lead to costs for the DGS but for the depositors. The impact of Option 6c on depositors and DGS would be high since currently, two thirds of DGS pay interest until the date of failure; those paying longer apply a fixed rate, a market rate or the originally agreed rate[100]. However, impact of Option 6c on the possibility of bank runs may be low since interest rates on current accounts are normally quite low and the withdrawal of savings deposits may – pending their conditions – lead to reduced interest payments.

The introduction of a 'de minimis' rule (Option 7a) would cause insignificant losses for depositors but may lead to saving administrative costs of DGS and reducing the payout delay. However, it may also lead to undermining depositor confidence since they may doubt whether their money is fully safe if some (even small) amounts are not to be paid out. If so, it may provoke a run on banks. It would also be difficult to set a 'de minimis' threshold since, keeping in mind different purchasing power in Member States, it might be perceived in one Member State as irrelevant but in the other Member State as not negligible. Moreover, there are not only benefits stemming form the application of the 'de minimis' rule, i.e. savings for DGS (amounts that have not been paid out), but also administrative costs to determine the amounts under the 'de minimis' threshold that are not eligible for payout. The analysis has shown that the additional administrative costs to identify such deposits would likely be substantially higher than the potential savings (see Annex 24).

Finally, in order to assess the impact of policy options related to set-off arrangements (Option 8), it is necessary to explain the legally complex follow-up to a bank failure. According to the Directive, DGS subrogate to depositors' claims against banks. In order to refinance themselves, DGS then try to get at least a part of these claims in the insolvency procedure.

Pending national insolvency legislation, two scenarios can be distinguished. If the liability of the customer (i.e. the claim the bank has against him or her) is sold by the insolvency practitioner to another entity, nothing changes for the DGS since the price paid by the buyer of the claim will be used to pay the creditors of the failed bank (i.e. also the DGS). However, in some Member States, the insolvency practitioner can or even must set off claims against the bank (i.e. deposits now claimed by the DGS instead of the depositor) against liabilities (i.e. the claim against the depositor). If the insolvency practitioner exerts this right, the DGS would not receive the amount that has been set-off and might thus have refinancing problems, leading to higher funding needs. The payment of the DGS to the depositor would remain untouched. DGS would in such a case have paid off the liability.

[100] EFDI Report on improvement of payment delays to depositors and promotion of best practices, p.40.

In order not to reduce DGS' efficiency, where they would later suffer from set off against the bank by the insolvency practitioner, there are two possible safeguards: either the insolvency practitioner is only permitted to set off against the deposits above the coverage limit so that the DGS would remain unaffected, or DGS enjoy priority above other creditors in the insolvency procedure (like in the US or Switzerland – see Section 7.8). Due to the different insolvency laws throughout the EU, it would be left to Member States to amend their insolvency law accordingly under option 8c.

The impact of abandoning set-off would be relatively low but would depend how set-off is understood. Set off may refer to a set off of claims either against all liabilities or against due liabilities. In the latter case, in general only a monthly instalment would be set off (and in only few cases a higher amount in case of payment difficulty), which leads to a very mow impact. If the whole liability can be set off, the impact is higher but still limited. The following figures should be seen as a worst-case scenario that is likely to be quite far away from the real impact since reliable data on the correlation between deposits and loans were not available. On the basis of the EU-average amount of deposits, the EU average impact would be an increase of payments of 3.5% only and not exceeding 11.4% in any Member State. Second, among the (only four) Member States providing own estimates, in three countries the estimated impact is very low (between 0.2% and 7.3%)[101].

As regards the public consultation conducted by the Commission last year, a clear majority of respondents (over 60 %) were against further reducing the payout delay, but many (almost 30 %) were in favour of shortening it to one week (with a few suggesting an even shorter period). Respondents were quite equally divided as to a transfer of deposits to another bank or an emergency payout (slightly more in favour of one or both of the above solutions than against them). Regarding payout modalities, a half of the respondents were of the view that deposits should be paid out in the same currency as they were paid in, most respondents (over 60 %) were in favour of paying interest that has not been credited at the time of failure or until insolvency proceedings are opened, while the others (about a quarter) would prefer leaving it to the discretion of Member States. A large majority supported 'tagging' eligible depositors when an account is opened and regularly updating this information on account statements. More respondents were in favour of introducing a 'de minimis' rule than those against. Respondents were fairly equally divided between those in favour of DGS payments made only after applications are received from depositors and those in favour of payments by DGS on their own initiative. Finally, most respondents (about 60 %) supported discontinuing set-off for payout of depositors or limiting it significantly (e.g. only to claims that have fallen due or are delinquent). However, many contributors (more than 35 %) believed that the current approach should be retained.

Conclusion: As to payout delay, Options 3 and 4 would be very effective to maintain depositor confidence and financial stability since depositors would have quick access to their money after a bank failure and, in turn, they would probably refrain from running on their banks (however, the feasibility of the latter option depends on the future works on bank resolution in the EU). As to payout modalities, the following set of options would ensure maintaining depositor confidence: payout in the same currency as the deposits were paid in, interest paid by DGS, no 'de minimis' rule, discontinuing set-off for depositors but limiting it in the insolvency procedure (Options 5b, 6b, 7a and 8c).

[101] HU estimates the impact quite high (40-50%). However, this figure cannot be confirmed by evidence but it shows that the results should be interpreted carefully.

As regards the efficiency of policy options, Options 1 and 2 are not efficient as they involve various direct or indirect costs that outweigh the benefits (e.g. double work of DGS in case of Option 2). On the contrary, in case of Option 3, the benefits (mitigating the risk of bank runs) seem to outweigh the costs (quite significant administrative costs for DGS and banks). Also, Option 4 would be very efficient provided DGS in the EU are more involved in bank resolution (as this is the case e.g. in the US). As to payout modalities, Options 5c and 6c are likely to involve social costs stemming from bank runs as a result of financial loses expected by depositors (currency risk, unpaid interests). Option 7b would only be efficient for DGS if there are a high number of accounts with very low amounts of money, a situation for which no evidence was found. Option 8b would incur fewer costs than Options 8c and 8d, but the benefits of the latter two options (avoiding bank runs, public welfare) seem to outweigh these costs. Option 8c would allow Member States with an incompatibility between abandoning set-off and their insolvency laws (according to our information only DE) to adapt their insolvency law accordingly.

Options 1 and 2 referring to working days would be incoherent with other EU policies because no other EU financial services legislation uses this term.

Therefore, Options 3, 5b, 6b, 7a and 8c are currently preferred. In the future, depending on the progress in the area of bank resolution, Option 4 could be considered as well.

Operational objectives	Policy options		Comparison criteria		
			Effectiveness	Efficiency	Coherence
Ensuring adequate payout procedures	Payout delay	1. Retaining the current approach	0	0	0
		2. Emergency payout (e.g. €10 000 within 3 days)	+ +	–	0
		3. Payout delay of 7 calendar days (after a transition period of 3 years)	**+ + +**	**+**	**+ +**
		4. Transfer deposits to another bank or a bridge bank	+ + +	+ +	
	Payout modalities	5A. Payout in the currency chosen by the DGS concerned (current approach)	0	0	0
		5B. Payout in the same currency as the deposits were paid in	**+ / –**	**+**	**+**
		5C. Payout of covered deposits in the currency of the DGS	+ / –	+ / –	+
		6A. Interests paid or not - MS' discretion (current approach)	0	0	0
		6B. Interests paid out according to the rate agreed with the bank until the date of failure	**+**	**+**	**+**
		6C. Interest not paid by the DGS at all	–	+ / –	–
		7A. All deposits regardless of their size must be paid out by DGS in full up to the coverage level (current approach)	**0**	**0**	**0**
		7B. Introduction of a 'de minimis' rule	+	+ / –	-
		8A. Set-off and counterclaims unlimited but optional (current approach)	0	0	0
		8B. Limiting set-off to claims fallen due or delinquent	+	+ +	+
		8C. Discontinuing set-off for depositors, but limiting set-off in the insolvency procedure	**+ +**	**+ + +**	**+**
		8D. Discontinuing set-off completely	+ +	+ +	+

7.6. Capability of DGS to deal with payout situations

The following policy options were taken into account (Options 2 and 3 are cumulative but alternative to Option 1; sub-options are cumulative):

- *Option 1 (current approach)*: No particular rules on exchange of information between DGS as well as between DGS and competent authorities and/or member banks (DGS are only informed about a likely bank failure *if appropriate*); no disclosure requirements; stress testing required in general.

- *Option 2:* Exchanging of information between DGS, competent authorities and banks:

  (a) requiring competent authorities to inform DGS *by default* if a bank failure becomes likely;

  (b) requiring banks and DGS to exchange information domestically and cross-border on depositors through a common interface in a way which is unfettered by confidentiality requirements.

- *Option 3:* Disclosure requirements for DGS:

  (a) requiring DGS to regularly disclose the amount of ex-ante funds, their ex-post financing capacity, their workforce and the result of *regular* stress testing exercises and of a regular peer review among DGS;

  (b) making the above disclosure a precondition for providing cross-border services and/or the establishment of branches.

Retaining the current approach (Option 1) would lead to difficulties since a shorter payout delay cannot be achieved by merely introducing a legal requirement to pay within a one-digit number of days. If no further measures such as rules on exchange of information, disclosure requirements and stress testing are taken, a short payout could not be achieved even if the delay were reduced by law. Moreover, the above measures ensure that DGS properly function at all, not only with regard to a quick payout.

As to exchanging of information between DGS, competent authorities and banks, Option 2a – requiring supervisors to inform DGS *by default* if a bank failure becomes likely – would involve DGS as soon as possible in order to prepare payout. Keeping in mind that DGS are main actors in the payout process (see Annex 12 a-c), their early involvement and improving the information flow between competent authorities and DGS are crucial factors for quick payout[102]. There would be insignificant costs for transmitting information. The margin of discretion whether it is appropriate for competent authorities to inform DGS at an early stage (i.e. if a failure becomes likely) creates uncertainty. The only argument for the inappropriateness to inform a DGS could be confidentiality. However, this issue could easily

[102] In this context, it is worth to note that in the US, the FDIC – that acts both as a supervisor and paybox – is involved at a very early stage (when the leverage ratio of a bank is below the minimum required by law and its failure is impending or inevitable if the situation is not corrected within 90 days). During this 90-day pre-closing period, the FDIC has the opportunity to review bank financial information, make preliminary insurance determination and least-cost test, choose the method of resolution, etc. Then, if a deposit payoff in needed, it is made very quickly (within 1-2 business days). For more details, see e.g. FDIC Claims Manual (http://www.fdic.gov/about/freedom/DRRClaimsManualVol1.pdf).

be overcome if DGS are public entities governed by officials subject to professional secrecy. This may be different if banks (i.e. competitors of the bank in jeopardy) are represented in the board of a DGS or make available their workforce to it, e.g. by detaching some of their employees to the scheme. However, in this case Member States could be required to ensure that there are 'Chinese walls' in order to avoid any leakages of information or – even more effective – that there are no employees of other banks involved at all. The relevance of this argument is, however, questionable. In the case of DGS that can play a role in bank resolution, DGS must be informed anyway at an early stage. In most DGS with such a broad mandate, banks are actually represented in the board[103]. However, early action may lead to administrative costs for DGS if the bank does not fail but will be rescued.

Option 2b would enable DGS to start their work and to exchange information with banks as soon as possible in order to prepare payout. This option would ensure that information can be exchanged electronically without major problems, e.g. the conversion of databases. It would lead to costs both for banks and DGS.

As regards disclosure requirements for DGS, Option 3a would exert peer pressure and the pressure of the public on the DGS to be organised in a way that it can meet a very short payout delay. By means of regular stress testing DGS would know whether they have to improve their systems. Depositors and also competent authorities in other Member States would be informed about how solid a DGS which protects depositors of a branch in another Member State is. The peer review could be performed by the EBA with the participation of EFDI. It was argued (mainly from countries where few details about DGS are published) that such information would scare depositors and undermine DGS credibility since the funds available to them would never be equivalent to deposits. If some DGS fear that, they could explain why this is the case and that – like in the financial crisis – political decisions would have to be made whether and how to save a bank. Option 3b would make the establishment of branches dependent on disclosure of the above information. This would restrict the freedom of establishment.

During the public consultation conducted by the Commission last year, a clear majority of respondents (about 70 %) supported involving DGS at an early stage, notably in cases likely to trigger DGS. Half of respondents were of the opinion that DGS should have access to relevant bank records when the schemes are notified by the competent authorities, while others (about a quarter) were against. More respondents were in favour of than against as regards establishing a common interface between DGS and banks, but they believed it should be restricted to the minimum necessary and subject to confidentiality provisions. Most respondents were also in favour of stress testing and regular peer reviews among DGS, but there was no agreement on regular disclosure of key information by DGS (e.g. the amount of ex-ante funds, their workforce, result of stress tests, etc.).

Conclusion: Option 1 would be both ineffective and inefficient in terms of shortening the payout delay and preventing bank runs. Options 2a and 2b would be effective to ensure information of DGS at an early stage that is crucial for a quick payout. Option 3a would also be effective in ensuring a quick payout as well as depositor confidence and financial stability.

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103 IT: http://www.fitd.it/chi_siamo/organi_consortili.htm;
ES: http://www.fgd.es/es/info_regulacion_sistema2.html;
PL (representatives of banking associations):
http://www.bfg.pl/doc_media/wezel_807/100_ustawa-bfg-1994.pdf.pdf;
PT (representative of banking association): http://www.fgd.bportugal.pt/default_e.htm.

Disclosure, in general, would make DGS more credible (however, disclosure of some specific information, e.g. the results of stress testing could be both effective and ineffective – similarly to Option 3b). All but Option 1 are efficient (with benefits outweighing rather insignificant or moderate costs). Only Option 2b would be costly, but the benefits of depositor confidence and financial stability are expected to outweigh the costs for banks and DGS. Finally, all but Option 3b are coherent with other EU legislation (CRD, data protection law). Option 3b raises legal issues as to the freedom of establishment stipulated in the Treaty.

The preferred policy options are therefore Options 2a, 2b and 3a.

Operational objectives	Policy options	Comparison criteria		
		Effectiveness	Efficiency	Coherence
Ensuring that DGS are capable to deal with payout situations Involving DGS at an early stage Improving information exchange between banks and schemes	1. No particular rules on exchange of information between DGS, competent authorities and banks, no disclosure requirements, stress testing required in general (current approach)	0	0	0
	2a. Requiring competent authorities to inform DGS *by default* by when triggering of DGS becomes likely	**+ + +**	**+ + +**	**+**
	2b. Requiring DGS and their member banks to have a common interface to quickly exchange information	**+ +**	**+ +**	**+**
	3a. Requiring DGS to regularly disclose the amount of ex-ante funds, the workforce and the result of regular stress testing exercises and of a regular peer review among DGS	**+ / –**	**+ +**	**+**
	3b. Making such disclosure a precondition for cross-border services or establishment of branches	–	n.a.	–

**n.a. – efficiency (cost-effectiveness) of a measure cannot be estimated if the measure is inconsistent with the existing EU legislation*

7.7. Depositor information

The following policy options were taken into account as to depositor information (Options 2 and 3 are cumulative but alternative to Option 1):

- *Option 1 (current approach)*: Member States decide how depositors are informed about DGS coverage, and how to prevent the use of information advertising to affect financial stability.

- *Option 2:* Depositors must countersign information given before entering into a contractual relationship and receive a copy. This information is harmonised by means of a template enumerating specific elements of information[104] and it would be given in the language chosen by the depositor.

  (a) a template is annexed to the Directive;

104 Name and address, telephone and website/e-mail of the scheme; function (i.e. DGS, mutual or voluntary scheme) and explanation of the function including the payout delay; level of coverage, treatment of joint and trust accounts, aggregation of several accounts at the same bank even if banks are trading under different names (if relevant, identification of several brands of the bank concerned); scope of coverage; eligibility of depositors; explanation how a depositor can claim reimbursement.

(b) the template is to be developed by stakeholders and adopted as an Implementing Measure under Article 290 of the Treaty on the functioning of the EU.

- *Option 3:* There must be a reference to DGS if a product is covered in advertisements and account statements. Advertising shall be restricted to a factual reference to the scheme to which a credit institution belongs.

As correspondence and research in Member States have shown (see Section 4.3), the current approach (Option 1) is ineffective since depositors are not sufficiently informed about the function and coverage of the DGS responsible for them.

A template that has to be countersigned (Option 2) would lead to EU depositors receiving the same information. Costs incurred by a template (i.e. printing and processing/filing costs) would not seem substantial. If contracts are concluded online, costs would be even lower.

A reference in advertisements and account statements (Option 3) would complement Option 2 with regard to potential depositors or depositors who signed a contract long ago. Information should be limited to the necessary, i.e. a mere reference to the DGS and its web site. This is already optional under current law. It would ensure that depositors know that a product is covered and, if the reference is missing, that it is not covered. Additional costs for banks are not substantial since this short reference would not take much payable advertising space. Costs for marketing material to be discarded or reprinted do not seem significant. Mentioning DGS in account statements would add a further line to statements of account as is now the case for IBAN and BIC on statements of current accounts[105]. The eligibility of the accountholder would be implicitly confirmed by this statement.

As regards the public consultation conducted by the Commission last year, most respondents (about two thirds) supported developing a template for standardised information (possibly annexed to the Directive) to ensure that all depositors get the same or similar information. However, there were mixed views on when and how depositors should be informed. Most respondents (40 %) preferred retaining the current approach, but many (30 %) were in favour of making reference to information on DGS on account statements and/or requiring depositors to countersign information on DGS before depositing money at a bank. Less support (15 %) was expressed for making reference to such information in advertisements, notably if mandatory. In general, requests were made to keep information brief and clear and to strike a balance between raising depositor awareness and costs for banks.

Conclusion: Options 2a and 3 are effective in clarifying and elaborating depositor information and efficient with low expected costs and high benefits as to the information of depositors and consequently, depositor confidence.

The preferred policy options are therefore Options 2a and 3.

[105] For example: *"This deposit is covered by the DGS [reference to DGS website] up to €100 000. This limit applies per depositor and per bank [including brand names ...]."*

Operational objectives	Policy options	Comparison criteria		
		Effectiveness	Efficiency	Coherence
Clarifying and elaborating information obligations of banks	1. Retaining the current approach	0	0	0
	2. Developing a standard template including specific information for depositors	**+ +**	**+**	**+ +**
	3. Requiring a reference to DGS in advertisements and on statements of account	**+ +**	**+**	**+ +**

7.8. Funding mechanisms and levels

The following policy options were taken into account (Options 2 and 3 are cumulative but alternative to Option 1; Options 4 and 5 are cumulative to Options 1, 2 or 3):

- *Option 1 (current approach):* No harmonisation of funding mechanisms and no particular requirements on DGS funding levels.

- *Option 2:* Harmonised approach to selected elements of DGS funding:

  (a) a target level for the total (ex-ante and ex-post) funds that should be available to DGS in order to make them able to cope with a bank failure of a certain size (e.g. a mid-size or big failure); ex-post funds would be needed if the number of amount of payouts would necessitate it;

  (b) a limit for ex-post funds (to ensure that ex-post funds would not be collected without limits during a crisis as it could negatively influence healthy banks);

  (c) a limit for borrowing by DGS[106].

- *Option 3:* Harmonised approach to funding mechanisms and levels, i.e. making ex-ante funding mandatory supported by ex-post funding (other elements, such as the contribution base, the scope of coverage, the target level and limits for ex-ante/ex-post funds, need to be harmonised as well) – to be achieved within a specified period of time (e.g. 5 or 10 years since an immediate high target level could not be achieved by banks in Member States with ex-post financed DGS).

- *Option 4:* Using the liquidity remaining in a bank at the time of failure to reimburse depositors. This would necessarily entail that depositors are privileged (at least up to the coverage level) over all other creditors in the insolvency proceedings. Such a regime is in place in Switzerland[107] and also in the US[108].

106 Borrowing has in practice included borrowing from the state/public authorities.

107 See http://www.efd.admin.ch/00468/index.html?msg-id=29000&lang=de.

108 In the US, the law of 1993 (National Depositor Preference) gave payment priority to depositors, including the FDIC as subrogee, over general unsecured creditors. Claims against the failed bank are paid from monies recovered by the receiver through its liquidation efforts. Under the above law, claims are paid in the following order of priority: (1) administrative expenses of the receiver; (2) deposit liability claims (the FDIC claim takes the position of all insured domestic deposits); (3) other general or

- *Option 5:* Limiting the annual maximum contribution to DGS

Retaining the current approach (Option 1) would maintain the drawbacks of the existing framework linked to the co-existence of both ex-ante and ex-post DGS: an unlevel level playing field between banks operating in Member States with ex-ante and ex-post DGS, pro-cyclicality as ex-post DGS requires banks to pay all – sometimes very high – contributions in times of financial stress, etc (see Section 4.4). Moreover, in bad times, it is more difficult to receive any additional funds in financial markets; therefore, if DGS are not sufficiently funded, it may result in the need to use the taxpayer money. Finally, without specific requirements on the level of funding, some DGS (not only ex-post ones but ex-ante ones as well) would likely remain undercapitalized, as this is the case today.

As regards the harmonised approach to a target level for the total funds (Option 2a), it is assumed in the Commission (JRC) research that the choice of a target level for the funds may be related to the capability of DGS to handle a bank failure of a specific size based on bank recapitalisations by Member States during the financial crisis (from a small failure to a big one – ranging from 0.36% and 7.25% of the amount of eligible deposits respectively). In particular, the following scenarios have been analysed:

Table 3: Analysed scenarios as to the target level for the total funds

Scenarios		Size of the failure (% of the total amount of eligible deposits)
Scenarios based on the size of a failed banks		
Big bank failure	Failure of a big member bank (average of top-10 member banks, funds to be collected in 10 years)	**7.25%** [109]
Small bank failure	Failure of a small member bank (average of other than top-10 banks, funds to be collected in 1 year)	**0.36%**
Scenarios based on DGS payout		
Big DGS payout	Maximum cost to DGS for a failure occurred in the EU MS in 2008 (funds to be collected in 10 years)	**1.96%**
Medium DGS payout	Average costs to DGS for a failure occurred in the EU MS in 2008 (funds to be collected in 1 year)	**0.60%**

Source: Joint Research Centre.

The impact of adopting target levels that would allow DGS to cope with bank failures corresponding to those from the above table has been measured by comparing incurred costs with both ex-ante and ex-post funds. The main findings are summarized below (see also Annexes 14-17):[110]

- Considering the target level allowing DGS to cope with the biggest failure (i.e. 7.25% of eligible deposits to be achieved in 10 years), two Member States would be able to handle this failure with the funds at their disposal (ex-ante). Considering both ex-ante funds and

senior liabilities of the institution; (4) subordinated obligations; (5) shareholder claims (http://www.fdic.gov/bank/historical/reshandbook/ch7recvr.pdf).

109 This is the simple average of the data from 32 DGS in 21 Member States (the average weighted according to eligible deposits is very similar, i.e. 7%).

110 The figures in the below bullet points describe in principle the impact in normal times when only ex-ante contributions are collected. The impact in a crisis situation, when also ex-post contributions need to be collected (up to the maximum limit – see further part of this section) is presented in Table 4 and Annex 14.

additional contributions, and assuming to collect all contributions in 10 years, 4 Member States would be able to handle such a failure (see Annex 15). From the banks' perspective, this would translate into a decrease of 29% in operating profits at EU level. As to the impact on depositors at EU level, interest rates on savings would be reduced of about 0.35% or current account fees would increase by around €31 per account per year (see Annex 14).

- As regards the target level allowing DGS to cope with a medium-sized failure in a crisis (1.96% of eligible deposits to be achieved in 10 years – as in the 'big DGS payout' scenario), seven Member States would be able to handle this failure with their ex-ante funds, and 14 Member States would be able to handle this failure when considering additional funds (see Annex 15). From the banks' perspective, this would translate into a decrease of less than 5% in operating profits at EU level. From a point of view of consumers, the impact at EU level would be a reduction of about 0.04% in the interest rates granted on deposits and/or an average increase of €4.5 per account per year in bank fees (see Annex 14).

- Finally, as to the target level allowing DGS to cope with the smallest failure in a crisis (0.36% of eligible deposits to be achieved in 1 year), 15 Member States would be able to handle this failure with ex-ante funds and 17 Member States would be able to handle this failure when considering additional funds (see Annex 15). From the banks' perspective, this would translate into a decrease of less than 5% in operating profits at EU level. From a consumer point of view, the impact at EU level would be a reduction of about 0.04% in the interest rates granted on deposits and/or an average increase of about €4 per account per year in account fees (see Annex 14).

Table 4: Scenarios on the target level: potential impact on annual bank operating profits at EU level

	Big bank failure (fund built up over 10 years)	**Small bank failure** (fund built up over 1 year)	**Big DGS payout** (fund built up over 10 years)	**Medium DGS payout** (fund built up over 1 year)
Impact in normal times (only ex-ante contributions are collected)	-29.20%	-4.81%	-4.66%	-11.02%
Impact in a crisis situation (both ex-ante and ex-post contributions are collected)	-41.76%	-7.35%	-7.34%	-17.61%

Source: Joint Research Centre.

With regard to the harmonised approach to a limit for ex-post funds (Option 2b), it would be useful to consider the so-called 'extraordinary ratio', i.e. the ratio between extraordinary contributions[111] and the total DGS funds. The ratio expresses the weight of the extraordinary component with respect to the total amount of funds available to a scheme. Setting the ex-post component at a fixed percentage of the total funds collected for all Member States would lead to a considerable increase in the amount of this component. When setting the 'extraordinary ratio' at 21.06% (the EU average value in 2007 – see Annex 13a), ex-post components would increase by 140% at EU level. This would in turn be reflected in a decrease in banks' operating profits of almost 12% at EU level. If, in theory, all bank costs were fully passed on to depositors, the impact at EU level would be a reduction of 0.05% in interest rates on savings or an increase in account fees of almost €4 per account per year.

[111] Extraordinary contributions are defined in practice as the difference between maximum and ordinary contributions whenever the DGS Statutes set a maximum level for members' contributions.

As to the harmonised approach to DGS borrowing (Option 2c), the EU borrowing limit (€99 billion) has been set by the Commission (JRC) as a percentage (1.75%) of the total amount of covered deposits. The percentage has been estimated according to the US data, i.e. the ratio between the borrowing limit ($100 billion – equivalent of about €68 billion)[112] and the total amount of deposit insured by the FDIC in 2008 (equivalent of about €3.9 trillion).[113]

Assuming that each DGS would repay the loan within 10 years, it would lead to an average increase in banks' contributions to DGS at EU level by 205% (see Annex 23). On average, four times the 2008 contributions should be collected every year to repay the loan within 10 years. At EU level, this would result in a decrease of banks' operating profits by around 3%. From depositors' point of view, an increase in contributions would translate into an average interest rate reduction by about 0.04% or into an average annual increase by €4 per account. Currently, only 7 Member States are able to repay the estimated loan within 10 years without calling for new additional contributions.

Taking into account a harmonised approach to funding mechanisms and levels (Option 3), the Commission has developed a harmonised scenario by combining key aspects of funding mechanisms. The following assumptions have been put forward[114]:

- Target level for total DGS funds: 1.96% of the amount of eligible deposits[115] – according to the 'big DGS payout' scenario (it would mean that the target level for ex-ante and ex-post funds would be about 1.5% and 0.5% respectively – see assumptions on the proportions between ex-ante versus ex-post components);

- Contribution base: the amount of eligible deposits[116] – as it is currently the case in most DGS (22 DGS, representing 17 Member States – see Section 7.9);

- Ex-ante versus ex-post component: 75% and 25% respectively[117] (ex-post component close to the actual 'extraordinary ratio' in the EU[118]);

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112 In March 2009, Congress increased the FDIC's borrowing authority from $30 billion to $100 billion (permanent level) and – as a temporary measure (by end-2010 only) – up to a maximum of $500 billion. Before, in October 2008, Congress allowed the FDIC to borrow, if necessary, unlimited amounts from the US Treasury (by end-2009).

113 FDIC Annual Report 2008 (http://www.fdic.gov/about/strategic/report/2008annualreport/ARfinal.pdf).

114 There is no assumption as to the coverage level since the calculations have been based on eligible deposits (thus, the level of coverage – contrary to the scope of coverage – does not affect the results).

115 The coverage level would be recalculated on the basis of covered deposits – after a transition period and under the comitology procedure (see also the previous footnote).

116 After a transition period, the contribution base would be changed from *eligible* to *covered* deposits (see Section 7.9). This change (from a broader to narrower contribution base) would inevitably require changing (increasing) the nominal value of the target level in order to maintain the total amount of DGS funds unchanged.

117 In principle, the DGS funds should consist of both ex-ante and ex-post elements. Keeping in mind the drawbacks of pure ex-post funding (pro-cyclicality, competitive disadvantages, disincentives for sound risk management, etc), the ex-ante element should be clearly dominant. It means that it should be significantly (and not merely slightly) higher than 50% of the total funds. At the same time, taking into account the importance of additional funding that may be needed in a crisis situation, a pure (100%) ex-ante system is not desirable. Therefore, the balanced proportions between ex-ante and ex-post elements could be roughly 75%-25% or 80%-20%. In both cases, the ex-post element would be close to the actual 'extraordinary ratio' in the EU (see the next footnote). Since the latter proportion would be slightly more costly for the banking industry in normal times, the former seems to be more preferred.

118 The 'extraordinary ratio' in the EU (simple average) is 32.9% for all Member States or 21.1% if MT and CY are excluded (as their indicators - 72% and 83% respectively - are much higher than the indicators

- Scope of coverage: two options considered – exclusion and inclusion of deposits held by non-financial enterprises, central/local authorities, and/or enterprises in the financial sector (see Section 7.3).

It is assumed that the scenarios developed on the basis of the above assumptions (see Table 5) should be achieved within 10 years. The phase-in period of 10 years seems to be a balanced solution compared to both shorter and longer periods. A shorter phase-in period such as 5 years has shown to result in excessive financial burden on banks since (i) the expected costs within the 10-year period are already relatively high, (ii) Member States, notably those with ex-post DGS, need some mitigating measures (such as a sufficiently long transition period) in order to build up their ex-ante funds according to the required levels, and (iii) it should be kept in mind that there are also other initiatives aimed at strengthening the financial sector to be implemented in the coming years (however, the assessment of the impact of those initiatives on banks is outside the scope of this impact assessment). On the other hand, choosing a longer phase-in period than a decade involves the risk that the entire initiative to build up a system of soundly financed DGS would be perceived as 'watered down' and not treated seriously.

Table 5: Harmonised scenarios on DGS funding

Harmonised scenarios	Target level	Contribution base	Ex-ante vs. ex-post component	Scope of coverage	Number of years to reach the target
Scenario A	1.96 %	Eligible deposits	75 % - 25 %	Exclude financial and non-financial enterprises and authorities	10 years
Scenario B	1.96 %	Eligible deposits	75 % - 25 %	Include non-financial enterprises, exclude authorities and enterprises in the financial sector	10 years
Scenario C	1.96 %	Eligible deposits	75 % - 25 %	Include financial and non-financial enterprises and authorities	10 years

Source: Joint Research Centre.

As a result of the above scenarios, DGS would be much better capitalised that currently. For Scenario B (built on the preferred option concerning scope of coverage assuming the inclusion of all non-financial enterprises and the exclusion of all authorities and all financial sector enterprises – see Section 7.3), DGS would collect together within 10 years the amount of ex-ante funds of about €149 billion and €49.7 billion potentially available as ex-post contributions (compared to total ex-ante and ex-post funds of DGS of €23 billion in 2008 – see Annex 18a). In normal times, when only ex-ante contributions are collected, it would require an average increase in contributions of 393% at EU level[119]. The aggregated annual ex-ante contributions would increase from €1.8 billion to €9.4 billion at EU level[120] (see

of other Member States). As to the EU weighted average (according to the amount of eligible deposits), it is 21.2% when including CY and MT and 19.0% if they are excluded – see Annex 13a).

119 There would be a particularly high impact in FR (a 2450% increase in contributions). This is because the amount of eligible deposits is very high, while the funds at DGS disposal are not proportionally high. For example, in 2008, total DGS funds in FR were almost 5 times lower than the funds in ES although in 2007 eligible deposits in FR were more than twice as high as deposits in ES (see Annexes 2 and 18a).

120 The highest level of annual ex-ante contributions would be expected in FR and UK (each €2.4 billion), while the lowest one in LV (€8 million) (see Annex 18b). As to FR, it should be noted that in 2008 contributions to its DGS were more than 6 times lower compared to those in GR although in 2007 eligible deposits in FR were more than 10 times higher than in GR (see Annexes 2 and 18b).

Annex 18b). However, the 2008 contributions are already higher in some Member States than estimated contributions to be collected in order to reach the target within the time limit. Also, in some Member States cumulated funds are already higher than the target ex-ante component. From banks' perspective, an average decrease in operating profits would be about 2.5% at EU level (with a stronger impact in EU-15 than in EU-12 where, on average, a slight increase in bank profits is expected[121] – see Annexes 19 and 22b). For depositors, if all banks costs were passed on to them, the impact on interest rates would mean a decrease of less than 0.1%, and additional bank fees of around €7 per account per year (see Table 6 and Annexes 18-20). Of course, under the worst-case scenario, i.e. a crisis situation when ex-post contributions must be collected up to the maximum ceiling (25% of the total fund, i.e. about 0.5% of eligible deposits), the above figures would be substantially higher (e.g. the decrease in the operating profit would be over 6% and additional bank fees about €12 – see Annexes 19, 20 and 22a).

Table 6: Potential impact of the harmonised scenarios on DGS funding at EU level in normal times

Harmonised scenarios	Total ex-ante funds collected after 10 years (€ thousands)	Total ex-post funds available after 10 years (€ thousands)	Ex-ante contributions to be collected annually within 10 years (€ thousands)	Increase in annual ex-ante contributions (compared to 2008)	Decrease in bank operating profits	Decrease in interest rates on savings	Increase in bank fees on current accounts (€)
Scenario A	127 938 303	42 646 101	7 655 420	289%	1.01%	0.06%	7.02
Scenario B	149 015 250	49 671 750	9 368 379	393%	2.46%	0.07%	7.08
Scenario C	171 556 596	57 185 532	10 561 256	437%	3.26%	0.08%	8.43
As of 2008	18 635 489	4 467 624	1 812 589	–	–	–	–

Source: Joint Research Centre.

It should be noted that the harmonised scenarios on funding would have a significant impact on ex-post financed DGS whose ex-ante funds are by definition zero. Under the above scenario B, ex-post DGS in six Member States would have to collect together about €47 billion within 10 years, roughly a half of which the UK alone (see Annexes 18).

If the remaining bank liquidity is used (Option 4), DGS and their member banks would have to pay significantly less since a large part if not all depositors could be paid out with this liquidity. On the other hand, the same amount saved by DGS and banks would have to be borne by all other creditors and depositors who are not protected by the DGS or whose deposits exceed the coverage level since corresponding to the priority of the DGS their claims would become more subordinate and therefore they will get a smaller insolvency dividend. Since many of these 'other creditors' are banks, losses caused by a lower insolvency dividend for them may counterbalance the savings as to their contributions to DGS. However, this only occurs to the extent banks have not had collateral for their claims against the failed bank.

During the public consultation conducted by the Commission last year, a large majority of respondents (about 70%) supported ex-ante funding while a minority of them (less than 15 %)

[121] Some EU-12 Member States have their funds which are considerably high: if they want to reach the target level in 10 years they can reduce their contributions which, in turn, would be translated into increasing operating profits of banks. The highest increase in bank operating profits is expected in BG (13%) and EE (23%), while the strongest decrease is expected in AT (16%) and BE (18%).

were in favour of solely ex-post funding (those from Member States with ex-post systems – AT, IT, NL and UK). Proponents of ex-ante funding indicated several advantages: a level playing field, avoiding pro-cyclicality, speeding up payout, addressing moral hazard and unfairness stemming from the fact that riskier banks are de facto subsidised by safer ones, etc[122]. Opponents argued that ex-ante funding is an inefficient use of financial resources, may be very costly for Member States with ex-post systems, and – together with the recent and planned CRD amendments – may lead to higher capital requirements for banks. There were also rather mixed views on a target level for ex-ante funds, with many more respondents in favour than against (roughly two thirds to one third), but only a few suggestions were made on how high this target level should be (e.g. the level necessary to cover 4-5 smaller banks or 2-3 medium-sized banks). Most respondents agreed that a maximum contribution level would be desirable to avoid excessive pro-cyclicality (notably during a crisis when unlimited contributions may be very burdensome for banks). Practically all respondents agreed that additional financing sources should be allowed if needed by DGS.

Finally, Option 5 would ensure that banks would not have to pay contributions to an extent that might bring them into financial difficulties. The maximum contribution would have to ensure (i) that the target level can be built up over 10 years (1.5% / 10 = 0.15%), (ii) that the extraordinary contributions can be paid (0.5%), and (iii) that there is a safety margin in case the DGS funds are depleted. The current maximum annual contributions throughout EU DGS oscillate around 0.2% in most Member States or are set at 1.5 or 1.875% (BG and GR). In some countries, they are set as a percentage of own funds (PL, AT, DE).

Conclusion: The drawbacks stemming from the current approach could be eliminated by a more harmonised approach to funding mechanisms and levels. Keeping in mind the relevant operational objectives (increasing convergence between DGS, enhancing DGS funding), the harmonised approach would be much more effective if applied to all key aspects of DGS funding (Option 3) than merely to selected aspects (Option 2). Ex-ante funding is much more efficient than ex-post financing because of its counter-cyclical nature. Therefore, the most effective solution seems to be a 'mixed system' (mandatory for all Member States), where ex-ante funding would be dominant and supported by ex-post funds collected if necessary (Option 3). Borrowing by DGS does not need to be harmonised because this touches upon the organisation of the financial system in Member States and, in line with the subsidiarity rule, should be left to Member States' discretion.

Setting a target level for DGS funds would ensure that schemes are credible and capable to deal with medium-sized bank failures. The most cost-efficient target level would be 1.96% (or simply 2%) of eligible deposits (to be achieved within 10 years) because it would increase DGS funds to cope with a medium-sized bank failure; and despite quite substantial increase in contributions, it would, on average, only moderately affect bank profits at EU level (with a stronger impact in some Member States) and lead to very limited costs for depositors. Also, Option 4 would be effective and efficient; it would not involve new costs for banks while ensuring a quick payout and sound financing. However, this option – contrary to other options – does not seem coherent with the fact that there is no harmonised approach to bank insolvency in the EU yet. Option 5 would also be effective and efficient. It would ensure a sound financing of the DGS but avoid unwanted side-effects if contributions were too high.

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122 Similar advantages of ex-ante funding were also indicated by the International Association of Deposit Insurers (IADI) – see IADI, Funding of Deposit Insurance Systems. Guidance Paper, 6 May 2009 (http://www.iadi.org/docs/Funding%20Final%20Guidance%20Paper%206_May_2009.pdf).

The preferred policy option is therefore Option 3.

Operational objectives	Policy options	Comparison criteria		
		Effectiveness	Efficiency	Coherence
Increasing convergence between DGS Enhancing DGS funding	1. No harmonisation of funding mechanisms and no particular requirements on DGS funding levels (current approach)	0	0	0
	2a. Harmonised target level for the total (ex-ante and ex-post) funds	++	+	+ +
	2b. Harmonised limits for ex-ante and ex-post funds	+ + +	+ +	+ +
	2c. Harmonised limit for borrowing by DGS	–	–	+
	3. Harmonised approach to funding mechanisms and levels (mandatory ex-ante funding supported by ex-post funding, other elements/limits harmonised) – to be achieved within a specified period of time (e.g. 5 or 10 years)	**+ + +**	**+**	**+ +**
	4. Using the liquidity remaining in a bank at the time of failure to reimburse depositors	+ + +	+ +	–

7.9. Bank contributions to DGS

The following policy options were taken into account (Options 2-5 are cumulative but alternative to Option 1 and each sub-option is alternative to the other sub-options):

Option 1 (current approach): No requirements as to bank contributions;

Option 2: Harmonised approach to the contribution base:

(a) eligible deposits as the contribution base in all Member States;

(b) covered deposits as the contribution base in all Member States.

Option 3: General common approach to the calculation of risk-based contributions, i.e. the total amount of contribution depends on both the contribution base and risk indicator(s):

(a) using a single risk indicator for calculating risk-based contributions;

(b) using multiple risk indicators for calculating risk-based contributions.

Option 4: Partially or fully harmonised approach to the choice of risk indicators in order to calculate risk-based contributions:

(a) requiring Member States to apply risk-based contributions and allowing them to develop their own risk indicators;

(b) developing a set of indicators and allowing Member States to choose relevant indicators in order to calculate risk-based contributions;

(c) developing a set of core indicators (mandatory for all Member States) and another set of supplementary indicators (optional);

(d) developing a common set of indicators to be used in all Member States in order to calculate risk-based contributions;

Option 5: Harmonised approach to the contributions for banks joining or leaving a scheme:

(a) requiring annual contributions without down payments if a bank joins the scheme and requiring DGS to reimburse the last contributions paid by a bank if it becomes a member of another DGS due to changes of its legal status (subsidiary / branch);

(b) permitting down payments if a bank joins the scheme and forbidding DGS to reimburse any contributions of a bank.

One option discarded at an early stage is worth mentioning. If banks were required to contribute without limitation to DGS, this could drive them into illiquidity or even insolvency, which would be counterproductive. Such a case occurred when the funds of the German ICS were emptied and extraordinary contributions were temporarily suspended by a court order because there was a risk that contributors (i.e. investment firms) could also be driven into insolvency. Such a situation could also happen at a DGS since the financing mechanism of DGS and ICS is the same. In most Member States, however, there is a ceiling for maximum contributions of banks usually based on a percentage of eligible deposits (see Annex 15b).

Currently, DGS apply very different approaches to bank contributions (e.g. they use different contribution bases; some of them have introduced risk-based contributions while the others have not). Retaining the current approach (Option 1) would maintain the situation where contributions in Member States are still not fully comparable and the same risk within a cross-border banking group is reflected in contributions in a different way in Member States.

As regards the harmonised approach to the contribution base (Option 2), selecting the amount of eligible deposits as a contribution base (Option 2a) for all DGS would lead to an increase in the contributions for those DGS using currently the amount of covered deposits (11 DGS in 6 Member States), with an EU average figure of 111%[123]. It would result in a decrease in bank operating profits of about 0.01% at EU level (with no change for EU-12). If all costs were passed on to depositors, it would mean a reduction of about 0.06% in interest rates on savings or an increase in current account fees of around €7 per account per year. In contrast, the impact of assuming the amount of covered deposits as a contribution base (Option 2b) would translate into a change for most Member States (currently, 22 DGS in 17 Member States use eligible deposits as their contribution bases). This would lead to a decrease in contributions of 58% at EU level. From the banks' point of view this would translate into a 4% increase in their operating profits. In theory, it should lead to an increase of interest rates on savings or a reduction of bank fees to be paid by depositors, but this might not be fully passed on to them. In general, the former approach (eligible deposits as the contribution base) would result in an slight increase of total DGS funds at EU level (up to €18.7 billion), while the latter one (covered deposits as the contribution base) would lead to a decrease in this respect (to €17.5 billion) – compared to the current situation (total funds of €18.6 billion as of end-2008).

As to the common approach to the calculation of risk-based contributions: the use of risk indicator(s) (Option 3), according to the Commission (JRC) report on risk-based contributions

[123] This average also includes the decrease of 44% relative to IE which is the only Member States adopting the total deposits as contribution base.

published in 2008[124], only 8 DGS in the EU adjusted the contributions of all their members, taking into account information from indicators which allow for assessing banks' risk profiles. Although the approaches currently applied across Member States were quite heterogeneous, there was a common principle behind the various adjustment procedures: the contributions are adjusted by decreasing or increasing them by a percentage (ranging from 75% to 140% of the standard amount) obtained by classifying DGS member banks into rating classes, linked to scores from a set of indicators. This may serve as a starting point for further discussions.

Last year, the Commission (JRC) in cooperation with the EFDI[125], investigated potential models for risk-based contributions and assessed their potential impact across Member States. The JRC report published in 2009[126] presented two potential approaches to calculating such contributions that could be applied in the EU, i.e. *Single Indicator Model* (SIM) and *Multiple Indicator Model* (MIM). Both models are based on practices implemented by DGS adopting a risk-based contribution system (key elements from different systems in force were combined to build models adaptable to different EU banking systems). Both models rely on current reporting obligations, i.e. existing accounting-based indicators to assess the risk profile of DGS member banks (8 indicators covering 4 key risk classes commonly used to evaluate the financial soundness of banks: capital adequacy, asset quality, profitability, and liquidity – see Annex 25). The SIM uses a single accounting ratio to categorise banks into rating classes and accordingly calculate banks' contributions[127]. In contrast, the MIM combines four ratios (one per class) to obtain a single measure of the risk behaviour of DGS members.

The JRC report presented also some quantitative analyses for the above models in order to assess the impact that the introduction of risk-based contributions would have on DGS members. The SIM was tested by using each of the 8 proposed indicators. Results showed that the impact on contributions would be very different depending on the indicator selected. For this model, the EU average maximum decrease in contributions for a single bank would be 19.6%, while the EU average maximum increase in contributions would be 27.8%. As regards the MIM, it was tested by using two sets of four indicators. Results showed that the variability of the impact on contributions was significantly reduced: the EU average maximum decrease/increase in contributions was -4.1 % and +3.8 % respectively (it was also found that changing the set of indicators had not much influence).[128]

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124 European Commission, Risk-based contributions in EU Deposit Guarantee Schemes: current practices, Joint Research Centre, Ispra, June 2008 (http://ec.europa.eu/internal_market/bank/docs/guarantee/risk-based-report_en.pdf).

125 EFDI, Development of common voluntary approaches to include risk based elements for deposit guarantee schemes, 2009 (http://www.efdi.net/scarica.aspx?id=143&Types=DOCUMENTS).

126 European Commission, Possible models for risk-based contributions to EU Deposit Guarantee Schemes, Joint Research Centre, Ispra, June 2009 (http://ec.europa.eu/internal_market/bank/docs/guarantee/2009_06_risk-based-report_en.pdf).

127 Contributions were calculated as a fixed percentage of the contribution base and subsequently adjusted by a risk factor specific to each member bank (see Annex 25). The risk adjustment factor was a percentage used to increase contributions for risky banks and to decrease them for well-behaving banks (in the JRC report, those factors varied between 80% for the least risky banks and 150% for the most risky banks).

128 The above results should be carefully interpreted since the sample of banks did not cover the entire banking sector in any Member State (the banks taken into account are the largest set of banks for which values for the indicators were available). Moreover, the quantitative analysis relied on a number of assumptions and choices being made when assigning values to the model parameters.

Another approach to risk-based contributions was presented in one of the recent research[129]. It presents a mathematical model for estimating the losses to DGS and contributions of each bank according to its risk profile (the model is run via a *Monte Carlo simulation*). The idea is to use this model to estimate the contribution to the total loss of the system (in percentage) that is attributable to each bank. These risk-based contributions are to be estimated under different assumptions, depending on how inter-bank contagion has been taken into account. The estimation of each bank's risk based contribution is split into its 3 components: (i) the risk profile of bank's credit portfolio (inter-bank contagion is not taken into account); (ii) the fragility of the bank due to its inter-bank connection (passive contagion) and (iii) the systemic risk of the bank (active contagion, i.e. the risk that the bank causes others banks' defaults through its inter-bank exposure).

Indicators for systemic risk of a bank have not been taken into account since the development of criteria for Systematically Important Financial Institutions is still in progress.

As regards policy options stipulating partially or fully harmonised approach to the choice of risk indicators, Option 4a would not cause a substantial difference in comparison with the current situation. Although, on the one hand, it would be mandatory for DGS in Member States to calculate bank contributions using some risk indicators, but on the other hand, Member States would still be free to choose their own indicators. Therefore, bank contributions in Member States would still be incomparable (even within the same cross-border banking group). Options 4b and 4c would mean partial harmonisation. First, Member States would agree a set of indicators. Then, they would either choose relevant indicators from the set (Option 4b) or divide the set into core and supplementary indicators – of which the former would be mandatory but the latter optional for DGS (Option 4c). These two sub-options would contribute to greater comparability of risk measurement in Member States. However, the greatest (full) comparability would be achieved by applying sub-option 4d as it would mean full harmonisation. All Member States would use the same indicators to calculate risk-based contributions. They would use all indicators included in the common set and would not be allowed to use any other indicators.

It is obvious that the introduction of risk-based contributions in the EU would influence those Member States that do not apply such contributions (since they would need to introduce a new framework on which they have no experience). However, it could also have some impact on Member States already applying risk-based contributions. It would happen if the set of indicators did not include the indicators currently used by those Member States. In this situation, those Member States would have to change their risk assessment framework that had been used for some years before.

As regards the harmonised approach to the contribution requirements for banks joining or leaving a scheme, Option 5a would ensure that banks reorganising their operations in a way that branches turn into subsidiaries (in particular if they adopt the legal form of a European Company) are not hindered from doing so by being required to make initial down payments when joining a DGS. When a branch becomes a subsidiary, it may currently have to pay an initial contribution in addition to the annual one. Option 5b would concern the opposite case – if branches turn into subsidiaries, they would have to pay the last annual contribution for the

[129] F. Campolongo, R. De Lisa, S. Zedda, M. Marchesi, Deposit insurance schemes: target fund and risk-based contributions in line with Basel II regulation, JRC Scientific and Technical Reports, 2010 (http://easu.jrc.ec.europa.eu/eas/downloads/pdf/JRC57325.pdf).

branch twice which otherwise could then be used as contribution for the subsidiary. This would mean that DGS do not lose funds but the bank is imposed a double charge.

As regards the public consultation conducted by the Commission last year, a large majority of respondents (above 70 %) were in favour of risk-based contributions to DGS, but some of them (over 20 %) were against. Proponents emphasised that risk-based contributions would create incentives for more prudent behaviour of banks and improve their risk management, mitigate moral hazard and free riding problems (subsidising riskier banks by safer ones), etc. Opponents were afraid that such contributions may result in pro-cyclical effects and mean double penalisation for banks (since they may already be penalised by supervisors if do not comply with capital requirements). No single view emerged whether risk-based contributions should be harmonised or not, mandatory or optional, but there was agreement that they should be flexible enough to take into account specific situations in Member States. Moreover, some indicators to calculate risk-based contributions were suggested: capital adequacy/solvency, liquidity, profitability, high exposure, loan portfolio quality, etc. Some respondents stated that the JRC reports on risk-based contributions could serve as a starting point and the CEBS could provide some guidelines on this (bearing in mind the need to improve the convergence of supervisory and DGS practices).

Conclusion: Retaining the current approach (Option 1) would be incoherent with the values of the Internal Market and ineffective since it does not create any incentive for a proper risk management. The analysis has revealed that a more harmonised approach to bank contributions, which in principle consists of both non-risk-based and risk-based elements (Options 2 and 3 respectively) is most efficient. As to the former, in principle, it would be more effective to base contributions in all Member States on *covered* deposits (Option 2b) since this better reflects the risk to which DGS are exposed[130]. As to the latter, it should be calculated on the basis of several indicators (Option 3b) and not just on a single one which may miss some important information on banks' risk profiles. Taking into account differences between banking sectors in Member States, full harmonisation of risk-based contributions seems to be neither feasible nor needed (at least at this stage) and some flexibility is necessary. Therefore, partial harmonisation (Option 4c) seems to be an appropriate solution at the moment. It should be noted that the introduction of risk-based contributions would have no impact on the overall level of contributions since the total amount of contributions would be determined by the target level for DGS funds and risk-based contributions would only be helpful in apportioning it among individual banks according to their risk profiles. Finally, Option 5a would be efficient (cost-neutral) and coherent with the Internal Market and some fundamental Treaty freedoms (freedom of the establishment, freedom of providing services).

The preferred options are therefore Options 2a/2b, 3b, 4c/d as well as 5a.

130 In practice, however, keeping in mind that most DGS (22 in 17 Member States) use currently *eligible* deposits as their contribution bases, it would be easier to harmonise the contributions bases by the two-step approach: first, using *eligible* deposits in all Member States as the contribution base, and then (after a relevant transition period), switching to *covered* deposits as the single contribution base in the EU. The application of this approach would be merely a formal change, i.e. it would involve the change of the nominal target level for DGS funds in order to ensure that the overall amount of funds is unchanged. Therefore, it would have no impact on bank contributions and, in turn, on bank profits.

Operational objectives	Policy options	Comparison criteria		
		Effectiveness	Efficiency	Coherence
Providing for contributions to schemes, which adequately reflect the degree of risk incurred by banks	1. No requirements or harmonisation on banks contributions to DGS (current approach)	0	0	0
	2a. Eligible deposits as the contribution base in all MS (temporary solution)	**+ +**	**+**	**+**
	2b. Covered deposits as the contribution base in all MS (final solution)	**+**	**+ +**	**+**
	3a. Calculation of RBC based on a single indicator	–	–	+
	3b. Calculation of RBC based on multiple indicators	**+ +**	**+ +**	**+**
	4a. Requiring MS to apply RBC and allowing MS to develop their own risk indicators	+	+	+
	4b. Developing a set of indicators and allowing MS to choose relevant indicators in order to calculate RBC	+	+	+
	4c. Developing a set of core indicators (mandatory for all MS) and another set of supplementary indicators (optional for MS)	**+ +**	**+ +**	**+ +**
	4d. Developing a common set of indicators to be used in all MS in order to calculate RBC	+ / –	+ / –	+ +
	5a. Requiring annual contributions without down payments if a bank joins the scheme and requiring DGS to reimburse the last annual contribution of a bank if it becomes a member of another DGS due to changes of its legal status	**+**	**+**	**+**
	5b. Allowing down payments and forbidding reimbursement of the last annual contribution	**–**	**–**	**+**

7.10. Mandate of DGS

The following policy options were taken into account (they are mutually exclusive):

- *Option 1 (current approach):* Mandate of DGS left to the discretion of Member States (whether a DGS carries out any additional functions beyond payout).

- *Option 2:* Retaining the current approach and ensuring that the payout function cannot be impeded by expenses on early intervention or restructuring measures.

- *Option 3:* All DGS must provide funding for early intervention or bank resolution[131] measures. This means that beyond the target level required for payout, there must be additional funds available, either for dealing with a medium-sized bank (*Option 3a*) or a large bank (*Option 3b*) in difficulty.

As regards Option 1, if DGS are not required to participate in resolution for ailing banks, there is a higher risk that taxpayers' money is used for resolutions while corresponding powers of DGS would ensure that money originating from banks is used. The lack of coherence between national DGS roles in this regard may also impede coordinated resolution actions on a cross border basis. If in one Member State a DGS can use its funds to resolve a bank but this is not permitted in another Member State, it may render bank resolution negotiations more

[131] According to COM(2009)561, the term 'bank resolution' covers *'measures taken by national resolution authorities to manage a crisis in a banking institution, to contain its impact on financial stability and, where appropriate, to facilitate an orderly winding up of the whole or parts of the institution'.*

complex since private sector in one country may not be willing to participate if private sector does not contribute to a similar extent in the other country.

Option 2 implies, in addition to the impact stemming from Option 1, that the 11 Member States where DGS have powers beyond the mere payout of depositors[132] banks would have to ensure that DGS funds can in principle only be used for paying out depositors but can be used for bank resolution purposes if such use shall be limited to the amount that would have been necessary to pay out covered deposits. This would avoid a depletion of funds for the benefit of uninsured creditors of a bank, who also benefit from a resolution measure.

This option would affect these 11 Member States in so far as they would have to get additional funding if a resolution measure is more expensive than a payout. However, there are no data available as to the probability of such an event and its likely impact.

Even if the financial impact cannot be estimated, there are some other positive impacts:

– Depositors are the weakest link among those concerned by a bank failure and their protection would not be put into perspective or endangered by resolution actions;

– One bank may be subject to DGS support while another one might just be failing without support. The DGS may then less likely be empty because of the support granted and it may still be able to pay out depositors of the other bank;

– It takes into account that a bank that enjoyed DGS support may fail later (due to unexpected risks, unforeseen events, etc.). This so-called 'double whammy effect' could quickly empty DGS funds.

An effective and cost-efficient solution to ensure that DGS funds cannot be drained for bank resolution measures to the benefit of uninsured creditors is to require that DGS funds should principally be used for paying out depositors. However, in order not to deprive depositors of the benefits of bank resolution measures (i.e. the continuity of banking services as a result of the transfer of deposits of the failed bank to another credit institution[133]), it would be effective to allow the use of DGS funds for resolution, but limited to the amount that would have been necessary to pay out covered deposits.

If DGS had an even broader mandate, i.e. including not only bank resolution but also early intervention measures (e.g. recapitalization, liquidity assistance, guarantees, etc.), they would need to be adequately funded. It means that additional funds would need to be collected beyond the target level because bank resolution is alternative to payout while early intervention does not always prevent payout later on. However, in order to avoid situations where DGS funds could serve as an important contribution to an otherwise difficult early intervention measure, they could be used for such purposes under some restrictions.

132 See Annex D. RO, as the 12th Member State with DGS having a mandate beyond paybox, is not taken into account since its DGS has only liquidation powers which go beyond the paybox mandate but do not allow the support of banks.

133 It seems that Member States could also allow DGS to use their financial means in order to avoid a bank failure without being restricted to financing the transfer of deposits to another institution, provided that financial means of that DGS exceed the target level before such measure and its financial means are not lower than a certain threshold (e.g. 1% of eligible deposits) after such measure.

Finally, as to Option 3, it would result in avoiding the negative impacts of Option 1. It means that additional funds would need to be collected beyond the target level – either for dealing with a medium-sized bank or a large bank in difficulty (see Table 7). The impact of Option 3a would be €121 billion (of which €90 billion ex-ante funds) and for the impact of Option 3b would be €352 billion (of which €264 billion ex-ante funds). The cumulated impact ('paybox' and resolution as described under Option 2) would amount to €302 billion (of which €227 billion ex-ante funds; Option 3a) and €534 billion (of which €401 billion ex-ante funds; Option 3b). The impact on benefits such as depositor confidence and financial stability would be very positive but cannot be calculated.

However, Option 3 would seem inconsistent with ongoing Commission work on bank resolution to prescribe a mandatory bank resolution mandate for all DGS since it would anticipate the outcome of this work.

During the public consultation conducted by the Commission last year, a slight majority was in favour of maintaining DGS as mere 'payboxes' due to the need to avoid interference with other actors in the financial safety net and the risk of depleting DGS funds. The majority of respondents in favour of extending the mandate to bank resolution activities preferred to leave this decision at the discretion of Member States, since each Member State has a different set-up of crisis management. However, it was widely acknowledged that competent authorities in all Member States must have bank resolution powers.

Table 7: Scenarios based on government interventions (i.e. recapitalisations)

Description of scenarios		Size of the failure (% of the total amount of eligible deposits)
Big government intervention	Maximum costs for banks' individual recapitalisations operated by governments of EU Member States during the financial crisis	**3.80%**
Medium government intervention	Average costs for banks' individual recapitalisations operated by governments of EU Member States during the financial crisis	**1.30%**

Source: Joint Research Centre.

Conclusion: Option 3 would be the most effective one as regards ensuring that bank resolution is financed with private funds (banks) rather than with taxpayers' money at the same time ensuring that there is adequate funding in order to payout depositors in all EU Member States (contrary to Option 2, only 11 Member States). However, as the costs of such solution are extremely high and additional benefits as to depositor confidence and financial stability compared to Option 2 remain unclear, doubts remain as to the efficiency of Option 3. Option 2 is effective to ensure that DGS funds are not drained for other purposes. All options seem consistent with the possible establishment of a pan-EU resolution fund mentioned in the Commission Communication on crisis management (insert reference).

Operational objectives	Policy options	Comparison criteria		
		Effectiveness	Efficiency	Coherence
Enabling DGS to participate in bank resolution Ensuring adequate funding for DGS with additional tasks Ensuring that DGS with intervention powers remain sufficiently funded to fulfil their payout obligation if they are charged with additional tasks	1. Other DGS functions than 'paybox' optional (current approach)	0	0	0
	2. Requiring DGS with a broad mandate to collect adequate funds	**+**	**+**	**+**
	3. Requiring all DGS to have a broad mandate and to collect appropriate funds	+	– –	+

7.11. Cross-border cooperation of DGS and a pan-EU DGS

Fragmentation of DGS across the EU can be overcome by two alternative approaches: an improvement of cooperation between existing DGS to a different extent or a pan-EU DGS.

From this result three basic options. Only sub-option 3A is mutually exclusive as to the other options. Apart from this, the options can be combined:

- *Option 1 (current approach)*: no pan-EU DGS, depositors paid out and informed by the home country DGS (see Section 4.6).

- *Option 2:* Host country DGS acting as a single point of contact (this option is mutually exclusive only with Option 3a). Unless there is a single pan-EU DGS, Option 2 will always be relevant in case of branches, whether there is topping up or not. The following sub-options have been taking into account:

    (a) the host country DGS informs depositors at branches in its country about a bank failure in the home country; it also acts as a post box of the home scheme and provides information and advice in the host country's language;

    (b) in addition to Option 2a, the host country DGS is paying agent for the home country DGS and would be reimbursed by it.

- *Option 3:* Introducing a pan-EU DGS;

As regards Option 3, the following sub-options were taken into account as regards the structure of a pan-EU DGS (sub-options 3b or 3c can be cumulated with Option 2):

(a) a single entity acting as a pan-EU DGS replacing the existing schemes (if this option is chosen, Option 2 will become obsolete);

(b) a '28th regime' supplementing and supporting the existing DGS;

(c) a network of DGS ('EU system of DGS'): if the financial capacity of one scheme becomes insufficient or depleted, the other schemes would have to lend it money which is to be recovered over time (see Annex 28)[134].

In addition, the following sub-options of Option 3 were taken into account as regards the membership of a pan-EU DGS (they can be combined with any of the structure-related sub-options above):

[134] This is applied in a similar way in AT, where under Article 93a of the Bankwesengesetz, the sectoral scheme must pay to the extent that its member banks have paid the maximum contribution of 0.93% of own funds. In cases where the responsible scheme in question is unable to pay out the guaranteed deposits in full, the other sectoral schemes are obliged to make proportionate contributions immediately in order to cover the shortfall. Those protection schemes are to have recourse to claims against the relevant protection scheme in the amount of the contributions made and demonstrable costs. In cases where the schemes as a whole are unable to pay out guaranteed deposits in full, the original scheme concerned must issue debt securities in order to meet the remaining payment obligations; the Federal Minister of Finance may assume liability on behalf of the federal government according to a special legal authorisation.

(d) all banks;

(e) cross-border banks (i.e. those with branches in another Member State);

(f) only large, systemically important cross-border banks.

Option 3 presupposes full harmonisation of DGS as presented in this report and could only enter into force after the target level for DGS (see Section 7.7) has been reached. Both Options 2 and 3 would entail that (i) home and host DGS must conclude mutually binding bilateral or multilateral agreements on the details of such cooperation and/or (ii) relevant provisions in this respect would be stipulated in the Directive. In order to ensure that the arrangements work in practice, account should be taken of templates designed by EFDI[135] and the European Banking Authority (EBA) could act as a mediator[136].

Option 2a would mainly have an impact on DGS facing additional administrative costs for cooperation with the home country DGS if they play their role vis-à-vis the depositors. In turn, this would lead to a simplification for depositors since they would only have to contact one DGS in their own language.

In addition to this, for the host country DGS/banks, Option 2b would lead to interim financing costs until reimbursement. The amount paid by the host DGS needs to be reimbursed by the home DGS. However, payout should not depend on advance payments by the home scheme in order not to delay it. This issue could be left to arrangements between DGS for a transition period. Once the target fund size is reached, this will become less relevant.

The introduction of a pan-EU DGS (Option 3) paying out depositors on the basis of a decision by the Member State in charge of banking supervision could be thought of as a single entity replacing all national schemes or could consist of a network between existing schemes ('EU system of DGS'). It could also take the form of a so-called '28th regime', i.e. supplementing existing DGS with a scheme providing financial support to DGS if necessary.

The option requiring that there would be only one DGS in each Member State (i.e. merging their DGS on national level) was discarded at an early stage. Such a requirement would not be very effective since it would only resolve fragmentation at national but not EU level.

A single entity (Option 3a) would be financed directly by banks whereby Member States could collect the contributions and transfer them to the pan-EU DGS; a '28th regime' (Option 3b) would be financed by all DGS but indirectly by banks. The management of funds not used by the pan-EU DGS (whether a single entity or a '28th regime') could be performed by the EIB or the ECB (against fee). This would save the costs for asset managers at the pan-EU DGS and it could focus on collecting contributions and payout.

Options 3b and 3c would be accompanied by the following safeguards:

- It is a precondition that each national DGS is sufficiently financed to participate in such a network. It is also crucial to determine term, interest and amount of a loan (as a percentage

135 EFDI, Report on the development of a non-binding model agreement on exchange of information between DGS and EFDI Memorandum of Understanding (topping up), see http://www.efdi.net/documents.asp?Id=11&Cat=Efdi%20EU%20committee%20public%20documents.

136 Article 11 of the Proposal for a Regulation establishing a European Banking Authority, COM(2009) 501.

of deposits) to prevent the lending DGS from endangering their financial capability. In order to avoid that Member States keep their DGS funds artificially low, transparency about the level, the use and the investment of funds and the collection of the contributions are of the essence. The funds designated for DGS payout function should be subject to strict low-risk investment rules in order to avoid DGS to lose funds from inappropriately risky investments. Such rules already exist for 87% of DGS (see Annex 26).

- To avoid moral hazard, the funds designated for DGS payout should be shielded from unlimited use to avoid allocation to other areas. However, funds of DGS could continue to be used for bank resolution purposes but only under a strict and transparent application of the least cost principle, preventing a situation where other Member States would have to lend money to a DGS whose funds have been depleted for dubious bank resolution actions (moral hazard).

- In order to ensure that the function of the network is not impeded by different views in participating DGS, the EBA - as mentioned before - could act as a mediator.

- To reduce complexity, there should be only one DGS per Member State, which fulfils the obligation towards the other DGS in the network, irrespective of the number of DGS in a given country and which would function as a hub for the network of DGS.

As regards the membership of a pan-EU DGS, a pan-EU DGS could comprise all banks in the EU. If it is argued that a pan-EU DGS should not deal with every bank failure but only with those a national DGS cannot deal with, a pan-EU scheme could be limited to banks that have branches in other Member States ('cross-border banks'). If it is argued that smaller failures could anyway be dealt with at national level, and only systemically important banks[137] would need to be dealt with by a pan-EU DGS, membership could even be further limited to cross-border banks above a certain size.

As regards the public consultation conducted by the Commission last year, there were very mixed views on a pan-EU DGS. Proponents argued that a pan-EU scheme would be more efficient than the current fragmented framework, ensure harmonisation, remove competitive distortions, enhance consumer confidence, save administrative costs, etc. Opponents anticipated breaching the principles of subsidiarity and proportionality and were afraid of moral hazard (i.e. weaknesses in the banking supervision of certain Member States would be paid for by banks from other Member States). Both proponents and opponents indicated that, at first, pan-EU banking supervision would have to be established and clear burden-sharing rules set between Member States. A majority of those in favour of introducing a pan-EU scheme preferred establishing a network of DGS. Also, most respondents suggested that all banks (rather than only cross-border ones) should be members of a pan-EU DGS. The impact of Option 3a-c can be summarized as follows: a single pan-EU scheme would have resources of about €230 billion and save about €40 million admin costs per year. Under Option 3b, if e.g. each year only 25% of contributions to national GDS were paid to the 28th regime over 10 years, in eight Member States (BG, EE, LV, LT, MT, RO, SI and SK), all deposits could be repaid, over 10% of deposits could be repaid in 15 Member States, and only in four Member States (DE, FR, ES and UK), the 28th regime would encompass about 5% of deposits.

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137 The concept of Systematically Important Financial Institutions has been dealt with by the Financial Stability Board. According to a 2009 report to G-20 countries, three key criteria are size, substitutability and interconnectedness. Source: http://www.financialstabilityboard.org/publications/r_091107c.pdf.

Option 3c would entail that a DGS in need can borrow a limited amount from all other schemes in proportion to their fund size (i.e. in proportion to the deposits in each DGS). These funds would quickly be available before the DGS would have to borrow from other sources. In order to allow an additional facility of 0.5% of eligible deposits for the borrowing scheme (i.e. the equivalent of ex-post-contributions referred to under Section 5.3 – ¼ of 2%), all DGS would only have to lend up to 0.08% (for UK as one of the countries with the highest amount of deposits) of eligible deposits, i.e. about one 25th of their funds at target level. This is effective and efficient. Details about the contributions of each DGS (cumulated by Member State) are referred to in Annex 29.

Conclusion: Option 1 is ineffective because it does not mitigate fragmentation. Among Options 2a and 2b, the latter is preferred because of its effectiveness with regard to depositor confidence. As to Option 3, it would be more effective than any other option to reduce fragmentation. As to the structure of a pan-EU scheme, Option 3a would save administrative costs of (estimated) €36 million. Option 3b would seem rather ineffective since it would add complexity. Option 3c would not require changes in the legal set-up of national DGS. Given the fact that legal questions as to Option 3 a/b still have to be assessed, Options 3a and 3c could be combined by establishing a network first and by aiming at a pan-EU DGS after a certain transition period. This would also allow to take into account the evolution in the field of bank resolution (follow-up to COM(2009)561). Since Options 3e and 3f, due to their potentially distortive character are incoherent with the Internal Market, Option 3d would be preferred as to the membership in a pan-EU DGS.

Operational objectives	Policy options			Comparison criteria		
				Effectiveness	Efficiency	Coherence
Ensuring that DGS are capable to deal with payout situations Enhancing funding of DGS Increasing convergence between DGS	1. Member States required to have at least one DGS (current approach)			0	0	0
	2. Host country DGS acting as a single point of contact			++	+	+
	Pan-EU DGS	Structure	3a. Single (pan-EU) entity	+ +	+ +	++
			3b. '28th regime' complementary to existing DGS	+	–	– –
			3c. EU system/network of DGS	+	+	+
		Members	3d. All banks	+ +	+ +	+ +
			3f. All cross-border banks	+ +	–	– –
			3e. Large, systemically important cross-border banks	+ +	–	– –

7.12. Other issues

7.12.1. Topping up arrangements

The Commission has been tasked to assess the harmonisation of level and scope of coverage and the eligibility of depositors. According to this assessment (see Sections 7.2, 7.3, 7.4), full harmonisation is proposed. This means that there is no need for topping up arrangements anymore in order to deal with differences between DGS. However, for the sake of providing a complete impact assessment, a description and assessment of possible options whether or how

to continue the current 'topping up' approach is provided in Annex F. It would become relevant as soon as there is any national discretion on the level or scope of coverage or the eligibility of depositors.

7.12.2. Exemption of mutual and voluntary schemes from the DGS Directive

Since any impact would be limited to DE and, to a lesser extent, AT, the description of options, their impact and assessment is referred to in Annex G. The preferred option is to require all banks to be a member of a statutory DGS so that depositors are protected if a mutual scheme fails and to apply the Directive to voluntary DGS.

7.12.3. Additional issues raised by stakeholders

During the public consultation conducted by the Commission in 2009, as well as at the meetings of the Commission's working group on DGS in 2009 and 2010 (see Chapter 2), stakeholders indicated some additional issues that could or should be included in the current review of the DGS Directive. These issues are briefly presented in Annex H.

8. OVERALL IMPACT OF THE PREFERRED POLICY OPTIONS

The approach of minimum harmonisation introduced by the DGS Directive in 1994 has resulted in significant differences between DGS as to the level of coverage, the scope of covered depositors and products, payout delay, etc. Other important areas, such as funding mechanisms and levels, bank contributions to DGS or payout modalities, have not been harmonised at all but fully left to the discretion of Member States. This is not only costly and harmful for depositors, banks, and DGS, but may also be disruptive for financial stability and proper functioning of the Internal Market. The analysis presented in this impact assessment showed that adopting maximum harmonisation is more effective than the approach of minimum harmonisation.

The selected policy options[138] relate in most cases to the current legislative proposal and are expected to be implemented in the short and medium term (sometimes after a relevant transitional period). However, the options which are not reflected in the current legislative proposal (e.g. those related to risk-based contributions and to a single pan-EU DGS) are expected to be implemented in a longer perspective.

8.1. Micro- and macroeconomic impacts of the preferred policy options

The choice of preferred options has been based on their potential impact both in a micro-dimension (on depositors, banks and DGS) as well in a macro-scale (on financial stability and the economy). The options have been selected because of their expected effectiveness and efficiency in achieving specific and operational objectives and their coherence with the overarching objectives of EU policy. The preferred options indicated in various sections of this impact assessment may be combined in order to measure the cumulative impact of all of them. This is relating to the following set of preferred options:

(a) Level of coverage: € 100 000 (see Section 7.1);

[138] Annex J presents the set of preferred policy options indicated in this impact assessment.

(b) Scope of coverage: inclusion of deposits held by non-financial enterprises, exclusion of deposits held by central/local authorities and financial sector enterprises (see Section 7.3);

(c) Payout delay: as short as possible (preferably 7 calendar days) – which requires from banks, inter alia, tagging eligible depositors, data cleansing and creating single customer views (see Section 7.5); and early access to information by DGS.

(d) Target level for total DGS funds: about 2% of the amount of eligible deposits (of which ¾ collected ex-ante and ¼ available ex-post if needed) – to be reached in 10 years (see Sections 7.8 and 7.9).

The above options represent the approach of maximum harmonisation, i.e. they should be applied in all Member States in the same way. Their expected cumulative impact on stakeholders (depositors, banks and DGS) – to be expected within 5 or 10 years[139] – may be summarised as follows:

- **DGS**: DGS will be much better financed due to the target level of 2% of eligible deposits. It is expected that after 10 years, at EU level, DGS would have at their disposal about €150 billion as ex-ante funds and €50 billion potentially available as ex-post contributions – compared to total ex-ante/ex-post funds of €23 billion in 2008 (see Annex 18). They will be capable to payout depositors of a medium-sized bank within one week due to improved cooperation within their country (ensuring the involvement of DGS at an early stage) and with other DGS. Stress tests will alert them of possible shortcomings that can be tackled. Due to the simplification of eligibility criteria they will also save administrative costs.

- **Banks**: The higher the protection offered by DGS the higher the costs needed to ensure such protection. The impact may be expected in terms of an increase in contributions to be paid by banks[140] and, in turn, a decrease in their operating profits. Taking into account the above preferred options as to the level and scope of coverage and the harmonised approach to DGS financing, there would be an increase in bank contributions by 390% at EU level, i.e. from the pre-crisis level of €1.8 billion to €9.4 billion – the latter to be collected annually within 10 years. In addition, taking into account the above preferred option as to the payout delay, banks may expect total one-off administrative costs at EU level of about €1.2 billion annually within 5 years (the costs could be considerably lower if eligibility criteria were radically simplified). The cumulated impact on banks stemming from the costs stemming from all the above-listed policy options (the level and scope of coverage,

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139 The cumulative impact on banks and depositors stems from two separate scenarios:

(1) speeding up the payout process – which involves one-off administrative costs to be faced within 5 years (see Section 7.5 and Annex 12d-f);

(2) harmonising DGS funding and scope/level of coverage (harmonised scenario B) – which involves costs, i.e. higher contributions, to be faced 10 years (see Section 7.8 and Annexes 18-20).

Given different time horizons of the above scenarios, the cumulative impact on banks and depositors in the 10-year period is expected to be different in the first 5 years and in the remaining 5 years. During the first 5 years, the impact is to be higher as stemming from both scenario (1) and (2), which includes all the above preferred options: (a), (b), (c) and (d). During the remaining 5 years, the impact is to be lower as stemming from the second scenario only, which includes only the above preferred options (a), (b) and (d). The cumulative impact in the first 5 years has been presented in Annex 21 and the cumulative impact in the remaining 5 years is the same as presented in Annexes 19 and 20.

140 It has been assumed that the increase in contributions is proportional to the increase in the in the amount of covered deposits.

the harmonised approach to DGS funding and a faster payout) would be the following: a decrease of about 4% in bank operating profits at EU level during the first 5 years, and a 2.5% decrease in the remaining 5 years (see Annexes 19 and 21a respectively)[141]. On the other hand, banks would benefit from greater stability and safety of the banking system thanks to well capitalised DGS. Moreover, banks with a low-risk business model will profit from lower contributions to DGS. Finally, the single customer view would also lead to benefits for banks since they would better know their customers and could offer them products they have not bought yet.

- **Depositors**: In particular, substantially higher deposit protection offered by DGS is expected as a result of the adoption of the coverage level of €100 000 in all Member States (an increase in the amount of covered deposits from 61% to 72% of eligible deposits and an increase in the number of fully covered deposits from 89% to 95% of eligible deposits). The main benefit is that depositor confidence is expected to be critically enhanced with higher level of coverage and other provisions (e.g. a short payout delay and a sound target level for DGS funds) which will make depositors confident that their deposits are safe and that they will get them back up to €100 000 at any time, even if a bank fails. This should prevent them from bank runs in times of financial distress and, in turn, this would contribute to financial stability. In terms of costs for depositors, the cumulative impact – being a result of applying the above-listed policy options as to the level and scope of coverage, DGS financing and a faster payout – is expected to be moderate, i.e. lower interest rates of saving accounts by around 0.1% or higher bank fees on current accounts by about €7 per year per account (or €10 in a crisis situation) (see Annexes 20 and 21b). Depositors will also have a contact to a DGS in their own language which means that if depositors are well informed and believe in the system, they will not run on banks.

Moreover, the following overall impact in a macro-scale may be expected:

- **Financial stability**: The preferred policy options are expected to bring numerous benefits as to financial stability by preventing bank runs, eliminating the risk of shifts of deposits from Member States with a lower coverage level to those with a higher one, better monitoring of risks in the banking sector (risk-based contributions), ensuring that failures of a certain size (small and medium) will not threaten financial stability since better capitalised DGS are able to cope with these failures, etc.

- **Internal Market**: The preferred policy options are also expected to bring some important benefits for the EU economy and the Internal Market: creating a level playing field, eliminating competitive distortions, avoiding negative consequences for the economy stemming from instability of the banking sector, etc. Moreover, there should be a lower need to use the taxpayer money in case of bank failures (as a result of better capitalised funds of DGS). On the costs side, lower lending activity (stricter lending conditions or higher cost of credit) as a result of higher contributions could be expected, but it does not seem to have a big impact as it may be mitigated thanks to competition between banks.

The overall impact on stakeholders (DGS, banks and depositors) and the impact in a macro scale (on financial stability and the economy) are summarized in Table 8.

[141] This is the expected impact in normal times, i.e. when only ex-ante contributions are collected by DGS. In a crisis situation, when DGS may call for additional (ex-post) contributions as well – up to the ceiling of ¼ of the total target fund – the impact would be stronger, i.e. a 7.5% decrease in bank operating profits during the first 5 years, and a 6% decrease in the remaining 5 years (see Annexes 19 and 21a).

Table 8: Overall impact of the preferred options on stakeholders, financial stability and the economy

Preferred policy options	Impact on stakeholders			Macro-impact	
	DGS	Banks	Depositors	Financial stability	Economy
Level and scope of coverage					
Fixed coverage level of €100 000	Substantially higher deposit protection offered by DGS: - increase in the amount of covered deposits from 61% to 72% of eligible deposits - increase in the number of fully covered deposits from 89% to 95% of eligible deposits	Increase in total annual contributions from €1.8 billion to €2.6 billion and decrease in operating profits of 4% Avoiding strains to bank liquidity in case of numerous deposit shifts from one Member State to another	Lower interest rates on saving accounts by max 0.08% or higher current account fees by max €3.5 per year per account Discouraging depositors to shift deposits from one bank to another on the basis of the coverage level only, which may result in loosing interest rates, paying penalty fees, etc.	Eliminating the risk of shifts of deposits from Member States with a lower coverage level to those with a higher one Avoiding strains to liquidity of the banking sector in case of sudden and substantial deposit shifts from one Member State to another	Level playing field and no competitive distortions Lower cost of credit for enter-prises as a result of stronger competition between banks
No exemptions from the level of coverage	Very limited impact (only in 2 Member States): abandoning – after a transition period – unlimited DGS protection for certain tax-privileged deposit savings accounts (in DK) and THDB for real estate transactions (in FI)	No additional costs for banks (no need for banks to tag deposits eligible for additional protection under THDB, social considerations, etc.)	No change for depositors in most Member States Social costs in 2 Member States; eliminating protection of a popular type of deposits in one Member State	No substantial impact expected	Level playing field and no competitive distortions
Inclusion of all enterprises in the scope of coverage	Lower administrative costs and shorter payout since time-consuming verification of size classes obsolete	Increase in contributions of 1.3% and decrease in operating profits of 0.7%	Impact on medium and large enterprises in 13 Member States: all of them are covered	Reducing the risk that enterprises, in particular small enterprises (about 20 million in the EU) run on banks	More dynamic economic activity of small enterprises if their deposits are safe
Exclusion of all (central / local) authorities from the scope of coverage	Rather limited impact on DGS and local authorities: - local authorities are currently included only in 7 Member States (CZ, DK, GR, LT, Pl, FI, SE) - central authorities are excluded in all Member States	Decrease in contributions of 0.2% and negligible impact on operating profits (increase of 0.01%)	Only 121 000 local authorities affected in contrast to more than 450 million depositors.	No impact expected: - the level is not relevant for most of local authorities (73% of them have deposits above €100 000) - authorities are not expected to run on banks like individual depositors	Level playing field and no competitive distortions

Preferred policy options	Impact on stakeholders			Macro-impact	
	DGS	Banks	Depositors	Financial stability	Economy
Inclusion of deposits in non-EU currencies in the scope of coverage	Rather limited impact on DGS: - deposits in non-EU currencies are not covered only in 6 Member States (BE, DE, LT, CY, MT, AT) - about €273 million of covered deposits in non-EU currencies (compared to €5.7 trillion of all covered deposits in the EU)	The impact on banks financing DGS under the chosen target level 1.96% is estimated at maximum €5.3 million because of higher contributions to DGS Potentially higher (but rather moderate) inflow of deposits in non-EU currencies to EU banks	Ensuring protection for depositors having non-EU currencies in those MS where such deposits are currently not covered Enhancing depositor confidence	No substantial impact	Level playing field and no competitive distortions
Exclusion of debt certificates and structured products from the scope of coverage	Low impact: debt securities and liabilities arising out of promissory notes and own acceptances are included only in HU, LV and SE Low impact: structured products are covered only in HU	No preference for debt certificates issued by banks vis-à-vis other debt securities issued by non-banks Reducing incentives for banks to offer structured products	Simpler (and more understand-able for depositors) rules on covered and uncovered products Slightly less protection for depositors in a few Member States	No substantial impact	Level playing field and no competitive distortions
Payout delay and modalities					
Reducing the payout delay to one week	Much faster verification of claims as a result of receiving from banks proper (high-quality) data on deposits	One-off admin costs (tagging deposits, data cleansing, single customer view - SCV): €1.2 billion annually within 5 years. Marketing benefits: banks better know clients (SCV) and offer them products not bought by them yet	Quick access to money Avoiding problems with day-to-day payments Enhancing depositor confidence	Preventing bank runs	Avoiding negative consequences for the economy stemming from instability of the banking sector
Payout modalities (payout currency as deposits paid in, interests paid by DGS)	DGS have to provide for foreign currencies and bear exchange rate risk	No incentives for banks to limit deposits in foreign currencies Positive impact on banks out-side the euro area (otherwise they would be less attractive for euro-area depositors)	Avoiding exchange rate risk Enhancing depositor confidence	Preventing bank runs and competitive distortions	Avoiding negative consequences for the economy stemming from instability of the banking sector and competitive distortions

Preferred policy options	Impact on stakeholders			Macro-impact	
	DGS	Banks	Depositors	Financial stability	Economy
Discontinuing set-off for depositors and limiting it in the insolvency procedure	Avoiding the need to identify depositors' liabilities to match them against their deposits		Avoiding the risk that eligible deposits will not be paid at all (or payout will be reduced) Enhancing depositor confidence	Preventing bank runs	Avoiding negative consequences for the economy stemming from instability of the banking sector
Requiring supervisors to inform DGS by default if a bank failure is likely	More time for the preparation of claims verification	Need to share all relevant information on deposits with DGS before failure	No impact	Possibility to prepare bank failure in an orderly manner (including quick payout)	Avoiding negative consequences for the economy stemming from unexpected bank failures
Requiring DGS and banks to have a common interface	Ensuring quick exchange of information with member banks	Need to adjust existing reporting obligations to requirements of DGS	No impact	Ensuring smooth information exchange in crisis situations	No impact
Requiring DGS to regularly disclose relevant information (funds, stress testing, etc.)	Higher transparency and credibility of DGS	Possibility to monitor on a regular basis information about actual DGS funding and potential expectations on future bank contributions	Providing some depositors with additional information on DGS (limited to those seeking such information more actively)	Possibility to assess whether DGS are capable to deal with bank failures and maintain financial stability	Avoiding negative consequences for the economy stemming from instability of the banking sector
Financing of DGS					
Harmonised approach to DGS funding (target level: 2% of eligible deposits, ex-ante/ ex-post funds: 75%-25%, etc) to be achieved in 10 years	DGS would be much better capitalised that currently – after 10 years they would collect together the amount of ex-ante funds of about €150 billion and €50 billion available as ex-post contributions (compared to total ex-ante and ex-post funds of DGS of €23 billion in 2008)	Increase in contributions of 393% and decrease in operating profits of about 2.5% Need for member banks of ex-post DGS to switch to ex-ante system and pay adequate contributions to build the fund of a required size	Lower interest rates on saving accounts by about 0.1% or higher current account fees by about €7 per year per account	Failures of a certain size (small and medium size) will not threaten financial stability since better capitalised DGS are able to cope with these failures	Lower need to use the taxpayer money in case of bank failures (as a result of better capitalised funds of DGS)
Covered deposits as the contribution base	Better reflecting the actual risk to which DGS are exposed	Increase in nominal contributions, but no impact on the actual amount of contributions paid to DGS	No impact	Better monitoring of some risk exposures of DGS	No impact

Preferred policy options	Impact on stakeholders			Macro-impact	
	DGS	Banks	Depositors	Financial stability	Economy
Partially harmonised approach to risk-based contributions (mandatory and optional indicators)	Need to monitor risk profiles of banks (via relevant indicators) on a regular basis	Adjusting contributions to the actual risk incurred by banks (discouraging banks from taking excessive risk)	Less risky products offered by banks to customers	Better monitoring of risks in the banking sector Promoting more prudent and responsible behaviour in the banking sector Avoiding the problem of free riding (and de facto subsidizing riskier banks by safer ones)	Avoiding negative consequences for the economy stemming from excessively risky and irresponsible behaviour of market participants
Other issues					
Host DGS as a single point of contact for depositors at bank branches	DGS in host Member State would have to involve its money in advance and then be repaid by DGS from home Member State	No impact	Ensuring better information to depositors and quicker payout Enhancing depositor confidence	Preventing bank runs	
Require all banks to be a member of a DGS – integrate mutual and voluntary DGS into the Directive apart from coverage issues	DGS have a broader financing basis if all banks contribute to them	Increase in contributions for banks that are only members of mutual guarantee schemes but mitigated when risk-based contributions are introduced	Depositors have a claim against all schemes protecting them Depositors maintain the indirect protection by mutual schemes It is ensured that all schemes are soundly financed	Preservation of mutual schemes as a safeguard for financial stability	Reducing distortions of competition

Source: Commission services.

8.2. Social impact

The Directive is expected to have a very positive social impact. It consists of the following aspects:

- a high level of financial stability – confidence of about 95% of EU depositors will substantially increase as from the end of 2010 they will be fully covered by DGS and will, in case of a bank failure, be reimbursed by a DGS within 7 calendar days;

- an increase of protection of the wealth of depositors – 95% of EU depositors will be fully covered at the coverage level of €100 000;

- less stress for social welfare systems – a quick payout of 7 calendar days will make the intervention of social welfare systems because of a bank failure almost unnecessary.

On the cost side, even if all costs stemming from the increase in banks contributions to DGS were to be passed on to depositors – which is rather unlikely in a competitive market – they will be very limited: a maximum 0.1% reduction in interest rates on savings or maximum €7 more current account fees per year per account (in a crisis situation, the latter figure would be €10).

With regards to the jobs linked to national DGS, there are about 500 permanent employees at DGS in the EU. If a pan-EU scheme were to be introduced, some of the current employees would not keep their positions. Around 100 of them would be needed to run a pan-EU scheme. It can be assumed that due to their expertise in the banking sector, the rest of the current employees would find another adequate job.

8.3. Administrative burden

The preferred options do not lead to any significant administrative burden[142].

Some elements of this proposal could be seen as implying administrative burden such as the information obligations of banks and supervisory authorities to DGS, the cross-border information obligation between different DGS and the improvement of banks' and DGS' technical resources to reduce the payout delay or other indirect costs such as updating printed matters or web pages according to the new rules.

However, none of these costs are caused by a regular obligation since they are incurred only in case of a bank failure. Regular information of DGS about banks' deposits is implicitly necessary but this has also been the case under current law. They are thus 'business as usual costs'. No regular reporting obligations would be introduced.

The only figures that can be estimated are the costs for banks to tag eligible deposits, make data cleansing and provide a single customer view (about €6.2 billion over 5 years, i.e. around €1.2 billion annually within this period of time – see Section 7.5). The current administrative costs per DGS are about €1 million per year with huge differences between schemes (see also Section 7.10). Apart from IT costs for DGS, which cannot be estimated, the other types of costs mentioned above are considered insignificant.

[142] See Annex K for more detailed analysis.

8.4. Correlation with other impacts

The impact of a revision of the Directive on Deposit Guarantee Schemes will be only one of the impacts caused by the whole range of ongoing initiatives to enhance financial stability (e.g. the revisions of the Capital Requirements Directive 2006/48/EC). In general, each initiative is accompanied by its own impact assessment. It is not the purpose to provide a cumulative assessment on the occasion of this revision.

9. MONITORING AND EVALUATION

Since bank failures are unpredictable and if possible avoided, the functioning of DGS cannot be regularly monitored on the basis of how real bank failures are handled. However, as proposed, there should be regular stress tests of DGS. This would show whether DGS are at least in an exercise scenario capable to comply with the legislative requirements. This should take place in a peer review. Such review could be performed by EFDI and EBA. Results should be disclosed to Member States and to the Commission, the EBA and the ECB but otherwise details may be kept confidential when the first review is undertaken in order to allow improvements without public pressure. The main results of the following reviews should be disclosed to the public in detail.

The new European Banking Authority should assess the resilience of DGS, ensure that national legislation is not applied in away breaching the Directive, conduct peer review analyses, decide whether a DGS can borrow from other DGS and settle disagreements between DGS. This includes vetting if the ex-ante fund is being built up over time (see Section 7.8). The involvement of the EBA in general substantially reinforces the monitoring.

The transposition of any new EU legislation on DGS will be monitored under the Treaty on the functioning of the EU.

On a pan-EU scheme, there may be a further report long-term.

ANNEX A: COMPARISON OF THE COMMISSION PROPOSAL WITH THE FINAL TEXT OF DIRECTIVE 2009/14/EC

Commission proposal (submitted on 15 October 2008)	**Final text** (agreed on 18 December 2008 and adopted on 11 March 2009)
Increase of the minimum coverage level to € 100 000	Increase of the minimum coverage level to € 50 000 by the end of June 2009 and to a fixed level of € 100 000 by the end of 2010 unless the Commission considers this inappropriate
Limiting the eligibility of depositors to private individuals and abandoning all depositor-related discretionary exclusions in Annex 1 (leaving the option to Member States to broaden this limited scope)	The scope of coverage was not changed.
Reduction of the deadline to decide whether a bank has failed from 21 to 3 days	Reduction of the deadline to decide whether a bank has failed to 5 *working* days (i.e. 1 week)
Reduction of the payout delay from 3 months (extendable to 9 months) to 3 days	Reduction of the payout delay to 20 *working* days with the possibility to extend it a further 10 *working* days (i.e. 4-6 weeks) by the end of 2010.
Abandon of co-insurance (i.e. a portion of losses to be borne by the depositor)	
Regular performance tests of DGS' systems	
Early information of DGS in case of problems in a credit institution	Early information of DGS in case of problems in a credit institution *if appropriate*
Requirement for DGS to mutually cooperate	

Source: Commission services.

ANNEX B: INCLUSIONS IN THE SCOPE OF COVERAGE APPLIED IN MEMBER STATES*

	Category of deposits													
	1	2	3	4	5	6	7	8	9	10	11	12	13	14
BE														
BG													X	X
CZ			X	X					X		X		X	X
DK	X	X	X	X	X	X		X			X		X	X
DE1						X				X				
DE2														
DE3,4	X	X	X	X	X	X	X	X	X	X	X	X	X	X
EE													X	
IE													X	
GR				X		X							X	X
ES1,2.3													X	X
FR													X	X
IT1													X	X
IT2													X	X
CY1							X	X						X
CY2							X	X						X
LV										X		X	X	X
LT			X	X										X
LU													X	
HU									X			X	X	X
MT														
NL													X	
AT1-5														
PL				X				X	X		X		X	
PT1													X	X
PT2										X			X	X
RO													X	
SI											X		X	
SK											X		X	
FI		X		X	X	X	X	X	X		X		X	X
SE		X	X	X	X		X	X	X		X	X	X	X
UK						X							X	

1. Deposits by financial institutions as defined in Article 1 (6) of Directive 89/646/EEC.
2. Deposits by insurance undertakings.
3. Deposit by government and central administrative authorities.
4. Deposits by provincial, regional, local and municipal authorities.
5. Deposits by collective investment undertakings.
6. Deposits by pension and retirement funds.
7. Deposit by a credit institution's own directors, managers, members personally liable, holder of at least 5% of the credit institution's capital, persons responsible for carrying out the statutory audits of the credit institution's accounting documents and depositors of similar status in other companies in the same group.
8. Deposits by close relatives and third parties acting on behalf of the depositors referred to in 7.
9. Deposits by other companies in the same group.
10. Non-nominative deposits.
11. Deposits for which the depositor has, on an individual basis, obtained from the same credit institution rates and financial concessions which have helped to aggravate its financial situation.
12. Debt securities issued by the same institution and liabilities arising out of own acceptances and promissory notes.
13. Deposits in currencies other than those of the Member States.
14. Deposits by companies which are of such a size that they are not permitted to draw up abridged balance sheets pursuant to Article 11 of the Fourth Council Directive (78/660/EEC) of 25 July 1978 based on Article 54 (3) (g) of the Treaty on the annual accounts of certain types of companies.

* 'X' labels Member States where inclusions are applied

Source: Joint Research Centre.

ANNEX C: DIFFERENCES BETWEEN DGS AND OTHER FINANCIAL PROTECTION SCHEMES

Even though they are treated by a different Impact assessment, it seems useful to briefly explain the functioning of other guarantee systems for financial services.

IGS provide last-resort protection to consumers when insurers are unable to fulfil their contract commitment, offering protection against the risk that claims will not be met in the event of a failure of an insurance undertaking. Unlike the banking and the securities sectors, there is no European legislation on guarantee schemes in the insurance sector. As of today only 12 Member States have one or more IGS, showing significant differences across Member States with regard to the various design features of the national IGS.

The main objective of IGS is the protection of policyholders.

Directive 97/9/EC on Investor-Compensation Schemes (ICS) applies to investment firms (including credit institutions) who provide investment services under Directive 2004/39/EC on markets in financial instruments. It provides for clients of investment firms to be compensated in two limited situations. Firstly, if a firm is unable to repay money owed or belonging to a client and held on the client's behalf in connection with investment services. Secondly, if a firm is unable to return to a client a financial instrument belonging to the client and held, administered or managed on the client's behalf. Such a claim will typically arise if a firm gone into default is unable to return clients' assets because of fraud or theft or an error or problem with a firm's systems and controls. However, it does not cover compensation for a decline in the value of an investment (e.g. if the value of the investment's underlying assets decline, the value of the market declines or if an issuer fails).

The main purpose of ICS is to remove a potential obstacle to the proper functioning of a single market for investment services (i.e. diverse national compensation schemes being applied to such services).

Source: Commission services.

ANNEX D: DGS MANDATES BROADER THAN 'PAYBOXES' IN MEMBER STATES

Member State	Mandate
AT	Receivership; moratorium; preventive intervention
BE	Preventive interventions (under strict conditions)
BG	Preventive interventions (increase of the capital of an ailing bank); administration of bankruptcy proceedings
DE	Mutual Guarantee Schemes covering certain banks, but no comparable powers for the scheme required for other banks
ES	Preventive interventions (financial aid, subsidies, guarantees, loans under favourable conditions); reorganisation of institutions
FR	Preventive interventions
IT	Transfer of assets and liabilities; support interventions
LT	DGS has the right to take over an insolvent bank
PL	Financial assistance: loans, guarantees, endorsements; acquisition of debts
PT	Co-operation actions intended to restore the solvency and liquidity conditions of member institutions; granting allowances or loans; providing guarantees in favour of the member institutions; acquiring credits or any other assets from its members
RO	Interim administration; special administration; judicial liquidation; administrative liquidation
UK	FSCS can contribute to the costs of a bank failure through the Special Resolution Regime (SRR); insolvency practitioner: first objective is to work with the FSCS to ensure that each eligible depositor has the relevant account transferred to another institution and receives payment from (or on behalf of) the FSCS - FSCS can now borrow from the National Loans Fund

Source: Joint Research Centre and Member States.

ANNEX E: COMPARISON OF SELECTED PROVISIONS OF DIRECTIVES DGS (94/19/EC) AND CRD (2006/48/EC)

	Article 3(1) of Directive 94/19/EC	Article 80(8) in conjunction with Article 80(7) (a), (d), (e) of Directive 2006/48/EC
Description	The credit institution belongs to a system which protects the credit institution itself and in particular ensures its liquidity and solvency, thus guaranteeing protection for depositors at least equivalent to that provided by a deposit-guarantee scheme.	(8)(b) the credit institution and the counterparty have entered into a contractual or statutory liability arrangement which protects those institutions and in particular ensures their liquidity and solvency to avoid bankruptcy in case it becomes necessary (referred to below as an institutional protection scheme); (7)(a) the counterparty is an institution or a financial holding company, financial institution, asset management company or ancillary services undertaking subject to appropriate prudential requirements; (7)(d) the counterparty is established in the same Member State as the credit institution; (8)(i) the institutional protection scheme shall be based on a broad membership of credit institutions of a predominantly homogeneous business profile; (8)(g) members of the institutional protection scheme are obliged to give advance notice of at least 24 months if they wish to end the arrangements.
Recognition and monitoring	the system must be in existence and have been officially recognized when this Directive is adopted; conditions must be fulfilled in the opinion of the competent authorities	(8)(j) the adequacy of the systems referred to in point (8)(d) is approved and monitored at regular intervals by the relevant competent authorities.
Mechanism	the system must be designed to prevent deposits with credit institutions belonging to the system from becoming unavailable and have the resources necessary for that purpose at its disposal,	(8)(c) the arrangements ensure that the institutional protection scheme will be able to grant support necessary under its commitment from funds readily available to it; (7)(e) there is no current or foreseen material practical or legal impediment to the prompt transfer of own funds or repayment of liabilities from the counterparty to the credit institution.
Risk management		(8)(d) the institutional protection scheme disposes of suitable and uniformly stipulated systems for the monitoring and classification of risk (which gives a complete overview of the risk situations of all the individual members and the institutional protection scheme as a whole) with corresponding possibilities to take influence …; (8)(e) the institutional protection scheme conducts its own risk review which is communicated to the individual members; (8)(h) the multiple use of elements eligible for the calculation of own funds ("multiple gearing") as well as any inappropriate creation of own funds between the members of the institutional protection scheme shall be eliminated.
Disclosure	the system must ensure that depositors are informed in accordance with the terms and conditions laid down in Article 9	(f) the institutional protection scheme draws up and publishes once in a year either, a consolidated report comprising the balance sheet, the profit-and-loss account, the situation report and the risk report, concerning the institutional protection scheme as a whole, or a report comprising the aggregated balance sheet, the aggregated profit-and-loss account, the situation report and the risk report, concerning the institutional protection scheme as a whole;
Reference to state aid	the system must not consist of a guarantee granted to a credit institution by a Member State	

ANNEX F: TOPPING UP

The sole responsibility to reimburse depositors lies with the DGS of the country where the bank has its registered seat, regardless whether it the bank is a stand-alone company or a subsidiary controlled by another company. This responsibility extends to all legally dependent parts of a bank, i.e. its branches, even if they are located in another Member State.

There is an important exception to this principle. If, in case of branches, coverage in the host country is higher or more comprehensive than in the home country, the current regime provides the option for the bank to join the host country DGS for the difference in coverage. This is called 'topping up arrangement' and means that two DGS (home and host country) are involved when depositors of such a branch are to be paid out. Topping up arrangements are very complex since the Directive has only harmonised DGS on a minimum level and frictions occur if DGS operating under different national rules must cooperate. Topping up can also lead to delays in payout since two DGS are involved, which have to coordinate their actions.

The current form of topping up arrangements gives a bank with a branch in another Member State the right to join the host country DGS for its branch and for the difference in coverage but this is dependent on whether and how the DGS of both countries can find an agreement. Important obstacles would remain such as different banking secrecy obligations (hindering the echange of depositor information between DGS), different ranks of DGS in insolvency procedures and in particular different legal systems in Member States. The involvement of two DGS that might have a very different setup inevitably takes more time. They cause confusion for depositors who do not understand why they have to deal with two DGS for one account as is evident from complaints in the context of the failure of Icelandic banks.

Policy options and their impact

The options below are only relevant if neither a single pan-EU DGS is chosen nor level and scope of coverage and the eligibility of depositors will be fully harmonised, the latter being preferred according to this report. In this case, the following sub-options could be taken into consideration:

- *Option 1:* Discontinuation of topping up.
- *Option 2:* Mandatory topping up by the host country.
- *Option 3:* Mandatory topping up by the home country.

Option 1 would have the positive impact that depositors would only be covered by one DGS. However, this would mean for banks that their branches could not compete with other banks if their home DGS has a lower protection than banks registered in the host country. It would also lead to depositors at banks operating in the same country being subject to different level or scope of protection. Costs for covering the difference between home and host coverage would be shifted towards the home DGS.

Option 2 would have a very low impact since many banks concerned by different coverage levels have already opted for topping up. Depositors may be better protected in total but the involvement of two DGS is prone to complications. Banks would have to contribute to two DGS if topping up applies. Most likely, this would increase the overall contributions. Depositors at banks operating in the same country would be protected equally.

Option 3 would simplify deposit protection for DGS, banks and depositors since only one DGS would be competent and overall contributions per bank would seem to be lower as under option 2 (economies of scale: 1 instead of 2 DGS must be contributed to). The amount of covered deposits protected by the home-country DGS would increase since they are assumed to provide protection to branches that were covered by the host country DGS. On average, this increase is negligible – between 0.3% and 0.7%. Option 3 would lead to an equal protection of depositors at banks operating in the same country but lead to a different protection of depositors at the same bank pending on the location of its branches where the deposits are kept. This may lead to pressure in the home country to align level or scope of coverage to the level and scope guaranteed in other Member States.

Comparison of policy options

Effectiveness

Option 1 would be effective to mitigate fragmentation and to reduce payout delays. However, it would be ineffective as to creating a level playing field if no full harmonisation can be achieved.

Option 2 would not be effective to mitigate fragmentation and to reduce the payout delay since the involvement of two DGS would even become mandatory in case of divergent coverage.

Option 3 would be effective to mitigate fragmentation since only one DGS is competent. It is also effective to increase depositor confidence and to reduce payout delays since the depositor does not have to deal with two DGS. Home country topping up as such would not solve unequal treatment between depositors but be much more effective since many possible frictions and delays caused by the involvement of different schemes would be avoided. Option 3 would have an additional advantage: If home countries are forced to offer depositors in host countries more protection than depositors in the home country, there may be pressure of the public to align coverage with the one in the host country, i.e. to also apply optional elements of scope and eligibility.

Efficiency

Option 1 saves admin costs for the host scheme and costs for the banks that do not have to pay contributions to the host DGS anymore. Option 2 incurs admin costs for the host DGS and costs for banks that have to contribute to two schemes. Option 3 also incurs costs for banks that have to pay higher contributions (to the home DGS) but there are no additional admin costs since only one DGS is involved. Given its effectiveness and relatively low costs, option 3 is the most efficient option.

Conclusion: Since Option 3 is the most effective and efficient option, it would be preferable over the other options.

ANNEX G: MUTUAL AND VOLUNTARY GUARANTEE SCHEMES

It should be recalled that mutual schemes function in a different way than DGS while voluntary DGS are DGS going beyond statutory DGS (see Section 4.7).

Policy options and their impact:

The following options have been taken into account:

- *Option 1:* Retain current approach (mutual schemes are exempt from the Directive if they meet certain requirements and voluntary schemes are not covered by the Directive[143]).

- *Option 2:* Banks being members of mutual guarantee schemes also have to be members of a DGS but pay half of the pre-determined contribution which is paid by the banks in the same risk category. The function of DGS could also be performed by the mutual scheme, which would then fall entirely within the scope of the Directive, including its coverage level. The mutual scheme would have the choice either to become a statutory DGS with a bank resolution mandate (see above 7.10) or to remain a mutual scheme and contribute half of the risk-based pre-determined contribution to a statutory DGS. Voluntary schemes would be subject to all requirements of the Directive, in particular the level and scope of coverage, the financing requirements and the payout delay.

- *Option 3:* Prohibit mutual and voluntary schemes.

Option 1 would have no impact on voluntary and mutual schemes. As described in Section 4.7, retaining the current approach leads to insufficient information and inappropriate protection of depositors because they have no claim against voluntary and most mutual schemes and are not protected if the mutual or voluntary scheme fails. Competitive distortions resulting from offering higher coverage ('unlimited protection') and from the exemption to pay contributions to the statutory DGS would remain

Under Option 2, two variants have been considered the choice of which is up to the mutual schemes: (a) mutual guarantee schemes could also perform the role of a DGS and would then fall entirely within the scope of the Directive, including its coverage level; (b) For mutual guarantee schemes not acknowledged as a DGS under the Directive and for voluntary schemes, this option would entail the following requirements in order to ensure that the problems described in Section 4.7 are avoided:

- Depositors must have a claim for reimbursement on voluntary schemes (or on mutual schemes if the mutual protection has failed) and have to be informed accordingly. As to mutual schemes, this level cannot be higher as for DGS under the Directive. If the claim against the mutual or voluntary scheme cannot be met, the DGS has to pay up to the coverage limit and must be in a position to recover the payments from the mutual or voluntary scheme.

- The fact that banks are members of a mutual scheme is taken into account for the calculation of risk-based contributions to the DGS of which they are a member. Their risk should be assessed by the DGS.

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143 Article 3 of Directive 94/19/EC and Recital 8 of Directive 2009/14/EC..

- Members of mutual schemes can only enjoy this reduction if the mutual scheme fulfils the criteria of Article 80(8) of Directive 2006/48/EC[144] and if it covers the same products and uses the same eligibility criteria for depositors as DGS under the Directive (since otherwise the risk for the statutory DGS would be higher if it has to step in, see below).

- On the one hand, no mutual or voluntary scheme has failed so far (which speaks for a low risk for statutory DGS concerning their members). On the other hand, a voluntary scheme needed billions of state guarantees to survive (see Section 4.4) and no information on their financial soundness is disclosed (which speaks against their solidity). The political declaration of unlimited coverage given in autumn 2008 could be interpreted as if there was no sufficient depositor confidence into the German safety net. Considering the lack of detailed information, due to the mere fact that two safety mechanisms would apply to one bank (the DGS and the mutual scheme), contributions of members of a mutual scheme to statutory DGS would thus be half of the contribution for a bank with the same degree of risk as the mutual scheme as a whole. In other words, banks that are members of a mutual scheme would get a reduction of 50% for their contribution to DGS.

- Depositors protected mutual schemes are clearly informed that they offer an additional layer of protection to existing DGS, that they have a claim against mutual and voluntary schemes and about how they function.

- Mutual and voluntary schemes are subject to the same financing requirements, disclosure requirements, peer review and stress testing as DGS but are free to impose stricter conditions on their members.

This option would improve depositor protection since depositors would have a claim against those schemes as a safety net. It has an impact on statutory DGS that must be prepared to cover customers of banks belonging to a mutual scheme but in turn, it receives contributions from them. The strict criteria of Article 80(8) of Directive 2006/48/EC ensure that a mutual scheme significantly reduces the risk of its members to fail since if its conditions are fulfilled, the lending between members is regarded as risk-free for prudential purposes. It would also improve depositor information. This option would remove competitive distortions since mutual schemes could not advertise with 'unlimited coverage' anymore but only explain that their scheme prevents failures.

Members of German mutual schemes would consequently have to pay contributions to the statutory DGS in addition to the mutual scheme (with a reduction of 50%). This does not apply to Austrian banks since they must all be members of a DGS under the Directive. Since we requested but did not receive information on the amount of funds of and contributions to these schemes, the impact cannot be calculated[145]. However, on the basis of the eligible

144 See Annex E for a comparison of Article 3 of Directive 1994/19/EC and Article 80(8) of Directive 2006/48/EC.

145 Sometimes, there are ratings for the schemes or for central institutions of their members available. The central institution of Austrian Volksbanken is rated Baa (Moody's), the central institution of the Austrian Raiffeisenbanken A1 (Moody's), the Erste Bank Group comprising most Austrian Savings Banks A (S&P). German Sparkassen have a corporate rating of Aa2 (Moody's)/A (DBRS), the German cooperative banks have a group rating of A+ (Fitch/S&P).

deposits held with banks under German mutual schemes (about € 1.6 trillion[146]), the current contributions to be paid into the German statutory DGS[147] – under the assumption that contributions will be risk-based in future (see Section 7.9) and members of the German mutual schemes fall into the lowest category of risk, i.e. 75% of the 'standard' contribution (even though this cannot be verified due a lack of information) – it can be estimated that German cooperative banks would have to contribute about €37 million and savings banks €67 million to the German statutory DGS. Currently, the contributions to the German schemes are not risk-based. If the target fund sizes for DGS discussed in Section 7.8 are taken into account (0.6%, 1.3% and 1.96% of eligible deposits), the German cooperative banks would ceteris paribus have to pay € 137, 299 or 450 million each year over 10 years. For the German savings banks, this would respectively mean € 251, 544 or 821 million.

If the German mutual schemes opted for becoming DGS acknowledged under the Directive, the costs for banks adhering to them would be considerably lower since existing funds would be fully taken into account. However, due to a lack of information about their current fund size it can only be guessed that the impact would be lower. In 2008, the German Minister of Finance was quoted in the press with a statement that the German voluntary scheme had a size of € 4.8 billion[148]. For cooperative banks, such a fund size would mean 0.84% of deposits and for the savings banks 0.44% of deposits. However, this impact has to be compared with the impact on other banks (see Annex 5 and 14) and is relatively low.

As to the impact on bank interest rates and fees, no estimation is possible for Germany (due to the lack of data) but generally, the impact of rising contributions to DGS on depositors is low (0.09% lower interest rates in the EU and about € 4 higher fees in the EU (see Annex 6).

Option 3 would force any bank into a DGS and the operations of other schemes would cease. No problems linked to the existence of these schemes such as inappropriate coverage and a lack of depositor information would exist. The fragmentation of DGS would also be reduced. The impact on depositors would be low since the current quasi unlimited coverage of voluntary DGS does not seem to be credible. If such schemes had to apply the same rules as others, they would likely cease their operation. The funds of the schemes could be redistributed to members who could finance contributions to DGS with it.

Comparison of policy options

Effectiveness

Option 1 would not contribute to improving depositor information. The fact that depositors do not have a claim for reimbursement on mutual and voluntary schemes in case of failure, the coverage of depositors would not be effectively ensured with negative consequences for financial stability.

146 This may include interbank deposits since they are also covered by the mutual schemes. The real impact (since DGS only cover retail deposits) would in this case be much lower. No clarification could be obtained.

147 Currently, the contribution to the German DGS for private banks is set at 0.016% of eligible deposits.

148 Handelsblatt of 19 February 2009 (http://www.handelsblatt.com/finanzen/vorsorge/einlagensicherung-das-grosse-versprechen;2162821).

Option 2 would be effective in ensuring appropriate coverage of depositors, in particular if a mutual scheme collapsed. Depositor information would be improved. It would also be effective with regard to the objective to facilitate private sector solutions in crisis situations. This option would not effectively reduce fragmentation since mutual schemes continued to coexist alongside statutory DGS but due to the obligation for DGS to cover failures if a mutual scheme collapses, risk would be distributed to two schemes and therefore the negative effects of fragmentation would be mitigated.

Option 3 would be less effective as to the general objective of financial stability since mutual schemes are an additional safeguard mechanism. This option would also be incoherent with the objective to facilitate private sector solutions in crisis situations. However, option 3 would be very effective to mitigate fragmentation, would resolve any possible competitive distortions and would not imply additional costs to schemes. Option 3 would not resolve but mitigate competitive distortions if mutual and voluntary schemes are treated like DGS or in case of mutual schemes if they have to pay contributions to the scheme and coverage in case of payout is limited.

Efficiency

Options 1 and 3 do not lead to direct financial costs. In an extreme case, mutual and voluntary schemes could even refuse payment to depositors[149]. There are no benefits either under Option 1. However, the fact that depositors have no claims against the schemes and do not know how many funds they have at hand, reduces their credibility and thus consumer confidence. This could lead to high social costs in case of bank runs. Most likely, the taxpayer would bear these costs in the end.

Option 3 would be less efficient than Option 1 since the costs to manage crises among their members would rise if the mutual schemes had to cease their operations. Options 1 and 2 would leave this function intact and thus be more efficient. Option 2 would seem to lead to significant costs if mutual schemes do not want to turn into DGS under the Directive, which would not lead to any disadvantages for them since they could maintain their mutual support function as to bank resolution. However, even if they have to pay contributions to two schemes, the benefits for depositor confidence and financial stability cannot be calculated but are estimated to outweigh the costs. This seems to be proven by the Austrian example where members of a mutual scheme also have to pay into the DGS, even if ex-post only.

Coherence

Option 3 – as far as mutual schemes are concerned – would be inconsistent with Article 80(8) of Directive 2006/48/EC since this Directive would allow what is prohibited in the same context of financial stability. Option 1 would also be inconsistent with this Article since stricter prudential conditions would be required for prudential purposes than for the protection of depositors.

Conclusion: Option 2 is preferred. It would allow maintaining depositor confidence, mitigating fragmentation and mitigating competitive distortions.

[149] Frankfurter Allgemeine Zeitung of 10 November 2009, p. 22 (on a lawsuit concerning interbank deposits not covered by DGS but under the German voluntary scheme, which refused repayment in a specific case).

ANNEX H: ADDITIONAL ISSUES RAISED BY STAKEHOLDERS

Harmonisation of the statute of limitation

Directive 94/19/EC (Article 3) allows a statute of limitation – only one day longer than the payout delay. With Directive 2009/14/EC that has slightly reduced the payout delay depositors could be caught out with their claims against the DGS after only some weeks, which seems too short. Without stating a certain timeframe, the statute of limitation would better be linked to the registration deadline of claims in the insolvency procedure so that DGS would not have to payout depositors when they cannot get recovery for these claims in the insolvency procedure anymore.

Handling of deposits held on behalf of several depositors (e.g. trust accounts)

Under Article 8 of Directive 94/19/EC, Member States can decide whether accounts belonging to several persons can be treated as one single account or whether the coverage level should be applied to every beneficiary of such account. Any attempt to harmonise this would be complicated since 27 different civil laws on associations, trusts, etc. would have to be taken into account. It would be very burdensome for the DGS if it was required to look behind every trust account. Whether this is possible can only be decided by the Member States and should therefore remain as it is. However, if Member States wish to go beyond the trustee accountholder and to identify beneficiaries, this should be taken into account for the calculation of contributions and a longer payout delay should be allowed.

Taxpayer's contribution to DGS funding

The recent crisis has shown that the use of taxpayers' money has led to budgetary deficits. The use of taxpayers' money should therefore be avoided as much as possible.

Reintroduction of co-insurance

Co-insurance has been abolished by Directive 2009/14/EC since it reduced the effectiveness of depositor protection and was unfair since depositors protected by the Directive are not in a position to judge the soundness of their bank.

Excluding high-risk banks from DGS

Excluding high-risk banks from DGS would be counterproductive because it would limit the protection of depositors. Supervisory measures should be taken and the introduction of risk-based contributions should serve as sufficient incentive to deter banks from becoming 'high-risk' banks.

Including deposits of investment funds

It is argued that such deposits (being subject to Annex I no. 5 of Directive 94/19/EC) should be mandatorily covered by DGS since these deposits belonged in the end to unit holders. However, an inclusion of investment funds would be incoherent since the impact of bank failures on collective investment undertakings is already taken into account by Article 52(1)(b) of Directive 2009/65, which limits *any* investment (including deposits) to 20% of the fund's size. A further safeguard does therefore not seem necessary. This is probably why these deposits are only covered in 3 Member States (DK, FI and SE).

ANNEX J: PREFERRED OPTIONS (SUMMARY)

Problem driver	Operational objective	Policy options indicated as preferred in the Impact Assessment
Level and scope of coverage		
Inappropriate coverage levels Differences in coverage levels	Determining appropriate coverage level Reducing differences in coverage levels Providing alternative solutions to topping up	Fully harmonised (fixed) coverage level of € 100 000 in all MS – to be applied from 31 December 2010 onwards Full harmonisation of the coverage level makes topping up obsolete Application of the coverage level: per depositor per bank (no coverage per brand) No exemptions from the fixed coverage level (no indefinite grandfathering for social considerations, no additional coverage for temporary high deposit balances, etc.)
Differences in the scope of coverage (eligibility of depositors)	Reducing differences in the scope of coverage Providing alternative solutions to current topping up regime	Full harmonisation of scope and eligibility makes topping up obsolete. Including the following depositors into the scope of coverage: all enterprises (regardless of their size), depositors having a relationship with the failed bank Excluding the following depositors from the scope of coverage: enterprises in the financial sector, local and central authorities, depositors who opened their account anonymously
Differences in the scope of coverage (covered products)		Including the following products into the scope of coverage: deposits in non-EU currencies (currently optional) Excluding the following products from the scope of coverage: debt certificates issued by the same bank and debt securities and liabilities arising out of own acceptances and promissory notes (currently optional), structured products whose principal is not repayable in full Clarifying that if a claim on a credit institution is subject to both ICS and DGS, the claim should be dealt with by the DGS
Payout delay and modalities		
Too long payout delay	Requiring a fair payout delay (as short as possible, but feasible) Providing alternative solutions to deposit payout	Reducing the payout deadline to 7 calendar days (without extension) after a transition period of 3 years (requirements: tagging eligible deposits, single customer view, etc.) Leaving alternative solutions to further work on bank resolution (COM(2009)561)
Inadequate procedures for payout	Ensuring clear and fair payout modalities Limiting set-off	Payout of covered deposits in the same currency as the deposits were paid in Interest paid out according to the rate agreed with the bank until the date of failure if it can be determined Discontinuing set-off for depositors, but limiting set-off in the insolvency procedure (against the DGS that has subrogated into the depositors' claims against the bank)
Inadequate procedures for payout	Ensuring that DGS are capable to deal with payout situations Involving DGS at an early stage Improving information exchange between banks and schemes	Requiring competent authorities to inform DGS by default if a bank failure becomes likely and requiring banks and DGS to exchange information on depositors domestically and cross-border unfettered by confidentiality requirements Requiring DGS and their member banks to have a common interface to quickly exchange information Requiring DGS to regularly disclose the amount of ex-ante funds, ex-post financing capacity, workforce and the result of regular stress testing exercises and of a regular peer review among DGS

Financing of DGS		
Different financing obligations on banks across MS	Increasing convergence between DGS	Harmonised approach to funding mechanisms (i.e. making ex-ante financing mandatory and supported by ex-post funding) and setting limits for both ex-ante and ex-post contributions (e.g. 75% and 25% of the total fund respectively) Harmonisation of the target level, the contribution base, the scope of coverage and limits for ex-ante/ex-post funds (to be achieved within a specified period of time, e.g. 10 years)
		Requiring annual contributions without down payments if a bank joins the scheme Requiring DGS to reimburse the last annual contribution of a bank if it becomes a member of another DGS due to changes of its legal status
Bank contributions to DGS are too low	Enhancing DGS funding	Setting a relevant target level for the DGS funds (both ex-ante and ex-post) in order to ensure that DGS would be capable to handle a bank failure of a specific size (e.g. 2% of the amount of eligible deposits, i.e. the maximum DGS payout for a failure occurred in the EU MS in 2008) – it would allow DGS to collect within 10 years about € 150 billion of ex-ante funds and € 50 billion available as ex-post contributions (if bank annual contributions were 4-5 times higher within those 10 years) Borrowing by DGS allowed but not necessarily harmonised
Bank contributions to DGS are not based on risk exposures	Providing for contributions to schemes, which adequately reflect the degree of risk incurred by banks	Total amount of bank contributions depends on both the contribution base (covered deposits) and risk indicators Developing a set of core risk indicators (mandatory for all MS) and another set of supplementary indicators (optional for MS)
Other issues		
Insufficient depositor information on functioning of DGS	Clarifying and elaborating existing information obligations of banks	Developing a standardised template (annexed to the Directive) that includes relevant information on DGS and must be countersigned by depositors before entering into a contractual relationship with a bank Requiring a reference to DGS in advertisements and account statements if a product is covered by DGS
Limited mandate of DGS - lack of mechanisms for bank resolution	Ensuring adequate funding for DGS with additional tasks Ensuring that DGS with intervention powers remain sufficiently funded to fulfil their payout obligation if they are charged with additional tasks	Not requiring DGS to be in charge of bank resolution. However, if a DGS has a resolution mandate, permitting the use of DGS funds for bank resolution purposes, but limited to the amount that would have been necessary to pay out covered deposits.
Cross-border cooperation		Requiring host country DGS to act as a single point of contact for depositors in case of a bank failure.
Pan-EU DGS		A pan-EU DGS would be effective to overcome fragmentation of schemes. However, some legal aspects have to be examined in more detail. System of mutual borrowing between DGS
Exemption of mutual and voluntary guarantee schemes from the Directive		Requiring that banks being members of mutual guarantee schemes also have to be members of a DGS (but pay half of the pre-determined contribution which is paid by the banks in the same risk category, if their mutual guarantee scheme is separate from the DGS where they are members). Applying the same conditions to all schemes, whether mutual, voluntary or statutory.

Source: Commission services.

ANNEX K: COSTS ANALYSIS: IMPACT ON DGS AND MEMBER BANKS (SUMMARY)

The introduction of the DGS Directive will have a number of effects for DGS and their member banks, such as the increase of the level of coverage or the reduction of the payout period. Some of these effects might involve a cost for the DGS and/or their members. This section is aimed at to analysing the administrative costs that could be imposed by introducing new Regulations/Directive; the analysis follows the Standard Cost Model (SCM) methodology[150]. The SCM is a method for determining the administrative burdens for businesses imposed by regulation; it is a quantitative methodology that can be applied in all countries and at different levels. It is developed by a network of countries (within and outside the EU[151]) which committed themselves to using the same methodological approach when measuring and tackling administrative burdens.

According to SCM analysis, the costs that DGS and their members may incur can be classified in different categories: (i) direct financial costs (e.g. cost for banks resulting from an increase in contributions);[152] (ii) indirect financial costs (e.g. IT changes required for banks to comply with the Directive, such as adding eligibility flags for account set-up); (iii) long-term structural costs (e.g. if for example in order to comply with the Directive, banks or DGS have to hire additional people on a permanent basis); (iv) business as usual administrative costs: information that would be collected and processed by businesses even in the absence of the legislation; and (v) administrative burden: part of the administrative costs that incurred in order to meet the information reporting obligations resulting from the Directive.

The below table summarizes the effects of the Directive and its cost implications for DGS and its member banks. It lists for each one of the potential effects of the Directive, what are the different categories of costs that will be incurred by banks and DGS. If we take aside the direct financial costs, the effects that will most likely have the biggest cost impact on banks/DGS are the changes in the payout procedures (see last row of the Table), since costs related to all the other potential effects of the Directive do not seem to be as substantial as those for the changes in payout procedures. Direct Financial Costs have not been divided into costs for members and for DGS, because the estimated costs can be apportioned among members or can be borne directly by the involved DGS. As an example, many MS increased their level of coverage, but none of their DGS (but GR) has raised their contributions correspondingly.

The table shows that from a cost category point of view (again taking aside the direct financial costs), the most important category is the indirect financial cost that mainly involves IT related changes. Administrative costs resulting from the Directive (administrative burden) also exist, but they should not be substantial compared to the indirect financial costs. Concerning administrative burden costs, these costs are not substantial comparable to the indirect financial cost.

150 The Standard Cost Model (SCM) is a method for determining the administrative burdens for businesses imposed by regulation. It is a quantitative methodology that can be applied in all countries and at different levels. It is developed by a network of countries (within and outside the EU) which committed themselves to using the same methodological approach when measuring and tackling administrative burdens. Following the SCM, costs can be classified into: direct and indirect financial costs, long term structural costs, business-as-usual administrative costs, and administrative burden. For more details: http://www.administrative-burdens.com/filesystem/2005/11/international_scm_manual_final_178.doc.

151 The EU countries which are not members of this network are: BG, LU, HU, MT, and SK.

152 This cost category has been analysed in the relevant sections of the IA and thereby this annex focuses on the remaining categories.

		Direct Financial Costs	Indirect Financial Costs	Long Term Structural Costs	Business As Usual Administrative Costs	Administrative Burden
Change in the level of coverage	**Banks**	YES - In case of increase in the level of coverage	YES, although NOT SUBSTANTIAL: Example: Marketing material to be discarded	NO	NO	YES, although NOT SUBSTANTIAL. Updating documentation (to clients such as account opening forms, internal procedures)
	DGS		YES - One-off cost (most likely not Substantial)			YES, although NOT SUBSTANTIAL. Updating Documentation
Discontinuation of topping up procedures	**Banks**	NO	NO	NO	NO	NO[153]
	DGS		NO			NO
Changes in the funding mechanism and in the scope of covered products and depositors	**Banks**	YES - In case of increase in Members' contributions or in case of additional products covered	YES - IT related such as Changing Account Set up flags.	NO	NO	YES, although NOT SUBSTANTIAL: 1) potential IT changes[154] resulting from new information obligations (e.g. amount of eligible/covered deposits or accounting data)[155] 2) updating documentation (addressed to clients such as account opening forms or internal procedures)
	DGS		YES - One-off cost[156] (most likely not significant).			Assuming there are no new reporting obligations from DGS towards authorities (e.g. Supervisory Authority, Central Bank), NON SUBSTANTIAL costs are related to updated documentation.

153 It could potentially be reduced in some MS if information would be collected only by the home-country scheme.

154 IT changes related to information obligations should be included as part of the Administrative Burden (and not as Indirect Financial Costs).

155 We are assuming that the new reporting obligations will not require additional time compared to current obligations.

156 According to the SCM Report available at http://www.administrative-burdens.com/filesystem/2005/11/international_scm_manual_final_178.doc, one-off costs are costs that are only sustained once in connection with the businesses adapting to a new or amended legislation/regulation.

		Direct Financial Costs	Indirect Financial Costs	Long Term Structural Costs	Business As Usual Administrative Costs	Administrative Burden
Changes in payout procedures	**Banks**	NO	YES - e.g. IT changes: 1.- Changing Account Set up flags 2.- Harmonization of data requirements to be provided in case of default	NO	NO[157]	NO[158]
	DGS		Difficult to asses given lack of info received from DGS. (Data received from Members would need to be harmonized. This would probably need IT changes).			NO
Discontinuation of set-off practices	**Banks**	NO - As contributions do not typically take set-off into account	NO	NO	NO[159]	NO
	DGS		NO			NO
Establishment of Pan-EU	**Banks**	YES, in case of harmonization of funding or scope and coverage.	YES, for instance harmonization of data requirements or IT changes.	YES, the establishment of a new entity would require additional workforce.	YES, the establishment of a new entity would require additional administrative workforce.	YES, substantial or not, depending on the design of the Pan-EU, for instance updating documentation or data requirements on a regular basis.
	DGS		YES, for instance harmonization of data requirements or IT changes.			YES, substantial or not, depending on the design of the Pan-EU, for instance updating documentation or data requirements on a regular basis.

Source: Joint Research Centre.

157 It could potentially be reduced in some MS if the collection of claims is eliminated in case of a bank failure and schemes pay out on their own initiative.

158 We are assuming there are no new reporting obligations. The IT changes under Indirect financial costs are intended to cover the changes in the payout procedures.

159 It could potentially be reduced in some MS if information on loans is not collected eliminated in case of bankruptcy.

STATISTICAL ANNEXES: SOURCES, DEFINITIONS AND METHODOLOGIES

Unless otherwise specified, all quantitative data from the Commission's Joint Research Centre (JRC) have been collected through a survey distributed across EU DGS (MS = Member States).

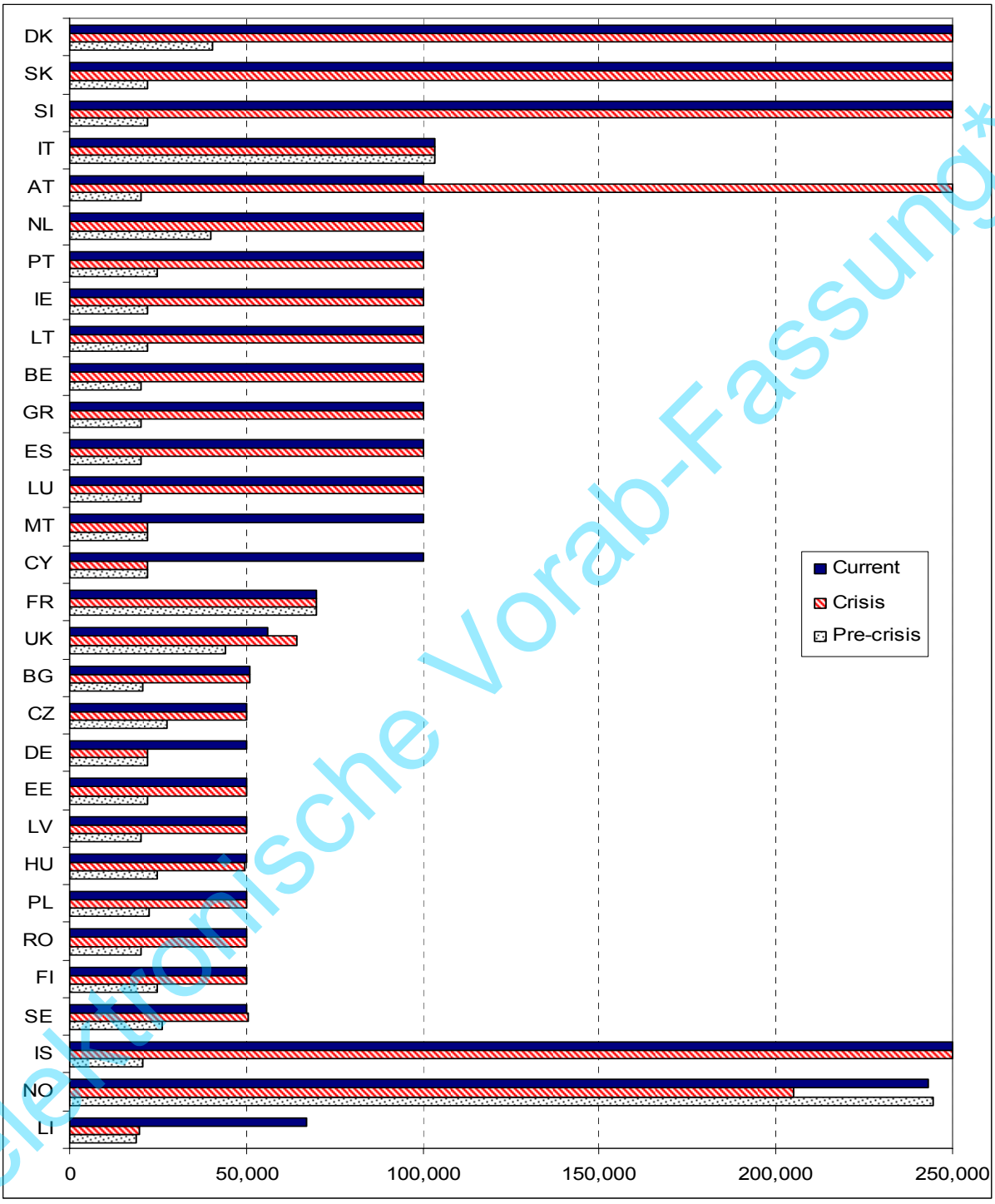
Data	# of Annex	Definition	Source if not DGS	Methodology
Total deposits	2, 10	Any deposit as defined in Article 1(1) of Directive 94/19/EC, excluding those deposits left out form any repayment by virtue of Article 2.	Eurostat (ES, FR, LT, NL, UK); Central Bank (CY, LU)	The estimated amount and the number of deposits under different levels of coverage are based on the distribution of deposits in Member States. These distributions have been obtained either by DGS (BG, EE, ES, IT, CY, LV,LT,HU, MT, NL, AT1, AT3, PT, RO, SI) or banking associations (BE, PT, FI, SE, UK). In case of missing data the distribution of deposits was obtained on the basis of distributions available for other Member States, looking at macroeconomic variables such as the savings rates or the GDP per inhabitant. A number of technical assumptions are behind these estimates.
Eligible deposits	2, 3, 10	Deposits repayable by the guarantee scheme under your national law, before the level of coverage is applied.	Eurostat (IE, FR, NL); Central Bank (DK, CY)	-
Covered deposits	2, 3, 9a	Deposits obtained from eligible deposits when applying the level of coverage provided for in every national legislation.	-	Estimates from analogy with other MS (BE, DE, IE, FR, SK, UK), and from the dataset (CY, NL).
Fund	13, 14, 18	Amount of money collected by the DGS in the previous years.	-	-
Contributions	4, 9b, 11, 13, 14, 18	Amount of money collected by the DGS among its members, in advance or in case of intervention, to cover its administrative expenses and its interventions.	-	-
Level of coverage	1, 4	Level of protection granted under national law in the event of deposits being unavailable.	-	Given the variation in banks' contributions under different levels of coverage, it is assumed that additional fees impact only on a bank's operating profit (see definition in the statistical annex). Thus the variation in the operating profit is computed.
Distribution of eligible deposits	-	Amount of eligible deposits held in the following buckets: [0-20 000]; [20 000-50 000]; [50 000-100 000]; [100 000-150 000]; [150 000-200 000]; [200 000-500 000].	Banking Asso-ciations (BE, PT, FI, UK).	Estimated from analogy with other MS (CZ, DK, DE, IE, GR, FR, LU, PL, SK, SE) which provided for the distribution of eligible deposits.
Distribution of covered deposits	3, 4	Amount of covered deposits held in the following buckets: [0-20 000]; [20 000-50 000]; [50 000-100 000]; [100 000-150 000]; [150 000-200 000]; [200 000-500 000].	-	The amount of covered deposits in each bucket is estimated starting from the distribution of eligible deposits and taking into account the hypothesized level of coverage. Given the distribution of deposits, the increase in the amount of covered deposits under different levels of coverage can be estimated. It is assumed that DGS contributions are proportional to the increases in covered deposits.

Data	# of Annex	Definition	Source if not DGS	Methodology
Distribution of the number of eligible deposits	2, 3	Number of eligible deposits held in the following buckets: [0-20 000]; [20 000-50 000]; [50 000-100 000]; [100 000-150 000]; [150 000-200 000]; [200 000-500 000].	-	The number of eligible deposits in each bucket is estimated as the average between the maximum and minimum number of deposits (BE, DK, DE, IE, GR, FR, LT, LU, MT, NL, PL, SK, FI, SE, UK).
Number of fully covered deposits	2, 3	Number of deposits which are fully covered under different level of coverage.	-	The number of deposits which are fully covered is estimated starting from the distribution of the number of eligible deposits and taking into account different level of coverage.
Operating profit	5, 9c, 11c, 12f, 14d, 19, 21a, 22	The operating profit is an accounting measure covering the bank's normal/core business operations (i.e. excluding extraordinary/ exception amounts or other items such as taxes that are not directly related to banks' core business).	Bankscope	Additional contributions for banks under different levels of coverage are assumed to be entirely passed onto consumers as decreases in the interest rates for their saving accounts or as an increase in their yearly account fees. The impacts have been estimated only for ex-ante DGS. The impact on banks is estimated as a variation in bank operating profits (this variation is linked to the variation in contributions). The samples of banks in most MS are usually small. Moreover, some banks (with extremely high variation of the operating profit) have been excluded from the sample.
Number of house purchases	8	-	European Mortgage Federation	MS with available number of house purchases time-series (BE, DK, DE, EE, ES, IE, FR, IT, LV, LU, HU, NL, PL, FI, SE, UK): the average number of house purchases has been estimated as the average of the number of house purchases over the period 1998-2007. MS with no data available: the number of house purchases has been estimated by applying to the number of households the EU average ratio number of house purchases/number of households. The increases in covered deposits are estimated from the distribution of temporary high deposits balances (THDB) by hypothesizing different levels of coverage. The distributions of temporary high deposits balances are estimated under a number of assumptions, since no data are available from any EU DGS. The money related to house purchases is assumed to stay on a bank account for a specified time horizon (e.g. 3, 6, 12 months, etc.)
Impact of inclusion / exclusion of certain depositors	11			In this analysis it is hypothesized that every DGS continues to apply its current funding mechanism (as of 01 January 2009). Only the amount of contribution base varies by including or excluding the various classes. Contributions' changes are due to changes in each DGS contribution base. Data on the amount of deposits for each selected classes are mainly from Eurostat since few DGS could provided some information.
Impact on tagging / data cleansing /	12d,e,f		Report "Fast payout study –	Data on costs for data cleansing/tagging and SCV were obtained from the report available at http://www.fsa.gov.uk/pubs/other/fast_payout_report.pdf.

Data	# of Annex	Definition	Source if not DGS	Methodology
single customer view (SCV)			Final report"", Ernst & Young, November 2008,	The costs estimated in this report are rescaled for the other EU MS based on the amount of deposits eligible for protection. The costs obtained for banks are measured as a variation in the operating profit (12f). Costs are assumed to be entirely passed onto consumers as decreases in interest rates or as an increase in yearly account fees (12e). The impacts have been estimated only for ex-ante DGS
Maximum amount of contributions	13	Maximum amount of money collected by the DGS among its members. Contributions are increased up to a maximum amount (specified in the DGS' statute) only under particular circumstances, specified in each DGS' statute.	DGS' statute	Estimated following the description reported in the DGS statute.
Total fund	13, 14, 18	It is the sum of the Fund, contributions and additional contributions that DGS can levy.	-	Total Fund = Fund + Contributions + Extraordinary Contributions, or Total Fund = Fund + Maximum amount of Contributions
Borrowing limit	24	Estimate of the maximum amount of money that MS could borrow.	-	Estimated as a percentage of the amount of covered deposits. The percentage is the ratio between the maximum amount of US borrowing resources and its amount of insured (covered) deposits.
Ex-ante MS	14, 26	MS whose funding mechanism collects contributions from member banks in advance on a regular basis.	-	-
Ex-post MS	14	MS whose funding mechanism does not collect contributions from member banks in advance on a regular basis.	-	-
Additional contributions	16, 17	Contributions (collected by ex-ante MS) which are not collected on a regular basis but only in case of need and they are clearly defined in the statutes as extraordinary contributions or maximum contributions.	-	It is the difference between the maximum amount of contributions and contributions.
Borrowing	23			For every DGS, a borrowing limit has been set as a percentage (1.75%) of the total amount of covered deposits. The percentage has been estimated according to the US data, i.e. the ratio between the borrowing limit and the total amount of deposit insured by the US-FDIC in 2008. Contributions to pay the loan back within 10 years have been estimated.

Source: Joint Research Centre.

ANNEX 1: COVERAGE LEVELS IN EU MEMBER STATES AND EEA COUNTRIES BEFORE AND AFTER THE AGGRAVATION OF THE FINANCIAL CRISIS (AS OF 1 JANUARY 2010) *



* Note: Pre-crisis period – as of 15 September 2008; crisis – October-December 2008; current situation: as of 1January 2010. For non-euro area countries, € equivalents have been calculated on the basis of relevant ECB exchange rates (see footnote 1 in the below table). For scaling purposes, the coverage level for Member States with unlimited coverage is shown as € 250 000. Political declarations on increasing coverage levels or unlimited deposit guarantees, which were not followed by any legislative actions in autumn 2008, as well as guarantees for selected banks only, have not been taken into account.

** See comments in the below table.

	Coverage level (€) [1]			Developments related to the level of coverage
	pre-crisis	crisis	current	
BE	20 000	100 000	100 000	The level was first raised to € 50 000 (7 Oct 2008) and then to € 100 000 (17 Nov 2008).
BG	20 452	51 129	51 129	On 18 Nov 2008, the level was raised from BGN 40 000 to BGN 100 000 (equivalent of € 51 129).
CZ	27 778 (10% co-insurance)	50 000	50 000	The law of 15 Dec 2008 raised the level to € 50 000 and discontinued co-insurance (with immediate effect).
DK	40 229 [2]	40 306 [2] + unlimited	50 000 + unlimited [100 000] [3]	The law of 10 Oct 2008 gave unlimited state guarantees until 30 Sep 2010 – for the amounts not covered by the Danish DGS (i.e. above DKK 300 000). The law of 1 May 2009 raised the level to € 50 000 (from 30 Jun 2009) and then to € 100 000 (from 1 Oct 2010).
DE	22 222 (10% co-insurance)	22 222 (10% co-insurance)	50 000 [100 000] [3]	The law of 14 May 2009 raised the level to € 50 000 and discontinued co-insurance (from 30 Jun 2009) and then to € 100 000 (from 31 Dec 2010). Before, on 5 Oct 2008, the govt publicly declared that all private savings were guaranteed by the German govt.
EE	22 222 (10% co-insurance)	50 000	50 000	The law of 14 Nov 2008 raised the level to € 50 000 and discontinued co-insurance (retroactively from 9 Oct 2008).
IE	22 222 (10% co-insurance)	22 222 (10% co-insurance)	100 000	The law of 24 Jun 2009 gave effect to Directive 2009/14/EC and the Irish govt's commitment in Sep 2008 to provide increased coverage of € 100 000 (with no co-insurance). The effective date for that commitment was 20 Sep 2008. The law of 30 Sep 2008 gave unlimited state guarantees for 7 banks until 29 September 2010 – for the amounts not covered by the DGS in IE or other jurisdiction.
GR	20 000	100 000	100 000	On 7 Nov 2008, the level was temporarily increased to € 100 000 by law (until 31 Dec 2011). Before, on 2 Oct 2008, temporary unlimited coverage was set for individuals by a government declaration.
ES	20 000	100 000	100 000	The law of 10 Oct 2008 raised the level to € 100 000 (from 11 Oct 2008).
FR	70 000	70 000	70 000	The level was set on 9 Jul 1999 and unchanged since then.
IT	103 291	103 291	103 291	The level was introduced on 17 Jan 1997 (ITL 200 million) and unchanged since then (converted to € on 1 Jan 1999).
CY	22 222 (10% co-insurance)	22 222 (10% co-insurance)	100 000	On 8 Oct 2008, the govt announced its intention to raise the level to € 100 000. The law of 24 Jul 2009 raised the level to € 100 000 and discontinued co-insurance.
LV	20 000	50 000	50 000	The law of 17 Oct 2008 raised the level to € 50 000 (from 18 Oct 2008).
LT	22 000 (10% co-insurance)	100 000	100 000	The law of 14 Oct 2008 temporarily raised the level to € 100 000 (for 1 year) and discontinued co-insurance (both effective from 1 Nov 2008). The law of 21 Jul 2009 made the level of € 100 000 permanent (from 4 Aug 2009).
LU	20 000	100 000	100 000	The law of 19 Dec 2008 raised the level to € 100 000 (from 1 Jan 2009).
HU	24 905 (10% co-insurance)	49 430	50 000	On 8 Oct 2008, the level was raised from HUF 6 million to HUF 13 million (equivalent of € 49 430) and co-insurance was discontinued. At the same time, the govt declared unlimited deposit guarantees. The law of 29 May 2009 raised the level to € 50 000 (from 30 Jun 2009).

MT	22 222 (10% co-insurance)	22 222 (10% co-insurance)	100 000	On 8 Oct 2008, the govt announced its intention to raise the level to € 100 000. The law of 7 Aug 2009 raised the level to € 100 000 and discontinued co-insurance.
NL	40 000 (10% co-insurance)	100 000	100 000	On 7 Oct 2008, the level was temporarily increased to € 100 000 (until Oct 2009) and co-insurance was discontinued. On 10 March 2009, it was announced that this arrangement was extended indefinitely, and on 3 July 2009 this was formalised in legislation.
AT	20 000 (10% co-insurance for non-individuals)	unlimited + 50 000 (10% co-insurance for non-individuals)	100 000 (individuals) + 50 000 [100 000] [3] (non-individuals)	On 1 Oct 2008, temporary unlimited coverage was set for individuals (until 31 Dec 2009); for non-individuals no changes except raising coverage for SMEs to € 50 000. The law of 20 Oct 2008 set the level for individuals at € 100 000 (from 1 Jan 2010). The law of 16 Jun 2009 raised the level for non-individuals to € 100 000 (from 1 Jan 2011) and discontinued co-insurance (from 1 Jul 2009).
PL	22 500 (10% co-insurance)	50 000	50 000	The law of 23 Oct 2008 raised the level to € 50 000 and discontinued co-insurance (both effective from 28 Nov 2008).
PT	25 000	100 000	100 000	The law of 3 Nov 2008 retroactively (from 12 Oct 2008) and temporarily (until 31 Dec 2011) raised the level to € 100 000.
RO	20 000	50 000	50 000	On 15 Oct 2008, the level was raised to € 50 000 (for individuals only). The law of 24 Jun 2009 extended this coverage to microenterprises and SMEs (from 30 Jun 2009).
SI	22 000	unlimited	unlimited	On 20 Nov 2008, temporary unlimited coverage was introduced (until 31 Dec 2010).
SK	22 222 (10% co-insurance)	unlimited	unlimited	The law of 24 Oct 2008 introduced unlimited coverage and discontinued co-insurance (both effective from 1 Nov 2008).
FI	25 000	50 000	50 000	The law of 19 Dec 2008 raised the level to € 50 000 (retroactively from 8 Oct 2008).
SE	26 173	50 474	50 000	On 31 Oct 2008, the level was raised from SEK 250 000 to SEK 500 000 (equivalent of € 50 474). The law of 17 Jun 2009 set € 50 000 as a minimum level (from 30 Jun 2009).
UK	44 083	64 329 [2]	56 092 [2]	The law of 2 Oct 2008 raised the level from £ 35 000 to £ 50 000 - effective from 7 Oct 2008 (equivalent of € 64 329 as of the date of entry into force). The law of 28 May 2009 set the level at £ 50 000 or € 50 000 if greater (effective from 30 Jun 2009).
IS	20 887	unlimited (domestic deposits)	unlimited (domestic deposits)	On 6 October 2008, the Icelandic government declared unlimited coverage for deposits in domestic banks and their branches in Iceland (but not in foreign branches of Icelandic banks.
LI	18 864 [2]	19 751 [2]	67 236	On 27 Mar 2009, the level was raised from CHF 30 000 to CHF 100 000 (equivalent of € 65 954 at that time) - effective from 1 Apr 2009.
NO	244 409 [2]	205 128 [2]	243 043 [2]	The pre-crisis level of NOK 2 million has not been changed as a result of the crisis.

[1] For non-euro area countries, € equivalents have been used – calculated on the following ECB exchange rates: as of 15 September 2008 (pre-crisis period); as of the date of increasing the coverage level in a given Member State between October and December 2008, or - if no increase - as of 31 December 2008 (crisis period); as of 4 January 2010, i.e. the first working day in 2010 (current situation).

[2] The coverage level in the national currency unchanged – different figures for € equivalents due to exchange rate variations.

[3] Planned changes to the coverage level that have been envisaged in adopted national law.

Source: Data from Member States; Commission services' calculations based on ECB exchange rates.

ANNEX 2: DATA ON THE AMOUNT AND NUMBER OF DEPOSITS IN MEMBER STATES (AS OF 31 DECEMBER 2007)

Member States	Total amount of deposits (in € thousands)			Number of deposits	
	Total deposits [1]	Eligible deposits	Covered deposits	Eligible deposits [2]	Fully covered deposits
BE	418 000 000	234 000 000	104 203 635	7 089 864	4 749 621
BG	20 011 078	16 453 260	8 416 078	10 503 424	10 408 988
CZ	81 530 720	75 784 888	36 014 721	14 571 797	14 312 163
DK	205 810 976	194 986 000	68 648 352	3 179 673	1 909 006
DE	3 244 528 000	2 365 528 000	1 952 842 121	78 033 794	68 457 592
EE	8 516 339	6 513 255	2 614 051	2 037 365	1 993 904
IE	confidential	203 329 118	90 545 441	6 819 401	4 965 379
GR	231 207 352	162 624 584	45 342 658	5 767 108	4 251 641
ES	1 257 005 863	815 509 600	360 085 300	87 328 803	79 904 289
FR	1 871 643 901	1 765 519 727	1 236 735 659	58 240 783	52 681 279
IT	2 106 736 038	574 377 415	402 347 830	44 363 926	43 165 796
CY	65 918 045	59 113 956	20 445 000	963 103	478 164
LV	14 624 816	11 966 456	2 969 375	2 289 882	1 670 463
LT	19 614 456	confidential	confidential	640 491	498 723
LU	688 056 543	103 969 600	12 953 500	3 487 009	2 497 053
HU	60 107 201	44 421 235	23 331 888	16 888 554	16 637 824
MT	32 783 800	6 728 864	2 354 324	246 701	174 967
NL	586 888 889	445 595 855	343 853 038	14 258 125	11 144 607
AT	286 000 000	211 409 819	124 948 903	17 890 150	16 678 551
PL	confidential	confidential	confidential	3 677 195	3 155 439
PT	183 986 884	confidential	confidential	16 143 897	15 105 103
RO	58 230 615	26 937 557	14 548 146	19 929 855	19 737 553
SI	19 530 540	15 430 308	8 820 533	2 074 726	1 760 810
SK	35 070 000	18 030 000	8 497 904	730 127	622 372
FI	96 576 837	94 086 374	41 014 103	3 472 675	2 434 399
SE	378 647 461	259 386 750	61 219 086	3 369 674	1 408 534
UK	4 311 271 463	1 319 754 071	566 868 083	24 442 582	17 259 885
EU	**16 797 827 066**	**9 271 701 898**	**5 661 966 190**	**448 440 684**	**398 064 106**
EU-15	**16 231 736 208**	**8 888 681 327**	**5 478 035 593**	**373 887 465**	**326 612 735**
EU-12	**566 090 858**	**383 020 571**	**183 930 598**	**74 553 219**	**71 451 371**

[1] Interbank deposits not included.

[2] The number of eligible deposits = the number of covered deposits (every eligible deposit is covered at least to some extent)

Source: Joint Research Centre.

ANNEX 3: POTENTIAL IMPACT OF THE HARMONISED COVERAGE LEVELS IN TERMS OF DEPOSIT PROTECTION

(a) Ratio of the amount of covered deposits to eligible deposits (€ thousands)

	As of end-2007	Coverage level € 50 000	Coverage level € 100 000	Coverage level € 150 000	Coverage level € 200 000
BE	44.53%	57.0%	70.2%	79.4%	87.3%
BG	51.15%	63.8%	86.1%	100%	100%
CZ	47.52%	58.5%	71.3%	81.0%	88.5%
DK	35.21%	44.4%	63.3%	76.0%	85.5%
DE	82.55%	61.4%	74.6%	83.1%	89.8%
EE	40.13%	59.6%	66.7%	70.5%	77.4%
IE	44.53%	60.0%	73.6%	82.4%	89.3%
GR	27.88%	63.3%	77.4%	85.0%	90.9%
ES	44.15%	70.0%	74.9%	84.7%	92.6%
FR	70.05%	61.4%	74.6%	83.1%	89.8%
IT	70.05%	57.2%	65.6%	72.0%	80.1%
CY	34.59%	42.8%	62.7%	76.1%	85.5%
LV	24.81%	38.0%	56.3%	71.8%	84.4%
LT	53.86%	75.3%	83.3%	88.9%	93.3%
LU	12.46%	60.0%	73.6%	82.4%	89.3%
HU	52.52%	58.5%	71.3%	81.0%	88.5%
MT	34.99%	68.7%	83.2%	89.3%	93.5%
NL	77.17%	64.5%	77.6%	85.3%	91.1%
AT	59.10%	53.6%	63.6%	71.6%	78.7%
PL	55.15%	58.5%	71.3%	81.0%	88.5%
PT	47.93%	55.1%	68.3%	78.0%	86.5%
RO	54.01%	69.4%	75.1%	82.3%	88.3%
SI	57.16%	71.9%	85.0%	90.3%	94.9%
SK	47.13%	58.5%	71.3%	81.0%	88.5%
FI	43.59%	69.2%	82.0%	88.7%	93.4%
SE	23.60%	39.8%	59.9%	73.6%	84.0%
UK	42.95%	47.4%	65.6%	77.5%	86.4%
EU	**61.1 %**	**58.6 %**	**71.8 %**	**81.0 %**	**88.4 %**
EU-15	**61.6 %**	**58.7 %**	**71.8 %**	**81.0 %**	**88.4 %**
EU-12	**48.0 %**	**57.6 %**	**71.4 %**	**81.6 %**	**89.4 %**

* Ratio = Amount of covered deposits / Amount of eligible deposits

(b) Ratio of the number of fully covered deposits to eligible deposits

	As of end-2007	Coverage level € 50 000	Coverage level € 100 000	Coverage level € 150 000	Coverage level € 200 000
BE	66.99%	87.45%	93.25%	94.35%	95.11%
BG	99.10%	99.34%	99.42%	99.50%	99.57%
CZ	98.22%	98.33%	98.83%	99.11%	99.30%
DK	60.04%	67.85%	81.22%	86.70%	89.59%
DE	87.73%	88.12%	93.96%	95.39%	96.39%
EE	97.87%	99.29%	99.68%	99.80%	99.83%
IE	72.81%	87.84%	93.85%	95.35%	96.29%
GR	73.72%	86.14%	95.00%	96.19%	97.02%
ES	91.50%	94.15%	98.58%	98.76%	98.93%
FR	90.45%	88.12%	93.96%	95.39%	96.39%
IT	97.30%	96.10%	97.26%	97.91%	98.36%
CY	49.65%	68.99%	78.85%	86.76%	89.64%
LV	72.95%	98.66%	98.81%	98.96%	99.10%
LT	77.87%	96.24%	97.79%	98.31%	98.68%
LU	71.61%	87.84%	93.85%	95.35%	96.29%
HU	98.52%	99.16%	99.41%	99.55%	99.65%
MT	70.92%	85.39%	95.47%	97.42%	97.94%
NL	78.16%	87.18%	94.12%	95.86%	96.76%
AT	93.23%	97.61%	99.05%	99.17%	99.29%
PL	85.81%	92.07%	94.44%	95.76%	96.68%
PT	93.57%	92.89%	92.89%	92.89%	92.89%
RO	99.04%	99.67%	99.87%	99.89%	99.91%
SI	84.87%	97.59%	99.21%	99.31%	99.41%
SK	85.24%	92.07%	94.44%	95.76%	96.68%
FI	70.10%	88.21%	95.52%	96.92%	97.90%
SE	41.80%	57.89%	74.67%	81.69%	85.67%
UK	70.61%	72.52%	84.29%	89.05%	91.43%
EU	**88.8 %**	**91.0 %**	**95.4 %**	**96.5 %**	**97.2 %**
EU-15	**87.4 %**	**89.6 %**	**94.7 %**	**96.0 %**	**96.7 %**
EU-12	**95.8 %**	**98.2 %**	**98.8 %**	**99.1 %**	**99.3 %**

* Ratio = Number of fully covered deposits / Number of eligible deposits

Source: Joint Research Centre; Commission services' calculations.

ANNEX 4: POTENTIAL IMPACT OF THE HARMONISED COVERAGE LEVELS ON BANK CONTRIBUTIONS TO DGS

Member States	Coverage level in 2007 (€)	Contributions in 2008 (€ thousands)	New contributions (€ thousands)			
			Coverage level € 50 000	Coverage level € 100 000	Coverage level € 150 000	Coverage level € 200 000
BE	20 000	50 895	65 168	80 203	90 752	99 784
BG	20 452	69 893	87 200	117 579	141 980	160 090
CZ	25 000	63 969	78 708	96 002	108 991	119 109
DK	40 000	0	0	0	0	0
DE	22 222	n.a.	n.a.	n.a.	n.a.	n.a.
EE	20 000	16 341	24 255	27 168	28 721	31 531
IE	22 222	143 300	192 943	236 939	265 284	287 484
GR	20 000	602 109	512 369	626 505	688 027	735 952
ES	20 000	412 500	564 198	699 799	791 322	865 068
FR	70 000	95 400	83 646	101 590	113 230	122 298
IT	103 291	0	0	0	0	0
CY	22 222	24 656	30 528	44 721	54 247	60 979
LV	15 000	24 334	37 275	55 234	70 391	82 748
LT	17 377	confidential	65 946	73 007	77 922	81 751
LU	20 000	0	0	0	0	0
HU	23 600	3 897	4 339	5 292	6 008	6 566
MT	22 222	713	1 400	1 694	1 820	1 905
NL	40 000	0	0	0	0	0
AT	20 000	0	0	0	0	0
PL	22 500	confidential	51 892	63 294	71 857	78 528
PT	25 000	47 877	55 000	68 181	77 963	86 369
RO	20 000	24 962	32 069	34 702	38 021	40 803
SI	22 000	0	0	0	0	0
SK	20 000	37 241	46 201	56 353	63 977	69 916
FI	25 000	39 668	62 979	74 599	80 717	84 952
SE	26 479	58 694	99 035	148 980	183 093	209 000
UK	47 700	0	0	0	0	0
EU*	**-**	**1 812 589**	**2 185 150**	**2 611 841**	**2 954 323**	**3 224 831**
EU-15*	**-**	**1 450 443**	**1 725 338**	**2 036 795**	**2 290 388**	**2 490 906**
EU-12*	**-**	**362 146**	**459 812**	**575 046**	**663 935**	**733 925**
EU**	**-**	**95 399**	**115 008**	**137 465**	**155 491**	**169 728**
EU-15**	**-**	**181 305**	**215 667**	**254 599**	**286 299**	**311 363**
EU-12**	**-**	**32 922**	**41 801**	**52 277**	**60 358**	**66 720**

Note: The increases in contributions are proportional to the increase in the amount of covered deposits, thus the analysis has been performed only for ex-ante DGS. DE has been excluded because 2008 contributions were not available, DK has been excluded because it did not collect contributions in 2008.

* Total contributions ** Average of the non zero contributions Source: Joint Research Centre.

ANNEX 5: POTENTIAL IMPACT OF THE HARMONISED COVERAGE LEVELS ON OPERATING PROFITS OF BANKS (AVERAGE PERCENTAGE VARIATION) *

Member States	Coverage level € 50 000	Coverage level € 100 000	Coverage level € 150 000	Coverage level € 200 000
BE	-1.01%	-2.07%	-2.81%	-3.45%
BG	-3.34%	-9.21%	-13.92%	-17.42%
CZ	-1.55%	-3.36%	-4.72%	-5.79%
EE	-11.13%	-15.23%	-17.42%	-21.37%
IE	-3.43%	-6.47%	-8.43%	-9.96%
GR	3.19%	-0.87%	-3.05%	-4.76%
ES	-2.05%	-2.43%	-3.21%	-3.83%
FR	0.05%	-0.03%	-0.08%	-0.11%
CY	-0.68%	-2.33%	-3.43%	-4.21%
LV	-4.75%	-11.35%	-16.91%	-21.45%
HU	-0.04%	-0.13%	-0.19%	-0.24%
MT	-0.41%	-0.58%	-0.66%	-0.71%
PT	-0.29%	-0.83%	-1.24%	-1.58%
RO	-1.83%	-2.51%	-3.37%	-4.08%
SK	-2.22%	-4.73%	-6.62%	-8.09%
SE	-0.81%	-1.82%	-2.50%	-3.02%
EU	**-1.89%**	**-4.00%**	**-5.53%**	**-6.88%**
EU-15	**-0.62%**	**-2.07%**	**-3.04%**	**-3.82%**
EU-12	**-2.88%**	**-5.49%**	**-7.47%**	**-9.26%**

* The analysis is developed for ex-ante funded DGS whose contribution base is defined in terms of the amount of total, eligible or covered deposits. PL, NL, UK have been excluded because their contribution base is different than total, eligible or covered; DK has been excluded because it did not collect 2008 contributions; IT, LU, AT, and SI have been excluded because they are ex-post financed; DE has been excluded because 2008 contributions are not available; LT and FI have been excluded because the sample available from Bankscope was small.

Source: Joint Research Centre, Bankscope™ database.

ANNEX 6: POTENTIAL IMPACT OF THE HARMONISED COVERAGE LEVELS ON DEPOSITORS

Member States	Decrease in the interest rates on savings				Additional bank fees on current accounts (€ per year per account)			
	Coverage level € 50 000	Coverage level € 100 000	Coverage level € 150 000	Coverage level € 200 000	Coverage level € 50 000	Coverage level € 100 000	Coverage level € 150 000	Coverage level € 200 000
BE	0.006%	0.013%	0.017%	0.021%	0.63	1.29	1.76	2.16
BG	0.105%	0.290%	0.438%	0.548%	1.65	4.54	6.86	8.59
CZ	0.019%	0.042%	0.059%	0.073%	0.95	2.06	2.90	3.55
DK	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.
DE	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.
EE	0.122%	0.166%	0.190%	0.233%	3.88	5.31	6.08	7.46
IE	0.024%	0.046%	0.060%	0.071%	5.37	10.13	13.20	15.60
GR	n.a.	n.a.	0.053%	0.082%	n.a.	n.a.	3.59	5.59
ES	0.030%	0.035%	0.046%	0.055%	2.77	3.29	4.34	5.18
FR	n.a.	0.000 %	0.001 %	0.002 %	n.a.	0.05	0.13	0.20
IT	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.
CY	0.010%	0.034%	0.050%	0.061%	1.97	6.74	9.94	12.20
LV	0.108%	0.258%	0.385%	0.488%	5.65	13.49	20.11	25.51
LT	0.173%	0.238%	0.284%	0.319%	2.37	3.26	3.88	4.37
LU	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.
HU	0.001%	0.003%	0.005%	0.006%	0.03	0.08	0.12	0.16
MT	0.010%	0.015%	0.016%	0.018%	0.79	1.12	1.27	1.36
NL	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.
AT	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.
PL	0.003%	0.016%	0.025%	0.033%	0.04	0.18	0.28	0.36
PT	0.005%	0.015%	0.022%	0.028%	0.31	0.89	1.32	1.69
RO	0.026%	0.036%	0.048%	0.059%	0.15	0.21	0.28	0.34
SI	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.
SK	0.050%	0.106%	0.148%	0.181%	1.14	2.42	3.39	4.14
FI	0.025%	0.037%	0.044%	0.048%	2.06	3.09	3.63	4.00
SE	0.016%	0.035%	0.048%	0.058%	2.07	4.62	6.37	7.70
UK	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.
EU	**0.043%**	**0.077%**	**0.102%**	**0.125%**	**1.87**	**3.49**	**4.71**	**5.80**
EU-15	**0.018%**	**0.026%**	**0.036%**	**0.046%**	**2.20**	**3.34**	**4.29**	**5.27**
EU-12	**0.057%**	**0.109%**	**0.150%**	**0.184%**	**1.69**	**3.58**	**5.01**	**6.19**

Note: The methodology adopted to estimate the impact on depositors is twofold: (i) if all the additional contributions are assumed to be passed by banks on to depositors as an increase in maintenance fees for current accounts, the increase in fees can be estimated by dividing the increases in contributions by the number of accounts; (ii) if all the additional contributions are assumed to be passed on to depositors as a decrease in interest rates, the percentage decrease can be estimated by calculating the ratio between the increases in contributions and the total amount of eligible deposits. Additional contributions are proportional to the increase in the amount of covered deposits, thus the analysis has been performed only for ex-ante DGS. DE has been excluded because 2008 contributions were not available, DK has been excluded because it did not collect contributions in 2008. Source: Joint Research Centre.

ANNEX 7: AVERAGE DEPOSITS HELD BY HOUSEHOLDS IN MEMBER STATES (€)

Member States	2003	2004	2005	2006	2007
BE	44 843	49 825	50 024	51 745	53 644
BG	1 236	1 599	2 088	2 599	3 350
CZ	n.a.	n.a.	n.a.	n.a.	n.a.
DK	31 897	34 749	39 055	41 698	44 805
DE	33 892	34 569	35 409	35 434	37 123
EE	2 894	3 230	4 135	5 179	6 144
IE	37 085	40 734	45 506	50 313	52 235
GR	28 203	29 106	33 159	34 640	37 978
ES	30 743	31 817	33 360	37 002	39 531
FR	35 732	36 994	36 881	37 134	37 763
IT	32 848	34 301	34 321	36 505	37 533
CY	n.a.	n.a.	66 552	71 603	80 003
LV	1 714	2 300	3 398	4 550	5 356
LT	2 153	2 579	3 560	4 520	5 411
LU *	n.a.	n.a.	n.a.	n.a.	n.a.
HU	4 720	5 641	6 059	6 427	6 854
MT	n.a.	n.a.	n.a.	n.a.	n.a.
NL	37 157	38 858	41 215	42 218	44 288
AT	48 852	48 711	49 441	50 860	53 971
PL	3 799	4 312	4 838	5 263	6 117
PT	29 619	29 677	29 489	30 554	33 035
RO	759	1 031	1 540	2 044	2 777
SI	13 941	14 864	15 223	16 065	17 722
SK	5 474	5 788	5 954	4 983	6 260
FI	20 553	21 660	23 633	24 274	26 821
SE	17 948	18 393	19 164	22 727	26 180
UK	42 284	45 987	50 301	55 254	54 467
EU**	**22 102**	**23 336**	**26 429**	**28 066**	**29 974**
EU-15**	**33 690**	**35 384**	**37 211**	**39 311**	**41 384**
EU-12*	**4 077**	**4 594**	**11 335**	**12 323**	**13 999**
EU***	**35 172**	**36 884**	**38 543**	**40 630**	**41 784**
EU-15***	**35 911**	**37 729**	**39 412**	**41 592**	**42 559**
EU-12***	**3 654**	**4 028**	**9 973**	**10 522**	**14 643**

* In the Eurostat database, there are no data on average household deposits in LU, but it may be fairly assumed that it is well above the EU average since LU is a Member State with the highest GDP per capita in the EU (according to Eurostat data as of end-2008, GDP per capita was € 75 780 in LU while € 24 254 in the EU-27, € 34 149 in the EU-15 and € 11 885 in the EU-12).

** Simple average

*** Weighted average [the weights are the amount of deposits by households]

Source: Eurostat; Joint Research Centre; Commission services' calculations.

ANNEX 8: SELECTED DATA ON HOUSE PRICES IN MEMBER STATES (€)

Member States	Number of house purchases (average 1998-2007)	Estimated average house price *	Average purchase price of a house **
BE	115 209	136 305	235 000
BG	107 417 (e)	50 056	n.a.
CZ	161 409 (e)	85 435	n.a.
DK	71 710	265 491	244 596
DE	502 200	110 018	276 600
EE	33 365	85 785	91 600
IE	91 157	254 222	260 786
GR	160 476 (e)	91 068	n.a.
ES	885 506	302 261	175 325
FR	770 500	97 417	220 000
IT	741 511	177 113	249 700
CY	10 146 (e)	147 488	n.a.
LV	46 375	85 435	80 000
LT	51 074 (e)	85 435	97 300
LU *	4 829	147 488	n.a.
HU	257 706	42 850	n.a.
MT	5 143 (e)	168 821	n.a.
NL	272 500	108 041	n.a.
AT	133 849 (e)	116 025	n.a.
PL	277 800	93 903	91 670
PT	145 063 (e)	112 119	100 000
RO	277 325 (e)	86 265	n.a.
SI	27 628 (e)	85 435	n.a.
SK	63 356 (e)	67 121	n.a.
FI	76 925	119 409	n.a.
SE	54 960	176 327	250 000
UK	1 552 690	147 721	158 720
EU average	**255 475**	**127 595**	**180 807 *****
EU-15	**371 939**	**157 402**	**–**
EU-12	**109 895**	**90 336**	**–**

* Average house price = Average mortgage loan / Loan-to-Value (LTV) ratio.

** Data for DE, EE, LV, LT and PT refers to 2007 while data for BE, DK, ES, FR, IE, IT, PL, SE and UK refers to 2008.

*** This is the simple average; the weighted average, calculated by using the size of national mortgage markets as weights, would be € 210 713.

(e) estimated value.

Source: Joint Research Centre (columns 2 and 3); European Mortgage Federation (column 4) – EMF Study on the cost of housing in Europe, May 2010.

ANNEX 9: POTENTIAL EXEMPTIONS FROM THE FIXED LEVEL OF COVERAGE – TEMPORARY HIGH DEPOSIT BALANCES *

(a) Additional covered deposits when protecting THDB (€ millions)

	Increased levels for THDB								
	€ 200 000			€ 300 000			€ 500 000		
	3 months	6 months	12 months	3 months	6 months	12 months	3 months	6 months	12 months
BE	1 387	2 774	5 548	1 764	3 528	7 056	2 091	4 181	8 362
BG	127	253	507	127	253	507	127	253	507
CZ	781	1 563	3 125	988	1 976	3 952	988	1 976	3 952
DK	1 586	3 172	6 344	2 668	5 337	10 674	3 612	7 225	14 450
DE	4 351	8 702	17 404	5 606	11 213	22 426	5 771	11 542	23 085
EE	163	326	651	206	413	826	206	413	826
IE	1 926	3 852	7 703	3 209	6 418	12 836	4 232	8 464	16 927
GR	987	1 975	3 949	1 312	2 623	5 246	1 312	2 623	5 246
ES	19 649	39 297	78 595	34 829	69 658	139 315	51 305	102 609	205 218
FR	4 516	9 031	18 063	5 548	11 096	22 192	5 548	11 096	22 192
IT	12 182	24 364	48 729	17 572	35 144	70 288	20 925	41 850	83 701
CY	140	279	558	187	375	750	221	443	885
LV	224	449	898	284	568	1 135	284	568	1 135
LT	247	494	989	313	625	1 250	313	625	1 250
LU	68	137	273	92	185	369	106	212	424
HU	168	335	670	168	335	670	168	335	670
MT	83	167	334	118	237	473	144	289	578
NL	2 337	4 674	9 349	3 033	6 066	12 132	3 126	6 251	12 503
AT	1 156	2 313	4 625	1 467	2 934	5 868	1 467	2 934	5 868
PL	1 666	3 333	6 665	2 195	4 390	8 780	2 195	4 390	8 780
PT	1 378	2 756	5 512	1 866	3 732	7 465	2 444	4 888	9 776
RO	1 369	2 738	5 475	1 741	3 482	6 964	1 741	3 482	6 964
SI	134	267	535	169	338	676	169	338	676
SK	190	380	759	190	380	759	190	380	759
FI	690	1 381	2 762	866	1 732	3 463	866	1 732	3 463
SE	935	1 871	3 741	1 339	2 678	5 355	1 641	3 283	6 566
UK	21 612	43 223	86 446	29 668	59 336	118 673	36 595	73 190	146 379
Total EU	**80 053**	**160 106**	**320 212**	**117 526**	**235 051**	**470 103**	**147 786**	**295 572**	**591 144**
EU-15 average	**4 984**	**9 968**	**19 936**	**7 389**	**14 779**	**29 557**	**9 403**	**18 805**	**37 611**
EU-12 average	**470**	**939**	**1 878**	**596**	**1 193**	**2 385**	**602**	**1 203**	**2 407**
EU % change	**1.66%**	**3.31%**	**6.62%**	**2.22%**	**4.45%**	**8.90%**	**2.50%**	**5.00%**	**10.00%**
EU-15 % change	**1.22%**	**2.44%**	**4.88%**	**1.80%**	**3.60%**	**7.20%**	**2.26%**	**4.52%**	**9.04%**
EU-12 % change	**2.32%**	**4.64%**	**9.27%**	**2.92%**	**5.85%**	**11.70%**	**2.97%**	**5.95%**	**11.90%**

* Temporary high deposits balances (THDB) are transactional balances that a consumer may have for a limited period of time, e.g. between selling one property and buying another. The money related to house purchases is assumed to stay on a bank account for a specified time horizon (e.g. 3, 6, 12 months, etc.).

(b) Estimated contributions for the scenarios on THDB (€ thousands)

	Estimated contribu-tions for the fixed coverage level of € 100 000	Increased levels for THDB								
		€ 200 000			€ 300 000			€ 500 000		
		3 months	6 months	12 months	3 months	6 months	12 months	3 months	6 months	12 months
BE	80 203	80 880	81 558	82 913	81 064	81 926	83 649	81 224	82 245	84 287
BG	117 579	118 631	119 684	121 788	118 631	119 684	121 788	118 631	119 684	121 788
CZ	96 002	97 390	98 778	101 553	97 757	99 512	103 022	97 757	99 512	103 022
DK	0	0	0	0	0	0	0	0	0	0
DE	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.
EE	27 168	28 186	29 204	31 240	28 459	29 749	32 330	28 459	29 749	32 330
IE	236 939	239 987	243 035	249 130	242 018	247 096	257 253	243 637	250 334	263 729
GR	626 505	631 419	636 333	646 161	633 032	639 560	652 614	633 032	639 560	652 614
ES	699 799	722 308	744 817	789 835	739 698	779 597	859 394	758 572	817 345	934 890
FR	101 590	101 938	102 286	102 983	102 018	102 446	103 302	102 018	102 446	103 302
IT	0	0	0	0	0	0	0	0	0	0
CY	44 721	44 890	45 058	45 394	44 947	45 173	45 625	44 988	45 255	45 789
LV	55 234	57 073	58 913	62 592	57 560	59 886	64 539	57 560	59 886	64 539
LT	73 007	75 006	77 005	81 003	75 535	78 063	83 119	75 535	78 063	83 119
LU	0	0	0	0	0	0	0	0	0	0
HU	5 292	5 320	5 348	5 404	5 320	5 348	5 404	5 320	5 348	5 404
MT	1 694	1 719	1 745	1 795	1 730	1 766	1 837	1 738	1 782	1 869
NL	0	0	0	0	0	0	0	0	0	0
AT	0	0	0	0	0	0	0	0	0	0
PL	63 294	64 923	66 551	69 808	65 439	67 585	71 875	65 439	67 585	71 875
PT	68 181	69 174	70 167	72 154	69 526	70 871	73 561	69 942	71 704	75 227
RO	34 702	37 051	39 399	44 097	37 689	40 676	46 650	37 689	40 676	46 650
SI	0	0	0	0	0	0	0	0	0	0
SK	56 353	57 185	58 017	59 681	57 185	58 017	59 681	57 185	58 017	59 681
FI	74 599	75 266	75 934	77 270	75 436	76 273	77 948	75 436	76 273	77 948
SE	148 980	149 877	150 773	152 567	150 263	151 547	154 114	150 553	152 127	155 274
UK	0	0	0	0	0	0	0	0	0	0
Total EU	**2 611 841**	**2 658 223**	**2 704 605**	**2 797 368**	**2 683 307**	**2 754 774**	**2 897 706**	**2 704 715**	**2 797 589**	**2 983 337**
EU-15 average	**254 599**	**258 856**	**263 113**	**271 627**	**261 632**	**268 664**	**282 729**	**264 302**	**274 004**	**293 409**
EU-12 average	**52 277**	**53 398**	**54 518**	**56 760**	**53 659**	**55 042**	**57 806**	**53 664**	**55 051**	**57 824**
EU % change	**–**	**1.83%**	**3.66%**	**7.33%**	**2.43%**	**4.85%**	**9.71%**	**2.69%**	**5.37%**	**10.75%**
EU-15 % change	**–**	**1.18%**	**2.36%**	**4.71%**	**1.79%**	**3.58%**	**7.17%**	**2.34%**	**4.68%**	**9.36%**
EU-12 % change	**–**	**2.31%**	**4.61%**	**9.23%**	**2.89%**	**5.78%**	**11.55%**	**2.94%**	**5.88%**	**11.76%**

Note: The starting point is the situation where the level of coverage is fixed at € 100 000. The increases in contributions are proportional to the increase in the amount of covered deposits, thus the analysis has been performed only for ex-ante DGS. DE has been excluded because 2008 contributions were not available, DK has been excluded because it did not collect contributions in 2008.

(c) Scenarios on THDB: impact on banks (variation of operating profits)

	€ 200 000			€ 300 000			€ 500 000		
	3 months	6 months	12 months	3 months	6 months	12 months	3 months	6 months	12 months
Total EU	-0.58%	-1.16%	-2.33%	-0.66%	-1.33%	-2.65%	-0.68%	-1.37%	-2.74%
EU-15 average	-0.10%	-0.21%	-0.41%	-0.16%	-0.32%	-0.65%	-0.21%	-0.42%	-0.83%
EU-12 average	-0.95%	-1.91%	-3.82%	-1.05%	-2.11%	-4.21%	-1.05%	-2.11%	-4.22%

Note: The analysis is developed for ex-ante funded DGS whose contribution base is defined in terms of the amount of total, eligible or covered deposits. PL, NL and UK have been excluded because their contribution base is different than total, eligible or covered; DK has been excluded because it did not collect 2008 contributions; IT, LU, AT, and SI have been excluded because they are ex-post financed; DE has been excluded because 2008 contributions are not available; LT and FI have been excluded because the sample available from Bankscope was small.

(d) Scenarios on THDB: impact on depositors

	Range of variation of the estimated percentage decrease in interest rates on savings			Range of variation of the estimated additional bank fees on current accounts (€ per year per account)		
	€ 200 000	€ 300 000	€ 500 000	€ 200 000	€ 300 000	€ 500 000
Total EU	0.004% - 0.017%	0.005% - 0.022%	0.006% - 0.023%	0.16 - 0.63	0.21 - 0.85	0.24 - 0.94
EU-15 average	0.001% - 0.005%	0.002% - 0.007%	0.002% - 0.009%	0.12 - 0.49	0.19 - 0.76	0.24 - 0.98
EU-12 average	0.007% - 0.027%	0.008% - 0.033%	0.008% - 0.033%	0.18 - 0.73	0.23 - 0.91	0.23 - 0.92

Source: Joint Research Centre.

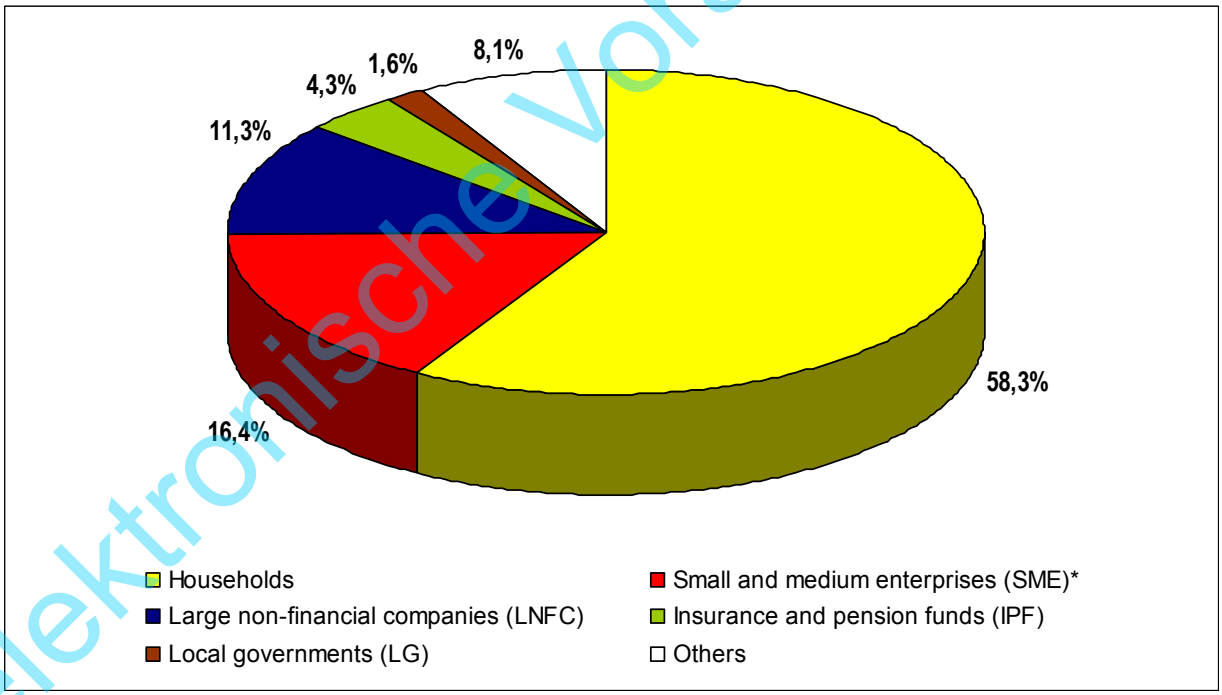
The increases in contributions are proportional to the increase in the amount of covered deposits, thus the analysis has been performed only for ex-ante DGS. DE has been excluded because 2008 contributions were not available, DK has been excluded because it did not collect contributions in 2008

ANNEX 10: SELECTED DATA ON DEPOSITS AND DEPOSITORS IN THE EU (INCL. ENTERPRISES)

(a) Definition of micro, small and medium-sized enterprises vs. the approach adopted in the DGS Directive

Category	Calculation	Staff	Annual turnover	Balance sheet total
Micro enterprise	Limit for balance sheet total or annual turnover may be exceeded	< 10	< € 2 million	< € 2 million
Small entreprise		< 50	< € 10 million	< € 10 million
Medium-sized enterprise		< 250	< € 50 million	< € 43 million
Company with abridged balance sheets	One of the limits may be exceeded	< 50	< € 8.8 million	< € 4.4 million

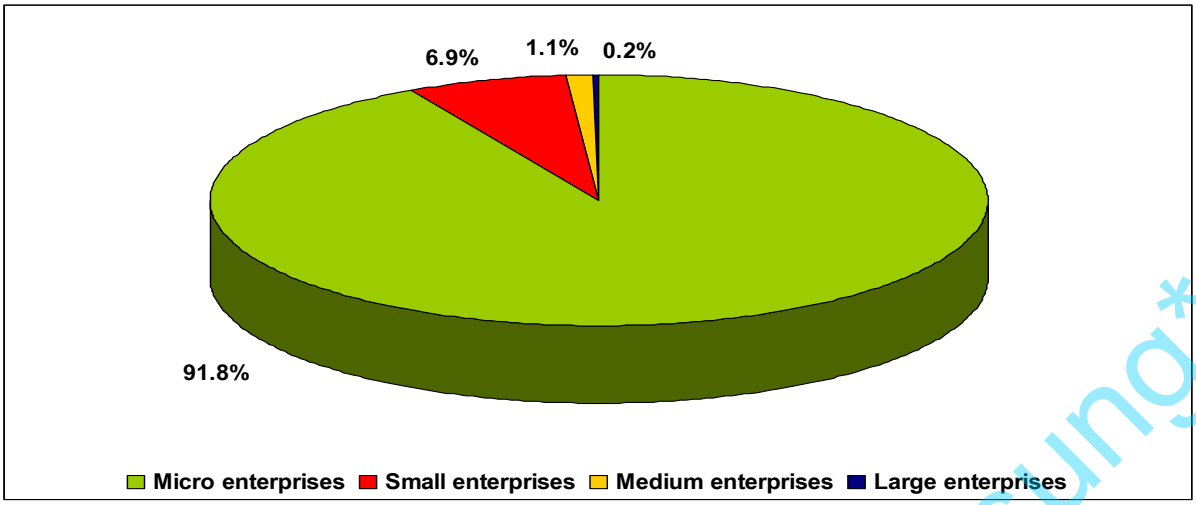
(b) Breakdown of total value of deposits in the EU by classes of depositors (2007)



Note: Total amount of deposits in the EU (as of end-2007): € 16.8 trillion (see Annex 2).

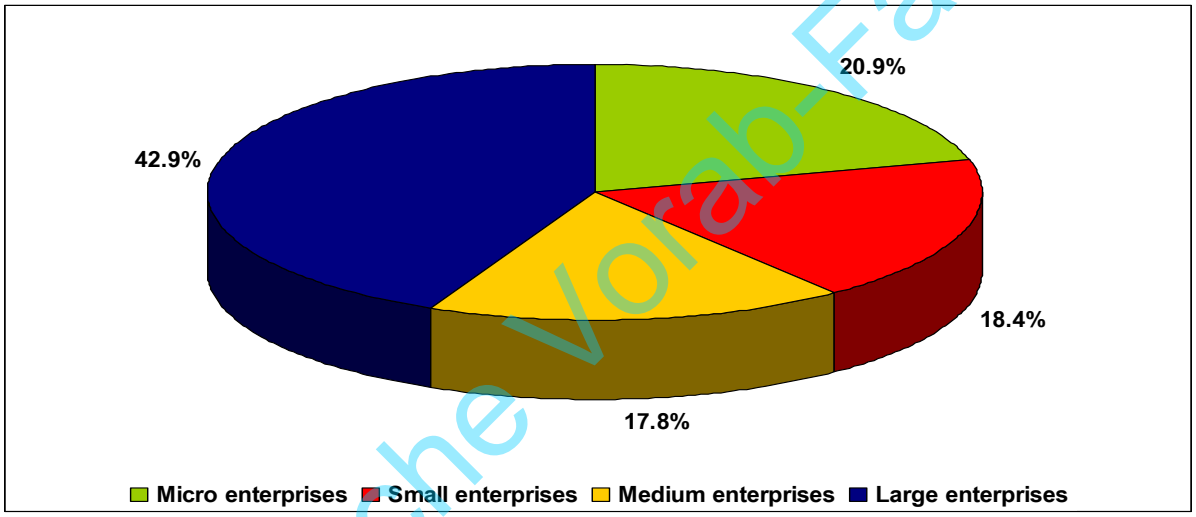
* SME include micro enterprises as well.

(c) Number of enterprises in the EU (2006)



Note: Total number of SME: 20 million. Definition of SME: see Table A in this Annex.

(d) Amount of eligible deposits held by enterprises in the EU (2006)



Note: Total amount of eligible deposits held by enterprises: € 4.05 trillion.

(e) Amount of total deposits held by local authorities

Member States	Total deposits held by local governments (€ thousands)
CZ	163 061*
DK	3 161 796**
GR	1 439 070**
LT	169 434*
PL	5 006 512
FI	1 858 847**
SE	2 753 800
Total	**14 552 520**

* EFDI; ** Eurostat.

Source: Commission services based on Commission Recommendation 2003/361/EC of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises, OJ L 124 (Table A); Joint Research Centre and Eurostat data (Graphs B-D); DGS, EFDI and Eurostat (Table E).

ANNEX 11: POTENTIAL IMPACT OF THE INCLUSION OR EXCLUSION OF SOME DEPOSITORS* INTO/FROM THE SCOPE OF COVERAGE

(a) Impact on contributions at Member States' level (€ thousands)

Member States	2008 contributions	Contributions if all classes (LNFC, LG, IPF) excluded	Increase in contributions **			Contributions if all classes (LNFC, LG, IPF) included
			if LNFC included	if LG included	if IPF included	
BE	50 895	50 895	6 546	909	7 051	65 401
BG	69 893	53 472	16 421	1 700	1 700	73 292
CZ	63 969	53 702	10 130	138	1 652	65 621
DK	0	n.a.	n.a.	n.a.	n.a.	n.a.
DE	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.
EE	16 341	16 341	2 848	286	74	19 550
IE	143 300	143 300	0	0	0	143 300
GR	602 109	549 679	42 640	5 328	8 923	606 570
ES	412 500	374 160	38 340	9 501	58 168	480 170
FR	95 400	89 269	6 131	1 872	706	97 978
IT	0	n.a.	n.a.	n.a.	n.a.	n.a.
CY	24 656	23 305	1 351	19	1 817	26 518
LV	24 334	21 087	3 248	946	880	26 160
LT	confidential	41 610	4 843	738	422	47 613
LU	0	n.a.	n.a.	n.a.	n.a.	n.a.
HU	3 897	2 943	954	168	53	4 119
MT	713	713	223	54	84	1 030
NL	0	n.a.	n.a.	n.a.	n.a.	n.a.
AT	0	n.a.	n.a.	n.a.	n.a.	n.a.
PL	confidential	n.a.	n.a.	n.a.	n.a.	n.a.
PT	47 877	43 373	4 503	472	1 680	50 029
RO	24 962	24 962	9 940	1 568	507	36 977
SI	0	n.a.	n.a.	n.a.	n.a.	n.a.
SK	37 241	37 241	18 472	1 678	2 898	60 288
FI	39 668	34 957	3 542	784	386	39 668
SE	58 694	39 738	17 015	623	2 636	60 012
UK	0	n.a.	n.a.	n.a.	n.a.	n.a.
EU	**1 812 589**	**1 600 747**	**187 146**	**26 768**	**89 638**	**1 904 299**

Note: Increases in contributions are proportional to the increases in the contribution base. The analysis has been performed only for ex-ante DGS. DE has been excluded because 2008 contributions were not available, DK has been excluded because it did not collect contributions in 2008; PL has been excluded because its contribution base is different than total, eligible or covered.

* LNFC – large non-financial corporations; LG – local governments; IPF – insurance and pension funds.

** Increase in the columns 4-6 with respect to the column 3 (Contributions if all classes excluded).

(b) Impact on contributions at EU level

Potential scenarios	Aggregated EU contributions in 2008 (€ thousands)	Weighted average % change with respect to 2008 contributions
Include all classes	1 904 299	+7.61 %
Exclude all classes	1 600 747	-8.72 %
Include LNFC	1 801 669	+1.34 %
Exclude LNFC	1 614 523	-8.36 %
Include LG	1 782 799	+1.64 %
Exclude LG	1 756 031	-0.16 %
Include IPF	1 847 113	+4.63 %
Exclude IPF	1 757 475	-0.20 %

(c) Impact on banks' operating profits

	Include all classes	Include LNFC	Include IPF	Include LG	Exclude all classes	Exclude LNFC	Exclude IPF	Exclude LG
EU	-1.06%	-0.73%	-0.20%	-0.13%	0.51%	0.49%	0.01%	0.01%
EU-15	-0.21%	-0.04%	-0.15%	-0.02%	0.31%	0.27%	0.02%	0.02%
EU-12	-1.72%	-1.27%	-0.24%	-0.21%	0.66%	0.66%	0.00%	0.00%

Note: The analysis is developed for ex-ante funded DGS whose contribution base is defined in terms of the amount of total, eligible or covered deposits. PL, NL, UK have been excluded because their contribution base is different than total, eligible or covered; DK has been excluded because it did not collect 2008 contributions; IT, LU, AT, and SI have been excluded because they are ex-post financed; DE has been excluded because 2008 contributions are not available; LT and FI have been excluded because the sample available from Bankscope was small.

(d) Impact on contributions if some classes of SME are covered or not

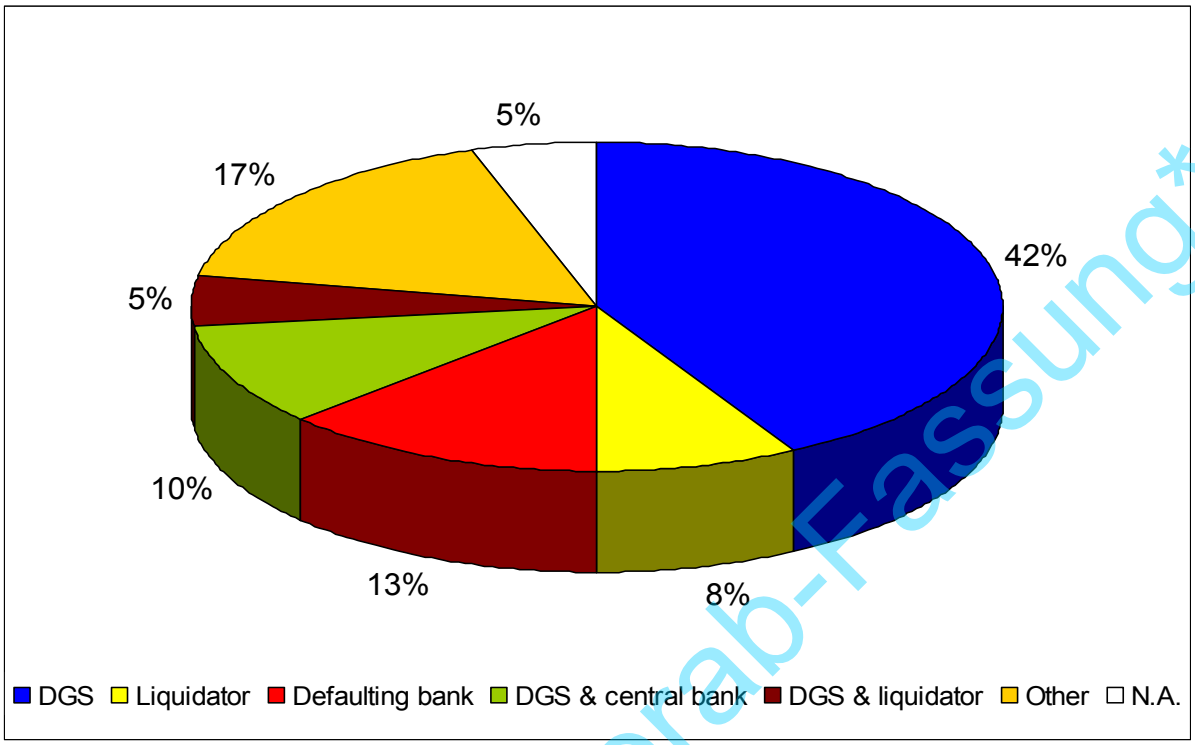
Potential scenarios	Aggregated EU contributions in 2008 (€ thousands)	Variation in contributions with respect to the current situation (€ thousands)	Weighted average % change with respect to the current situation *
Exclude all enterprises (both SME and large enterprises)	1 250 231	-513 410	-25.2%
Include micro enterprises only	1 393 272	-370 369	-18.9%
Include small and micro enterprises	1 509 102	-254 539	-13.2%
Include medium, small and micro enterprises (=all SME)	1 614 523	-149 118	-8.4%
Include all enterprises (both SME and large enterprises)	1 801 669	38 028	1.3%

* The current situation: DGS in most Member States cover deposits by larger enterprises, i.e. companies which are of such a size that they are not permitted to draw up abridged balance sheets (see Annex B). The analysis has been performed only for ex-ante DGS. DE has been excluded because 2008 contributions were not available, DK has been excluded because it did not collect contributions in 2008; PL has been excluded because its contribution base is different than total, eligible or covered.

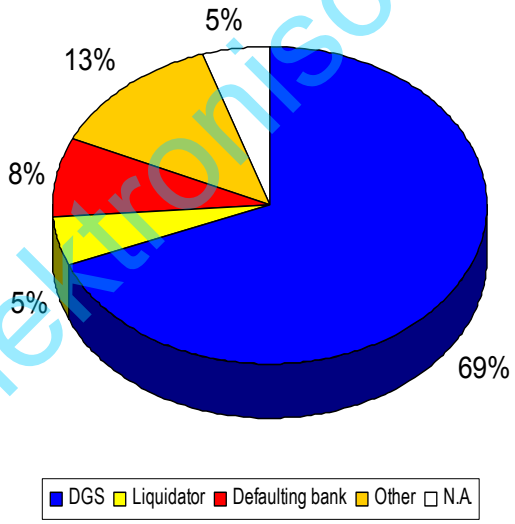
Source: Joint Research Centre (based on Eurostat data).

ANNEX 12: SELECTED DATA RELATING TO THE PAYOUT PROCESS IN THE EU

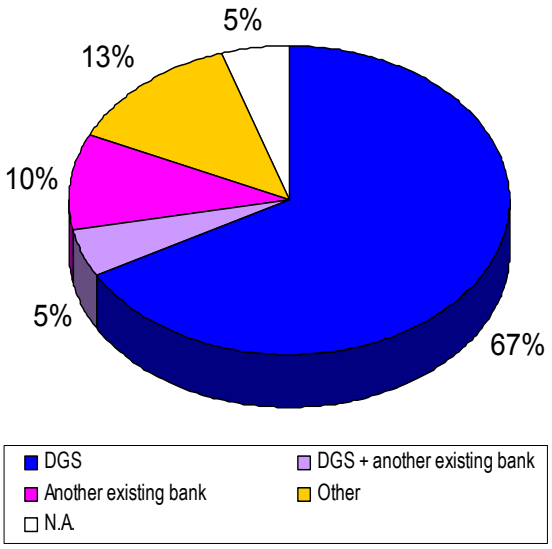
(a) Authorities responsible for the collection of data needed for the payout process



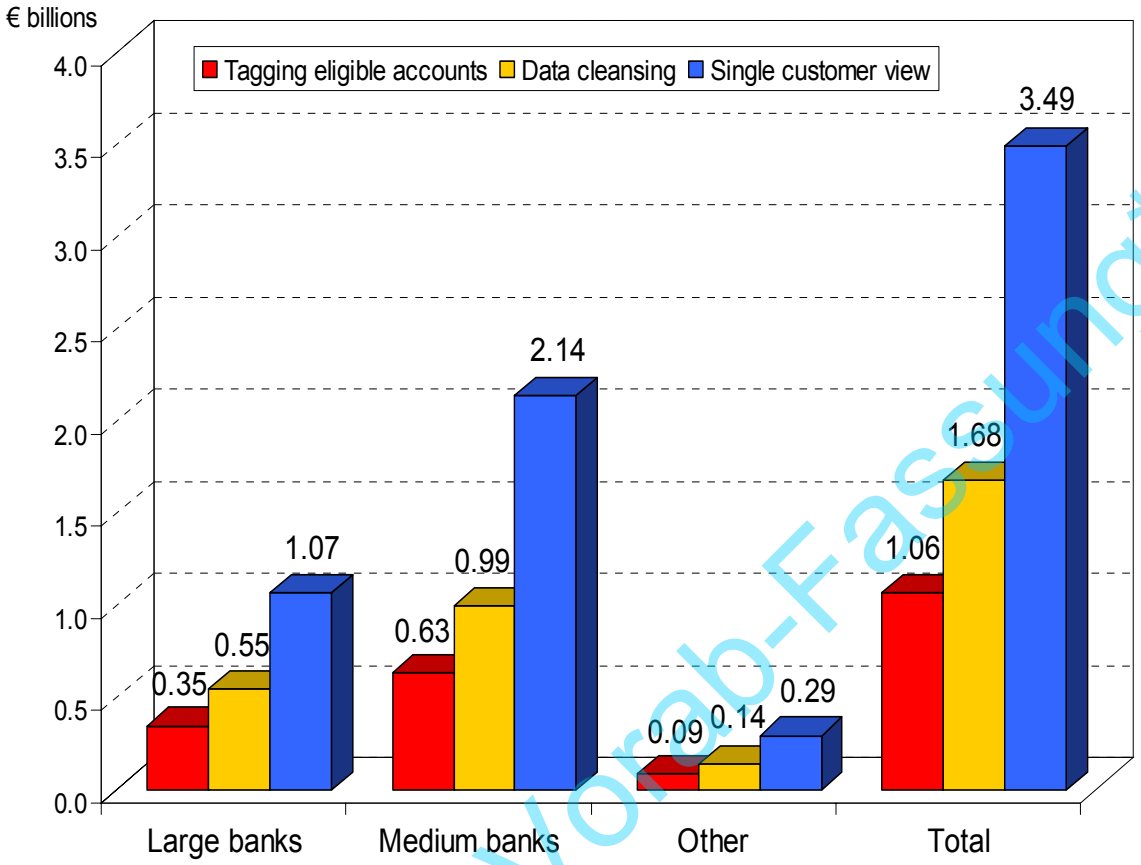
(b) Authorities responsible for reimbursement payout calculation



(c) Authorities responsible for repaying depositors



(d) Potential total costs for banks stemming from tagging deposits, cleansing data and creating single customer views (SCV)* – to be faced within 5 years



Note: This analysis has been developed by using costs' estimates from the Ernst & Young Report on fast payout for the UK (published by the UK FSA in November 2008) and by re-scaling those costs for the other EU MS taking into account their relative sizes (i.e. amounts of eligible deposits).

* The categories are defined as follows:

– Data cleansing: any IT and manual data cleansing undertaken (e.g. postcode, date of birth of accounts' holders) to allow the unique identification of a customer.

– Tagging (flagging) eligible accounts: any IT and manual effort to electronically flag all eligible customers for DGS compensation.

– Creating a single customer view (SCV): a comprehensive identification of the complete position of each customer.

(e) Potential impact of tagging/cleansing/SCV on depositors

	Variation in interest rates on savings				Additional bank fees on current accounts (€ per year per account)			
	Tagging	Cleansing	SCV	Total	Tagging	Cleansing	SCV	Total
EU	0.003%	0.005%	0.011%	**0.019%**	0.27	0.42	0.94	**1.63**
EU-15	0.003%	0.004%	0.009%	**0.015%**	0.34	0.54	1.18	**2.05**
EU-12	0.004%	0.006%	0.014%	**0.023%**	0.18	0.29	0.64	**1.11**

(f) Potential impact of tagging/cleansing/SCV on bank profits

Member States	Decrease in bank operating profits as a result of:			Total impact * (tagging + cleansing + SCV)
	tagging deposits *	data cleansing *	creating SCV *	
BE	-0.72%	-1.14%	-2.56%	-4.42%
BG	-0.07%	-0.10%	-0.23%	-0.40%
CZ	-0.32%	-0.50%	-1.13%	-1.96%
DK	-0.09%	-0.14%	-0.31%	-0.53%
DE	n.a.	n.a.	n.a.	n.a.
EE	-0.10%	-0.16%	-0.35%	-0.60%
IE	-0.74%	-1.17%	-2.63%	-4.55%
GR	-0.26%	-0.41%	-0.92%	-1.59%
ES	-0.29%	-0.46%	-1.03%	-1.78%
FR	-0.34%	-0.54%	-1.21%	-2.08%
IT	-0.20%	-0.32%	-0.71%	-1.23%
CY	-0.28%	-0.44%	-1.00%	-1.73%
LV	-0.05%	-0.07%	-0.17%	-0.29%
LT	n.a.	n.a.	n.a.	n.a.
LU	n.a.	n.a.	n.a.	n.a.
HU	-0.04%	-0.07%	-0.15%	-0.26%
MT	-0.04%	-0.07%	-0.15%	-0.26%
NL	n.a.	n.a.	n.a.	n.a.
AT	-0.24%	-0.38%	-0.86%	-1.48%
PL	n.a.	n.a.	n.a.	n.a.
PT	-0.26%	-0.41%	-0.93%	-1.60%
RO	-0.24%	-0.38%	-0.85%	-1.47%
SI	-0.17%	-0.27%	-0.62%	-1.06%
SK	-0.05%	-0.08%	-0.17%	-0.29%
FI	n.a.	n.a.	n.a.	n.a.
SE	-0.06%	-0.09%	-0.20%	-0.34%
UK	n.a.	n.a.	n.a.	n.a.
EU	**-0.23%**	**-0.36%**	**-0.81%**	**-1.40%**
EU-15	**-0.32%**	**-0.50%**	**-1.14%**	**-1.96%**
EU-12	**-0.14%**	**-0.21%**	**-0.48%**	**-0.83%**

* The average variation in the operating profit for each MS is the weighted average (the weights are the eligible deposits) of the variation in the operating profit for every bank in the sample, while the figure at EU level is the simple average of all the previous figures. PL, NL, UK have been excluded because their contribution base is different than total, eligible or covered; DE has been excluded because 2008 contributions are not available; LT and FI have been excluded because the sample available from Bankscope was small; LU has been excluded because data available from Bankscope are not consistent with the data collected through the JRC survey.

Source: Joint Research Centre based on Ernst & Young Report on fast payout (2008); Commission services' calculations.

ANNEX 13: DGS FUNDS AND CONTRIBUTIONS TO DGS

(a) Maximum amount of funds available to DGS in Member States (€ thousands)

Member States	A	B	C	D	E	F
	2007 fund size	2008 contributions	Maximum contributions	Total funds *	Extraordinary ratio *	Available resources
BE	765 000	50 895	101 790	866 790	5.87 %	fund + ordinary and extraordinary contributions
BG	265 768	69 893	246 799	512 567	34.51 %	fund + maximum contributions
CZ	304 492	63 969	127 939	432 430	14.79 %	fund + extraordinary contributions
DK	489 410	0	411 622	901 032	45.68 %	fund + maximum contributions
DE	n.a.	n.a.	n.a.	n.a.	n.a	n.a.
EE	116 043	16 341	32 566	148 610	10.92 %	fund + maximum contributions
IE	526 100	143 300	143 300	669 400	0	fund + ordinary contributions
GR	942 181	602 109	1 806 327	2 748 508	43.81 %	fund + maximum contributions
ES	6 502 717	412 500	1 631 019	8 133 736	14.98 %	fund + maximum contributions
FR	1 624 000	95 400	n.a.	1 719 400	n.a.	fund + ordinary contributions
IT	0	0	0	0	not defined	ex-post virtual fund **
CY	8 392	24 656	177 342	185 733	82.21 %	fund + maximum contributions
LV	95 599	24 334	24 334	119 934	0	fund + ordinary contributions
LT	confidential	confidential	confidential	298 659	0	fund + ordinary contributions
LU	0	0	0	0	not defined	ex-post fund
HU	248 690	3 897	88 842	337 532	25.17 %	fund + maximum contributions
MT	6 861	713	20 187	27 048	72.00 %	fund + maximum contributions
NL	0	0	0	0	not defined	ex-post fund
AT	0	0	0	0	not defined	ex-post fund **
PL	confidential	confidential	n.a.	780 199	n.a.	fund + ordinary contributions
PT	1 377 232	47 877	566 331	1 943 563	26.68%	fund + maximum and extraordinary contributions
RO	219 495	24 962	269 376	488 870	50.00%	fund + maximum and extraordinary contributions
SI	0	0	0	0	not defined	ex-post fund **
SK	-22 544	37 241	315 525	292 981	n.a.	fund + maximum and extraordinary contributions
FI	549 000	39 668	39 668	588 668	0	fund + ordinary contributions
SE	1 821 744	58 694	85 707	1 907 451	1.42 %	fund + maximum contributions
UK	0	0	0	0	not defined	ex-post fund
Total	**16 822 900**	**1 812 589**	**9 100 154**	**23 103 113**	**–**	**–**
EU simple average	**–**	**–**	**–**	**–**	**21.06 % *** **	**–**
EU weighted average	**–**	**–**	**–**	**–**	**18.98 % *** **	**–**

* Figures in the column D have been calculated as follows: D=A+C, if C is available, otherwise D=A+B. The extraordinary ratio is the ratio between extraordinary contributions and total funds (i.e. the fund + current contributions + extraordinary contributions).

** The following rules have been set for ex-post MS: IT – the maximum amount for the virtual fund is set as 0.8% of the contribution base. AT – the maximum amount is set as 0.93% of the assessment basis for the solvency ratio; the figure cannot be estimated and it has not been considered in the analysis. SI – according to the Regulation on the DGS, member banks must invest assets in the amount of at least 2.5% of their covered deposits; this amount is equal to € 220 534 000 and it has not been taken into account in the analysis since it is the minimum amount that members must undertake to make available in case of intervention.

*** Ratios for CY and MT are much higher than the indicators of other MS because of the peculiar funding mechanisms of those two DGS. The EU simple average excluding these two DGS is 21.06% and it would be 32.93% if they were included. As to the EU weighted average (according to the amount of eligible deposits), it is 18.98% when excluding CY and MT, and it would be 21.19% when including them.

(b) Description of the contribution base, definition of the annual contribution, maximum amount of annual contribution, and extraordinary contributions

	Base	Annual contribution	Maximum amount of annual contribution	Extraordinary / additional contributions
BE	eligible	0.0175% of the contribution base	NO	Up to 200% of the regular annual premium per year
BG	eligible	0.5% of the contribution base	1.5% of the contribution base	NO
CZ	eligible	0.1% of the contribution base	NO	When the DGS has been granted a loan, or another form of repayable financial assistance, the contributions shall be doubled until the debt is repaid
DK	covered	Only in case the fund is below the minimum level: in case, apportioned among members on the basis of their contribution base	0.2% of the total amount of deposits	Extraordinary contributions can be raised, but they cannot exceed the max amount of contributions
DE [160]	eligible	0.016% of the contribution base	0.6% of own fund	Up to five times the annual contributions or entry fee, after three consecutive years limited to the double annual contribution or entry fee (individual exemption on request if bank in jeopardy because of extraordinary contributions)
EE	eligible	Quarterly contributions, each 0,07% of the contribution base in 2005, 0,09% in 2006	0.0008% of the contribution base (quarterly payments)	NO
IE	total	0.2% of its relevant deposits subject to a minimum of € 25 400	NO	Banks are allowed to pay additional contributions; these additional payments are limited in any one year to the amount a bank is at that time normally required to hold with the scheme. The amount is recouped in subsequent years as appropriate.
GR	eligible	Different classes according to their contribution base. A different percentage is applied to different classes, ranging in 2008 from 0.0125% to 0.625%	Max contributions can be levied up to a max of three times the regular contributions	NO
ES	eligible	0.04%, 0.06%, 0.08% of the contribution base	The percentages (0.04%, 0.06%, 0.08%) can be raised to 0.2%	When the fund size is negative, extraordinary contributions can be raised in order to make the deficit disappear
FR	eligible	Risk-based	NO	Fixed by the regulator without a max as long as the stability of the banking sector is not endangered

[160] Information refers to EdB - Federal Compensation Fund of Private Banks, and to EdÖ - Federal Compensation Fund of Public Banks

	Base	Annual contribution	Maximum amount of annual contribution	Extraordinary / additional contributions
IT	covered	Ex-post	0.8% of the contribution base	Not appropriate
CY	eligible	Initial and special contributions, set by DGS	0.3% of the contribution base	Supplementary contributions may be levied if the DGS amount falls below a basic level of capital. Special contributions may be levied if it appears that payments may exhaust the resources of the DGS
LV	eligible	Quarterly contributions, each 0.05% of the contribution base	NO	NO
LT	eligible	0.45% of the contribution base (commercial banks and branches of foreign banks) and 0.2% of the contribution base (credit unions)	NO	NO
LU	eligible	Ex-post	NO	Not appropriate
HU	eligible	Quarterly depending on the size of the contributions base, ranging in 2005 from 0.005% to 0.05%	The percentages can be raised to a max of 0.2%	Extraordinary contributions can be raised in case the level of the fund is not sufficient
MT	eligible	From 2007, members must maintain 0.1% of their contribution base in the fund	0.3% of the contribution base.	NO
NL	other	Ex-post	NO	Not appropriate
AT	covered	Ex-post	Max contributions can be levied up to 0.93% of the assessment basis for the solvency ratio	Not appropriate
PL	other	Amount equalling 12.5-times the sum total of capital requirements	0.3%*12.5*capital requirement.	NO
PT	eligible	PT1: 0.0375% of the contribution base, weighed by the solvency indicator PT2: the annual rate is between 0.2% and 0.27% of the contribution base. This rate is then adjusted taking into account its solvency indicator	Max annual rate is 0.2% for PT1 and 0.27% for PT2. The annual rate is adjusted with the solvency ratio (capital adequacy ratio). The adjustment varies from 0.8 to 1.2.	When the Fund's resources are insufficient, additional contributions may be levied, but the overall value of these contributions shall not exceed, in each fiscal year of the Fund's activity, the value of its annual contribution
RO	eligible	Ex-ante part: 0.1% of the contribution base	0.5% of the contribution base	Extraordinary contributions can be raised, but they cannot exceed annual contributions
SI	covered	Ex-post	NO	Not appropriate
SK	eligible	Between 0.1% - 0.75% of the contribution base	0.75% of the amount of the contribution base	Extraordinary contributions can be levied for supplementing the fund, or for repayment of a loan. This contributions

	Base	Annual contribution	Maximum amount of annual contribution	Extraordinary / additional contributions
				range between 0.1% and 1% of the contribution base
FI	covered	0.175 % of the amount obtained by dividing the minimum amount of consolidated own funds required to cover risks by the actual amount of consolidated own funds, and then multiplying the sum by the amount of covered deposits	NO	NO
SE	covered	0.1% of the contribution base, adjusted by taking into account the capital adequacy ratio	0.14% of the contribution base	NO
UK	other	Ex-post	NO	Not appropriate

Source: Joint Research Centre.

ANNEX 14: POTENTIAL TOTAL COSTS OF SETTING A TARGET LEVEL FOR DGS UNDER VARIOUS SCENARIOS (€ THOUSANDS)

(a) Potential total costs in normal times (i.e. if only ex-ante contributions are collected)

Member States	2007 fund size	2008 contributions	Total funds in 2008	Scenarios based on banks' size		Scenarios based on DGS payout	
				Big failure	Small failure	Big payout	Medium payout
BE	765 000	50 895	866 790	12 723 750	631 800	3 439 800	1 053 000
BG	265 768	69 893	512 567	894 646	44 424	241 863	74 040
CZ	304 492	63 969	432 430	4 120 803	204 619	1 114 038	341 032
DK	489 410	0	901 032	10 602 364	526 462	2 866 294	877 437
DE	n.a.	n.a.	n.a.	128 625 585	6 386 926	34 773 262	10 644 876
EE	116 043	16 341	148 610	354 158	17 586	95 745	29 310
IE	526 100	143 300	669 400	11 056 021	548 989	2 988 938	914 981
GR	942 181	602 109	2 748 508	8 842 712	439 086	2 390 581	731 811
ES	6 502 717	412 500	8 133 736	44 343 335	2 201 876	11 987 991	3 669 793
FR	1 624 000	95 400	1 719 400	96 000 135	4 766 903	25 953 140	7 944 839
IT	0	0	0	31 231 772	1 550 819	8 443 348	2 584 698
CY	8 392	24 656	185 733	3 214 321	159 608	868 975	266 013
LV	95 599	24 334	119 934	650 676	32 309	175 907	53 849
LT	confidential	confidential	298 659	589 152	29 254	159 274	48 757
LU	0	0	0	5 653 347	280 718	1 528 353	467 863
HU	248 690	3 897	604 059	2 415 405	119 937	652 992	199 896
MT	6 861	713	27 048	365 882	18 168	98 914	30 280
NL	0	0	0	24 229 275	1 203 109	6 550 259	2 005 181
AT	0	0	0	11 495 409	570 807	3 107 724	951 344
PL	confidential	confidential	780 199	4 937 566	245 176	1 334 845	408 626
PT	1 377 232	47 877	1 943 563	7 536 615	374 232	2 037 485	623 720
RO	219 495	24 962	488 870	1 464 730	72 731	395 982	121 219
SI	0	0	0	839 023	41 662	226 826	69 436
SK	-22 544	37 241	292 981	980 381	48 681	265 041	81 135
FI	549 000	39 668	588 668	5 115 947	254 033	1 383 070	423 389
SE	1 821 744	58 694	1 907 451	14 104 155	700 344	3 812 985	1 167 240
UK	0	0	0	71 761 628	3 563 336	19 400 385	5 938 893
Total EU	**16 822 900**	**1 812 589**	**23 103 113**	**504 148 791**	**25 033 595**	**136 294 018**	**41 722 659**
Total MS with ex-ante DGS	**16 822 900**	**1 812 589**	**23 103 113**	**358 938 338**	**17 823 145**	**97 037 123**	**29 705 242**
Total MS with ex-post DGS	**-**	**-**	**-**	**145 210 453**	**7 210 450**	**39 256 895**	**12 017 417**

(b) Potential total costs in a crisis situation (i.e. if both ex-ante and ex-post contributions are collected)

Member States	2007 fund size	2008 contributions	Total funds in 2008	Scenarios based on banks' size		Scenarios based on DGS payout	
				Big failure	Small failure	Big payout	Medium payout
BE	765 000	50 895	866 790	16 965 000	842 400	4 586 400	1 404 000
BG	265 768	69 893	512 567	1 192 861	59 232	322 484	98 720
CZ	304 492	63 969	432 430	5 494 404	272 826	1 485 384	454 709
DK	489 410	0	901 032	14 136 485	701 950	3 821 726	1 169 916
DE	n.a.	n.a.	n.a.	171 500 780	8 515 901	46 364 349	14 193 168
EE	116 043	16 341	148 610	472 211	23 448	127 660	39 080
IE	526 100	143 300	669 400	14 741 361	731 985	3 985 251	1 219 975
GR	942 181	602 109	2 748 508	11 790 282	585 449	3 187 442	975 748
ES	6 502 717	412 500	8 133 736	59 124 446	2 935 835	15 983 988	4 893 058
FR	1 624 000	95 400	1 719 400	128 000 180	6 355 871	34 604 187	10 593 118
IT	0	0	0	41 642 363	2 067 759	11 257 797	3 446 264
CY	8 392	24 656	185 733	4 285 762	212 810	1 158 634	354 684
LV	95 599	24 334	119 934	867 568	43 079	234 543	71 799
LT	confidential	confidential	298 659	785 536	39 006	212 366	65 010
LU	0	0	0	7 537 796	374 291	2 037 804	623 818
HU	248 690	3 897	604 059	3 220 540	159 916	870 656	266 527
MT	6 861	713	27 048	487 843	24 224	131 886	40 373
NL	0	0	0	32 305 699	1 604 145	8 733 679	2 673 575
AT	0	0	0	15 327 212	761 075	4 143 632	1 268 459
PL	confidential	confidential	780 199	6 583 422	326 901	1 779 794	544 835
PT	1 377 232	47 877	1 943 563	10 048 820	498 976	2 716 647	831 626
RO	219 495	24 962	488 870	1 952 973	96 975	527 976	161 625
SI	0	0	0	1 118 697	55 549	302 434	92 582
SK	-22 544	37 241	292 981	1 307 175	64 908	353 388	108 180
FI	549 000	39 668	588 668	6 821 262	338 711	1 844 093	564 518
SE	1 821 744	58 694	1 907 451	18 805 539	933 792	5 083 980	1 556 320
UK	0	0	0	95 682 170	4 751 115	25 867 180	7 918 524
Total EU	**16 822 900**	**1 812 589**	**23 103 113**	**672 198 388**	**33 378 127**	**181 725 357**	**55 630 211**
Total MS with ex-ante DGS	**16 822 900**	**1 812 589**	**23 103 113**	**478 584 450**	**23 764 193**	**129 382 831**	**39 606 989**
Total MS with ex-post DGS	**-**	**-**	**-**	**193 613 937**	**9 613 933**	**52 342 527**	**16 023 222**

(c) Potential total costs for DGS involved in bank resolution under scenarios based on government intervention

Member States	2007 fund size	2008 contributions	Total funds in 2008	Total costs in normal times (only ex-ante contributions are collected)		Total costs in a crisis situation (both ex-ante and ex-post contributions are collected)	
				Big intervention	Medium intervention	Big intervention	Medium intervention
BE	765 000	50 895	866 790	6 669 000	2 281 500	8 892 000	3 042 000
BG	265 768	69 893	512 567	468 918	160 419	625 224	213 892
CZ	304 492	63 969	432 430	2 159 869	738 903	2 879 826	985 204
DK	489 410	0	901 032	5 557 101	1 901 114	7 409 468	2 534 818
DE	n.a.	n.a.	n.a.	67 417 548	23 063 898	89 890 064	30 751864
EE	116 043	16 341	148 610	185 628	63 504	247 504	84 672
IE	526 100	143 300	669 400	5 794 880	1 982 459	7 726 506	2 643 279
GR	942 181	602 109	2 748 508	4 634 801	1 585 590	6 179 734	2 114 120
ES	6 502 717	412 500	8 133 736	23 242 024	7 951 219	30 989 365	10 601 625
FR	1 624 000	95 400	1 719 400	50 317 312	17 213 817	67 089 750	22 951 756
IT	0	0	0	16 369 756	5 600 180	21 826 342	7 466 906
CY	8 392	24 656	185 733	1 684 748	576 361	2 246 330	768 481
LV	95 599	24 334	119 934	341 044	116 673	454 725	155 564
LT	confidential	confidential	298 659	308 797	105 641	411 729	140 855
LU	0	0	0	2 963 134	1 013 704	3 950 845	1 351 605
HU	248 690	3 897	604 059	1 266 005	433 107	1 688 007	577 476
MT	6 861	713	27 048	191 773	65 606	255 697	87 475
NL	0	0	0	12 699 482	4 344 560	16 932 642	5 792 746
AT	0	0	0	6 025 180	2 061 246	8 033 573	2 748 328
PL	confidential	confidential	780 199	2 587 966	885 357	3 450 621	1 180 476
PT	1 377 232	47 877	1 943 563	3 950 226	1 351 393	5 266 968	1 801 857
RO	219 495	24 962	488 870	767 720	262 641	1 023 627	350 188
SI	0	0	0	439 764	150 446	586 352	200 594
SK	-22 544	37 241	292 981	513 855	175 793	685 140	234 390
FI	549 000	39 668	588 668	2 681 462	917 342	3 575 282	1 223 123
SE	1 821 744	58 694	1 907 451	7 392 522	2 529 021	9 856 696	3 372 028
UK	0	0	0	37 612 991	12 867 602	50 150 655	17 156 803
Total EU	**16 822 900**	**1 812 589**	**23 103 113**	**264 243 504**	**90 399 094**	**352 324 672**	**120 532 125**
Total MS with ex-ante DGS	**16 822 900**	**1 812 589**	**23 103 113**	**188 133 198**	**64 361 357**	**250 844 264**	**85 815 143**
Total MS with ex-post DGS	**-**	**-**	**-**	**76 110 306**	**26 037 736**	**101 480 409**	**34 716 982**

(d) Potential impact on banks: variation in operating profits *

	Big bank failure		Small bank failure		Big DGS payout		Medium DGS payout		Big gov't intervention		Medium gov't intervention	
	Normal times	Crisis situation	Normal times	Crisis situation	Normal times	Crisis situation	Normal times	Crisis situation	Normal times	Crisis situation	Normal times	Crisis situation
EU	-29.20%	-41.76%	-4.81%	-7.35%	-4.66%	-7.34%	-11.02%	-17.61%	-12.56%	-18.35%	-5.75%	-9.20%
EU-15	-38.56%	-53.65%	-5.85%	-9.09%	-6.84%	-10.68%	-14.59%	-23.66%	-17.64%	-25.08%	-8.32%	-13.08%
EU-12	-19.84%	-29.88%	-3.77%	-5.61%	-2.48%	-4.00%	-7.45%	-11.55%	-7.47%	-11.63%	-3.18%	-5.32%

(e) Potential impact on consumers: interest rates *

	Big bank failure		Small bank failure		Big DGS payout		Medium DGS payout		Big gov't intervention		Medium gov't intervention	
	Normal times	Crisis situation	Normal times	Crisis situation	Normal times	Crisis situation	Normal times	Crisis situation	Normal times	Crisis situation	Normal times	Crisis situation
EU	0.354%	0.526%	0.039%	0.060%	0.040%	0.072%	0.088%	0.143%	0.138%	0.213%	0.045%	0.086%
EU-15	0.412%	0.594%	0.022%	0.038%	0.051%	0.094%	0.072%	0.128%	0.172%	0.255%	0.052%	0.103%
EU-12	0.311%	0.478%	0.051%	0.075%	0.032%	0.056%	0.100%	0.154%	0.113%	0.182%	0.039%	0.073%

(f) Potential impact on consumers: bank fees (€) *

	Big bank failure		Small bank failure		Big DGS payout		Medium DGS payout		Big gov't intervention		Medium gov't intervention	
	Normal times	Crisis situation	Normal times	Crisis situation	Normal times	Crisis situation	Normal times	Crisis situation	Normal times	Crisis situation	Normal times	Crisis situation
EU	31.08	44.26	4.28	6.73	4.48	7.54	10.29	16.56	13.23	19.56	5.41	9.34
EU-15	48.24	68.43	2.80	5.26	6.41	11.46	10.36	18.85	20.62	30.40	7.08	13.30
EU-12	18.60	26.68	5.36	7.80	3.07	4.69	10.24	14.89	7.86	11.68	4.20	6.46

* Normal times: only ex-ante contributions are collected; crisis situation: both ex-ante and ex-post contributions are collected (ex-ante and ex-post contributions are 75% and 25% of the DGS funds respectively). Impact on banks: PL, NL and UK have been excluded because their contribution base is different than total, eligible or covered; DE has been excluded because 2008 contributions are not available; LT and FI have been excluded because the sample available from Bankscope was small; LU has been excluded because data available from Bankscope are not consistent with the data collected through the JRC survey. Impact on consumers has been performed only for ex-ante DGS. DE has been excluded because 2008 contributions were not available, DK has been excluded because it did not collect contributions in 2008.

General note: The analysis aims at investigating the DGS' capability of handling a failure of a certain size. The below table summarizes all the developed scenarios.

Scenarios		Size of the failure (% of the total amount of eligible deposits)
Big bank failure	Failure of a big member bank (average of top-10 member banks)	**7.25%**
Small bank failure	Failure of a small member bank (average of other than top-10 banks)	**0.36%**
Big DGS payout	Maximum costs to DGS for a failure occurred in the EU MS in 2008	**1.96%**
Medium DGS payout	Average costs to DGS for a failure occurred in the EU MS in 2008	**0.60%**
Big government intervention	Maximum costs for banks' individual recapitalizations operated by governments of EU MS during the financial crisis	**3.80%**
Medium government intervention	Average costs for banks' individual recapitalizations operated by governments of EU MS during the financial crisis	**1.30%**

Source: Joint Research Centre.

ANNEX 15: NUMBER OF MEMBER STATES ABLE TO HANDLE THE COSTS UNDER VARIOUS SCENARIOS ON A TARGET LEVEL FOR DGS

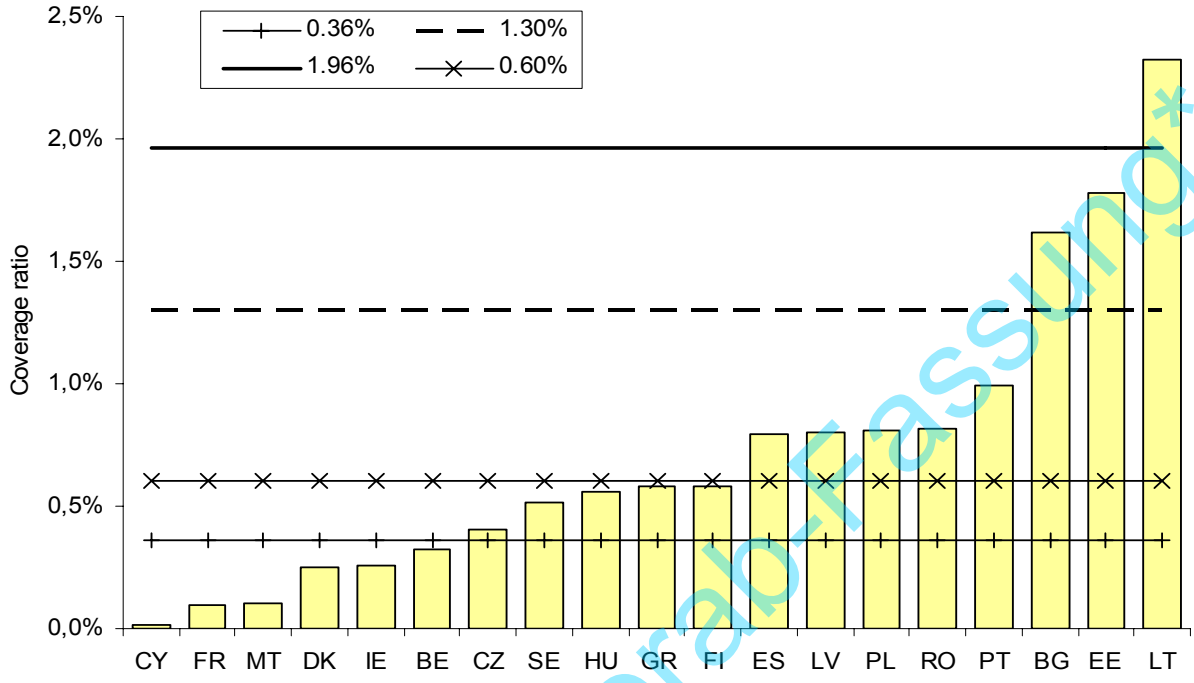
Scenario (target level - to be achieved after x years)	Number of MS able to handle the intervention with cumulated funds plus ordinary contributions within the time limit	Number of MS able to handle the intervention with cumulated funds plus extraordinary contributions within the time limit
	Normal times *	Crisis situation *
Big bank failure (7.25% of eligible deposits - 10 years)	2 BG, LT	4 BG, GR, RO, SK
Small bank failure (0.36% of eligible deposits - 1 year)	15 BE, BG, CZ, EE, IE, GR, ES, LV, LT, HU, PL, PT, RO, FI, SE	17 BE, BG, CZ, DK, EE, GR, ES, LV, LT, HU, MT, PL, PT, RO, SK, FI, SE,
Big DGS payout (1.96% of eligible deposits - 10 years)	7 BG, EE, GR, LV, LT, RO, SK	14 BG, CZ, DK, EE, GR, ES, CY, LV, LT, HU, MT, PT, RO, SK
Medium DGS payout (0.60% of eligible deposits - 1 year)	13 BG, CZ, EE, GR, ES, LV, LT, HU, PL, PT, RO, FI, SE	13 BG, EE, GR, ES, LV, LT, HU, PL, PT, RO, SK, FI, SE
Big government intervention (3.80% of eligible deposits - 10 years)	4 BG, EE, GR, LT	7 BG, EE, GR, LT, PT, RO, SK
Medium government intervention (1.30% of eligible deposits - 5 years)	9 BG, EE, GR, ES, LV, LT, PL, PT, RO	13 BG, DK, EE, GR, ES, CY, LV, LT, HU, MT, PT, RO, SK

* Normal times: only ex-ante contributions are collected; Crisis situation: both ex-ante and ex-post contributions are collected (up to max limits).

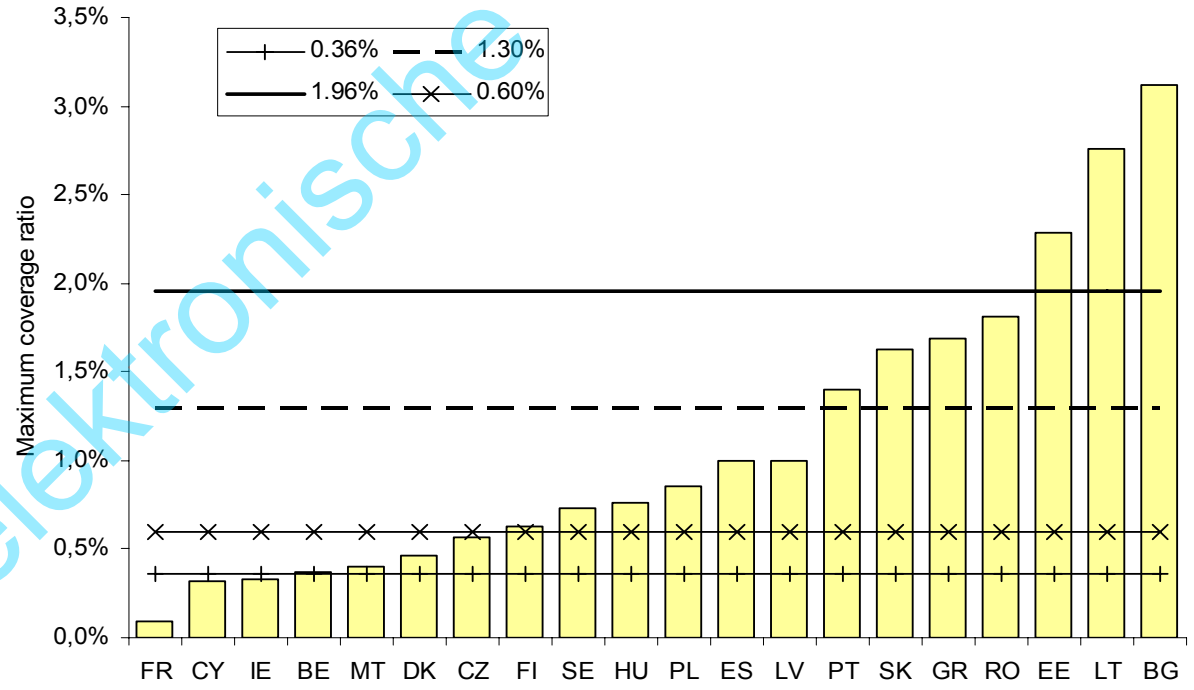
Source: Joint Research Centre.

ANNEX 16: CURRENT CAPABILITY OF DGS TO COPE WITH A BANK FAILURE OF A CERTAIN SIZE (USING EX-ANTE FUNDS, CONTRIBUTIONS AND ADDITIONAL CONTRIBUTIONS AVAILABLE UNDER THE CURRENT REGIME)

(a) Actual coverage ratios* vs. potential target levels (2007)



(b) Maximum coverage ratios* vs. potential target levels (2007)

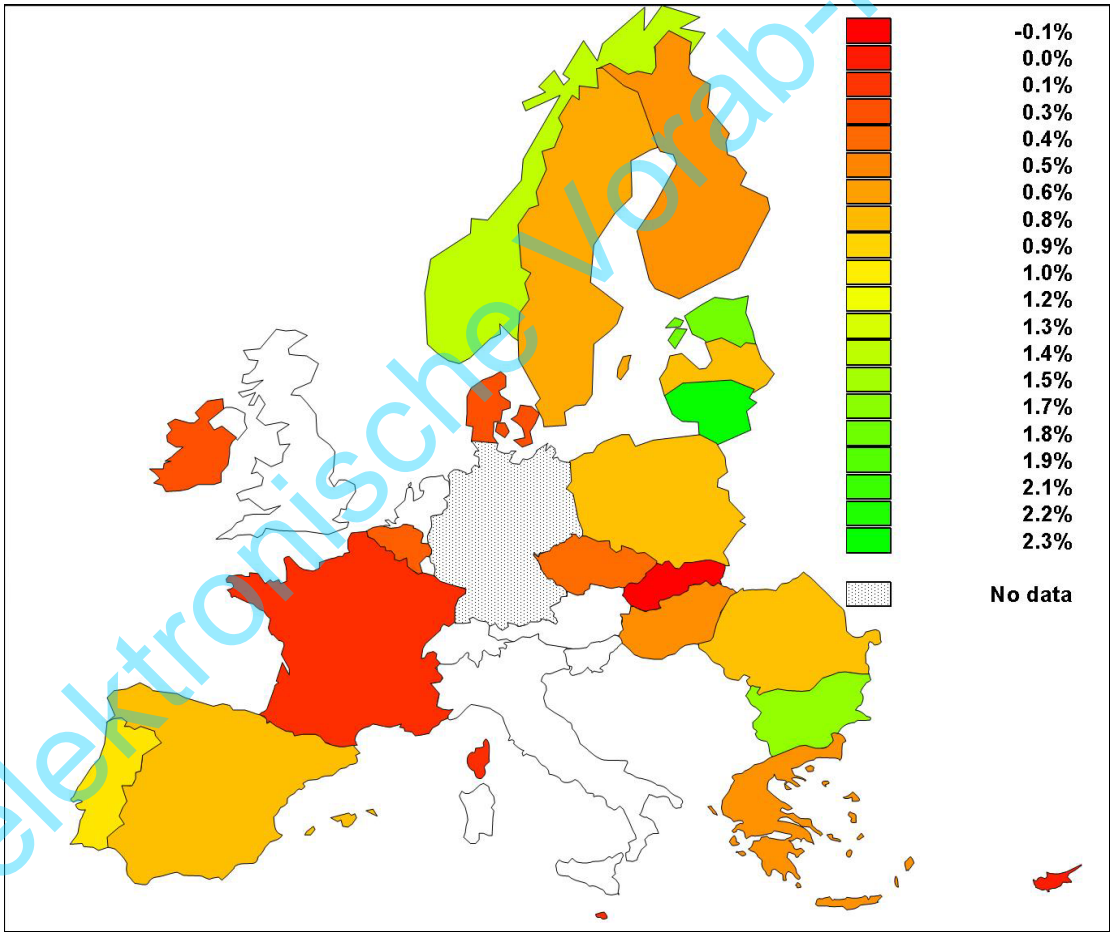


* Coverage ratio = ex-ante fund / eligible deposits; Maximum coverage ratio = total funds (ex-ante fund plus additional contributions) / eligible deposits.

(c) Target levels and coverage ratios at DGS having a target level for funds

Member States	Target level for DGS funds (brief description)	Target level for DGS funds (as % of 2007 eligible deposits)	Coverage ratio (as of 2007)
BG	5% of the total amount of eligible deposits	5.00 %	1.62 %
DK	€ 429 500 000	0.22 %	0.25 %
EE	2% of the total amount of eligible deposits	2.00 %	1.78 %
ES	1% of the total amount of eligible deposits	1.00 %	0.80 %
FR	€ 1 500 000 000	0.08 %	0.09 %
IT	0.8% of the total amount of covered deposits (virtual fund)	0.56 %	0.00 %
LT	4% of the total amount of eligible deposits	4.00 %	2.32 %
HU	confidential	confidential	0.56 %
MT	€ 7 000 000	0.10 %	0.10 %
RO	€ 399 000 000	1.48 %	0.81 %

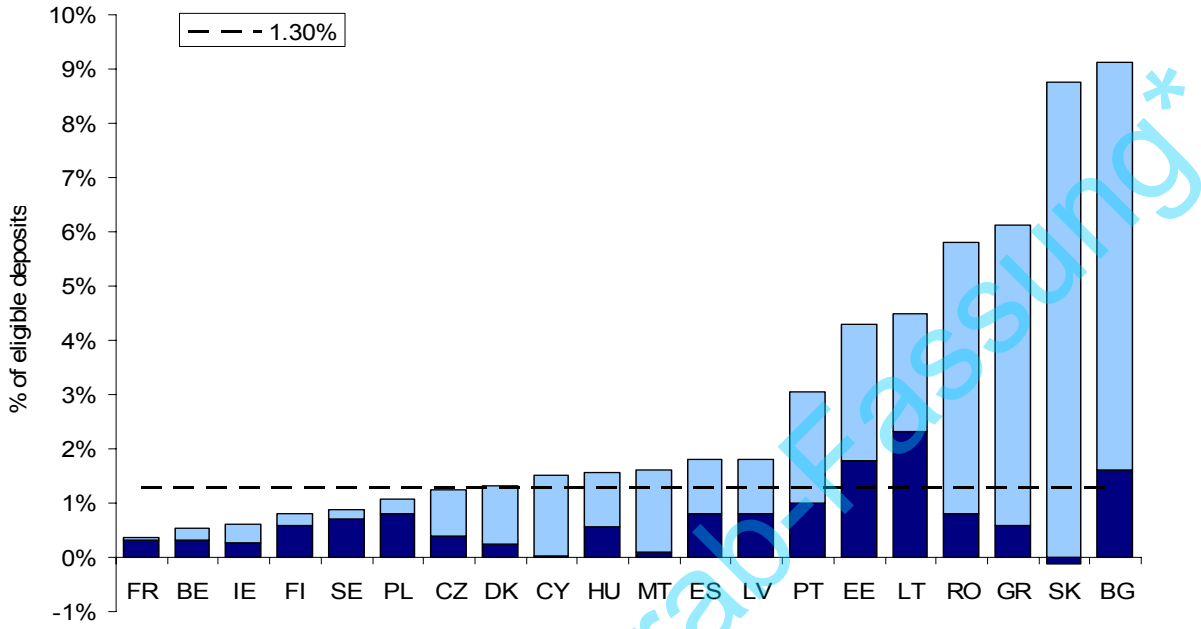
(d) Coverage ratios in the EU and Norway (2007)



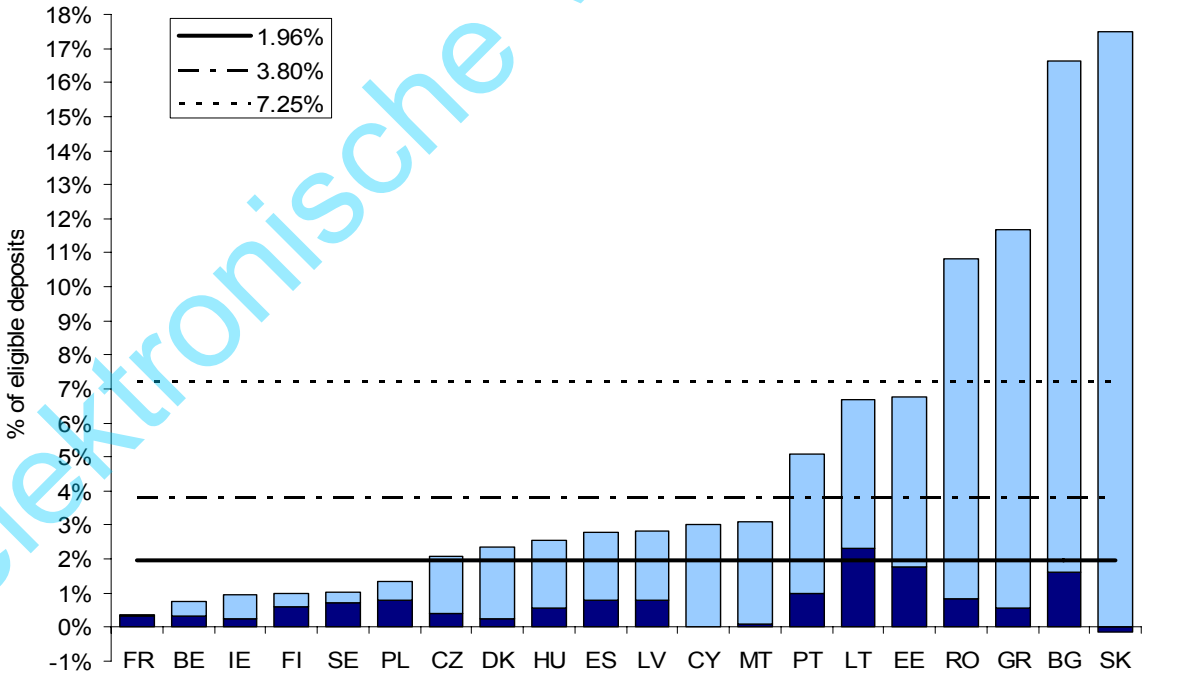
Source: Joint Research Centre.

ANNEX 17: CURRENT CAPABILITY OF DGS TO COPE WITH A BANK FAILURE OF A CERTAIN SIZE (USING EX-ANTE AND ADDITIONAL CONTRIBUTIONS AVAILABLE UNDER THE CURRENT REGIME)

(a) Resources potentially available to DGS after 5 years



(b) Resources potentially available to DGS after 10 years



Note: Dark blue bars – ex-ante funds; pale blue bars – ex-post funds.

Source: Joint Research Centre.

ANNEX 18: HARMONIZED SCENARIOS ON DGS FUNDING*: POTENTIAL IMPACT ON TOTAL DGS FUNDS AND BANK CONTRIBUTIONS

(a) Total ex-ante and ex-post funds to be collected within 10 years (€ thousands)

Member States	2007 size of funds	2008 total funds	Harmonised scenario A (Target level 1.96% - Exclude all – 10 years)		Harmonised scenario B (Target level 1.96% - Include SME and large enterprises – 10 years)		Harmonised scenario C (Target level 1.96% - Include all – 10 years)	
			Ex-ante	Ex-post	Ex-ante	Ex-post	Ex-ante	Ex-post
BE	765 000	866 790	3 439 800	1 146 600	3 882 211	1 294 070	4 420 267	1 473 422
BG	265 768	512 567	185 039	61 680	241 863	80 621	253 629	84 543
CZ	304 492	432 430	935 232	311 744	1 111 641	370 547	1 142 802	380 934
DK	489 410	901 032	2 514 465	838 155	2 750 410	916 803	2 866 294	955 431
DE	n.a.	n.a.	34 773 262	11 591 087	38 630 767	12 876 922	49 225 548	16 408 516
EE	116 043	148 610	95 745	31 915	112 430	37 477	114 544	38 181
IE	526 100	669 400	2 988 938	996 313	3 784 456	1 261 485	4 435 895	1 478 632
GR	942 181	2 748 508	2 182 417	727 472	2 351 713	783 904	2 408 295	802 765
ES	6 502 717	8 133 736	10 873 755	3 624 585	11 987 991	3 995 997	13 954 605	4 651 535
FR	1 624 000	1 719 400	24 285 156	8 095 052	25 953 140	8 651 047	26 654 536	8 884 845
IT	0	0	6 882 665	2 294 222	8 443 348	2 814 449	10 812 940	3 604 313
CY	8 392	185 733	821 353	273 784	868 975	289 658	934 597	311 532
LV	95 599	119 934	152 431	50 810	175 907	58 636	189 107	63 036
LT	confidential	298 659	140 438	46 813	156 783	52 261	160 697	53 566
LU	0	0	1 528 353	509 451	2 379 216	793 072	3 011 845	1 003 948
HU	248 690	337 532	493 135	164 378	652 992	217 664	690 059	230 020
MT	6 861	27 048	98 914	32 971	129 879	43 293	143 038	47 679
NL	0	0	6 550 259	2 183 420	7 624 374	2 541 458	8 470 489	2 823 496
AT	0	0	3 107 724	1 035 908	3 418 953	1 139 651	3 514 481	1 171 494
PL	confidential	780 199	1 261 250	420 417	1 574 351	524 784	1 692 092	564 031
PT	1 377 232	1 943 563	1 845 839	615 280	2 037 485	679 162	2 129 080	709 693
RO	219 495	488 870	395 982	131 994	553 660	184 553	586 574	195 525
SI	0	0	226 826	75 609	248 697	82 899	262 026	87 342
SK	-22 544	292 981	265 041	88 347	396 501	132 167	429 061	143 020
FI	549 000	588 668	1 218 783	406 261	1 342 277	447 425	1 383 070	461 023
SE	1 821 744	1 907 451	2 581 530	860 510	3 686 872	1 228 957	3 898 618	1 299 539
UK	0	0	18 093 971	6 031 324	24 518 359	8 172 786	27 772 405	9 257 468
EU	**16 822 900**	**23 103 113**	**127 938 303**	**42 646 101**	**149 015 250**	**49 671 750**	**171 556 596**	**57 185 532**

* This scenario assumes harmonising some key elements of DGS funding in all Member States: the target level for total funds of 1.96% of eligible deposits; proportions of total funds: 75% ex-ante / 25% ex-post (to be achieved within 10 years). It also assumes harmonising the scope of coverage: including/excluding non-financial enterprises, financial sector enterprises and authorities. The adoption of a given harmonised level of coverage has no impact on the results as the above assumptions on DGS funding are based on eligible (and not on covered) deposits.

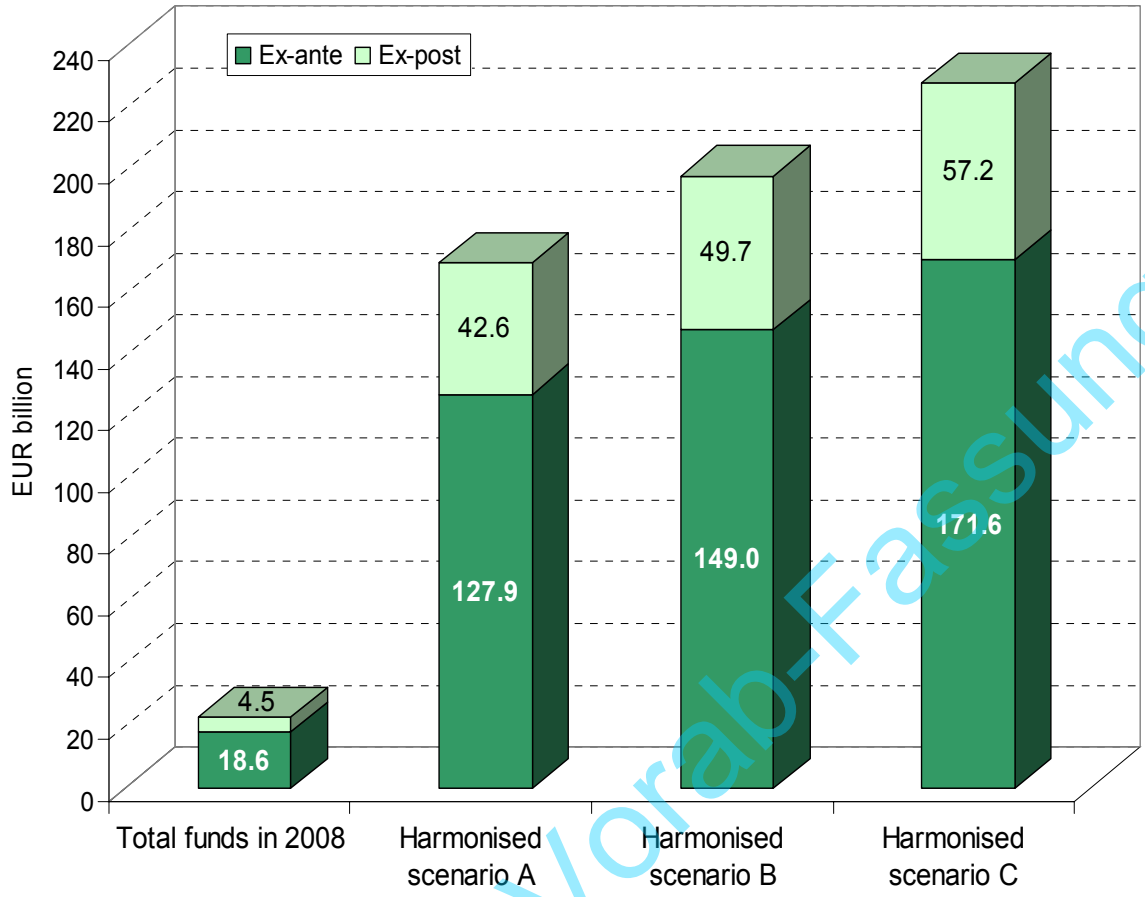
(b) Bank contributions to be collected annually within 10 years (€ thousands)

Member States	2008 contri-butions	Harmonised scenario A (Target level 1.96% - Exclude All - 10 years)		Harmonised scenario B (Target level 1.96% - Include SME and large enterprises - 10 years)		Harmonised scenario C (Target level 1.96% - Include All - 10 years)	
		Ex-ante contributions	% change in contributions	Ex-ante contributions	% change in contributions	Ex-ante contributions	% change in contributions
BE	50 895	267 480	426%	311 721	512%	365 527	618%
BG	69 893	(*)n.a.	(*)n.a.	(*)n.a.	(*)n.a.	(*)n.a.	(*)n.a.
CZ	63 969	63 074	-1%	80 715	26%	83 831	31%
DK	0	202 506	n.a.	226 100	n.a.	237 688	n.a.
DE	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.
EE	16 341	(*)n.a.	(*)n.a.	(*)n.a.	(*)n.a.	(*)n.a.	(*)n.a.
IE	143 300	246 284	72%	325 836	127%	390 980	173%
GR	602 109	124 024	-79%	140 953	-77%	146 611	-76%
ES	412 500	437 104	6%	548 527	33%	745 189	81%
FR	95 400	2 266 116	2275%	2 432 914	2450%	2 503 054	2 524%
IT	0	688 266	n.a.	844 335	n.a.	1 081 294	n.a.
CY	24 656	81 296	230%	86 058	249%	92 621	276%
LV	24 334	5 683	-77%	8 031	-67%	9 351	-62%
LT	confidential	(*)n.a.	(*)n.a.	n.a.	n.a.	(*)n.a.	(*)n.a.
LU	0	152 835	n.a.	237 922	n.a.	301 185	n.a.
HU	3 897	24 444	527%	40 430	937%	44 137	1 032%
MT	713	9 205	1 192%	12 302	1626%	13 618	1 811%
NL	0	655 026	n.a.	762 437	n.a.	847 049	n.a.
AT	0	310 772	n.a.	341 895	n.a.	351 448	n.a.
PL	confidential	53 000	confidential	84 310	confidential	96 084	confidential
PT	47 877	46 861	-2%	66 025	38%	75 185	57%
RO	24 962	17 649	-29%	33 416	34%	36 708	47%
SI	0	22 683	n.a.	24 870	n.a.	26 203	n.a.
SK	37 241	28 759	-23%	41 905	13%	45 161	21%
FI	39 668	66 978	69%	79 328	100%	83 407	110%
SE	58 694	75 979	29%	186 513	218%	207 687	254%
UK	0	1 809 397	n.a.	2 451 836	n.a.	2 777 241	n.a.
Total EU	**1 812 589**	**7 655 420**	**–**	**9 368 379**	**–**	**10 561 256**	**–**
EU average	**–**	**–**	**289 %**	**–**	**393 %**	**–**	**437 %**

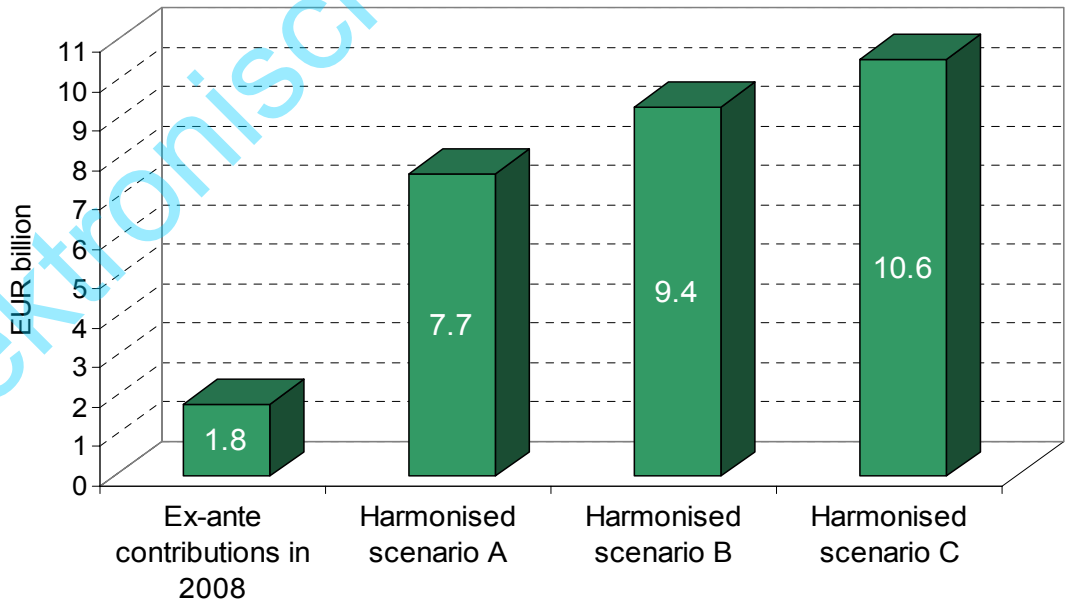
Note: There would be a particularly high impact in FR. This is because the amount of eligible deposits is very high in FR (see Annex 2), while the funds at DGS disposal and annual bank contributions are not proportionally high (see both tables in this annex).

* It means that 2007 funds cover completely the ex-ante component and thus additional contributions do not have to be called to reach the target level.

(c) Total ex-ante funds and additional contributions to be collected within 10 years



(d) Total amount of ex-ante contributions to be collected annually within 10 years



Source: Joint Research Centre.

ANNEX 19: HARMONIZED SCENARIOS ON DGS FUNDING: POTENTIAL IMPACT ON BANKS – VARIATION IN BANK OPERATING PROFITS

Member States	Harmonised scenario A (Target level 1.96% - Exclude all - 10 years)		Harmonised scenario B (Target level 1.96% - Include SME and large enterprises - 10 years)		Harmonised scenario C (Target level 1.96% - Include all - 10 years)	
	Normal times *	Crisis situation *	Normal times *	Crisis situation *	Normal times *	Crisis situation *
BE	-15.28%	-23.37%	-17.58%	-26.37%	-20.33%	-29.97%
BG	13.50%	13.50%	13.50%	12.40%	13.50%	12.10%
CZ	0.22%	-2.99%	-1.76%	-5.64%	-2.11%	-6.11%
DK	-6.11%	-8.64%	-6.86%	-9.64%	-7.22%	-10.13%
DE	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.
EE	22.99%	21.36%	22.99%	18.25%	22.99%	17.86%
IE	-9.39%	-17.19%	-14.98%	-24.62%	-19.54%	-30.67%
GR	16.89%	14.24%	16.37%	13.57%	16.20%	13.35%
ES	-0.21%	-3.28%	-1.15%	-4.54%	-2.81%	-6.74%
FR	-8.95%	-12.29%	-9.92%	-13.59%	-10.33%	-14.14%
IT	-8.50%	-11.33%	-9.01%	-12.02%	-9.79%	-13.05%
CY	-6.55%	-9.72%	-7.12%	-10.47%	-7.89%	-11.51%
LV	6.85%	4.99%	5.99%	3.83%	5.50%	3.19%
LT	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.
LU	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.
HU	-1.99%	-3.57%	-3.30%	-5.26%	-3.59%	-5.65%
MT	-5.05%	-7.02%	-5.55%	-7.66%	-5.75%	-7.92%
NL	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.
AT	-14.98%	-19.97%	-16.26%	-21.68%	-16.65%	-22.20%
PL	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.
PT	0.01%	-2.56%	-0.75%	-3.54%	-1.10%	-4.00%
RO	1.89%	-1.52%	-1.57%	-5.99%	-2.26%	-6.89%
SI	-7.56%	-10.08%	-8.29%	-11.05%	-8.73%	-11.64%
SK	2.66%	0.47%	-1.33%	-4.84%	-2.31%	-6.16%
FI	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.
SE	-0.56%	-2.53%	-2.61%	-5.10%	-2.97%	-5.57%
UK	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.
EU	**-1.01%**	**-4.08%**	**-2.46%**	**-6.20%**	**-3.26%**	**-7.29%**
EU-15	**-4.71%**	**-8.69%**	**-6.27%**	**-10.75%**	**-7.45%**	**-12.31%**
EU-12	**2.69%**	**0.54%**	**1.36%**	**-1.64%**	**0.93%**	**-2.27%**

* Normal times: only ex-ante contributions are collected; Crisis situation: both ex-ante and ex-post contributions are collected (up to max limits). PL, NL, UK have been excluded because their contribution base is different than total, eligible or covered; DE has been excluded because 2008 contributions are not available; LT and FI have been excluded because the sample available from Bankscope was small; LU has been excluded because data available from Bankscope are not consistent with the data collected through the JRC survey. Source: Joint Research Centre.

ANNEX 20: HARMONIZED SCENARIOS ON DGS FUNDING: POTENTIAL IMPACT ON DEPOSITORS

(a) Potential decrease of interest rates on savings

Member States	Harmonised scenario A (Target level 1.96% - Exclude all - 10 years)		Harmonised scenario B (Target level 1.96% - Include SME and large enterprises - 10 years)		Harmonised scenario C (Target level 1.96% - Include all - 10 years)	
	Normal times *	Crisis situation *	Normal times *	Crisis situation *	Normal times *	Crisis situation *
BE	0.093%	0.142%	0.111%	0.167%	0.134%	0.197%
BG	n.a.**	n.a.**	n.a.**	0.000%	n.a.**	0.000%.
CZ	0.000%.	0.040%	0.022%	0.071%	0.026%	0.076%
DK	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.
DE	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.
EE	n.a.**	0.000%	(*)n.a	0.000%	(*)n.a	0.000%
IE	0.051%	0.100%	0.090%	0.152%	0.122%	0.195%
GR	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%
ES	0.003%	0.047%	0.017%	0.066%	0.041%	0.098%
FR	0.123%	0.169%	0.132%	0.181%	0.136%	0.187%
IT	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.
CY	0.096%	0.142%	0.104%	0.153%	0.115%	0.168%
LV	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%
LT	n.a.**	n.a.**	n.a.**	n.a.**	n.a.**	n.a.**
LU	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.
HU	0.046%	0.083%	0.082%	0.131%	0.091%	0.142%
MT	0.126%	0.175%	0.172%	0.237%	0.192%	0.263%
NL	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.
AT	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.
PL	0.004%	0.051%	0.039%	0.097%	0.052%	0.114%
PT	0.000%	0.044%	0.013%	0.062%	0.020%	0.071%
RO	0.000%	0.022%	0.031%	0.100%	0.044%	0.116%
SI	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.
SK	0.000%	0.002%	0.026%	0.099%	0.044%	0.123%
FI	0.029%	0.072%	0.042%	0.090%	0.046%	0.095%
SE	0.007%	0.040%	0.049%	0.097%	0.057%	0.108%
UK	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.
EU	**0.058%**	**0.081%**	**0.067%**	**0.122%**	**0.080%**	**0.140%**
EU-15	**0.051%**	**0.088%**	**0.065%**	**0.116%**	**0.080%**	**0.136%**
EU-12	**0.068%**	**0.074%**	**0.086%**	**0.143%**	**0.080%**	**0.143%**

Note: It is assumed that ex-ante and ex-post contributions are 75% and 25% of the DGS funds respectively. Impact on consumers have been performed only for ex-ante DGS. DE has been excluded because 2008 contributions were not available, DK has been excluded because it did not collect contributions in 2008.

* Normal times: only ex-ante contributions are collected; Crisis situation: both ex-ante and ex-post contributions are collected (up to max limits).

** It means that 2007 funds cover completely the ex-ante component and thus additional contributions do not have to be called to reach the target level..

(b) Potential increase of bank fees on current account (€)

Member States	Harmonised scenario A (Target level 1.96% - Exclude all - 10 years)		Harmonised scenario B (Target level 1.96% - Include SME and large enterprises - 10 years)		Harmonised scenario C (Target level 1.96% - Include all - 10 years)	
	Normal times *	Crisis situation *	Normal times *	Crisis situation *	Normal times *	Crisis situation *
BE	9.55	14.60	11.50	17.20	13.87	20.37
BG	n.a.**	n.a.**	n.a.**	0.00	n.a.**	0.00
CZ	0.00	1.95	1.08	3.47	1.28	3.73
DK	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.
DE	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.
EE	n.a.**	0.00	n.a.**	0.00	n.a.**	0.00
IE	11.14	21.92	19.75	33.40	26.80	42.80
GR	0.00	0.00	0.00	0.00	0.00	0.00
ES	0.28	4.43	1.56	6.13	3.81	9.14
FR	15.98	21.94	17.21	23.57	17.72	24.26
IT	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.
CY	19.03	28.23	20.63	30.36	22.83	33.30
LV	0.00	0.00	0.00	0.00	0.00	0.00
LT	n.a.**	n.a.**	n.a.**	n.a.**	n.a.**	n.a.**
LU	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.
HU	1.20	2.16	2.14	3.41	2.35	3.70
MT	9.72	13.49	13.26	18.21	14.77	20.22
NL	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.
AT	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.
PL	0.05	0.56	0.43	1.08	0.58	1.27
PT	0.00	2.66	0.80	3.79	1.20	4.33
RO	0.00	0.13	0.18	0.58	0.25	0.68
SI	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.
SK	0.00	0.04	0.59	2.27	1.00	2.82
FI	2.41	6.01	3.51	7.46	3.87	7.94
SE	0.89	5.29	6.54	12.84	7.63	14.28
UK	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.
EU	**7.02**	**8.82**	**7.08**	**11.70**	**8.43**	**13.49**
EU-15	**6.71**	**10.98**	**8.69**	**14.91**	**10.70**	**17.59**
Eu-12	**7.50**	**6.65**	**7.33**	**10.73**	**6.15**	**9.39**

Note: It is assumed that ex-ante and ex-post contributions are 75% and 25% of the DGS funds respectively. Impact on consumers have been performed only for ex-ante DGS. DE has been excluded because 2008 contributions were not available, DK has been excluded because it did not collect contributions in 2008.

* Normal times: only ex-ante contributions are collected; Crisis situation: both ex-ante and ex-post contributions are collected (up to max limits).

** It means that 2007 funds cover completely the ex-ante component.

Source: Joint Research Centre.

ANNEX 21: POTENTIAL CUMULATIVE IMPACT ON BANKS AND DEPOSITORS DURING THE FIRST 5 YEARS: HARMONIZED SCENARIO ON PAYOUT, FUNDING AND SCOPE/LEVEL OF COVERAGE *

(a) Potential impact on operating profits of banks

Member States	Variation in operating profits	
	Normal times **	Crisis situation **
BE	-22.00%	-30.79%
BG	13.10%	12.00%
CZ	-3.71%	-7.60%
DK	-7.38%	-10.16%
DE	n.a.	n.a.
EE	22.39%	17.65%
IE	-19.53%	-29.16%
GR	14.78%	11.98%
ES	-2.93%	-6.31%
FR	-12.00%	-15.67%
IT	-10.24%	-13.25%
CY	-8.84%	-12.20%
LV	5.70%	3.54%
LT	n.a.	n.a.
LU	n.a.	n.a.
HU	-3.56%	-5.53%
MT	-5.82%	-7.92%
NL	n.a.	n.a.
AT	-17.74%	-23.16%
PL	n.a.	n.a.
PT	-2.35%	-5.14%
RO	-3.04%	-7.46%
SI	-9.35%	-12.11%
SK	-1.62%	-5.14%
FI	n.a.	n.a.
SE	-2.95%	-5.45%
UK	n.a.	n.a.
EU	**-3.86%**	**-7.59%**
EU-15	**-8.24%**	**-12.71%**
EU-12	**0.52%**	**-2.48%**

PL, NL, UK have been excluded because their contribution base is different than total, eligible or covered; DE has been excluded because 2008 contributions are not available; LT and FI have been excluded because the sample available from Bankscope was small; LU has been excluded because data available from Bankscope are not consistent with the data collected through the JRC survey.

* This harmonised scenario presents the cumulative impact on banks and depositors stemming from two separate scenarios:
(1) speeding up the payout process – which involves one-off administrative costs for banks related to tagging eligible deposits, data cleansing and creating single customer views – to be faced within 5 years (see Annex 12d-f);
(2) harmonising DGS funding and scope/level of coverage (harmonised scenario B) – which assumes the target level for total funds of 1.96% of eligible deposits; proportions of total funds: 75% ex-ante / 25% ex-post; coverage: including all non-financial enterprises, excluding financial sector enterprises and all levels' authorities; time horizon: to be achieved within 10 years (see Annexes 18-20).
Given different time horizons of the above scenarios, the cumulative impact presented in this annex is relating to the first 5 years. As to the remaining 5 years, the impact on banks and depositors is the same as presented in Annexes 19 and 20.

** Normal times: only ex-ante contributions are collected; Crisis situation: both ex-ante and ex-post contributions are collected (up to max limits).

(b) Potential impact on consumers: decrease of interest rates on savings and increase of bank fees on current account

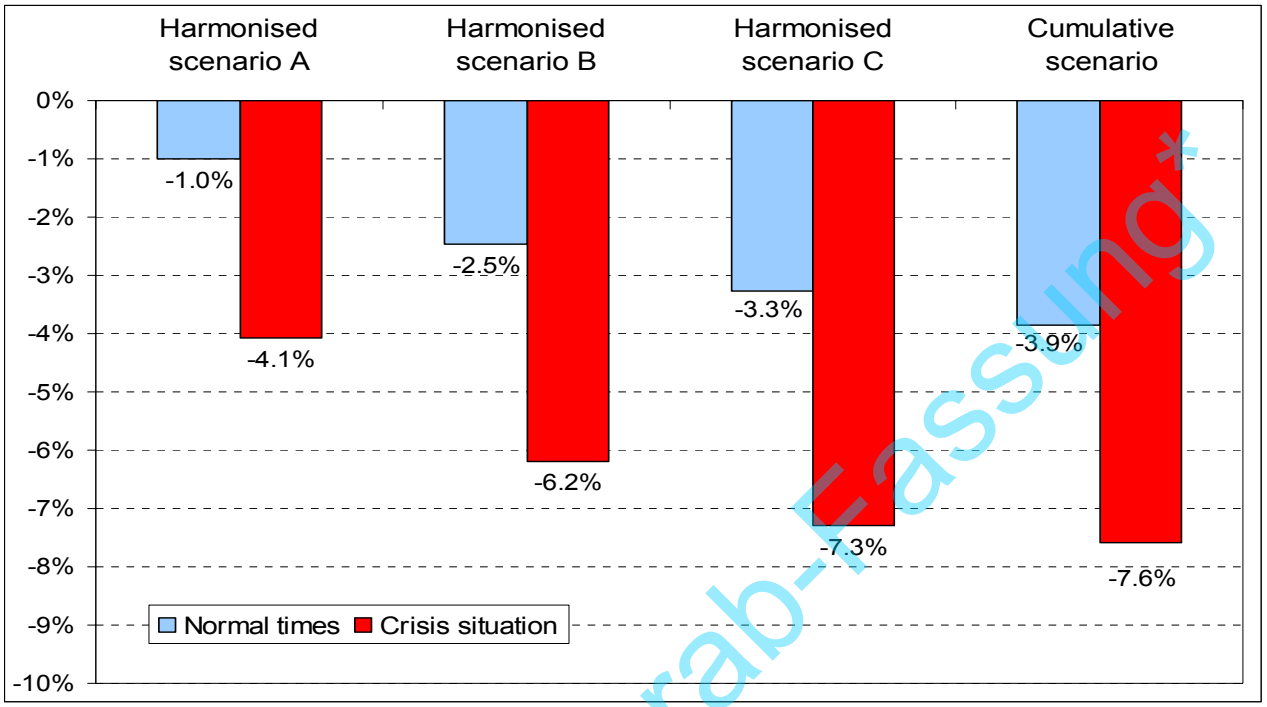
Member States	Decrease of interest rates on savings		Increase of bank fees on current account (€)	
	Normal times *	Crisis situation *	Normal times *	Crisis situation *
BE	0.126%	0.182%	13.03	18.73
BG	0.019%	0.019%	0.30	0.30
CZ	0.050%	0.099%	2.45	4.84
DK	n.a.	n.a.	n.a.	n.a.
DE	n.a.	n.a.	n.a.	n.a.
EE	0.026%	0.026%	0.82	0.82
IE	0.104%	0.166%	22.90	36.55
GR	0.024%	0.024%	1.61	1.61
ES	0.036%	0.085%	3.37	7.94
FR	0.147%	0.196%	19.07	25.44
IT	n.a.	n.a.	n.a.	n.a.
CY	0.127%	0.176%	25.13	34.86
LV	0.020%	0.020%	1.02	1.02
LT	0.022%	0.022%	0.30	0.30
LU	n.a.	n.a.	n.a.	n.a.
HU	0.110%	0.159%	2.85	4.13
MT	0.198%	0.262%	15.23	20.19
NL	n.a.	n.a.	n.a.	n.a.
AT	n.a.	n.a.	n.a.	n.a.
PL	0.061%	0.119%	0.68	1.32
PT	0.035%	0.084%	2.13	5.12
RO	0.056%	0.125%	0.33	0.73
SI	n.a.	n.a.	n.a.	n.a.
SK	0.051%	0.124%	1.17	2.85
FI	0.056%	0.103%	4.63	8.59
SE	0.063%	0.111%	8.43	14.72
UK	n.a.	n.a.	n.a.	n.a.
EU	**0.070%**	**0.111%**	**6.60**	**10.00**
EU-15	**0.074%**	**0.119%**	**9.40**	**14.84**
EU-12	**0.067%**	**0.105%**	**4.57**	**6.49**

* Normal times: only ex-ante contributions are collected; Crisis situation: both ex-ante and ex-post contributions are collected (up to max limits).

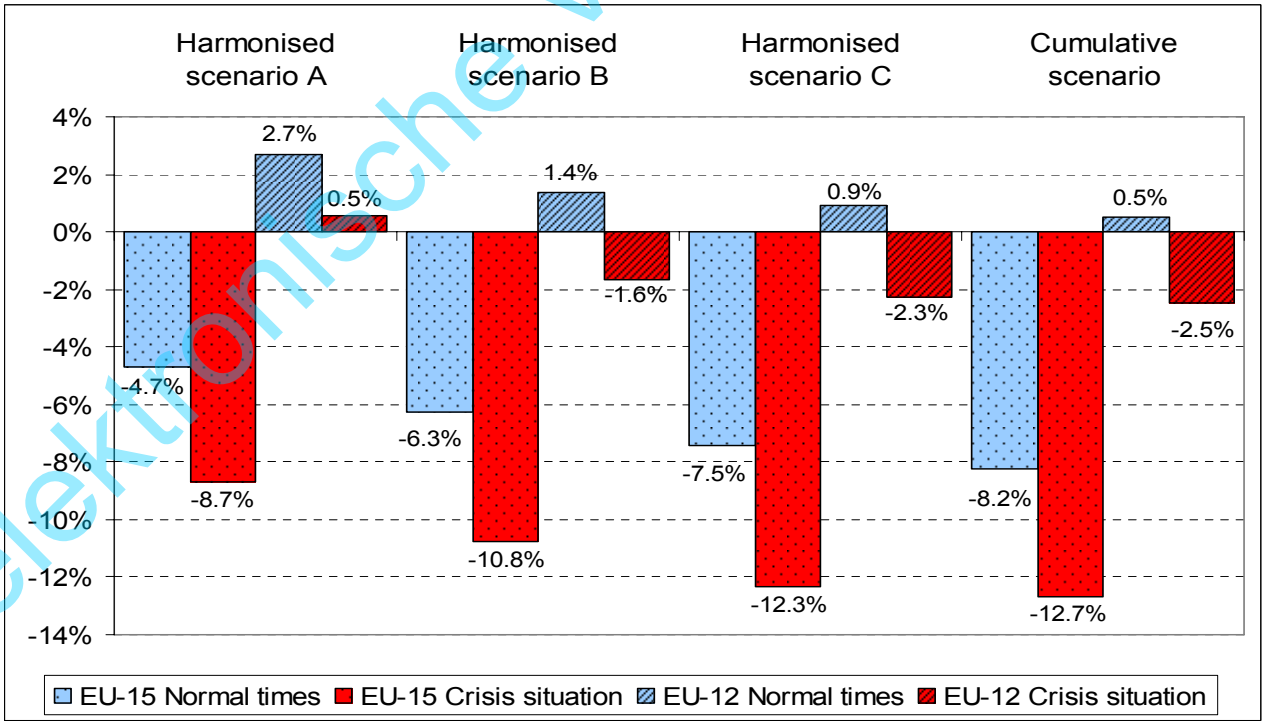
Source: Joint Research Centre.

ANNEX 22: POTENTIAL CUMULATIVE IMPACT OF VARIOUS HARMONISED SCENARIOS ON BANKS

(a) Decrease in bank operating profits at EU level



(b) Variation in bank operating profits in EU-15 and EU-12



Note: Harmonised scenarios A, B and C are presented in Annexes 18-20. Cumulative scenario is presented in Annex 21.

Source: Joint Research Centre.

ANNEX 23: RESULTS FOR THE HARMONIZED SCENARIO ON BORROWING BY DGS

	Borrowing limit (€ thousands)	Annual contributions to refund the loan (€ thousands)	Percentage change in 2008 contributions	Number of 2008 contributions to be collected annually to repay the loan within the time limit (10 years)
BE	1 822 151	182 215	258 %	5
BG	147 167	14 716	-79 %	1
CZ	629 770	62 977	-2 %	1
DK	1 200 416	120 041	n.a.	n.a.
DE	34 148 269	3 414 827	n.a.	n.a.
EE	45 710	4 571	-72 %	1
IE	1 583 318	158 332	10%	3
GR	792 882	79 288	-87 %	1
ES	6 296 612	629 661	53 %	3
FR *	21 626 112	2 162 611	2 167 %	23
IT	7 035 634	703 563	n.a.	n.a.
CY	357 510	35 751	45 %	3
LV	51 924	5 192	-79 %	1
LT	confidential	confidential	-78 %	1
LU	226 511	22 651	n.a.	n.a.
HU	407 992	40 799	947 %	11
MT	41 169	4 117	478 %	7
NL	6 012 768	601 277	n.a.	n.a.
AT	2 184 912	218 491	n.a.	n.a.
PL	confidential	confidential	79 %	3
PT	confidential	confidential	143 %	3
RO	254 395	25 440	2 %	3
SI	154 240	15 424	n.a.	n.a.
SK	148 598	14 860	-60 %	1
FI	717 191	71 719	81 %	3
SE	1 070 504	107 050	82 %	3
UK	9 912 508	991 251	n.a.	n.a.
Total EU	**99 007 669**	**9 900 767**	**–**	**–**
EU average	**–**	**–**	**205 %**	**4**

* FR figures are very high; this is due to the fact that FR covered deposits are considerably higher than all the other MS' covered deposits.

Source: Joint Research Centre.

ANNEX 24: ESTIMATED ADMINISTRATIVE COSTS IF THE DE-MINIMIS RULE IS APPLIED

		Percentage of deposits potentially affected by the 'de-minimis' rule			
		1%	3%	5%	7%
50 000 deposits involved	**Amount saved if the 'de minimis' is applied** (€ thousands)	64	193	321	449
	New administrative costs if the 'de minimis' is applied (€ thousands)	6 355	6 227	6 098	5 970
100 000 deposits involved	**Amount saved if the 'de minimis' is applied** (€ thousands)	128	385	642	899
	New administrative costs if the 'de minimis' is applied (€ thousands)	12 710	12 453	12 196	11 940
250 000 deposits involved	**Amount saved if the 'de minimis' is applied** (€ thousands)	321	963	1 605	2 247
	New administrative costs if the 'de minimis' is applied (€ thousands)	31 775	11 875	11 234	10 592
500 000 deposits involved	**Amount saved if the 'de minimis' is applied** (€ thousands)	642	1 926	3 210	4 493
	New administrative costs if the 'de minimis' is applied (€ thousands)	63 550	62 266	60 982	59 698

Source: Joint Research Centre.

ANNEX 25: POTENTIAL MODELS FOR CALCULATING RISK-BASED CONTRIBUTIONS

(a) Single Indicator Model (SIM) – the most common risk-based approach

$$c_i = \alpha \beta_i x_i$$

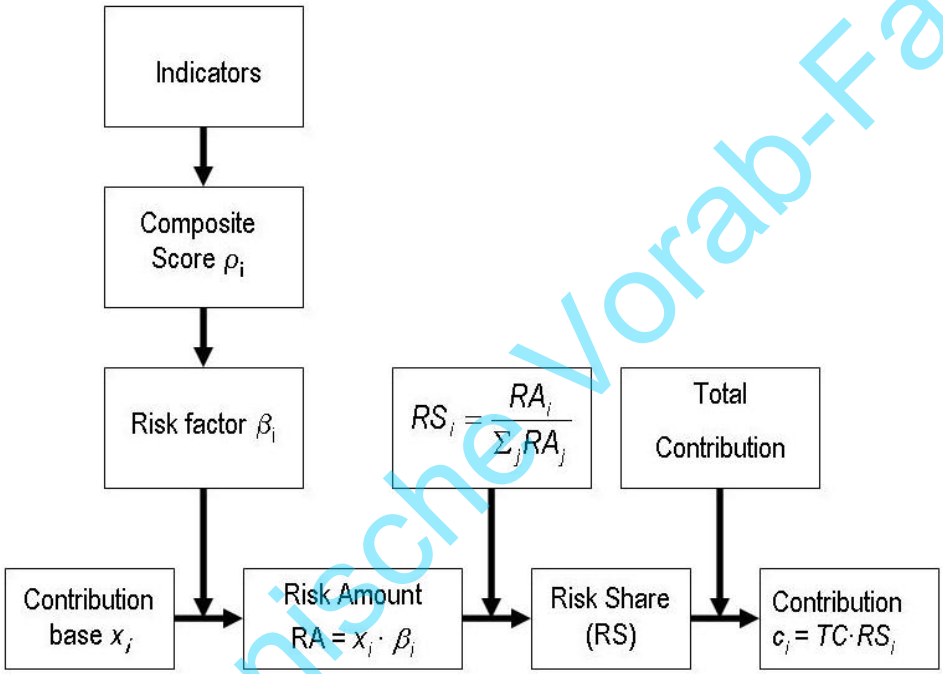
c_i – contribution of the *i*-th member bank

α – common percentage for all member banks, reflecting the overall conditions in the banking system in a given country

β_i – individual percentage proportional to the risk attitude of the *i*-th member bank

x_i – contribution base (usually the total amount of eligible or covered deposits)

(b) Multiple Indicators Model (MIM) – the calculation procedure



The Composite Score (the variable ρ*i*) is defined as the average of four scores, each covering a different aspect of DGS member banks' behaviour:

$$\rho_i = \frac{1}{4}\left[\rho_i^{(1)} + \rho_i^{(2)} + \rho_i^{(3)} + \rho_i^{(4)}\right]$$

Each ρ*i(j)* (with j = 1, 2, 3, 4) is a score built to indicate the risk of the DGS members: the higher the score, the higher the risk. More specifically, ρ*i(1)* is a capital adequacy score, ρ*i(2)* is an asset quality score, ρ*i(3)* is a profitability score, and ρ*i(4)* is a liquidity score. For all classes, scores range from a minimum score of 1 describing a 'very low risk' situation, to a maximum score of 5 to indicate a 'very high risk' situation (see the below table). Both the scores and the risk categories are examples only and may be changed if necessary. Moreover, scores within the same risk category but for different classes may differ.

	Capital adequacy	Asset quality	Profitability	Liquidity
Very low risk	1	1	1	1
Low risk	2	2	2	2
Medium risk	3	3	3	3
High risk	4	4	4	4
Very high risk	5	5	5	5

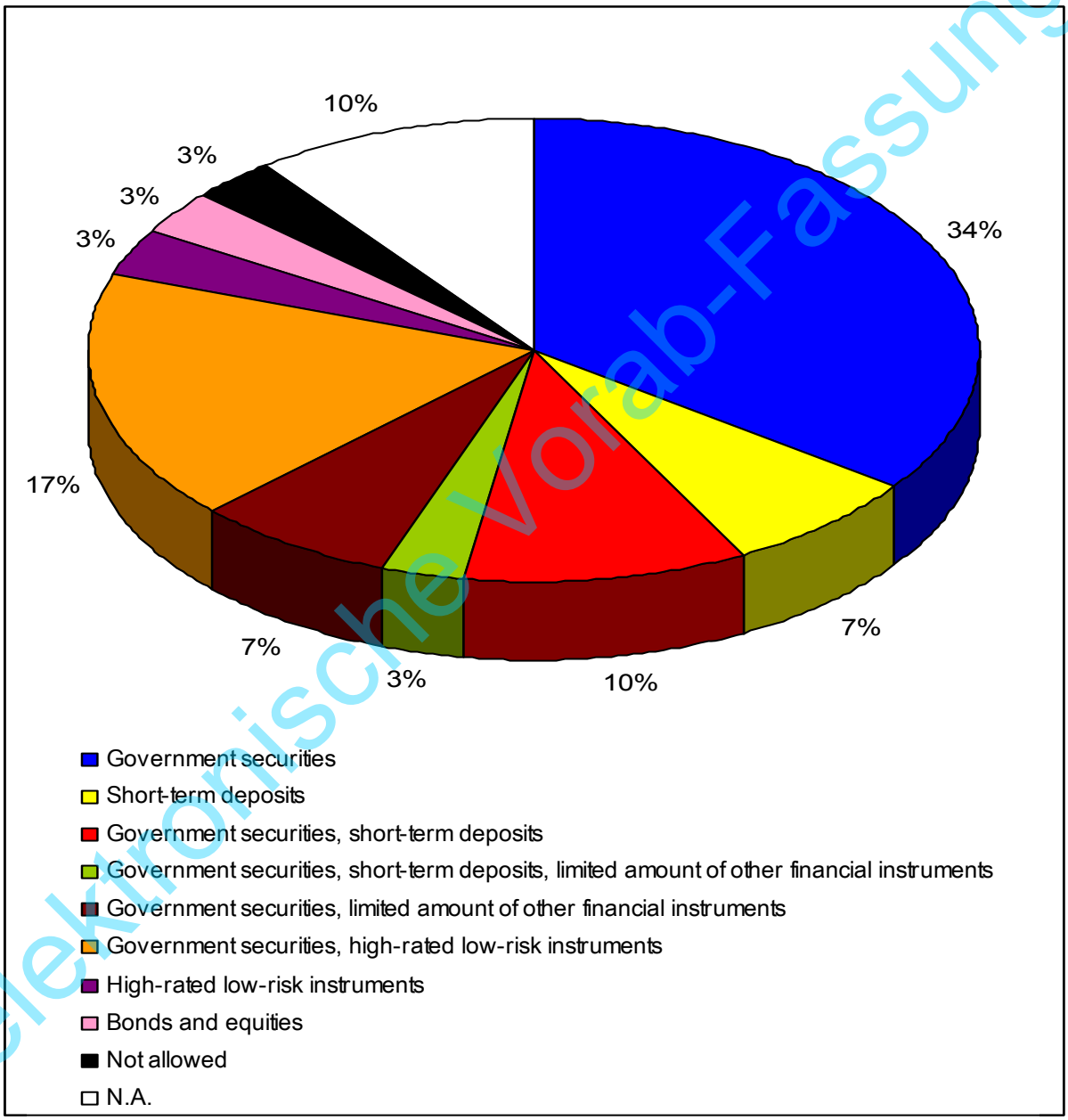
(c) Risk indicators to be applied in the proposed models (SIM and MIM)

Class	Name of indicator	Formula
Capital adequacy	Tier 1 capital ratio	$\frac{\text{Tier I Capital}}{\text{Risk weighted assets}}$
	Total capital ratio	$\frac{\text{Total Capital}}{\text{Risk weighted assets}}$
Asset quality	Non-performing loan (NPL) ratio	$\frac{\text{Non Performing Loans}}{\text{Gross Loans}}$
	Loan loss provision	$\frac{\text{Loan Loss Provision}}{\text{Net Interest Revenue}}$
Profitability	Cost to income ratio	$\frac{\text{Operating Expenses}}{\text{Operating income}}$
	Return on average assets (ROA)	$\frac{\text{Net Income}}{\text{Average Total Assets}}$
Liquidity	Liquid assets to deposits ratio	$\frac{\text{Liquid Assets}}{\text{Customer \& Short Term Funding}}$
	Loan to deposit ratio	$\frac{\text{Net Loans}}{\text{Customer \& Short Term Funding}}$

Source: Joint Research Centre (Report on risk-based contributions, 2009).

ANNEX 26: FUNDS INVESTED BY EX-ANTE DGS

Among ex-ante schemes, in most cases (nearly 90% of the ex-ante DGS) funds are directly managed by the DGS. Only in very few cases funds are given by ring-fenced reserves or partially earmarked by members. Regarding the way ex-ante DGS manage their resources, in all but one case funds are invested, as detailed in the below Figure. For the great majority, funds are invested in national and/or EU bonds or similar government securities and there are significant cases where schemes resort to short-term deposits. Whenever more risky instruments are allowed, strict limitations are set in the statutes/by-laws in order to limit the risk in the DGS portfolio, for example a minimum rating for the instrument is required.



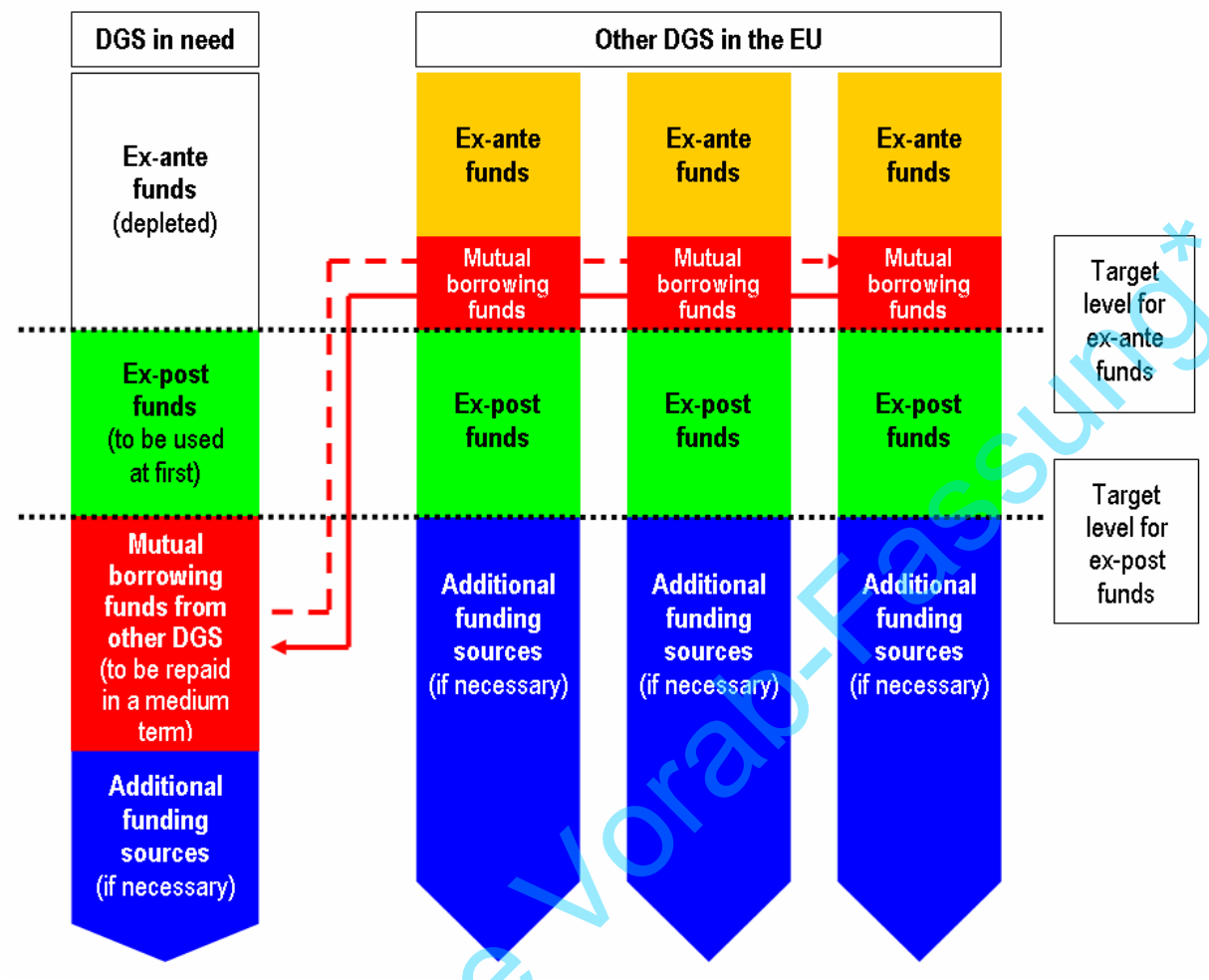
Source: Joint Research Centre (Report on DGS efficiency, 2008).

ANNEX 27: PERMANENT, TEMPORARY AND ADDITIONAL WORKFORCE OF DGS

	Permanent workforce	Temporary staff	Additional workforce
BE	5	0	From central bank, the amount will depend on size of the failure
BG	24	n.a.	NO
CZ	4	1	NO
DK	1.5	0	From the central bank. At the last case in 1999 3 persons.
DE	77	3	DE1: From labour market and their commercial unit. DE2: from the German Auditing Association (PV) and from the Banking Association itself. DE3: in a first step use the other workforce of the BVR (app. 120) and then ask in a second step the Regional Cooperative Auditing Association with their workforce of in total app. 2,000 over all. DE4: Ordering lawyers, accountants and additional staff within the association
EE	3	0	In case of need the Fund can outsource administrative and other services to reinforce of its staff and activities in the event of paying compensations.
IE	0	0	The DGS is inside the Central Bank (CB). In case of necessity the DGS would source from staff in Financial Regulator, CB and from external firm.
GR	10	0	NO
ES	16	0	YES
FR	4	0	YES, no limit
IT	22	0	IT1: NO. IT2: around 20 employees from the Local Federations, which are territorial links to the Fund. Their DGS endorsed an agreement with each Local Federation
CY	0	0.5	CY1: from CB
LV	2	0	From the Financial and Capital Market Commission
LT	10	n.a.	NO
LU	2	n.a.	Subcontracting agreement with an international Accounting firm
HU	7	2	Financial Supervisor - communication and PR (2); Private sector firms - IT (4+) and operational services (2+)
MT	0	0	YES, if necessary.
NL	0	0	The DGS is inside the CB. Concerning additional resources, numbers are case-specific
AT	10	6	AT1-2: staff can be rented from member banks. AT3: They have access to additional workforce at any time and without restraint when needed. . AT4: all the necessary staff may be rented from member banks or ÖGV. AT5: additional workforce can be required to the bank in question as well as from their data centre.
PL	65	0	NO
PT	9	0	PT1: depending on the size of the credit institution, the management committee can get workforce from financial supervisor (CB).. PT2: NO
RO	30	0	YES, if necessary. They do not foresee a high demand of additional workforce because all the information needed is provided by the liquidator of the defaulting institution.
SI	0	0	The number is not defined. It is expected to get the staff from Banking Supervision Department or other departments of the Bank of Slovenia
SK	5	0	NO
FI	1.5	0	They employ the staff of the Federation of the Finnish Financial Services, the staff of the Finnish Financial Ombudsman Bureau and lawyers and assistants from a law firm. In an event of compensation to depositors, they would partly rely on the staff of the insolvent bank.)
SE	3	0	10 employees from other departments within SNDO and if necessary form external consultant
UK	168	0	YES, external companies
EU average: 18			

Source: Joint Research Centre.

ANNEX 28: POTENTIAL STRUCTURE OF A PAN-EU DGS



Source: Commission services.

ANNEX 29: MUTUAL BORROWING OF DGS – MAXIMUM AMOUNT TO BE LENT BY DGS TO FACE POTENTIAL FAILURES

Member States	UK failure		ES failure		PL failure	
	Amount to be lent per MS (€ thousands)	As a % of eligible deposits	Amount to be lent per MS (€ thousands)	As a % of eligible deposits	Amount to be lent per MS (€ thousands)	As a % of eligible deposits
BE	192 727	0.08%	108 678	0.05%	11 649	0.005%
BG	10 367	0.08%	5 846	0.05%	627	0.005%
CZ	52 400	0.08%	29 548	0.05%	3 167	0.005%
DK	140 882	0.08%	79 442	0.05%	8 515	0.005%
DE	1 948 293	0.08%	1 098 632	0.05%	117 761	0.005%
EE	5 364	0.08%	3 025	0.05%	324	0.005%
IE	167 466	0.08%	94 433	0.05%	10 122	0.005%
GR	122 278	0.08%	68 952	0.05%	7 391	0.005%
ES	609 240	0.08%	-		36 824	0.005%
FR	1 360 661	0.08%	767 269	0.05%	82 243	0.005%
IT	385 625	0.08%	217 452	0.05%	23 308	0.005%
CY	46 019	0.08%	25 950	0.05%	2 782	0.005%
LV	8 541	0.08%	4 816	0.05%	516	0.005%
LT	7 869	0.08%	4 437	0.05%	476	0.005%
LU	85 631	0.08%	48 287	0.05%	5 176	0.005%
HU	27 630	0.08%	15 580	0.05%	1 670	0.005%
MT	5 542	0.08%	3 125	0.05%	335	0.005%
NL	367 001	0.08%	206 950	0.05%	22 183	0.005%
AT	174 121	0.08%	98 186	0.05%	10 524	0.005%
PL	70 666	0.08%	39 848	0.05%	-	
PT	103 420	0.08%	58 318	0.05%	6 251	0.005%
RO	22 186	0.08%	12 511	0.05%	1 341	0.005%
SI	12 709	0.08%	7 166	0.05%	768	0.005%
SK	14 850	0.08%	8 374	0.05%	898	0.005%
FI	68 287	0.08%	38 506	0.05%	4 127	0.005%
SE	144 639	0.08%	81 561	0.05%	8 742	0.005%
UK	-	-	571 664	0.05%	61 276	0.005%
Total	**6 154 412**		**3 698 556**		**428 997**	

Note: In order to ensure comprehensibility, a failure in one of three Member States (ES, UK, PL) has been chosen as possible scenario.

Source: Joint Research Centre.

ANNEX 30: HISTORICAL DGS INTERVENTIONS

In the period preceding the financial crisis (from 1994 to 2006) EU DGS handled a number of payouts of depositors or other types of interventions, such as interventions to prevent a bank failure. In that period a total of 67 interventions occurred, of which 37 were in the EU-15 and 30 in the EU-12. Among the EU-15 MS, 22 cases took place in the UK. However, these mainly concerned small credit unions. A broad peak in the number of annual interventions took place in 2003, with a total of 13 payouts.

The range of costs for payouts of depositors was quite broad, ranging from a minimum of around €6000 (payout in RO in 2003) to a maximum of € 470 million (payout in CZ in 2003). The average cost of historical payouts to depositors in the whole EU was around €57 million, with higher values in the EU-12 (on average €75 million) than in the EU-15 (€24 million when excluding UK). For other types of interventions the range of costs was again quite broad, varying from €100 000 (support intervention in IT in 2004) to a huge restructuring intervention occurring in ES in 1994, whose costs reached €1.6 billion. On average, the costs of an intervention not classified as payout were around €90 million.

If we express the figures on payouts as a percentage of eligible deposits, the minimum and maximum costs of those interventions are respectively 0.00005% (payout in RO in 2003) and 3.24% (payout in CZ in 2001) of the total amount of eligible deposits of the corresponding systems, with an average percentage of 0.27% of eligible deposits. These figures can be compared with more recent data on failures occurred in 2008: the minimum and maximum costs are respectively 0.05% and 1.96% of 2007 eligible deposits, with an average figure of 0.6%.

If we compare these amounts with the MS coverage ratios (i.e. the ratio between the size of the DGS fund and the amount of deposits eligible for protection by the same DGS), the EU average 2007 coverage ratio is around 0.73% (obtained excluding Slovakia's negative coverage ratio and the nil coverage ratios of ex-post financed DGS) and it is in line with the 2005 one (about 0.70%).

Source: Joint Research Centre.

RAT DER EUROPÄISCHEN UNION

Brüssel, den 16. Juli 2010 (20.07)
(OR. en)

12386/10
ADD 2

Interinstitutionelles Dossier: 2010/0207 (COD)

EF 83
ECOFIN 460
CODEC 715

ÜBERMITTLUNGSVERMERK

Absender:	Herr Jordi AYET PUIGARNAU, Direktor, im Auftrag des Generalsekretärs der Europäischen Kommission
Eingangsdatum:	13. Juli 2010
Empfänger:	der Generalsekretär des Rates der Europäischen Union, Herr Pierre de BOISSIEU
Betr.:	ARBEITSDOKUMENT DER KOMMISSIONSDIENSTSTELLEN ZUSAMMENFASSUNG DER FOLGENABSCHÄTZUNG Begleitdokument zum Vorschlag für eine RICHTLINIE .../.../EU DES EUROPÄISCHEN PARLAMENTS UND DES RATES über Einlagensicherungssysteme [Neufassung] und zum BERICHT DER KOMMISSION AN DAS EUROPÄISCHE PARLAMENT UND DEN RAT über die Überprüfung der Richtlinie 94/19/EG über Einlagensicherungssysteme

Die Delegationen erhalten in der Anlage das Kommissionsdokument SEK(2010) 835 endgültig.

Anl.: SEK(2010) 835 endgültig

EUROPÄISCHE KOMMISSION

Brüssel, den 12.7.2010
SEK(2010) 835 endgültig

ARBEITSDOKUMENT DER KOMMISSIONSDIENSTSTELLEN

ZUSAMMENFASSUNG DER FOLGENABSCHÄTZUNG

Begleitdokument zum

Vorschlag für eine

RICHTLINIE .../.../EU DES EUROPÄISCHEN PARLAMENTS UND DES RATES

über Einlagensicherungssysteme [Neufassung]

und zum

BERICHT DER KOMMISSION AN DAS EUROPÄISCHE PARLAMENT UND DEN RAT

Überprüfung der Richtlinie 94/19/EG
über Einlagensicherungssysteme

COM(2010) 368
COM(2010) 369
SEC(2010) 834

ARBEITSDOKUMENT DER KOMMISSIONSDIENSTSTELLEN

ZUSAMMENFASSUNG DER FOLGENABSCHÄTZUNG

Begleitdokument zum

Vorschlag für eine

RICHTLINIE .../.../EU DES EUROPÄISCHEN PARLAMENTS UND DES RATES

über Einlagensicherungssysteme [Neufassung]

und zum

BERICHT DER KOMMISSION AN DAS EUROPÄISCHE PARLAMENT UND DEN RAT

Überprüfung der Richtlinie 94/19/EG
über Einlagensicherungssysteme

1. EINLEITUNG

Keine Bank – ob gesund oder angeschlagen – hält soviel liquide Mittel vor, dass sie das gesamte bei ihr eingelegte Geld oder einen erheblichen Teil davon auf der Stelle zurückzahlen könnte. Ein so genannter „Bank-Run“, bei dem alle Einleger ihr Geld gleichzeitig abheben wollen, weil sie ihre Einlage nicht mehr für sicher halten, ist für die Banken daher nicht ohne Risiko. Seit 1994 gewährleistet die Richtlinie 94/19/EG über Einlagensicherungssysteme, dass alle EU-Mitgliedstaaten über ein Sicherungssystem für Bankeinlagen verfügen. Wird eine Bank geschlossen, erstatten Einlagensicherungssysteme den Einlegern ihre Guthaben bis zu einer bestimmten Deckungssumme zurück. Gegenwärtig ist die Einlagensicherung fragmentiert: In der EU gibt es rund 40 Einlagensicherungssysteme, die verschiedene Arten von Einlegern und Einlagen in unterschiedlicher Höhe schützen und verschiedene finanzielle Verpflichtungen für die Banken beinhalten. Hinzu kommt, dass sich diese Systeme in finanziellen Stressphasen als unterfinanziert erwiesen haben.

Aufgrund der Unzulänglichkeiten dieses fragmentierten Systems sahen sich das Europäische Parlament und der Rat veranlasst, um eine umfassende Überprüfung der Einlagensicherungsrichtlinie zu erreichen. Diese Überprüfung ist Teil eines Maßnahmenpakets zu den Entschädigungssystemen im Finanzsektor, das aus Einlagensicherungssystemen, Sicherungssystemen für Versicherungen und Anlegerentschädigungssystemen besteht.

2. PROBLEMSTELLUNG

2.1. Unterschiede im Hinblick auf Deckungshöhe und -umfang

Der in der Richtlinie 94/19/EG verfolgte „Mindestharmonisierungsansatz“ führte zu sehr unterschiedlichen Deckungssummen in der EU (von 50 000 EUR in einigen Mitgliedstaaten bis zu 103 291 EUR in Italien). Einerseits führten während der Finanzkrise unkoordinierte Erhöhungen der Deckungssummen in der gesamten EU dazu, dass die Einleger ihr Geld zügig auf Banken in Ländern mit höheren Einlagensicherungen verlagerten und den Banken somit in Stressphasen Liquidität entzogen. Andererseits entscheiden sich Einleger auf einem fragmentierten Markt auch in stabilen Zeiten möglicherweise für die höchste Einlagensicherung statt für das beste Produkt und können dadurch den Wettbewerb auf dem Binnenmarkt verzerren.

Derzeit können die Mitgliedstaaten bei vielen Arten von *Einlegern* eine Einlagensicherung ausschließen. Dies ist für 20 Mio. kleine und mittlere Unternehmen (KMU), d. h. 99,8 % aller Unternehmen in der EU, deren Vertrauen für die Finanzstabilität entscheidend ist, von besonderer Bedeutung. Darüber hinaus bestehen erhebliche Unterschiede hinsichtlich des Umfangs der durch ein Einlagensicherungssystem geschützten *Einlagen* (z. B. bei Einlagen in Nicht-EU-Währungen, strukturierten Produkten und Schuldtiteln). Die zeitaufwändige Prüfung von Ansprüchen kann außerdem zu Verzögerungen bei der Auszahlung führen.

2.2. Unzureichende Auszahlungsverfahren und Information der Einleger

Derzeit müssen Einleger innerhalb von drei Monaten nach einer Bankeninsolvenz ausgezahlt werden. Ab Ende 2010 ist diese Frist auf vier bis sechs Wochen herabzusetzen. Eine solche Frist kann immer noch zu Bank-Runs führen, da viele Einleger in der Regel nur für die

laufenden Ausgaben (Lebensmittel, Rechnungen usw.) weniger Tage Geld zur Verfügung haben.

Alle Probleme vor und während des Auszahlungsverfahrens (sowie die mangelhafte Information der Einleger) erschüttern das Vertrauen der Einleger. Außerdem könnten Einleger Vorbehalte gegen Geldeinlagen in anderen Mitgliedstaaten haben, wenn ihnen nicht bekannt ist, wie andere Einlagensicherungssysteme funktionieren oder mit Auszahlungen umgehen.

Ein anderes Problem sind die Möglichkeiten, Einlagen gegen fällige Verbindlichkeiten des Einlegers bei derselben Bank (z. B. Hypothekenraten) aufzurechnen oder Gegenforderungen an den Einleger (z. B. für das gesamte Hypothekendarlehen) geltend zu machen, was derzeit in 22 Mitgliedstaaten zulässig ist. Dadurch können sich die Auszahlungen aus einem Einlagensicherungssystem verringern oder im Extremfall ausgeschlossen sein. Dies kann zu Bank-Runs führen, bei denen viele Einleger versuchen, ihre Einlagen in voller Höhe zurückzuerhalten. Darüber hinaus sind das Ermitteln von Verbindlichkeiten und deren Abgleich mit Einlagen zeitaufwändig und verzögern mit großer Wahrscheinlichkeit die Auszahlung.

2.3. Unzureichende Finanzierung von Einlagensicherungssystemen

Derzeit zahlen die Banken in 21 Mitgliedstaaten ihre Beiträge regelmäßig im Voraus (ex ante), in sechs Mitgliedstaaten jedoch erst nach einer Insolvenz (ex post). Den Einlagensicherungssystemen stehen maximal zwischen 27 Mio. EUR und 8,1 Mrd. EUR zur Verfügung, während sich die geschützten Einlagen in der EU auf ca. 5,7 Bio. EUR belaufen. Demzufolge sind einige Einlagensicherungssysteme unterfinanziert und könnten nicht einmal eine Bankeninsolvenz mittleren Ausmaßes bewältigen. Wenn die Einlagensicherungssysteme nicht über ausreichende Mittel verfügen, erhalten die Einleger ihre Auszahlung möglicherweise nur mit großer Verzögerung oder überhaupt nicht.

Eine ausschließliche Ex-Post-Finanzierung ist sehr prozyklisch, da sie den Banken in Stressphasen Liquidität entzieht, was sich negativ auf die Wirtschaft auswirken kann (da die Banken weniger Kredite vergeben). Außerdem können Banken, die keine Ex-ante-Beiträge zahlen, mit diesen Mitteln Renditen erzielen, wodurch sie einen Wettbewerbsvorteil gegenüber ihren Konkurrenten in Mitgliedstaaten mit ex-ante-finanzierten Einlagensicherungssystemen erlangen.

Darüber hinaus werden die von den Banken eingegangenen Risiken bei der Berechnung der Beiträge nicht berücksichtigt. Risikoscheue Banken könnten dies als Wettbewerbsnachteil und Negativanreiz für solides Risikomanagement auffassen. Dadurch könnte das Finanzsystem anfälliger werden und es könnte zu einer Negativauslese kommen.

2.4. Eingeschränkte grenzübergreifende Zusammenarbeit zwischen Einlagensicherungssystemen

Die EU-weite Fragmentierung führt zu einer ungleichen Risikoverteilung, so dass eine Bankeninsolvenz ein Einlagensicherungssystem mit geringeren Ressourcen stärker treffen würde als ein Einlagensicherungssystem mit mehr Ressourcen; dies wird dadurch verschärft, dass derzeit keine Solidarität zwischen den Systemen herrscht. Sollte ein Einlagensicherungssystem also nicht über ausreichend finanzielle Mittel verfügen, müssten folglich die Steuerzahler dafür aufkommen.

In der Regel entscheiden die Bankenaufsichtsbehörden darüber, ob eine Bank gerettet oder das Einlagensicherungssystem in Anspruch genommen werden soll. Daher bietet die Fragmentierung der Einlagensicherungssysteme keine Anreize für die Aufsichtsbehörden, eine im Interesse aller Einleger einer Bankengruppe liegende Lösung zu finden und die möglichen Auswirkungen auf die Finanzstabilität in allen beteiligten Mitgliedstaaten zu berücksichtigen.

2.5. Begrenzte Aufgaben der Einlagensicherungssysteme

Die Befugnisse für die Bewältigung von Bankenkrisen sind auf verschiedene innerstaatliche Stellen verteilt (Aufsichtsbehörden, Zentralbanken, Regierungen, Justizbehörden und – in 11 Mitgliedstaaten – Einlagensicherungssysteme) und in den jeweiligen nationalen Systemen unterschiedlich. Dadurch werden grenzübergreifende Bankensanierungen ineffizient. Die Auszahlungsmittel der Einlagensicherungssysteme, zu deren Aufgaben auch die Bankensanierung zählt, sind vor einer Nutzung für Bankensanierungszwecke nicht geschützt. Dies kann ihre Hauptaufgabe, die schnelle Auszahlung von Einlagen im Falle einer Bankeninsolvenz, erschweren.

Garantiegemeinschaften und freiwillige Einlagensicherungssysteme fallen gegenwärtig nicht unter die Richtlinie. Oft haben die Einleger keine Ansprüche gegenüber solchen Systemen und sind möglicherweise ungeschützt, wenn diese Systeme eine Insolvenz nicht auffangen können und die insolvente Bank nicht Mitglied eines unter die Richtlinie fallenden Einlagensicherungssystems ist.

3. SUBSIDIARITÄT

Nur durch Maßnahmen auf EU-Ebene kann sichergestellt werden, dass für Banken, die in mehr als einem Mitgliedstaat tätig sind, in Bezug auf Einlagensicherungssysteme vergleichbare Anforderungen gelten, wodurch gleiche Wettbewerbsbedingungen gewährleistet, unnötige Compliance-Kosten für eine grenzübergreifende Tätigkeit vermieden und somit die weitere Integration des Binnenmarkts gefördert werden. Eine Harmonisierung lässt sich in vielen Bereichen (z. B. Deckung, Auszahlung, Finanzierung) nicht allein auf Ebene der Mitgliedstaaten verwirklichen, da hierfür viele unterschiedliche Regelungen innerhalb der nationalen Rechtssysteme harmonisiert werden müssten, und kann daher besser auf EU-Ebene erreicht werden. Dem wird in den Richtlinien über Einlagensicherungssysteme Rechnung getragen.[1]

4. ZIELE

Die in der Richtlinie verankerten übergreifenden Ziele bestehen darin, die Finanzstabilität zu wahren, indem Bank-Runs vorgebeugt wird, und das Vermögen der Einleger zu schützen. Außerdem müssen die Grundsätze des Binnenmarkts, wie z. B. die Gewährleistung gleicher Wettbewerbsbedingungen für EU-Banken, gewahrt werden und die Entscheidungsfreiheit der Banken darüber, ob sie in einem anderen Mitgliedstaat unmittelbar Geschäfte tätigen oder Zweigniederlassungen bzw. Tochtergesellschaften gründen möchten, unberührt bleiben.

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[1] Erwägungsgrund 17 der Richtlinie 2009/14/EG und (nicht nummerierte) Erwägungsgründe der Richtlinie 94/19/EG.

5. FAVORISIERTE POLITIKOPTIONEN UND IHRE VORAUSSICHTLICHEN FOLGEN

Da sich gezeigt hat, dass die Mindestharmonisierung keinen wirksamen Schutz des Vermögens der Einleger ermöglicht und mit dem Vertragsziel, das reibungslose Funktionieren des Binnenmarkts zu gewährleisten, nicht vereinbar ist, wurde der Ansatz der Maximalharmonisierung gewählt, um gleiche Wettbewerbsbedingungen für alle Mitgliedstaaten zu schaffen.

5.1. Deckungshöhe und -umfang

Die Weiterverfolgung des aktuellen Ansatzes, also die Anwendung der festen Deckungssumme in Höhe von 100 000 EUR in allen Mitgliedstaaten ab Ende 2010, würde im Vergleich zu einer Senkung oder Anhebung der Deckungssumme wesentliche Fortschritte im Hinblick auf höheren Einlagenschutz ohne unverhältnismäßige Kostensteigerungen für Banken und Einleger gewährleisten. Verglichen mit Vorkrisenzeiten würde dies den *Betrag* der geschützten Einlagen von 61 % auf 72 % der erstattungsfähigen Einlagen erhöhen, und die *Anzahl* der voll geschützten Einlagen von 89 % auf 95 % der erstattungsfähigen Einlagen. Eine Deckungssumme von 100 000 EUR scheint die optimale Lösung zu sein; die Kosteneffizienzvorteile der Einführung einer Deckungssumme von mehr als 100 000 EUR sind sehr gering.

Allerdings könnte es im Hinblick auf eine angemessene Deckung für bestimmte Lebensereignisse und die aktuellen Wohnungsmarktpreise gerechtfertigt sein, für vorübergehend hohe Einlagen aufgrund besonderer Lebensereignisse und Immobiliengeschäfte eine höhere Deckungssumme zu erwägen. Derweil könnten Ausnahmen von der festen Deckungssumme einem reibungslosen und zügigen Auszahlungsprozess im Wege stehen. Auch der Binnenmarkt könnte beeinträchtigt werden, wenn sich Einleger für die Bank mit der besten Einlagensicherung, nicht aber das geeignetste Produkt entscheiden. Diese Risiken könnten gemindert werden, wenn die für solche Einlagen geltende Deckung auf einen bestimmten Zeitraum begrenzt wäre.

Hinsichtlich der Erstattungsberechtigung der Einleger hat sich die vollständige Harmonisierung des Deckungsumfangs als erfolgreichste Lösung für die Schaffung gleicher Wettbewerbsbedingungen erwiesen. Ein Ausschluss der Finanzinstitute würde der Tatsache Rechnung tragen, dass dort nur geringfügige Beträge geschützt werden. Ein Ausschluss der Behörden scheint kosteneffizient, da sie leichten Zugang zu anderen Finanzquellen haben. Würde sich der Schutz auf die Einlagen aller Unternehmen (d. h. zusätzlich zu den Einlagen der derzeit geschützten Klein- und Kleinstunternehmen, zu denen 98,7 % aller EU-Unternehmen zählen, auch die Einlagen der verbleibenden 1,3 %) beziehen, könnten dadurch in erheblichem Umfang Ressourcen und die für die Überprüfung der Unternehmensgröße im Auszahlungsverfahren erforderliche Zeit eingespart werden. Dies würde Auszahlungen also erheblich beschleunigen und das Vertrauen der Einleger in die Einlagensicherungssysteme stärken.

Im Gegensatz zu nicht vollständig rückzahlbaren Schuldtiteln und strukturierten Produkten sollten Einlagen in Nicht-EU-Währungen durch Einlagensicherungssysteme geschützt sein. Dies würde verhindern, dass Banken als Anleiheemittenten gegenüber anderen Anleiheemittenten begünstigt werden. Außerdem würde es bei einer nur geringfügigen Erhöhung der Beiträge der Banken zu den Einlagensicherungssystemen die Auszahlungsfrist verkürzen und die Verwaltungskosten für die Anspruchsprüfung verringern.

5.2. Auszahlungsfrist, Auszahlungsmodalitäten und Information der Einleger

Um das Vertrauen der Einleger zu wahren und Bank-Runs zu vermeiden, muss die Auszahlungsfrist erheblich verkürzt werden – vorzugsweise auf sieben Kalendertage (nach Ablauf einer Übergangszeit). Eine so kurze Auszahlungsfrist wäre nur unter bestimmten Bedingungen möglich, und zwar bei Übertragung bestimmter Pflichten auf die Aufsichtsbehörden (obligatorische frühzeitige Information der Einlagensicherungssysteme bei drohender Bankeninsolvenz), die Einlagensicherungssysteme (Auszahlungen auf eigene Initiative ohne Beantragung durch die Einleger) und die Banken (Kennzeichnung erstattungsfähiger Einlagen, Bereitstellung von „Single Customer Views“). Letzteres würde innerhalb von fünf Jahren EU-weit einmalige Verwaltungskosten in Höhe von etwa 1,2 Mrd. EUR pro Jahr verursachen. Diese würden aufgrund des Vertrauensgewinns bei den Einlegern, der die Wahrscheinlichkeit von Bank-Runs verringern und zur Finanzstabilität beitragen würde, mehr als aufgewogen. Durch eine radikale Vereinfachung der Kriterien der Erstattungsfähigkeit diese Kosten erheblich gesenkt werden.

Hinsichtlich der Auszahlungsmodalitäten würde eine Abschaffung der Aufrechnung die Einleger mit hohen Verbindlichkeiten dazu bewegen, von einem Bank-Run abzusehen. Außerdem würde dies zur Verkürzung der Auszahlungsfrist beitragen.

Nur Einleger, die über die wesentlichen Aspekte der Einlagensicherung (Deckungshöhe/-umfang, Auszahlungsfrist, Ansprechpartner beim Einlagensicherungssystem usw.) ordnungsgemäß informiert wurden, können den Einlagensicherungssystemen ihr Vertrauen schenken. Dies würde gewährleistet durch einen Informationsbogen, der vor der Vornahme einer Geldeinlage bei einer Bank vom Einleger abzuzeichnen ist, und durch einen Pflichthinweis auf das Einlagensicherungssystem auf Kontoauszügen und Werbung, sofern ein Produkt geschützt ist. Es wird davon ausgegangen, dass die Kosten solcher Vorgänge unerheblich sind.

Die regelmäßige Offenlegung von Informationen durch die Einlagensicherungssysteme (z. B. Ex-ante-Mittel, Ex-post-Kapazität, Ergebnisse regelmäßiger Stresstests) würde ohne signifikante Kosten Transparenz und Glaubwürdigkeit sichern.

5.3. Finanzierungsmechanismen und Finanzausstattung

Die Ex-ante-Finanzierung ist aufgrund ihrer Antizyklizität weitaus effizienter (sie belastet die Banken vorwiegend bei günstiger Wirtschaftslage) und sollte daher überwiegen (z. B. ¾ der gesamten Mittel) und durch bei Bedarf zu erhebende Ex-post-Mittel ergänzt werden (z. B. ¼ der Mittel). Die Kreditaufnahme durch Einlagensicherungssysteme sollte zulässig sein, aber nicht notwendigerweise harmonisiert werden.

Die Festlegung einer Zielausstattung für Einlagensicherungssysteme würde ihre Glaubwürdigkeit sichern und gewährleisten, dass sie in der Lage sind, Bankeninsolvenzen mittleren Ausmaßes zu bewältigen. Die kosteneffizienteste Zielquote für die gesamte Finanzausstattung der Einlagensicherungssysteme wäre 2 % der erstattungsfähigen Einlagen. Sie sollte innerhalb von 10 Jahren erreicht werden. Nach diesem Zeitraum würden Einlagensicherungssysteme in der EU über deutlich mehr Finanzmittel verfügen als es derzeit der Fall ist. Sie würden Ex-ante-Beiträge in Höhe von ca. 150 Mrd. EUR erheben und bei Bedarf Ex-Post-Beiträge in Höhe von 50 Mrd. EUR anfordern (im Vergleich dazu betrugen die gesamten Ex-ante- und Ex-post-Mittel im Jahr 2008 23 Mrd. EUR). Dazu müssten die aktuellen Beiträge der Banken zu den Einlagensicherungssystemen etwa auf das Vier- bis

Fünffache erhöht werden, und die Gewinne der Banken würden sich bei normaler Wirtschaftslage um ca. 2,5 % verringern. Für die Einleger würde dies eine maximale Senkung der Zinssätze auf Spareinlagen um weniger als 0,1 % oder eine Erhöhung der Gebühren für Girokonten um weniger als 7 EUR pro Jahr und je Konto bedeuten. Dieses Szenario wäre kosteneffizienter als die anderen analysierten Szenarios, da eine deutlich höhere Zielausstattung (ausreichend zur Bewältigung einer Insolvenz einer der 10 größten Banken eines Mitgliedstaats) bei den Banken voraussichtlich zu einem Rentabilitätsrückgang um 30 % führen würde (oder sogar um mehr als 40 % im Krisenfall). Es wäre außerdem eine wirksamere Option, da die Systeme bei einer geringeren Zielausstattung (basierend auf einer durchschnittlichen Auszahlung aus einem Einlagensicherungssystem) Bankeninsolvenzen mittleren Ausmaßes nicht bewältigen könnten.

Darüber hinaus würde ein stärker harmonisierter Ansatz für die Beiträge der Banken, der risikobasierte Komponenten umfasst, dazu beitragen, dass dem Risikoprofil einzelner Banken besser Rechnung getragen werden kann, und Anreize dafür schaffen, auf ein risikoärmeres Geschäftsmodell umzustellen. Durch die Entwicklung einer Reihe von für alle Mitgliedstaaten vorgeschriebenen Basisindikatoren und einer weiteren Reihe fakultativer Zusatzindikatoren könnten eine solche Harmonisierung schrittweise erreicht und kurzfristige Anpassungskosten vermieden werden.

5.4. Aufgaben der Einlagensicherungssysteme

Eine wirksame und kosteneffiziente Lösung, um zu gewährleisten, dass die Mittel von Einlagensicherungssystemen nicht für Bankensanierungsmaßnahmen zugunsten nicht versicherter Gläubiger abgezogen werden können, wäre die Vorgabe, dass diese Mittel grundsätzlich für die Auszahlung von Einlegern zu verwenden sind. Um jedoch den Einlegern nicht die Vorteile von Bankensanierungsmaßnahmen vorzuenthalten (z.B. Transfer von Einlagen an eine gesunde Bank), wäre es sinnvoll, die Nutzung der Mittel von Einlagensicherungssystemen zu Sanierungszwecken lediglich bis zur Höhe des für eine Auszahlung der geschützten Einlagen ggf. erforderlichen Betrags zu gestatten. In begrenztem Umfang könnten die Mitgliedstaaten den Einlagensicherungssystemen auch gestatten, ihre Finanzmittel zur Verhinderung von Bankeninsolvenzen einzusetzen, ohne dass dies auf die Finanzierung von Einlagentransfers beschränkt bleibt. Hätten die Einlagensicherungssysteme noch weiterreichende Aufgaben (z.B. Rekapitalisierung, Liquiditätshilfe, Garantien) müssten sie dementsprechend mit Finanzmitteln ausgestattet werden. Grund ist, dass die Bankensanierung eine Alternative zur Einlegerentschädigung darstellt, während bei frühzeitigen Interventionen in manchen Fällen später doch noch Auszahlungen an die Einleger erforderlich werden. Um jedoch Situationen zu vermeiden, in denen die Mittel der Einlagensicherungsfonds als wesentlicher Beitrag zu einer ansonsten schwierigen frühzeitigen Intervention dienen, könnten sie unter gewissen Einschränkungen für solche Zwecke verwendet werden.

Eine wirksamere Lösung würde darin bestehen, die Einlagensicherungssysteme vor einer Nutzung für andere als Auszahlungszwecke zu schützen und vorzuschreiben, dass alle Einlagensicherungssysteme mit ausreichenden Mitteln für diese Aufgabe ausgestattet werden müssen. Diese Lösung wäre allerdings nicht kosteneffizient. Sie würde für die Banken Kosten zwischen 121 Mrd. EUR und 352 Mrd. EUR verursachen, und es ist unklar, ob diese Kosten durch Vorteile wie stärkeres Vertrauen der Einleger und eine höhere Finanzstabilität aufgewogen würden. Darüber hinaus scheint die Option, den Einlagensicherungssystemen verbindlich vorzuschreiben, auch Bankensanierungsaufgaben zu übernehmen, mit der laufenden Arbeit der Kommission zur Bankensanierung nicht vereinbar.

Die Integration von Garantiegemeinschaften und freiwilligen Sicherungssystemen in die Einlagensicherungssysteme würde effektiv sicherstellen, dass Einleger bei Banken, die solchen Systemen angeschlossen sind, dieselben Rechte genießen und ebenso auf die Sicherheit ihrer Einlagen vertrauen können wie andere Einleger. Es wird davon ausgegangen, dass die Kosten der Banken durch den Nutzen eines Vertrauensgewinns bei den Einlegern aufgewogen würden.

5.5. Grenzübergreifende Zusammenarbeit zwischen Einlagensicherungssystemen und einem EU-weiten Einlagensicherungssystem

Um Auszahlungen im grenzübergreifenden Kontext zu erleichtern, soll das Einlagensicherungssystem des Aufnahmemitgliedstaats als einzig zuständige Kontaktstelle für Einleger von Zweigniederlassungen in anderen Mitgliedstaaten auftreten. Diese Kontaktstelle würde für die Einleger Informationen in der jeweiligen Sprache des Aufnahmemitgliedstaats bereitstellen. Das Einlagensicherungssystem des Aufnahmemitgliedstaats soll als Anlauf- und Zahlstelle für das Einlagensicherungssystem des Herkunftsmitgliedstaats fungieren. Die Verwaltungskosten des Einlagensicherungssystems des Aufnahmemitgliedstaats wären marginal im Vergleich zum Vertrauensgewinn bei den Einlegern.

Eine andere Möglichkeit zur Verbesserung der grenzübergreifenden Zusammenarbeit zwischen Einlagensicherungssystemen bestünde in der Einrichtung eines Netzwerks (eines „EU-Systems der Einlagensicherungssysteme“) und der Einführung einer gegenseitigen Kreditfazilität. Dies würde bedeuten, dass ein Einlagensicherungssystem bei den anderen Systemen Geld leihen könnte, wenn seine finanziellen Kapazitäten erschöpft sind. Um dem kreditnehmenden System eine zusätzliche Fazilität in Höhe von 0,5 % seiner erstattungsfähigen Einlagen (entsprechend den in Abschnitt 5.3 genannten Ex-post-Beiträgen – einem Viertel von 2 %) zu ermöglichen, müssten alle Einlagensicherungssysteme lediglich Kredite in Höhe von bis zu 0,08 % ihrer erstattungsfähigen Einlagen vergeben, also etwa 1/25 ihrer Zielausstattung. Dies ist wirksam und effizient.

Dies kann als erster Schritt zur Einrichtung eines einzigen EU-weiten Einlagensicherungssystems gesehen werden, mit dem Verwaltungskosten in Höhe von rund 40 Mio. EUR pro Jahr eingespart werden könnten. Diese Idee scheint die wirtschaftlich effektivste Lösung für das Problem der Fragmentierung der Einlagensicherungssysteme zu sein, es gibt jedoch einige rechtliche Fragen, die eingehender zu prüfen sind. Die Idee eines EU-weiten Einlagensicherungssystems ist ein langfristiges Projekt und sollte mit den Entwicklungen und Fortschritten bei der neuen Aufsichtsarchitektur in der EU sowie den Entwicklungen im Bereich der Bankensanierung im Einklang stehen.

5.6. Gesamtauswirkungen für die Beteiligten

Der Hauptnutzen der oben erläuterten Politikoptionen besteht darin, dass das Vertrauen der Einleger durch eine höhere Deckungssumme, schnellere Auszahlungen, eine solide Finanzierung der Einlagensicherungssysteme usw. voraussichtlich erheblich verbessert werden kann. Die Einleger werden darauf vertrauen, dass ihre Einlagen sicher sind und sie bis zu 100 000 EUR zurückerhalten, selbst wenn ihre Bank insolvent wird. Es würde unweigerlich erheblich höhere Beiträge der Banken mit sich bringen, was im Gegenzug zu Einbußen bei den Betriebsergebnissen der Banken führen würde, aber eine ausreichende Finanzierung der Einlagensicherungssysteme ist eine grundlegende Bedingung. Die favorisierten Politikoptionen bezüglich Deckungshöhe und –umfang, harmonisiertem Ansatz für die Finanzierung der Einlagensicherungssysteme und schnellerer Auszahlung würden sich

alles in allem wie folgt auf die Banken auswirken: durchschnittlicher Rückgang der Betriebsergebnisse der Banken um 4 % auf EU-Ebene während der ersten fünf Jahre und ein Rückgang um 2,5 % in den verbleibenden fünf Jahren (oder 7,5 % bzw. 6 % im Krisenfall bei gleichzeitiger Erhebung von Ex-post-Beiträgen). Einige Banken könnten versuchen, diese Kosten auf die Einleger abzuwälzen, aber selbst im ungünstigsten Fall (bei Weitergabe aller Bankkosten an die Einleger, was in einem wettbewerbsorientierten Umfeld eher unwahrscheinlich ist) sollten die Gesamtauswirkungen während eines Zeitraums von zehn Jahren nicht über eine Senkung der Zinssätze für Sparkonten um 0,1 % oder eine Erhöhung der Bankgebühren für Girokonten um ca. 7 EUR pro Jahr und je Konto (bzw. 10-12 EUR im Krisenfall) hinausgehen. Die Einleger profitieren vom schärferen Wettbewerb aufgrund gleicher Wettbewerbsbedingungen, und alle Beteiligten profitieren von der allgemeinen Finanzstabilität, zu der die vorgeschlagene Reform der Einlagensicherungssysteme voraussichtlich beitragen wird.

6. ÜBERWACHUNG UND BEWERTUNG

Die Umsetzung aller neuen EU-Vorschriften über Einlagensicherungssysteme wird gemäß dem Vertrag über die Arbeitsweise der Europäischen Union überwacht. Da sich Insolvenzen von Banken nicht vorhersehen lassen, ist es nicht möglich, die Funktionsfähigkeit der Einlagensicherungssysteme regelmäßig daraufhin zu überprüfen, wie Insolvenzen im Ernstfall bewältigt werden. Allerdings würden regelmäßige Stresstests bei Einlagensicherungssystemen zeigen, ob diese in der Lage sind, ihre gesetzlichen Verpflichtungen – zumindest übungsweise – zu erfüllen. Diese könnten im Rahmen von Peer Reviews erfolgen, die vom European Forum of Deposit Insurers (EFDI) und der geplanten Europäischen Bankaufsichtsbehörde (European Banking Authority – EBA)[2] durchgeführt würden.

[2] Siehe KOM(2009) 501.