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INFORMATION NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee/Council
Subject:	Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Directive 2014/49/EU as regards the scope of deposit protection, use of deposit guarantee schemes funds, cross-border cooperation, and transparency - Outcome of the European Parliament's first reading (Strasbourg, 22 to 25 April 2024)

I. INTRODUCTION

The rapporteur, Kira Marie PETER-HANSEN (Greens/EFA, DK), presented a report on the above proposal for a Directive on behalf of the Committee on Economic and Monetary Affairs (ECON) which contained one amendment (amendment 1) to the proposal.

In addition, a number of MEPs from different political groups tabled six amendments (amendments 2 to 7) and the EPP group tabled six amendments (amendments 8 to 13).

II. VOTE

When it voted on 24 April 2024, the plenary of the European Parliament adopted amendment 1 to the proposal for a Directive. No other amendments were adopted.

The Commission's proposal as thus amended constitutes the Parliament's first-reading position which is contained in its legislative resolution as set out in the Annex hereto.

P9_TA(2024)0328

Scope of deposit protection, use of deposit guarantee schemes funds, cross-border cooperation, and transparency (DGSD2)

European Parliament legislative resolution of 24 April 2024 on the proposal for a directive of the European Parliament and of the Council amending Directive 2014/49/EU as regards the scope of deposit protection, use of deposit guarantee schemes funds, cross-border cooperation, and transparency (COM(2023)0228 – C9-0133/2023 – 2023/0115(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

– having regard to the Commission proposal to Parliament and the Council (COM(2023)0228),

– having regard to Article 294(2) and Article 53(1) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C9-0133/2023),

– having regard to Article 294(3) of the Treaty on the Functioning of the European Union,

– having regard to the opinion of the European Central Bank of 5 July 2023[1],

– having regard to Rule 59 of its Rules of Procedure,

– having regard to the report of the Committee on Economic and Monetary Affairs (A9-0154/2024),

1. Adopts its position at first reading hereinafter set out;

2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;

3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

[1] OJ C 307, 31.8.2023, p. 19.

Amendment 1

AMENDMENTS BY THE EUROPEAN PARLIAMENT*

to the Commission proposal

2023/0115 (COD)

Proposal for a

DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

amending Directive 2014/49/EU as regards the scope of deposit protection, use of deposit guarantee schemes funds, cross-border cooperation, and transparency

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 53(1) thereof,

Having regard to the proposal from the European Commission,

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

Having regard to the opinion of the European Economic and Social Committee[2],

Having regard to the opinion of the Committee of the Regions[3],

Having regard to the opinion of the European Central Bank[4],

Acting in accordance with the ordinary legislative procedure,

Whereas:

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

2 OJ C , , p. .

3 OJ C , , p. .

4 OJ C , , p. .

(1) In accordance with Article 19(5) and (6) of Directive 2014/49/EU of the European Parliament and of the Council[5], the Commission has reviewed the application and the scope of that Directive and concluded that the objective of protection of depositors in the Union through the establishment of deposit guarantee schemes (DGSs) has mostly been met. However, the Commission also concluded that there is a need to address the remaining gaps in depositor protection and to enhance the functioning of DGSs, while harmonising rules for DGSs interventions other than payout proceedings.

(1a) At present, the banking union rests on just two of its intended three pillars, namely, the Single Supervisory Mechanism (SSM) and the Single Resolution Mechanism (SRM). It therefore remains incomplete, due to the absence of its third pillar, the European deposit insurance scheme (EDIS). The ongoing review of the Union crisis management and deposit insurance framework is intended to pave the way towards the long-due completion of the banking union, including the establishment of EDIS. The completion of the banking union forms an integral part of economic and monetary union and of financial stability, most notably by mitigating the risks of so-called 'doom loop' that arise as a result of the bank-sovereign nexus.

(1b) To ensure a smooth transition to the completion of the banking union, it is necessary to harmonise the functions that DGSs can perform. Therefore, the number of discretions under national law included in Directive 2014/49/EU should be limited and all DGSs should be able to finance resolution measures, preventive measures and other alternative measures to the payout of depositors.

(1c) The Union crisis management framework should ensure at all times that losses are not being socialised and taxpayers' resources are not employed to aid or rescue credit institutions in difficulty.

(2) The failure to comply with the obligations to pay contributions to DGSs or to provide information to depositors and DGSs could undermine the objective of depositor protection. DGSs, or where relevant, designated authorities can apply pecuniary sanctions for late payment of contributions. It is important to improve coordination between DGSs, designated and competent authorities to take enforcement actions against a credit institution that does not comply with its obligations. Although the application of supervisory and enforcement measures by the competent authorities against credit institutions is regulated under national laws and Directive 2013/36/EU of the European Parliament and of the Council[6], it is necessary to ensure that designated authorities inform the competent authorities in time about any infringement of obligations of credit institutions under deposit protection rules.

(3) To support further convergence of DGSs' practices and assist DGSs in testing their resilience, the European Banking Authority (EBA) should ***develop draft regulatory standards*** on the performing of stress tests of DGS' systems.

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5 Directive 2014/49/EU of the European Parliament and of the Council of 16 April 2014 on deposit guarantee schemes (recast) (*OJ L 173, 12.6.2014, p. 149).*

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

(4) Pursuant to Article 5(1), point (d), of Directive 2014/49/EU, deposits of certain financial institutions, including investment firms are excluded from coverage by the DGS. However, the funds that those financial institutions receive from their clients and that they deposit in a credit institution on behalf of their clients, in the exercise of the services they offer, should be protected subject to certain conditions.

(5) The range of depositors that are currently protected through repayment by a DGS is motivated by the wish to protect non-professional investors, while professional investors are deemed not to need such protection. For that reason, public authorities have been excluded from coverage. However, most public authorities (which in some Member States include schools and hospitals) cannot be considered to be professional investors. It is therefore necessary to ensure that deposits of all non-professional investors, including public authorities, can benefit from the protection offered by a DGS.

(6) Deposits resulting from certain events, including real estate transactions relating to private residential properties or the payout of certain insurance benefits, can temporarily lead to large deposits. For that reason, Article 6(2) of Directive 2014/49/EU currently obliges Member States to ensure that deposits resulting from those events are protected above EUR 100 000 for at least 3 months, but for no longer than 12 months from the moment the amount has been credited or from the moment when such deposits become legally transferable. To harmonise depositor protection in the Union and to reduce the administrative complexity and legal uncertainty related to the scope of protection of such deposits, it is necessary to align their protection to ***a minimum amount of*** at least EUR 500 000 ***and a maximum of EUR 2 500 000*** for a harmonised duration of 6 months, in addition to the coverage level of EUR 100 000. ***After their transposition by Member States, the Commission should carry out a review of the amounts which are protected, with a view to determining whether the maximum amount should be reduced, taking into account whether the amounts which are protected are proportionate and ensure a level playing field across the Union.***

(7) During a real estate transaction, the funds can transit through different accounts prior to the actual settlement of the transaction. Therefore, to protect depositors going through real estate transactions in a homogenous manner, protection of temporary high balances should apply to the proceeds of a sale as well as to the funds deposited for a purchase of a private residential property ***within a predefined*** short-term ***period***.

(8) To ensure timely disbursement of the amount to be repaid by a DGS, and to simplify the administrative and calculation rules, the discretion to take into account due liabilities when calculating the repayable amount should be removed.

(9) It is necessary to optimise the operational capacities of DGSs and to reduce their administrative burden. For that reason, it should be established that when it comes to the identification of depositors that are entitled to deposits in beneficiary accounts or the assessment of whether depositors are eligible for temporary high balances safeguards, it remains the depositors' and account holders' responsibility to demonstrate, by their own means, their entitlement.

(10) Certain deposits may be subject to a longer repayment period because they require DGSs to verify the claim for repayment. To harmonise the rules across the Union, the period for repayment should be limited to 20 working days after the reception of relevant documentation.

(11) The administrative cost related to the repayment of small amounts on dormant accounts can outweigh the benefits for the depositor. It is therefore necessary to specify that DGSs should not be obliged to take active steps to repay deposits held in such accounts below certain thresholds that should be set at national level. The right of depositors to claim such amount should, however, be preserved. In addition, where the same depositor also has other active accounts, DGSs should include that amount in the calculation of the amount to be reimbursed.

(12) DGSs have diverse methods to repay depositors, ranging from cash payouts to electronic transfers. However, to ensure the traceability of the repayment process from DGSs and to stay in line with the objectives of the Union framework on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, depositor reimbursements via credit transfers should be the default payout method when reimbursement exceeds the amount of EUR 10 000.

(13) Financial institutions are excluded from deposit protection. However, certain financial institutions, including e-money institutions, payment institutions and investment firms, also deposit the funds received from their clients in bank accounts, often on a temporary basis, to comply with safeguarding obligations in line with sectorial legislation, including Directive 2009/110/EC of the European Parliament and of the Council[7], Directive (EU) 2015/2366 of the European Parliament and of the Council[8] and Directive 2014/65/EU of the European Parliament and of the Council[9]. Considering the growing role of those financial institutions, DGSs should protect such deposits under the condition that those clients are identified or identifiable.

(14) Clients of financial institutions do not always know which credit institution the financial institution has chosen to deposit their funds. DGSs should therefore not aggregate such deposits with a deposit that the same clients might have in the same credit institution where the financial institution has placed their deposits. Credit institutions may not know the clients entitled to the sum held in the client accounts, or be able to check and record individual data of those clients. ▌

(15) When reimbursing depositors, DGSs may encounter situations that give rise to money laundering concerns. DGS should therefore withhold the payout to a depositor when notified that a financial intelligence unit has suspended a bank or payment account in accordance with the applicable anti-money laundering rules.

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

8 Directive (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015 on payment services in the internal market, amending Directives 2002/65/EC, 2009/110/EC and 2013/36/EU and Regulation (EU) No 1093/2010, and repealing Directive 2007/64/EC (OJ L 337, 23.12.2015, p. 35).

9 Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU (recast) (OJ L 173, 12.6.2014, p. 349).

(16) Article 9 of Directive 2014/49/EU provides that where a DGS makes payments in the context of resolution proceedings, the DGS should have a claim against the credit institution concerned for an amount equal to its payments and that claim should rank *pari passu* with covered deposits. That provision does not distinguish between a DGS's contribution when an open-bank bail-in tool is used, and DGS's contribution to the financing of a transfer strategy (sale of business or bridge institution tool) followed by liquidation of the residual entity. To ensure clarity and legal certainty with respect to the existence and amount of a DGS's claim in different scenarios, it is necessary to specify that when the DGS contributes to support the application of the sale of business tool or of the bridge institution tool, or alternative measures, whereby a set of assets, rights and liabilities, including deposits, of the credit institution are transferred to a recipient, that DGS should have a claim against the residual entity in its subsequent winding-up proceedings under national law. To ensure that the shareholders and creditors of the credit institution left behind in the residual entity effectively absorb the losses of that credit institution and improve the possibility of repayments in insolvency to the DGS, the DGS claim should have the same ranking as ***covered deposits***. In case the open bank bail-in tool is applied (i.e., the credit institution continues its operations), the DGS contributes in the amount by which covered deposits would have been written down or converted to absorb the losses in that credit institution, had covered deposits been included within the scope of bail-in. Therefore, the DGS's contribution should not result in a claim against the institution under resolution as it would eliminate the purpose of the DGS's contribution.

(17) To ensure convergence of DGS practices and legal certainty for depositors to claim their deposits, and to avoid operational hurdles for DGSs, it is important to set an adequately long period within which depositors can claim the repayment of their deposits, in those cases where the DGS has not repaid depositors within the deadlines laid down in Article 8 of Directive 2014/49/EU in the case of a payout.

(18) Pursuant to Article 10(2) of Directive 2014/49/EU, Member States are to ensure that by 3 July 2024, the available financial means of a DGS reach a target level of 0,8 % of the amount of the covered deposits of its members. ***In order to*** objectively assess whether DGSs fulfil that requirement, a clear reference period should be set to determine the amount of covered deposits and DGSs' available financial means. ***In consideration of the expansion of scope for DGS use, the adequacy of the 0,8 % target level should be subject to close monitoring and assessment.***

(19) To ensure the resilience of DGSs, their funds should derive from stable and irrevocable contributions. Certain sources of DGS financing, including loans and expected recoveries, are too contingent to be accounted as contributions to reach the DGS' target level. To harmonise DGSs' conditions for the fulfilment of their target level and to ensure that DGSs' available financial means are financed by contributions from the industry, funds that qualify to reach the target level should be distinguished from funds that are considered as complementary sources of financing. Outflows of DGS funds, including foreseeable loan repayments, can be planned and factored in regular contributions from DGS members, and should therefore not lead to a decrease of the available financial means below the target level. It is therefore necessary to specify that, after the target level has been reached for the first time, only a shortfall in DGS' available financial means caused by a DGS intervention (payout, or preventive, resolution or alternative measures) should trigger a ***four***-year replenishment period. ***Where, after such a DGS intervention, the available financial means have been reduced by less than one third, the replenishment period should be two years.*** To ensure consistent application, the EBA should develop draft regulatory technical standards specifying the methodology for the calculation of the target level by the DGSs.

(20) The available financial means of a DGS should be immediately usable to face sudden events of payout or other interventions. In view of various practices across the Union, it is appropriate to lay down requirements for DGSs' funds investment strategy to mitigate any negative impact on the ability of a DGS to fulfil its mandate. Where a DGS is not competent to set the investment strategy, the authority, or body or entity in the Member State that is responsible for setting the investment strategy should, when setting that investment strategy, also respect the principles regarding diversification and investments in low-risk ***and liquid*** assets. To preserve full operational independence and flexibility of the DGS in terms of access to its funds, where DGS funds are deposited with the treasury, those funds should be earmarked and placed on a segregated account.

(21) The option to raise the available financial means of a DGS through mandatory contributions paid by member institutions to existing schemes of mandatory contributions established by a Member State to cover the costs related to systemic risk has never been used and should therefore be removed.

(22) It is necessary to enhance depositor protection, while avoiding the need for a fire sale of the assets of a DGS and limiting possible negative pro-cyclical effects over the banking industry caused by the collection of extraordinary contributions. DGSs should therefore be allowed to use alternative funding arrangements that enable them to obtain at any time short-term funding from sources other than contributions, including before using their available financial means and funds collected through extraordinary contributions. Because credit institutions should primarily bear the cost and responsibility for financing DGSs, alternative funding arrangements from public funds should ***not be permitted***.

(23) To ensure adequately diversified investment of DGS funds and convergent practices, the EBA should issue guidelines to provide DGSs with guidance in that respect.

(24) While the primary role of DGSs is the repayment of covered depositors, interventions outside payout can prove more cost-effective for DGSs and ensure uninterrupted access to deposits by facilitating transfer strategies. DGSs may be required to contribute to the resolution of credit institutions. In addition, in some Member States, DGSs may finance preventive measures to restore the long-term viability of credit institutions, or alternative measures in insolvency. While such preventive and alternative measures can significantly improve the protection of deposits, it is necessary to subject such measures to adequate safeguards, including in the form of a harmonised least cost test, to ensure a level playing field and the effectiveness and cost-efficiency of such measures. Such safeguards should only apply to interventions financed with the DGS's available financial means regulated under this Directive.

(24a) It is essential that any involvement of the DGS in any scenario be conducted with a focus on cost effectiveness and transparency. That approach is essential to avoid distorting the level playing field and to ensure that no unfair advantages are conferred on specific market participants. Transparency and cost efficiency are fundamental principles that underpin the integrity and equitable functioning of the DGS.

(25) Measures to prevent failure of a credit institution through sufficiently early interventions can play an effective role in the continuum of crisis management tools to maintain depositor confidence and financial stability. Those measures can take various forms - capital support measures through own funds instruments (including Common Equity Tier 1 instruments) or other capital instruments, guarantees, or loans. DGSs have had heterogeneous recourse to those measures. To ensure the continuum of crisis management tools and recourse to preventive measures in a manner consistent with the resolution framework and the state aid rules, it is necessary to specify the timing and conditions for their application. Preventive measures are not appropriate for the absorption of incurred losses when the credit institution is already failing or likely to fail and should be used early to prevent deterioration of the financial situation of the bank. Designated authorities should therefore verify whether the conditions for such DGS intervention have been fulfilled. Finally, those conditions for the use of DGS available financial means should be without prejudice to the assessment by the competent authority of whether an IPS fulfils the criteria laid down in Article 113(7) of Regulation (EU) No 575/2013 of the European Parliament and of the Council[10].

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

(26) To ensure that preventive measures achieve their objective, credit institutions should be required to ***present to the competent authority*** a note outlining the measures that they commit to undertake. ▌Such note should contain all elements which aim at preventing the outflow of funds and strengthening the capital and liquidity position of the credit institution, enabling the credit institution to comply with all the relevant prudential and other regulatory requirements on a forward-looking basis. Such note should therefore contain capital raising measures, including rules on the issuance of rights, the voluntary conversion of subordinated debt instruments, liability management exercises, capital generating sales of assets, the securitisation of portfolios, and earnings retention, including dividend bans and bans on the acquisition of stakes in undertakings. ***Additionally, the note should detail the credit institution's initial capital shortfall, the capital-raising measures implemented and the safeguards put in place to prevent the outflow of funds.*** For the same reason, during the implementation of the measures envisaged in the note, credit institutions should also strengthen their liquidity positions and refrain from aggressive commercial practices, and from the ***distribution of dividends or variable remuneration or*** repurchasing of own shares or call hybrid capital instruments. Such note should also contain an exit strategy for any support measures received. ***Within a reasonable timeframe, the credit institution should provide the competent authority with a business reorganisation plan to secure long-term viability. Preventive measures granted to a credit institution should be suspended where the competent authority is not satisfied that the business reorganisation plan is credible and feasible to secure long-term viability. Where the credit institution is a member of an IPS referred to in Article 1(2) point (c), the IPS should approve the business reorganisation plan, after consulting the competent authority. Where the competent authority is not satisfied with the business reorganisation plan, it should implement appropriate measures to ensure that long-term viability is secured.*** Competent authorities ***and resolution authorities*** are best positioned to ***assess*** the relevance and credibility of the measures envisaged in the ***business reorganisation plan***. To ensure that the designated authorities of the DGS that is requested to finance a preventive measure by the credit institution can assess that all the conditions for preventive measures are fulfilled, the competent authorities should cooperate with the designated authorities. To ensure a consistent approach to the application of preventive measures across the Union, the EBA should issue guidelines to assist credit institutions to draft such a ***business reorganisation plan***.

(26a) To mitigate moral hazard, where appropriate, the credit institution receiving support from DGSs in the form of preventive measures, its shareholders, its creditors or the business group to which it belongs should contribute to the restructuring from their own resources and provide adequate remuneration for the preventive measure granted by the DGS.

(27) To ensure that credit institutions receiving support from DGSs in the form of preventive measures deliver on their commitments, competent authorities should request a remediation plan from credit institutions that failed to fulfil their commitments***, to repay the amount contributed under the preventive measures or to comply with the exit strategy***. Where a competent authority is of the opinion that the measures in the remediation plan are not capable of achieving the credit institution's long-term viability, the DGS should not provide any further preventive support to the credit institution ***and the relevant authorities should carry out an assessment whether the institution is failing or is likely to fail, pursuant to Article 32 of Directive 2014/59/EU. The same consequences should apply in cases where the credit institution fails to comply with the remediation plan***. To ensure a consistent approach to the application of preventive measures across the Union, the EBA should issue guidelines to assist credit institutions to draft such a remediation plan.

(28) To avoid detrimental effects on competition and on the internal market, it is necessary to lay down that in the case of alternative measures in insolvency, relevant bodies representing a credit institution in the context of national insolvency proceedings (liquidator, receiver, administrator or other) should make arrangements for the marketing of the business of the credit institution or part of it in an open, transparent and non-discriminatory process, while aiming to maximise, as far as possible, the sale price. The credit institution or any intermediary acting on behalf of the credit institution should apply rules that are adequate for the marketing of assets, rights and liabilities that are to be transferred to potential purchasers. In any event, the use of State resources should remain subject to the relevant State aid rules under the Treaty, where applicable.

(29) Since the main aim of DGSs is to protect covered deposits, DGSs should only be allowed to finance interventions other than payouts where such interventions are cheaper than payouts. Experience with the application of that rule ('least cost test') has revealed several shortcomings as the current framework does not detail how to determine the cost of those interventions nor the cost of the payout. To ensure a consistent application of the least cost test across the Union, it is necessary to specify the calculation of those costs. At the same time, it is necessary to avoid excessively stringent conditions that would effectively disable the use of DGS funds for other interventions than payout. When carrying out the least cost assessment, DGSs should first verify that the cost to finance the selected measure is lower than the cost of reimbursement of covered deposits. The methodology for the least cost assessment should take into account the time value of money.

(30) Liquidation can be a lengthy process whose efficiency depends on national judicial efficiency, insolvency regimes, individual bank features, and the circumstances of the failure. For DGS interventions as part of alternative measures, the least cost test should rely on the valuation of the assets and liabilities of the credit institution, laid down in Article 36(1) of Directive 2014/59/EU, and the estimate laid down in Article 36(8) of that Directive. However, the precise evaluation of liquidation recoveries can be challenging in the context of the least cost test for preventive measures, which supposedly happen long before any foreseeable liquidation. Therefore, the counterfactual for the least cost test for preventive measures should be adjusted accordingly, and in any case, the expected recoveries should be limited to a reasonable amount based on recoveries in past payout events.

(31) The designated authorities should estimate the cost of the measure for the DGS, including after the repayment of a loan, a capital injection or the use of a guarantee, net of expected earnings, operational expenses, and potential losses, against a counterfactual based on a hypothetical final loss at the end of the insolvency proceedings, which should take into account recoveries from the DGS as part of a bank's liquidation proceedings. ***Additionally, the counterfactual should take into account the possible cost for the DGS of economic and financial instability, including the need to use additional funds, within the DGS mandate, to protect depositors and financial stability, and to prevent contagion.*** To give a fair and more comprehensive picture of the actual cost of depositors' repayment, the estimation of the loss incurred due to the reimbursement of covered deposits should include costs indirectly related to the reimbursement of depositors. Such costs should include ▌ the cost that the DGS might bear due to the recourse to alternative financing. To ensure consistent application of the least cost test, the EBA should develop draft regulatory technical standards on the methodology to calculate the cost of different DGS interventions. To ensure consistency of the methodology for the least cost assessment with the DGS statutory or contractual mandate▌ , the EBA should ▌ ***develop*** draft regulatory technical standards ▌ .

(32) To enhance harmonised protection of depositors and specify respective responsibilities across the Union, the DGS of the home Member State should ensure the payout to depositors located in Member States where the credit institutions that are a member of the DGS take deposits and other repayable funds by offering deposit services on cross-border basis without establishment in the host Member State. To facilitate the payout operations and provision of information to depositors, the DGS of the host Member State should be allowed to operate as a point of contact for depositors at credit institutions that exercise the freedom to provide services.

(33) The cooperation between DGSs across the Union is vital to ensure fast and cost-efficient depositors' repayment where credit institutions conduct banking service through branches in other Member States. In view of technological advancements that promote the use of cross-border transfers and remote identification, the DGS of the home Member State should be allowed to make the repayments directly to depositors at branches located in another Member State, provided that the administrative burden and costs are lower than if the repayment would be carried out by the DGS of the host Member State. That flexibility should complement the current cooperation mechanism, requiring the DGS of the host Member State to repay depositors in branches on behalf of the DGS of the home Member State. To preserve depositor confidence in both host and home Member States, EBA should issue guidelines to assist the DGSs in such cooperation, *inter alia* by suggesting a list of conditions under which a DGS of the home Member State could decide to reimburse depositors at branches located in the host Member State.

(34) Credit institutions may change affiliation to a DGS because they move their headquarters to another Member State or convert their subsidiary into a branch or *vice versa*. Article 14(3) of Directive 2014/49/EU requires that the contributions of that credit institution paid during the 12 months preceding the transfer are transferred to the other DGS in proportion to the amount of covered deposits transferred. To ensure that the transfer of contributions to the receiving DGS is not dependent on divergent national rules regarding invoicing or actual date of payment of contributions, the DGS of origin should calculate the amount to be transferred on the basis of ***the potential liabilities borne by the receiving DGS as a result of the transfer***. ***EBA should develop draft regulatory technical standards to specify the methodology for the calculation of the amount to be transferred to ensure a neutral impact of the transfer on the financial situation of both the receiving DGS and the DGS of origin relative to the risks they cover***.

(35) It is necessary to ensure equal protection of depositors across the Union that cannot be fully guaranteed by an equivalence assessment regime of depositor protection in third countries. For that reason, branches in the Union of a credit institution that has its head office in a third country should join a DGS in the Member State where they perform their deposit-taking activity. That requirement would also ensure consistency with Directives 2013/36/EU and 2014/59/EU that aim to introduce a more robust prudential and resolution frameworks for third country groups providing banking services in the Union. Conversely, it should be avoided that DGSs are exposed to the economic and financial risks of third countries. Deposits in branches established in third countries by Union credit institutions should therefore not be protected.

(36) Standardised and regular information disclosure enhances awareness of depositors about deposit protection. To align disclosure requirements with technological developments, those requirements should take into account the new digital communication channels whereby credit institutions interact with depositors. Depositors should obtain clear and homogeneous information that explains their deposit protection, while limiting the related administrative burden for credit institutions or DGSs. The EBA should be mandated to develop draft implementing technical standards to specify, on the one hand, the content and format of the depositor information sheet to communicate to depositors on annual basis and, on the other hand, the template information that either DGSs or credit institutions are required to communicate to depositors in specific situations, including mergers of credit institutions, determination that deposits are unavailable, or repayment of client funds deposits.

(37) The merger of a credit institution or the conversion of subsidiary into branch or *vice versa* might affect the key features of depositor protection. To avoid adverse impacts on depositors that would have deposits in both merging banks and whose claim to deposit coverage would be reduced because of changes to DGS affiliation, all depositors should be informed about such changes and should have the right to withdraw their funds without incurring a penalty up to an amount equal to the lost coverage of deposits.

(38) To preserve financial stability, avoid contagion and enable depositors to exercise their rights to claim deposits when applicable, designated authorities, DGSs and credit institutions concerned should inform depositors about deposits becoming unavailable.

(39) To increase transparency for depositors and to promote financial robustness and trust among DGSs when fulfilling their mandate, the current reporting requirements should be improved. Building on the current requirements that enable DGSs to request all necessary information from their member institutions to prepare for payout, DGSs should also be able to request information necessary to prepare for a payout in the context of cross border cooperation. Upon the request from a DGS, member institutions should be required to provide general information about any material cross-border business in other Member States. Likewise, in order to provide the EBA with the suitable range of information on the evolution of the DGSs' available financial means and on the use of those means, Member States should ensure that DGSs inform the EBA on a yearly basis of the amount of covered deposits and available financial means, and notify the EBA about the circumstances that led to the use of DGS funds either for payouts or other measures. Finally, to reflect the strengthened role of DGSs in the bank crisis management which aims to facilitate the use of DGS funds in resolution, DGSs should have the right to receive the summary of resolution plans of credit institutions ***on an annual basis*** to increase their general preparedness to make the funds available.

(40) Technical standards in financial services should facilitate consistent harmonisation and adequate protection of depositors across the Union. As a body with highly specialised expertise, it would be efficient and appropriate to entrust the EBA with the development of draft regulatory and implementing technical standards which do not involve policy choices, for adoption by the Commission.

(41) The Commission should, where provided for in this Directive, adopt draft regulatory technical standards developed by the EBA by means of delegated acts pursuant to Article 290 TFEU, in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010 of the European Parliament and of the Council[11] to specify the following: (a) the technical details related to the identification of clients of financial institutions for payout of client funds deposits, the criteria for repayment to the account holder for the benefit of each client or to the client directly, and the rules to avoid multiple claims for payouts to the same beneficiary; (b) the methodology for the least cost test, and (c) the methodology for the calculation of available financial means qualifying for the target level.

(42) The Commission should, where provided for in this Directive, adopt draft implementing technical standards developed by EBA by means of implementing acts pursuant to Article 291 TFEU, in accordance with Article 15 of Regulation (EU) No 1093/2010 to specify: (a) the content and format of the depositor information sheet, the template for information that either DGSs or credit institutions should communicate to depositors; (b) the procedures to be followed when providing information by credit institutions to their DGS, and by DGSs and designated authorities to EBA, and the templates for providing that information.

(43) Directive 2014/49/EU should therefore be amended accordingly.

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

(44) To allow branches of credit institutions having their head offices outside the Union that are not members of a DGS established in the Union to join a Union DGS, those branches should be given a sufficient period to take the necessary steps to comply with that requirement.

(45) Directive 2014/49/EU allows Member States to recognise an IPS as a DGS if it fulfils the criteria laid down in Article 113(7) of Regulation (EU) No 575/2013 and complies with Directive 2014/49/EU. To take into account the specific business model of those IPSs, in particular the relevance of ***functions*** at the core of their mandate, ***that they perform in addition to the ones covered by this Directive,*** it is appropriate to provide for the possibility of Member States to allow IPSs to ***continue to perform such functions. Additionally, to give them sufficient time to*** adapt to the new ***provisions, in particular the*** safeguards for the application of preventive measures***,*** ▌ a ***three***-year ***transitional*** period ***should be granted to IPSs***. ▌ ***To ensure a level playing field and preserve a high degree of protection of depositors, the functions and tasks performed in addition*** to the ***ones covered by this Directive should be financed through additional financial means, on top of the target level. IPSs should*** build-up a segregated fund for IPS purposes other than ***the functions covered by this Directive*** as agreed between the European Central Bank, the national competent authority and the relevant IPSs.

(46) To allow DGSs and designated authorities to build up the necessary operational capacity to apply the new rules on the use of preventive measures, it is appropriate to provide for a deferred application of those new rules.

(47) Since the objectives of this Directive, namely to ensure uniform protection of depositors in the Union, cannot be sufficiently achieved by the Member States due to the risks that diverging national approaches might entail for the integrity of the single market but can rather, by amending rules that are already laid down at Union level, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on the European Union. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Amendments to Directive 2014/49/EU

Directive 2014/49/EU is amended as follows:

(1) Article 1 is amended as follows:

(a) paragraph 1 is replaced by the following:

‘1. This Directive lays down rules and procedures relating to the establishment and the functioning of deposit guarantee schemes (DGSs), the coverage and repayment of deposits, and the use of DGS funds for measures that aim to ensure the access of depositors to their deposits.’;

(b) in paragraph 2, point (d) is replaced by the following:

‘(d) credit institutions, and branches of credit institutions that have their head office outside the Union, that are affiliated to the schemes referred to in points (a), (b) or (c) of this paragraph.’;

(2) in Article 2, paragraph 1 is amended as follows:

(a) in point (3), the introductory wording is replaced by the following:

‘(3) ‘deposit’ means a credit balance which results from funds left in an account or from temporary situations deriving from normal banking transactions habitually carried out by credit institutions in the course of their business, and which a credit institution is required to repay under the legal and contractual conditions applicable, including a fixed-term deposit and a savings deposit, but excluding a credit balance where:’;

(b) in point (13), the introductory wording is replaced by the following:

‘(13) ‘payment commitment’ means an irrevocable, fully collateralised obligation of a credit institution to pay a DGS a monetary amount when called by that DGS, and where the collateral:

(c) the following points (19) to (23) are added:

(19) ‘resolution authority’ means a resolution authority as defined in Article 2, point (18) of Directive 2014/59/EU;

(20) ‘client funds deposits’ means funds that account holders that are financial institutions as defined in Article 4(1), point (26), of Regulation (EU) No 575/2013 deposit in the course of their business with a credit institution for the account of their clients;

(21) ‘Union State aid framework’ means the framework established by Articles 107, 108 and 109 TFEU and regulations and all Union acts, including guidelines, communications and notices, made or adopted pursuant to Article 108(4) or Article 109 TFEU;

(22) ‘money laundering’ means money laundering as defined in Article 2, point (1) of [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final] *’;

(23) ‘terrorist financing’ means terrorist financing as defined in Article 2, point (2) [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final]. **’;

(d) paragraph 3 is replaced by the following:

‘3. Shares in Irish building societies, apart from those of a capital nature covered by Article 5(1), point (b), shall be treated as deposits.’;

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* [Please insert full reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final].

** [Please insert full reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final.

(3) Article 4 is amended as follows:

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

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

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

Member States shall ensure that, by ... [36 months from the date of entry into force of this amending Directive], an IPS that is recognised as a DGS pursuant to this paragraph shall segregate its available financial means which are subject to a target level in accordance with Article 10(2) of this Directive from the additional financial means for the fulfilment of mandates other than those regulated under this Directive.';

(a) paragraph 4 is replaced by the following:

'4. Members States shall ensure that where a credit institution does not comply with its obligations as a member of a DGS, that DGS shall immediately notify ***the designated authority and*** the competent authority of that credit institution thereof.

Member States shall ensure that the competent authority, in cooperation with ***the designated authority,*** promptly takes all ***appropriate*** measures***, including, where necessary, the imposition of penalties,*** to ensure that the credit institution concerned complies with its obligations ***as a member of a DGS.*** ▌

Member States shall lay down rules on penalties applicable in the event of infringements by credit institutions of the obligations incumbent on them as a member of a DGS. The penalties shall be effective, proportionate and dissuasive.';

(b) the following paragraph 4a is inserted:

'4a. Members States shall ensure that where a credit institution fails to pay the contributions referred to in Article 10 and Article 11(4) within the timeframe specified by the DGS, that DGS shall, for the period of the delay, charge statutory interest rate on the amount due.';

(c) paragraphs 5 and 6 are replaced by the following:

'5. Member States shall ensure that the DGS informs the designated authority where the measures referred to in paragraphs 4 and 4a fail to restore compliance by the credit institution. Member States shall ensure that the designated authority assesses whether the institution still fulfils the conditions for a continued membership of the DGS and inform the competent authority of the outcome of that assessment.

6. Member States shall ensure that where the competent authority decides to withdraw the authorisation in accordance with Article 18 of Directive 2013/36/EU, the credit institution ceases to be a member of the DGS. Member States shall ensure that deposits held on the date on which a credit institution ceased to be a member of the DGS continue to be covered by that DGS ***for a maximum of six months***.';

(ca) in paragraph 7, the following subparagraph is added:

'The designated authorities shall have the necessary enforcement powers, including powers to impose penalties or other administrative measures, to remedy infringements of this Directive by a DGS.';

(d) paragraph 8 is deleted;

(e) the following paragraph 13 is added:

'13. ▌EBA shall develop ***draft regulatory technical standards*** on the scope, contents and procedures of the stress tests referred to in paragraph 10.

EBA shall submit those draft regulatory technical standards to the Commission by … [24 months from the date of entry into force of this amending Directive].

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

(4) Article 5 is amended as follows:

(a) paragraph 1 is amended as follows:

(i) the introductory wording is replaced by the following:

'1. The following shall be excluded from any repayment by a DGS:'

(ii) point (c) is replaced by the following:

'(c) deposits arising out of transactions in connection with which there has been a criminal conviction for money laundering and terrorist financing;';

▌

(iv) point (f) is replaced by the following:

'(f) deposits the holder of which has never been identified pursuant to Article 16 of Regulation (EU) …. [please insert short reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final], where those deposits have become unavailable, except where a holder requests payout and proves that the lack of identification was not caused by his or her action;';

(v) point (j) is deleted;

(va) the following point is added:

'(ka) deposits by persons or legal entities subject to targeted financial sanctions adopted by the Union.';

(b) paragraph 2 is replaced by the following:

'2. By way of derogation from paragraph 1, point (i), Member States may decide that deposits held by personal pension schemes and occupational pension schemes of small or medium-sized enterprises are included up to the coverage level laid down in Article 6(1).';

(5) Article 6 is amended as follows:

(a) paragraph 2 is amended as follows:

(i) the introductory wording is replaced by the following:

'In addition to paragraph 1, Member States shall ensure that the following deposits are protected as a minimum to an amount of EUR 500 000 ***and a maximum of EUR 2 500 000*** for 6 months after that amount has been credited or from the moment when such deposits become legally transferable***:***';

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

'(a) deposits resulting from real estate transactions relating to private residential properties and deposits intended for such transactions, provided that those transactions are concluded in ***a four-month period*** by a natural person, and provided that that natural person can provide documents proving such transaction;';

(iia) the following subparagraph is added:

'By ... [36 months from the date of entry into force of this amending Directive], the Commission shall carry out a review of the amounts which are protected as referred to in the first subparagraph and as transposed by Member States, with a view to determining whether the maximum amount referred to in that subparagraph should be reduced, taking into account whether the amounts which are protected are proportionate and ensure a level playing field across the Union. The Commission shall submit a report to the European Parliament and to the Council, accompanied, where appropriate, by a legislative proposal.';

(b) the following paragraph 2a is inserted:

'2a. Member States shall ensure that the coverage level laid down in paragraph 2 supplements the coverage level laid down in paragraph 1.'

(6) Article 7 is amended as follows:

(a) paragraph 5 is deleted;

(aa) paragraph 6 is replaced by the following:

'6. Member States shall ensure that credit institutions report to their DGSs, at least annually, the aggregated amount of eligible deposits. Member States shall ensure that DGSs may at any time request credit institutions to inform them about the aggregated amount of eligible deposits of every depositor.';

(b) paragraph 7 is replaced by the following:

'7. Member States shall ensure that the DGS reimburses interest on deposits which has accrued until, but has not been credited or debited at, the date on which a relevant administrative authority makes a determination as referred to in Article 2(1), point (8)(a), or a judicial authority makes a ruling as referred to in Article 2(1), point (8)(b). The coverage level laid down in Article 6(1) or, in the circumstances referred to in Article 6(2), the coverage level laid down in that paragraph, shall not be exceeded.

Where interest rates on certain deposits significantly exceed the prevailing market interest rate, as determined and based on transparent and publicly available data, the DGS shall have the power to adjust the reimbursed interest to reflect the prevailing market interest rate at the time of the determination made by the relevant administrative authority or of the ruling made by the judicial authority. That adjustment shall be made to prevent moral hazard. The criteria and methodology for defining 'significantly exceed' and for the adjustment shall be established in a transparent manner, in accordance with guidelines developed by EBA and subject to the approval of the competent authority.';

(7) the following Article 7a is inserted:

'Article 7a

Burden of proof for deposit eligibility and entitlement

Member States shall ensure that in the cases referred to in Article 6(2) and Article 7(3) a depositor or, where appropriate, an account holder, proves either that the deposits concerned meet the conditions of Article 6(2), or the entitlement to the deposits in the circumstances referred to in Article 7(3).';

(8) Article 8 is amended as follows:

(-a) paragraph 1 is replaced by the following:

'1. DGSs shall ensure that the repayable amount is available as soon as possible and in any event within seven working days of the date on which a relevant administrative authority makes a determination as referred to in Article 2(1), point (8)(a), or a judicial authority makes a ruling as referred to in Article 2(1), point (8)(b).';

(-aa) paragraph 2 is deleted;

(a) paragraph 3 is replaced by the following:

'3. By way of derogation from paragraph 1, Member States shall allow DGSs to apply a longer ▌ period for ***repaying*** the deposits referred to in Article 6(2), Article 7(3) and Article 8b, which shall not exceed 20 working days from the date on which those DGSs received the complete documentation they requested from a depositor ***or, where appropriate, an account holder,*** to examine the claims and verify that the conditions for repayment are met. ***For the deposits referred to in Article 6(2) and Article 7(3), where DGSs are not able to make the repayable amount available in less than seven working days, they shall ensure that depositors have access to an appropriate amount of their covered deposits to cover the cost of living within five working days of making a request for that amount.***';

(aa) paragraph 4 is deleted;

(b) paragraph 5 is amended as follows:

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

'(c) by way of derogation from paragraph 9, there has been no transaction relating to the deposit during the last 24 months (the account is dormant), except where a depositor also has deposits on another account that is not dormant';

(ii) point (d) is deleted;

(c) paragraph 8 is deleted;

(d) paragraph 9 is replaced by the following:

'9. Member States shall ensure that where there has been no transaction relating to the deposit during the last 24 months, DGSs may set a threshold concerning the administrative costs that would be incurred by those DGSs in making such a repayment. DGSs shall not be obliged to take active steps to repay depositors below that threshold. Member States shall ensure that DGSs repay depositors below that threshold where so requested by those depositors.';

(9) the following Articles 8a, 8b and 8c are inserted:

'Article 8a

Repayment of deposits exceeding EUR 10 000

Member States shall ensure that when amounts to be reimbursed exceed EUR 10 000, DGSs shall reimburse depositors via credit transfers as defined in Article 2, point (20), of Directive 2014/92/EU of the European Parliament and of the Council*.

'Article 8b

Coverage of client funds deposits

1. Member States shall ensure that client funds deposits are covered by the DGSs where all of the following applies:

(a) such deposits are placed on behalf and ***exclusively*** for the account of clients who are eligible for protection in accordance with Article 5(1);

(b) such deposits are made to segregate client funds in compliance with safeguarding requirements laid down in Union law regulating the activities of the entities referred to in Article 5(1), point (d);

(c) the clients referred to in point (a) are identified or identifiable***, under the ultimate responsibility of the entity holding the account on behalf of clients,*** prior to the date on which a relevant administrative authority makes a determination as referred to in Article 2(1), point (8)(a) or a judicial authority makes a ruling as referred to in Article 2(1), point (8)(b).

2. Member States shall ensure that the coverage level referred to in Article 6(1) applies to each of the clients that meet the conditions laid down in paragraph 1, point (c), of this Article. By way of derogation from Article 7(1), when determining the repayable amount for an individual client, the DGS shall not take into account the aggregate fund deposits placed by that client with the same credit institution.

3. Member States shall ensure that DGSs***' repayments of*** covered deposits ***are made*** ▌ to the client directly.

4. The EBA shall develop draft regulatory technical standards to specify:

(a) the technical details related to the identification of clients for the repayment in accordance with Article 8;

▌

(c) the rules to avoid multiple claims for payouts to the same beneficiary.

When developing those draft regulatory technical standards, EBA shall take into account all of the following:

(a) the specificities of the business model of the different types of financial institutions referred to in Article 5(1), point (d);

(b) the specific requirements of the applicable Union law regulating the activities of the financial institutions referred to in Article 5(1), point (d), for the treatment of client funds.

The EBA shall submit those draft regulatory technical standards to the Commission by … [OP – please insert the date= 12 months after the date of entry into force of this Directive].

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

Article 8c

Suspension of repayments in case of concerns about money laundering or terrorist financing

1. Member States shall ensure that the designated authority informs the DGS within 24 hours from the moment the designated authority received the information referred to in Article 48(4) of [please insert reference – proposal for a Anti-Money Laundering Directive repealing Directive (EU) 2015/849 - COM(2021) 423 final] about the outcome of the customer due diligence measures referred to in Article 15(4) of Regulation (EU) …. [please insert short reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final]. Member States shall ensure that the information exchanged between the designated authority and the DGS is limited to the information that is strictly necessary for the exercise of the DGS' tasks and responsibilities under this Directive and that such exchange of information respects the requirements laid down in Directive 96/9/EC of the European Parliament and of the Council**.

2. Member States shall ensure that DGSs suspend the repayment referred to in Article 8(1) where a depositor or any person entitled to sums held in his or her account has been charged with an offence arising out of, or in relation to, money laundering or terrorist financing, pending the judgment of the court.

3. Member States shall ensure that DGSs suspend the repayment referred to in Article 8(1) for the same duration as laid down in Article 20 of [please insert short reference – proposal for a Anti-Money Laundering Directive repealing Directive (EU) 2015/849 - COM(2021) 423 final] where they are notified by the Financial Intelligence Unit referred to in Article 32 of Directive (EU) [please insert reference – proposal for a Anti-Money Laundering Directive repealing Directive (EU) 2015/849 - COM(2021) 423 final] that that Unit has decided to suspend a transaction or to withhold consent to proceed with such a transaction, or to suspend a bank or a payment account in accordance with Article 20(1) or (2) of Directive (EU) [please insert reference – proposal for a Anti-Money Laundering Directive repealing Directive (EU) 2015/849 - COM(2021) 423 final].

4. Member States shall ensure that DGSs are not held liable for any measures taken in accordance with the instructions of the Financial Intelligence Unit. DGSs shall use any information received from the Financial Intelligence Unit for the purposes of this Directive only.

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* Directive 2014/92/EU of the European Parliament and of the Council of 23 July 2014 on the comparability of fees related to payment accounts, payment account switching and access to payment accounts with basic features (OJ L 257, 28.8.2014, p. 214).

** Directive 96/9/EC of the European Parliament and of the Council of 11 March 1996 on the legal protection of databases (OJ L 77, 27.3.1996, p. 20).';

(10) in Article 9, paragraphs 2 and 3 are replaced by the following:

'2. Without prejudice to rights they may have under national law, DGSs that make payments under guarantee within a national framework shall have the right of subrogation to the rights of depositors in winding up or reorganisation proceedings for an amount equal to the DGSs payments made to depositors. DGSs that make a contribution in the context of the resolution tools referred to in Article 37(3), point (a) or (b), of Directive 2014/59/EU, or in the context of measures taken in accordance with Article 11(5) of this Directive, shall have a claim against the residual credit institution for any loss incurred as a result of any contributions made to resolution pursuant to Article 109 of Directive 2014/59/EU or to the transfer made pursuant to Article 11(5) of this Directive ***for an amount equal to their contribution provided that the residual credit institution is wound up.*** That claim shall rank at the same level as ***covered*** deposits under national law governing normal insolvency proceedings.

3. Member States shall ensure that depositors whose deposits have not been repaid or acknowledged by the DGS by deadlines laid down in Article 8(1) and (3) can claim the repayment of their deposits within a period of 5 years.';

(11) Article 10 is amended as follows:

(a) paragraph 2, is amended as follows:

(i) after the first subparagraph, the following subparagraphs are inserted:

'For the calculation of the target level referred to in the first subparagraph, the reference period shall be between 31 December preceding the date by which the target level is to be reached and that date.

When determining whether the DGS has reached that target level, Member States shall only take into account available financial means directly contributed by, or recovered from, members to the DGS, net of administrative fees and charges. Those available financial means shall include investment income derived from funds contributed by members to the DGS, but shall exclude repayments not claimed by eligible depositors during payout procedures, ***any debt liabilities due by the DGS, including loans from other DGSs and alternative funding arrangements as referred to in Article 10(9)***. ***An outstanding loan to another DGS under Article 12 shall be treated as an asset of the DGS which provided the loan and may be counted towards that DGS's target level***.';

(ii) the third subparagraph is replaced by the following:

'Where, after the target level referred to in the first subparagraph has been reached for the first time and the available financial means, following a disbursement of DGS's funds in accordance with Article 8(1), and Article 11(2), (3), and (5), have been reduced to less than two-thirds of the target level, DGSs shall set the regular contribution at a level allowing for the target level to be reached within ***four*** years.

Where, after the target level referred to in the first subparagraph has been reached for the first time and the available financial means, following a disbursement of DGS's funds in accordance with Article 8(1) and Article 11(2), (3), and (5), have been reduced by less than one third of the target level, DGSs shall set the regular contribution at a level allowing for the target level to be reached within two years.';

(iia) the fifth subparagraph is replaced by the following:

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

(b) paragraph 3 is replaced by the following:

'3. The available financial means that the DGS takes into account to reach the target level referred to in paragraph 2 may include payment commitments***, payable within 48 hours upon the request of the DGS***. The total share of such payment commitments shall not exceed 30 % of the total amount of available financial means raised in accordance with paragraph 2.

The EBA shall issue guidelines on payment commitments laying down criteria for the admissibility of those commitments;'

(c) paragraph 4 is deleted;

(d) paragraph 7 is replaced by the following:

'7. Member State shall ensure that DGSs, designated authorities, or competent authorities set the investment strategy for the available financial means of DGSs, and that that investment strategy complies with the principle of diversification and investments in low-risk ***and liquid*** assets.

Member States shall ensure that the investment strategy referred to in the first subparagraph of this paragraph complies with the principles laid down in Articles 4, 8 and 10 of Commission Delegated Regulation (EU) 2016/451*.

**** Commission Delegated Regulation (EU) 2016/451 of 16 December 2015 laying down general principles and criteria for the investment strategy and rules for the administration of the Single Resolution Fund (OJ L 79, 30.3.2016, p. 2).***';

(e) the following paragraph 7a is inserted:

'7a. Member States shall ensure that DGSs may place all or part of their available financial means with their national central bank or national treasury, provided that ***it is a cost-effective decision for the DGS and*** those available financial means are kept on a segregated account and that they are readily available for use by the DGS in accordance with Articles 11 and 12.';

(ea) paragraph 9 is replaced by the following:

'9. Member States shall ensure that DGSs have in place adequate alternative funding arrangements to enable them to obtain short-term funding to meet claims against those DGSs. Member States shall ensure that the alternative funding arrangements of DGSs are not financed through public funds.';

(f) paragraph 10 is deleted;

(g) the following paragraphs 11, 12 and 13 are added:

'11. Member States shall ensure that in the context of the measures referred to in Article 11(1), (2), (3) and (5), DGSs may use the funds originating from the alternative funding arrangements referred to in Article 10(9) , before using the available financial means and before collecting the extraordinary contributions referred to in Article 10(8).

12. The EBA shall develop draft regulatory technical standards to specify:

(a) the methodology for the calculation of available financial means qualifying for the target level referred to in paragraph 2, including the delineation of the available financial means of DGSs and the categories of available financial means that derive from contributed funds;

(b) the details of the process to reach the target level referred to in paragraph 2 after a DGS has used available financial means in accordance with Article 11.

EBA shall submit those draft regulatory technical standards to the Commission by … [OP – please insert the date = 24 months after the date of entry into force of this Directive].

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

13. By… [OP – please insert the date = 24 months after the date of entry into force of this Directive] The EBA shall develop guidelines to assists DGSs with the diversification of their available financial means and on how DGSs could invest in low-risk assets applicable to the available financial means of DGSs.';

(12) Article 11 is replaced by the following:

'*Article 11*

Use of funds

1. Member States shall ensure that DGSs use the available financial means referred to in Article 10 primarily to ***secure repayments to*** depositors in accordance with Article 8.

2. Member States shall ensure that DGSs use the available financial means to finance the resolution of credit institutions in accordance with Article 109 of Directive 2014/59/EU. Member States shall ensure that resolution authorities determine the amount that a DGS is to contribute to the financing of resolution of credit institutions, after those resolution authorities have consulted the DGS on the results of the least cost test referred to in Article 11e of this Directive. ***Member States shall ensure that DGSs respond, without delay, to such consultation.***

3. Member States ***shall*** allow DGSs to use the available financial means for preventive measures as referred to in Article 11a for the benefit of a credit institution where all of the following applies:

(a) ***the credit institution has not been determined as failing or likely to fail, pursuant to*** Article 32(4) of Directive 2014/59/EU ;

(b) the DGS has confirmed that the cost of the measure does not exceed the cost of repaying depositors as calculated in accordance with Article 11e;

(c) all of the conditions laid down in Articles 11a and 11b are met.

4. Where available financial means are used for preventive measures ***or alternative measures*** as referred to in ***paragraphs 3 and 5*** , the affiliated credit institutions shall ***without delay*** provide the DGS with the means used for such measures, where necessary in the form of extraordinary contributions, where any of the following applies:

(a) the need to repay depositors ***or to intervene in resolution*** arises and the available financial means of the DGS amount to less than two-thirds of the target level;

(b) the available financial means of the DGS fall below ***40*** % of the target level ***following the financing of preventive measures***, ***unless the repayment schedule of the institution or institutions to which preventive measures are granted foresees a reimbursement by those institutions within 12 months, resulting in the available financial means exceeding 40 % of the target level***.

5. Where a credit institution is wound up in accordance with Article 32b of Directive 2014/59/EU in order to exit the market or terminate its banking activity, Member States ***shall*** allow DGSs to use the available financial means for alternative measures to preserve the access of depositors to their deposits, including the transfer of assets and liabilities and a deposit book transfer, ***where all of the following applies:***

(a) the DGS confirms that the cost of the measure does not exceed the cost of repaying depositors as calculated in accordance with Article 11e of this Directive;

(b) all the conditions laid down in Article 11d of this Directive are met***;***

(c) where the measure takes the form of a transfer of assets or liabilities, the transfer includes liabilities that take the form of one or more of the following:

(i) covered deposits;

(ii) eligible deposits from natural persons and micro, small and medium-sized enterprises;

(iii) deposits that would be eligible deposits from natural persons and micro, small and medium-sized enterprises were they not made through branches located outside the Union of institutions established within the Union;

(iv) any liabilities that ranked senior to covered deposits in the national creditor hierarchy of claims in insolvency.';

(13) the following Articles 11a to 11e are inserted:

'Article 11a

Preventive measures

1. ▌ Member States shall ensure that DGSs use the available financial means for the preventive measures referred to in Article 11(3), provided that all of the following conditions are met:

(a) the request of a credit institution for the financing of such preventive measures is accompanied by a note containing measures as referred to in Article 11b;

(b) the credit institution has consulted the competent authority on the measures envisaged in the note referred to in Article 11b;

(c) the use of preventive measures by the DGS is linked to conditions imposed on the supported credit institution, involving at least more stringent risk monitoring of the credit institution***, accompanied by governance arrangements that facilitate such monitoring,*** ▌ greater verification rights for the DGS ***and more frequent reporting to the competent authorities***;

(d) the use of the preventive measures by the DGS is conditional upon the ***depositors' effective*** access to covered deposits;

(e) the affiliated credit institutions are able to pay the extraordinary contributions in accordance with Article 11(4);

(f) the credit institution complies with its obligations under this Directive***, has not already been granted extraordinary public financial support in accordance with Article 32c(1), point (a), of Directive 2014/59/EU in the last five years*** and has fully ***complied with the reimbursement schedule or*** reimbursed any previous ***extraordinary public financial support or preventive measure;***

(fa) the preventive measures are not used to offset losses that the credit institution or entity has incurred or is likely to incur in the near future, unless the absence of this measure leads to a disruption of financial stability.

2. Member States shall ensure that DGSs have monitoring systems and decision-making procedures in place that are appropriate for selecting and implementing preventive measures and monitoring affiliated risks.

3. Member States shall ensure that DGSs may implement preventive measures only where the designated authority has confirmed that all the conditions laid down in paragraph 1 have been met. The designated authority shall notify the competent authority and the resolution authority.

Where the benefitting institution belongs to an IPS as referred to in Article 1(2), point (c), that IPS shall determine, based on the results of the least cost test referred to in Article 11e, the amount of the available financial means for preventive measures which shall be notified to the designated authority.

4. Member States shall ensure that the DGS ▌ uses its available financial means for capital support measures***, including recapitalisations, asset impairment measures and asset guarantees, only where the conditions under Article 11b are met.***

Member States shall ensure that the DGS transfers its holdings of shares or other capital instruments in the supported credit institution▌ as soon as commercial and financial circumstances allow.

4a. EBA shall develop draft regulatory technical standards to specify the following:

(a) the conditions referred to in paragraph 1, point (c);

(b) the monitoring systems and decision-making procedures that DGSs are to have in place in accordance with paragraph 2;

(c) taking into account the requirements set out in Article 11b, the modalities of cooperation between the resolution authorities, the designated authorities and the competent authorities under paragraphs 1 and 3 of this Article.

EBA shall submit those draft regulatory technical standards to the Commission by ... [one year from the date of entry into force of this amending Directive].

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

'Article 11b

***Requirements for financing* preventive measures**

1. Member States shall ensure that credit institutions which request a DGS to finance preventive measures in accordance with Article 11(3) present to the competent authority ▌ a note with measures that those credit institutions commit to undertake to ***secure*** compliance with the ***applicable*** supervisory requirements ▌ in ***accordance with*** Directive 2013/36/EU and Regulation (EU) No 575/2013.

2. The note referred to in paragraph 1 shall set out actions to mitigate the risk of deterioration of the financial soundness and strengthen the credit institution's capital and liquidity position.

2a. Where the financial means of a DGS are used for preventive measures in accordance with Article 11(3) of this Directive, the competent authority shall require the beneficiary credit institution to update, as applicable, the recovery plan as defined in Article 2(1), point (32), of Directive 2014/59/EU or the group recovery plan as defined in Article 2(1), point (33), of that Directive. The competent authority shall direct the supported credit institution to implement the measures referred to in Article 6(6), third subparagraph, of Directive 2014/59/EU where the conditions under Article 6(6) of that Directive are met.

3. Member States shall ensure that in the event of a capital support measure ***under paragraph 1, the available financial means of a DGS covers only the current capital shortfall on the basis of the following elements, as evidenced in the note:***

(a) the initial capital shortfall as identified in a Union stress test, asset quality review or equivalent exercise, or during the supervisory review and evaluation process, as confirmed by the competent authority;

(b) capital-raising measures to be implemented within six months of submission of the business reorganisation plan;

(c) safeguards preventing outflows of funds, including the measures referred to in paragraph 5;

(d) where appropriate, contributions by shareholders and subordinated debt holders of the supported credit institution.

When determining the capital shortfall, the DGS may also take into account any forward-looking capital adequacy assessment, ***including*** the capital ***conservation plan referred to in Article 142 of Directive 2013/36/EU***.

Member States shall ensure that where a credit institution is a member of an IPS as referred to in Article 1(2), point (c), the capital shortfall is determined by the IPS.

When determining the capital shortfall, DGS shall notify the competent authority.

4. Member States shall ensure the note referred to in paragraph 1 provides for ***an exit strategy from the preventive measures, including*** a clearly specified repayment schedule by the credit institution of any ***repayable*** funds received as part of the preventive measures. ***That information shall not be disclosed until one year after concluding the exit strategy or the implementation of the remediation plan or the conclusion of the assessment under Article 11c(3).***

5. ***Member States shall ensure that no dividends, share buy-backs or variable remuneration are paid out and no irrevocable commitment to pay out dividends, share buy-backs or variable remuneration is undertaken by the supported credit institution. The competent authority may exceptionally partially restrict that prohibition where the credit institution establishes to the satisfaction of the competent authority that it is legally bound to pay out the dividends.*** Member States shall ensure that the ***restrictions under this*** paragraph ***remain in place until the supported credit institution has reimbursed the DGS*** with the ***same amount used for the preventive measures***.

5a. Member States shall ensure that within six months of the provision of the initial financial support, the beneficiary credit institution submits a business reorganisation plan to the competent authority. Where the competent authority is not satisfied that the business reorganisation plan is credible and feasible to secure long-term viability, the preventive measures to the credit institution concerned shall be suspended, and the competent authority shall implement appropriate measures to ensure that long-term viability is secured.

By way of derogation from the first subparagraph of this paragraph, where a credit institution belongs to an IPS as referred to in Article 1(2), point (c), the business reorganisation plan shall be approved by the IPS, after consulting with the competent authority.

6. ▌ Member States shall ensure that the measures envisaged in the ***business reorganisation plan*** referred to in paragraph ***5a*** are ***compatible*** with the restructuring plan ***of*** the credit institution ***that*** is required ***by*** the Commission***, in accordance with the Union State aid framework***.

6a. The competent authority shall provide the business reorganisation plan to the resolution authority. The resolution authority may examine the business reorganisation plan with a view to identifying any actions which might adversely impact the resolvability of the institution and may make recommendations to the competent authority with regard to those matters. The resolution authority shall communicate its assessment and recommendations within the timeframe set by the competent authority.

'*Article 11c*

Remediation plan

1. Member States shall ensure that where the credit institution fails to fulfil the commitments outlined in the note referred to in Article 11b(1), ***or the business reorganisation plan referred to in Article 11b(5a), first subparagraph***, or fails to repay the amount contributed under the preventive measures at maturity ***or to comply with the exit strategy under Article 11b(4)***, the DGS informs the competent authority thereof without delay.

2. In the situation referred to in paragraph 1, Member States shall ensure that the competent authority requests the credit institution to submit a ***one-time*** remediation plan ***to the designated authority and the DGS*** describing the steps the credit institution will take to ***secure*** compliance with supervisory requirements, to ensure its long term viability and to repay the due amount contributed by the DGS to the preventive measure, as well as the associated timeframe. ***The designated authority and the DGS shall consult the competent authority as regards the measures envisaged in the remediation plan.***

3. Where the competent authority is not satisfied that the remediation plan is credible or feasible ***or where the credit institutions fails to comply with the remediation plan***, the DGS shall not grant any further preventive measures to that credit institution ***and the relevant authorities shall carry out an assessment of whether the institution is failing or is likely to fail, in accordance with Article 32 of Directive 2014/59/EU***.

4. By … [OP – please insert the date = ***24*** months after the date of entry into force of this Directive] the EBA shall issue guidelines setting elements of the ***business reorganisation plan*** accompanying the preventive measures referred to in Article 11b ***(3) to (5a)*** ▌ and the remediation plan referred to in paragraph 1 of this Article.

'Article 11d

▌*A*lternative measures

1. ▌ Member States ***shall enable*** the use of DGS funds for the alternative measures referred to in Article 11(5)***. Member States*** shall ensure that when DGSs finance such measures the credit institutions market, or make arrangements for the marketing of, the assets, rights and liabilities those credit institutions intend to transfer. Without prejudice to the Union State aid framework, such marketing shall comply with all of the following:

(a) the marketing is open and transparent and does not misrepresent the assets, rights and liabilities that are to be transferred;

(b) the marketing does not favour, nor discriminate between, potential purchasers and does not confer any advantages on a potential purchaser;

(c) the marketing is free from any conflict of interest;

(d) the marketing takes account of the need to implement a rapid solution taking into account the deadline laid down in Article 3(2), second subparagraph, for the determination referred to in Article 2(1), point (8)(a);

(e) the marketing aims at maximising, as much as possible, the sale price for the assets, rights and liabilities concerned.

1a. Member States shall ensure that, where the DGS is used in accordance with Article 11(5) with respect to a credit institution, and provided that such action ensures that natural persons and micro, small and medium-sized enterprises continue to have access to their deposits, to prevent them from bearing losses, the DGS to which that credit institution is affiliated shall contribute the following amounts:

(i) the amount necessary to cover the difference between the value of the covered deposits and of the liabilities with the same or a higher priority ranking, and the total value of the assets which are to be transferred to a recipient; and

(ii) where relevant, an amount necessary to ensure the capital neutrality of the recipient following the transfer.

'*Article 11e*

Least cost test

1. When considering the use of DGS funds for the measures referred to in Article 11(2), (3) or (5), Member States shall ensure that DGSs make a comparison of the following:

(a) the estimated cost for the DGS to finance the measures referred to in Article 11 (2), (3) or (5);

(b) the estimated cost of repaying depositors in accordance with Article 8(1).

2. For the comparison referred to in paragraph 1, the following shall apply:

(a) for the estimation of the costs referred to in paragraph 1, point (a), the DGS shall take into account the expected earnings, operational expenses and potential losses related to the measure;

(b) for the measures referred to in Article 11(2) and (5), the DGS shall base its estimation of the cost of repaying depositors, as referred to in paragraph 1, point (b), on the valuation of the credit institution's assets and liabilities referred to in Article 36(1) of Directive 2014/59/EU and the estimate referred to in Article 36(8) of that Directive;

(c) for the measures referred to in Article 11(2), (3) and (5), when estimating the cost of repaying depositors, as referred to in paragraph 1, point (b), the DGS shall take into account the expected ratio of recoveries, ▌ the potential additional cost of funding for the DGS ***and the possible cost for the DGS arising from potential economic and financial instability, including the need to use additional funds, within the DGS mandate, to protect depositors and financial stability, and to prevent contagion***;

(d) for the measures referred to in Article 11(3), when estimating the cost of repaying depositors, the DGS shall multiply the estimated ratio of recoveries calculated in accordance with the methodology referred to in paragraph 5, point b, by 85 %.

3. Member States shall ensure that the amount used to finance the resolution of credit institutions, as referred to in Article 11(2), for the preventive measures referred to in Article 11(3), or for the alternative measures referred to in Article 11(5), does not exceed the amount of covered deposits at the credit institution.

4. Member States shall ensure that the competent and resolution authorities provide the DGS with all information necessary for the comparison referred to in paragraph 1. Member States shall ensure that the resolution authority provides the DGS with the estimated cost of the DGS contribution to resolution of a credit institution as referred to in Article 11(2).

4a. As soon as possible after performing alternative measures, Member States shall ensure that the DGS shares with the competent authority, the resolution authority and the designated authority a summary of the core elements of the calculation made pursuant to this Article. That summary shall in particular comprise the net recovery rate derived from the estimated cost of repaying depositors for the DGS and a broad justification of the related underlying assumptions.

5. The EBA***, taking into account the regulatory technical standards adopted pursuant to Article 36(16) of Directive 2014/59/EU,*** shall develop draft regulatory technical standards to specify:

(a) the methodology for the calculation of the estimated cost referred to in paragraph 1, point (a), which shall take into account the specific features of the measure concerned;

(b) the methodology for the calculation of the estimated cost of repaying depositors referred to in paragraph 1, point (b), including the ***expected*** recoveries referred to in paragraph 2, point (c)***, the potential additional cost of funding for the DGS and the possible cost for the DGS arising from potential economic and financial instability, including the need to use additional funds, within the DGS mandate, to protect depositors and financial stability, and to prevent contagion***;

(c) the way to account, in the methodologies referred to in points (a), (b) and (c), where relevant, for the change of value of money due to potential accrued earnings over time.

For the calculation of the potential additional cost for the DGS referred to in the first subparagraph, point (b), the methodology shall factor in:

(a) the administrative costs linked to the process of repayment;

(b) the administrative costs of levying contributions pursuant to Article 10(8) should such contributions be needed to repay the depositors, and the costs of mobilising alternative funding arrangements pursuant to Article 10(9) should such arrangements be mobilised.

For the calculation of the estimated cost of repaying depositors as referred to in paragraph 1, point (b), in the case of ▌ measures ***referred to in Article 11(2), (3) or (5)***, the methodology referred to in point (b) shall take into account ***contagion effects, economic and financial risks and any reputational damages for the banking system, including, where relevant, the protection of the joint trademark, and*** the importance of preventive measures for the statutory or contractual mandate of the DGS, including IPS referred to in Article 1(2), point (c).

The EBA shall submit those draft regulatory technical standards to the Commission by …[OP – please insert the date= 12 months after the date of entry into force of this Directive].

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

(13a) Article 13 is replaced by the following:

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

Member States may provide for lower contributions for low-risk sectors of credit institutions affiliated to a DGS which are regulated under national law.

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

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

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

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

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

3. In order to ensure the consistent application of this Directive, EBA shall develop draft regulatory technical standards to specify methods for calculating the contributions to DGSs in accordance with paragraphs 1 and 2 of this Article.

EBA shall submit those draft regulatory technical standards to the Commission by … [12 months from the date of entry into force of this amending Directive].

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

(14) Article 14 is amended as follows:

(a) paragraph 1 is replaced by the following:

'1. Member States shall ensure that DGSs cover the depositors at branches set up by their member credit institutions in other Member States and depositors located in Member States where their member credit institutions exercise the freedom to provide services as referred to in Title V, Chapter 3, of Directive 2013/36/EU.';

(b) in paragraph 2, the following subparagraph is added:

'By way of derogation from the first subparagraph, Member States shall ensure that a DGS of the home Member State may decide to repay depositors at branches directly where all of the following applies:

(i) the administrative burden and cost of such repayment is lower than the repayment by a DGS of the host Member State;

(ii) the DGS of the home Member State ensures that the depositors are not worse off than where the reimbursement would have been conducted in accordance with the first subparagraph***;***

(iia) the repayment is made in the same currency as it would have been if the reimbursement had been conducted in accordance with the first subparagraph.';

(c) the following paragraphs 2a and 2b are inserted:

'2a. Member States shall ensure that a DGS of a host Member State may, subject to an agreement with a DGS of a home Member State, act as the point of contact for depositors at credit institutions that exercise the freedom to provide services as referred to in Title V, Chapter 3, of Directive 2013/36/EU, and shall be compensated for the costs incurred.

2b. In the cases referred to in paragraphs 2 and 2a, Member States shall ensure that the DGS of the home Member State and the DGS of the host Member State concerned have an agreement in place on the payout terms and conditions, including on the compensation of any costs incurred, the contact point for depositors, the timeline and the payment method. ***The DGS of a home Member State shall provide the DGS of the host Member State with information on the number of depositors, the amount of covered deposits and possible relevant changes thereto.***';

(d) paragraph 3 is replaced by the following:

'3. Member States shall ensure that where a credit institution ceases to be member of a DGS and joins a DGS of another Member State, or if some of the credit institution's activities are transferred to a DGS of another Member State, the DGS of origin shall transfer to the receiving DGS ***an amount that reflects the additional potential liabilities borne by the receiving DGS as a result of the transfer, taking into account the impact of the transfer on the financial situation of both the receiving DGS and the DGS of origin relative to the risks they cover.*** ▌

EBA shall develop draft regulatory technical standards to specify the methodology for the calculation of the amount to be transferred to ensure a neutral impact of the transfer on the financial situation of both DGSs relative to the risks they cover.

EBA shall submit those draft regulatory technical standards to the Commission by ... [12 months from the date of entry into force of this amending Directive].

Power is delegated to the Commission to supplement this Directive by adopting the regulatory technical standards referred to in the second subparagraph of this paragraph in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010 of the European Parliament and of the Council.';

(e) the following paragraph 3a is inserted:

'3a. For the purposes of paragraph 3, Member States shall ensure that the DGS of origin transfers the amount referred to in that paragraph within 1 month from the change of DGS membership.';

(f) the following paragraph 9 is added:

'9. ***By ... [24 months from the date of entry into force of this amending Directive],*** the EBA shall issue guidelines on ▌ the respective roles of home and host DGSs as referred to in paragraph 2, ▌ ***including*** a list of circumstances and conditions under which a DGS of the home Member State ▌ ***reimburses*** depositors at branches located in another Member State as laid down paragraph 2, third subparagraph.';

(15) Article 15 is replaced by the following:

‘*Article 15*

Branches of credit institutions that are established in third countries

Member States shall require branches of credit institutions that have their head office outside the Union to join a DGS within their territory before they allow such branches to take eligible deposits in those Member States.

Member States shall ensure that such branches contribute to the DGS, in accordance with Article 13.’;

(16) the following Article 15a is inserted:

‘*Article 15a*

Member credit institutions that have branches in third countries

Member States shall ensure that DGSs do not cover depositors at branches that have been set up in third countries by their member credit institutions, except where, subject to the approval of the designated authority, those DGSs raise corresponding contributions from the credit institutions concerned.

EBA shall issue guidelines specifying the circumstances in which designated authorities should approve the coverage of depositors at branches that have been set up in third countries by DGSs’ member credit institutions.’;

(17) Article 16 is amended as follows:

(a) paragraph 1 is replaced by the following:

‘1. Member States shall ensure that credit institutions provide actual and intending depositors with the information those depositors need to identify the DGSs of which the credit institution and its branches are members within the Union. Credit institutions shall provide that information in the form of an information sheet prepared in a data extractable format as defined in Article 2, point (3), of Regulation (EU) XX/XXXX of the European Parliament and of the Council [ESAP Regulation]***.

*** Regulation (EU) XX/XXX of the European Parliament and of the Council of dd mm jj establishing a European single access point providing centralised access to publicly available information of relevance to financial services, capital markets and sustainability.’;

(b) the following paragraph 1a is inserted:

‘1a. Member States shall ensure that the information sheet referred to in paragraph 1 contains all of the following:

(i) basic information about the protection of deposits;

(ii) contact details of the credit institution as a first point of contact for information on the content of the information sheet;

(iii) coverage level for deposits as referred to in Article 6(1) and 6(2) in EUR or, where relevant, another currency;

(iv) applicable exclusions from DGS protection;

(v) limit of protection in relation to joint accounts;

(vi) reimbursement period in case of the credit institution's failure;

(vii) currency of reimbursement;

(viii) identification of the DGS responsible for protecting a deposit, including a reference to its website.';

(c) paragraph 2 is replaced by the following:

'2. Member States shall ensure that credit institutions provide the information sheet referred to in paragraph 1 before they enter into a contract on deposit-taking and, subsequently, ***each time there is any change to the information provided***. Depositors shall acknowledge the receipt of that information sheet***, unless the information is made publicly available***.';

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

'Member States shall ensure that credit institutions confirm on their depositors' statements of account that the deposits are eligible deposits, including a reference to the information sheet referred to paragraph 1.';

(e) paragraph 4 is replaced by the following:

'4. Member States shall ensure that credit institutions make the information referred to in paragraph 1 available in the language that was agreed by the depositor and the credit institution when the account was opened or in the official language or languages of the Member State in which the branch is established.';

(f) paragraphs 6 and 7 are replaced by the following:

'6. Member States shall ensure that in the case of a merger of credit institutions, conversion of subsidiaries of a credit institution into branches, or similar operations, credit institutions notify their depositors thereof at least 1 month before that operation takes legal effect, unless the competent authority allows for a shorter deadline on the grounds of commercial secrecy or financial stability. That notification shall explain the impact of the operation on the depositor protection.

Member States shall ensure that, where as a result of operations referred to in the first subparagraph, depositors with deposits in those credit institutions will be affected by the reduced deposit protection, the credit institutions concerned notify those depositors that they may withdraw or transfer to another credit institution their eligible deposits, including all accrued interest and benefits, without incurring any penalty up to an amount equal to the lost coverage of their deposits within 3 months following the notification referred to in the first subparagraph.

7. Member States shall ensure that credit institutions that cease to be a member of a DGS inform their depositors thereof at least 1 month prior to such cession. ***That information shall include an explanation of the impact of the cession on depositor protection. Member States shall ensure that depositors of a credit institution that ceased to be a member of the DGS can transfer their deposits to another institution member of the same DGS without bearing any transfer costs.***';

(g) the following paragraph 7a is inserted:

'7a. Member States shall ensure that designated authorities, DGSs and credit institutions concerned inform depositors, including by a publication on their websites, of the fact that a relevant administrative authority has made a determination as referred to in Article 2(1), point (8)(a), or a judicial authority has made a ruling as referred to in Article 2(1), point (8)(b).';

(h) paragraph 8 is replaced by the following:

'8. Member States shall ensure that where a depositor uses internet banking, credit institutions provide the information they have to provide to their depositors under this Directive by electronic means unless a depositor requests to receive that information on paper.';

(i) the following paragraph 9 is added:

'9. The EBA shall develop draft implementing technical standards to specify:

(a) the content and the format of the information sheet, referred to in paragraph 1a;

(b) the procedure to be followed for the provision of, and the content of, the information to be provided in the communications from designated authorities, DGSs or credit institutions to depositors, in the situations referred to in Articles 8b and 8c and in paragraphs 6, 7 and 7a of this Article.

The EBA shall submit those draft implementing technical standards to the Commission by … [OP - please insert date = 12 months after the date of entry into force of this Directive].

Power is conferred on the Commission to adopt the implementing technical standards referred to in the first subparagraph in accordance with Article 15 of Regulation (EU) No 1093/2010.';

(18) the following Article 16a is inserted:

'*Article 16a*

Information exchange between credit institutions and DGS, and reporting by authorities

1. Member States shall ensure that DGSs ***receive at least annually and*** at any time ▌ upon request, ▌ from their affiliated credit institutions all information necessary to prepare for a repayment of depositors, in accordance with the identification requirement laid down in Article 5(4), including the information for the purposes of Article 8(5) and Articles 8b and 8c.

2. Member States shall ensure that credit institutions ***provide at least annually and at any time*** upon request ▌ the DGS of which they are a member information about:

(a) depositors at branches of those credit institutions;

(b) depositors who are recipients of services provided by member institutions on the basis of the freedom to provide services.

The information referred to in points (a) and (b) shall indicate the Member States in which those branches or depositors are located.

3. Member States shall ensure that, by 31 March each year, DGSs inform the EBA of the amount of covered deposits in their Member State on 31 December of the preceding year. By the same date, DGSs shall also report to the EBA the amount of their available financial means, including the share of borrowed resources, payment commitments and the timeline for reaching the target level ***following a disbursement of DGS's*** funds ***referred to in Article 10(2)***.

4. Member States shall ensure that the designated authorities notify the EBA ***and the SRB***, without undue delay, about all of the following:

(a) the determination of unavailable deposits pursuant to circumstances referred to in Article 2(1), point (8);

(b) whether any of the measures referred to in Article 11(2), (3) and (5) have been applied and the amount of funds used in accordance with Article 8(1) and Article 11(2), (3) and (5), and, where applicable and once available, the amount of funds recovered, the resulting cost for the DGS and the duration of the recovery process;

(c) the availability and the use of alternative funding arrangements as referred to in Article 10(3);

(d) any DGSs that have ceased to operate or the establishment of any new DGS, including as a result of a merger or of the fact that a DGS started operating on a cross-border basis.

The notification referred to in the first subparagraph shall contain a summary describing all of the following:

(a) the initial situation of the credit institution;

(b) the measures for which the DGS funds have been used***, including the specific instruments that have been used for the measures referred to in Article 11(2), (3) and (5)***;

(c) the expected amount of available financial means used.

5. The EBA shall publish the information received in accordance with paragraphs 2 and 3 and the summary referred to in paragraph 4 without undue delay.

6. Member States shall ensure that the resolution authorities of the credit institutions which are a member of a DGSs provide that DGS ***annually*** with the summary of the key elements of the resolution plans as referred to in Article 10(7), point (a), of Directive 2014/59/EU ▌.

7. The EBA shall develop draft implementing technical standards to specify the procedures to be followed when providing the information referred to in paragraphs 1 to 4, the templates for providing that information, and to further specify the content of that information, taking into account the types of depositors.

The EBA shall submit those draft implementing technical standards to the Commission by …. [OP - please insert the date = 12 months after the date of entry into force of this Directive].

Power is conferred on the Commission to adopt the implementing technical standards referred to in the first subparagraph in accordance with Article 15 of Regulation (EU) No 1093/2010.';

(19) Annex I is deleted.

Article 2

Transitional provisions

1. Member States shall ensure that branches of credit institutions that have their head office outside the Union and take eligible deposits in a Member State on … [OP please insert the date = date of entry into force], and that are not members of a DGS on that date, join a DGS in operation within their territories by [OP please insert the date = 3 months after entry into force]. Article 1(15) shall not apply to those branches until [OP please insert the date = 3 months after entry into force].

2. By way of derogation from Article 11(3) of Directive 2014/49/EU, as amended by this Directive, and Articles 11a, 11b, 11c and 11e in relation to preventive measures, until [OP – please insert the date = ***36*** months after the date of entry into force of this Directive], Member States may allow IPS referred to in Article 1(1), point (c), to comply with the national provisions implementing Article 11(3) of Directive 2014/49/EU as applicable on [OP – please insert the date of entry into force of this Directive].

Article 3

Transposition

1. Member States shall adopt and publish, by … [OP – please insert the date = 24 months after the date of entry into force of this Directive] at the latest, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions.

They shall apply those provisions from … [OP – please insert the date = 24 months after the date of entry into force of this Directive]. However, they shall apply the provisions necessary to comply with Article 11(3), as amended by this Directive, and Articles 11a, 11b, 11c and 11e in relation to preventive measures from … [PO – please insert the date = ***36*** months after the date of entry into force of this Directive].

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

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

Article 4

Entry into force

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

Article 5

Addressees

This Directive is addressed to the Member States.

Done at Strasbourg,

For the European Parliament	*For the Council*
The President	*The President*