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## **DRAFT MINUTES**

### **Informal Experts Roundtable on Deposit Guarantee Schemes (DGS) on 31 March 2009 in Brussels**

#### **1. Purpose of the meeting**

In view of the forthcoming Report on Deposit Guarantee Schemes (see Directives 94/17/EC and 2009/14/EC) scheduled for end 2009, this informal roundtable was intended to provide personal expert views, i.e. "out-of-the-box" thoughts unbiased by any prescribed interest group line. The meeting was the start of a future round of extensive consultations with all stakeholders and the interested public at large. The background of the 1994 Directive and the recent amendment were recalled and the Commission gave an overview on the planned timing (see [EBC newsletter No. 10](#)) and related issues, such as the work on early intervention.

#### **2. Fixed reimbursement levels: pro and contra on maximum harmonisation**

The question of having a fixed reimbursement level looks simple but becomes complicated when looking at issues such as alternative (and voluntary) guarantee systems, temporarily high balances, pension deposits, other exemptions etc. or raising the level e.g. in times of a crisis. The principle of maximum harmonisation was deemed essential to ensure the stability of the banking system. In this way, it was considered important to observe the functioning of voluntary systems of depositor's compensation which are not introduced by a Member State.

As regards the future increase to €100 000, many experts were of the opinion that the limit could be substantially lower (or more targeted to different deposit levels), but acknowledged that this was a psychological and political amount: to put depositors entirely at rest as regards protection of the vast majority of their deposits and as a response to a crisis situation.

Concerning the fixing of the level, they pointed out the competitive angle when the aim was to create a single market: on one hand, experience with the former export ban has shown that different levels in Member States in principle do not pose great concerns (i.e. in normal times, depositors do not necessarily only put their money where the level is highest), on the other hand, in the events of the crisis the unilateral increase in certain Member States had recognisable effects in other Member States; in fact differences

between guarantees offered by deposit guarantee schemes, especially in the case of subsidiaries, could entail withdrawals of deposits from banks which offer a lower guarantee. The latter could be avoided by a fixed level – and complex issues such as topping-up or exemptions of investors could be dropped. .

At least, "post-box" agreements between home and host DGS should be encouraged in order to defend the interests of depositors of branches located in the host state (by e.g. simplifying depositors' applications, resolving the question of languages, as for instance in the master agreement between the DGS of France and the DGS of Hungary which organises notably the host state scheme's obligation to provide services on behalf of the home state scheme in order to compensate depositors, located in the host country).

But it was also mentioned that neither consumer protection nor financial stability were good arguments for maximum harmonisation of the level; the system had evolved from a solution to incidental bank failures to a crisis tool where the "banks to fail" were not known. Against this background, consumer awareness raising (higher interest rate might entail higher counterparty risk) was not an issue for discussion any more. To the contrary, in some cases there was even a "reward" because depositors were paid the deposit plus the higher interest rate. However, experts thought that the evaluation of the soundness of a bank will most likely have to be left to supervisors alone.

To some extent, different types of schemes (which are not necessarily designed for pay-out only) were also addressed. In this regard, positive experiences of schemes designed to prevent any failures in the first place were mentioned. Some experts also pointed out that harmonisation of the level – if it is to be meaningful in practice and not just a political statement - should also entail a reduction of the number of DGS (from more than 40 presently) to one per Member State.

### **3. Financing issues: ex-ante vs. ex-post; risk based contributions to DGS**

Experts recognised the strain of the crisis on ex-post financed schemes; openness to discuss ex-ante financed systems (which all have an ex-post part, too) has therefore increased. Ex-ante systems would also minimise pro-cyclical effects. They warned however, to prescribe a fixed level of ex-ante financing; and suggested target levels linked to deposits covered which should be reached after a sufficient amount of years. Experts made it clear that in crisis times, governments would still have to step in to provide funding. Also, different approaches are possible, e.g. the keeping of such amounts with the banks (earmarked reserves) or paying into the DGS. One expert warned about the risks, e.g. potential 'political' deviation of such funds in case they are not needed for a couple of years, the matter of stability of funds in terms of devaluation and investment risks and negative effects of ex-ante contributions to the liquidity situation of institutions; he expected that ex-post financing would lead to more market discipline and inter-bank monitoring.

Access to liquidity was described as the key feature of any system. It was mentioned that according to experience, insurance models would not work (due to lack of interest of private insurers). A public insurance scheme with annual premiums by banks was seen as taxation of deposits. Experts were interested in the examples for risk-based contributions but pointed out that 'simple' systems might not be adequate while sophisticated systems might require more resources and confidentiality. Risk-based systems run by private schemes were seen as useful to measure their potential exposure. Risk-based systems run

by public schemes were regarded by one expert to be an unnecessary duplication of prudential supervision.

#### **4. Payout delays: improvement of procedures and shortening of payment delays**

The Commission services asked participants whether they would see the need for a further reduction of payout delays and if so, how obstacles could be removed.

A majority of the participants believed that it was much more important that depositors really get their money back rather than to ensure a short payout delay. Some warned that vetting the eligibility criteria would take time and one should not promise what could not be kept in the end. Some participants were in favour of a general emergency payout procedure (i.e. short-term payment of a limited amount) or arrangements on individual basis (to be arranged between depositors and the scheme) in order to prevent hardship.

It was also suggested to use the liquidity remaining at a bank after its closure for payout purposes as in Switzerland. The scheme could reimburse creditors having claims on this liquidity later in the insolvency procedure. A moratorium (i.e. a prohibition to make or accept any payments) would in such a case not delay the payout to depositors.

Participants agreed that the quality of banks' records and the access to them was key to a shorter payout. Ideally, the scheme would then just have to 'push a button' to pay out. Some participants questioned the need for individual claims of each depositor and suggested instead a payout on the basis of the bank's records. One participant warned that information relating to deposits was sensitive and could not be easily transferred.

Set-off (i.e. the netting of deposits and depositors' liabilities against the bank) was discussed and different views were expressed. What is important is to adopt a harmonised approach with or without set-off. Some considered it an unnecessary burden for depositors who might in an extreme case not receive anything when needing cash, while others saw the need to amend national insolvency laws in order to avoid schemes being deprived from refinancing: since schemes subrogated into depositors' claims against the bank, the bank's insolvency practitioner could later set off a depositor's liability against the claim of the scheme against the insolvent bank, depriving the scheme of refinancing itself and being an unjustified enrichment for the depositor who would get rid of his or her debt. One expert suggested to look at this also beyond the coverage limit. Some acknowledged that set-off was, without any doubt, delaying payout.

Some raised the need for a de-minimis clause (i.e. not paying out very small deposits). Experience had shown that in most payout cases such deposits cause a heavy workload that was disproportionate to the very little advantage for the depositors concerned. But it was considered important to take care of every depositor.

It was also proposed to reduce the payout delay only for certain categories of depositors, recognising the key aim of providing liquidity so that consumers could continue their normal economic activity – e.g. a quicker payout for those that are easier to handle or a partial set-off with a certain amount being unaffected by set-off.

#### **5. Cross-border cooperation: areas to be covered and practical procedures**

The discussion focused on the question whether in case of cross-border branches there should be a single point of contact, i.e. the host country scheme would handle at least the communication with the home country scheme for the depositors of the branch and

maybe even payout on its behalf. It was agreed that a host country scheme could not reasonably be expected to know about all the other schemes – the responsibility to provide relevant information would have to remain with the home schemes.

Some participants were sceptical, mainly because of administrative and legal problems, a lack of capacities of many schemes, and the rare occurrence in practice. If at all, it was suggested to leave this under the discretion of Member States or to officially mandate the European Forum of Deposit Insurers (EFDI) with a responsibility to reconcile in such matters. Most participants agreed that a 'European mandate' similar to the Commission proposal to amend Directive 2006/48 (Capital Requirements Directive)<sup>1</sup> would help to facilitate cross-border payouts.

Most participants agreed that there should be stress testing and peer review of the capacity of national DGS to fulfil their designated roles under the Directive. It was felt that there should be such review within the EU, rather than solely at global level by, say, the IMF. One expert felt that EFDI would be best placed to carry out this peer review.

## **6. Pan-EU deposit guarantee scheme: if and how?**

Participants agreed that in general responsibility for deposit guarantees should go hand in hand with supervisory responsibility.

This principle was understood by some participants in a way that a pan-EU scheme should only cover large cross-border banking groups as only those would be dealt with by colleges of supervisors. Since leaving national schemes for a pan-EU scheme would considerably weaken the existing schemes, some participants suggested that those banks should be member of both a pan-EU and a national scheme even if this led to paying contributions to two schemes.

A pan-EU DGS was considered to be useful in different ways:

- making up for deficiencies of a national DGS, like a reinsurance system;
- preventing failures in a cross-border banking group.

Some suggested a similar approach for mutual guarantee schemes, which are currently exempt from the Directive under certain conditions. They could join a pooled EU deposit guarantee scheme while not being forced to give up their national mutual guarantee scheme.

It was agreed that it was important to be clear on which problem a pan-EU scheme should address, and that any measures introduced needed to be pragmatic. As a practical example, in the case of Iceland, it was agreed that it might have been useful for the Icelandic scheme to be able to borrow from other schemes, in a pre-agreed and coordinated way (including repayment terms) in order to fulfil its responsibilities to depositors in other Member States.

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<sup>1</sup> COM 2008/602final - Recital 6: *"The mandates of competent authorities should take into account a Community dimension. Competent authorities should therefore take into account the effect of their decisions on the stability of the financial system in all other Member States."*

Some participants were of the opinion that any pan-EU scheme would create moral hazard since some schemes would have to pay for the mistakes other countries made. Local banks only needed local solutions and the existing scattered system (40 schemes in 27 Member States) could be overcome by first joining the forces of all schemes in one Member State before thinking about a pan-EU solution.

Some also proposed to align supervision and deposit guarantee more than it is currently the case. Whereas some suggested that deposit guarantee liability should exclusively be borne by the home country, others said that a host country involved should have more powers and scrutinise the soundness of the home country's scheme.

There was some sympathy for a '28th regime', i.e. a scheme complementing the existing national schemes. It was suggested to gradually introduce any such changes in order to test usefulness. The idea to create a mixed scheme (a new pan-European one besides the national schemes), whereby the pan-EU scheme would cover a percentage (e.g. 25%) and the national scheme the remainder, was mentioned. This might make full harmonisation of national schemes less urgent and more gradually (by over time increasing the percentage of the pan-EU-scheme).

Participants were split about which powers a pan-EU scheme should have – a mere paybox or a broader scheme equipped with early intervention powers. Some saw this as a support for 'paybox' schemes while others were convinced that a broad mandate would be the only feature that could justify its existence. In this context, the question arose why intervention powers should be exerted by schemes and not by supervisors. One participant said that conflicts of interests could be avoided between closing a bank as late as possible (supervisory perspective) and as early as possible (schemes' perspective). There was some support for schemes, regardless of their remit, being able to finance the use of other intervention tools, provided that the scheme had appropriate oversight over the way the funds were used (a scheme could not be expected to write a "blank cheque").

## **7. Closing remarks**

The Commission services thanked the participants for their valuable contributions.

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