EUROPEAN COMMISSION

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Dear President,

The European Commission would like to thank the Camera Deputaților for its Opinion on the proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) 806/2014 in order to establish a European Deposit Insurance Scheme (EDIS) {COM(2015) 586 final}.

As stated by the Five Presidents' Report in June 2015, completing the Banking Union is a fundamental step towards breaking the link between Member States´ banks and their taxpayers and to making the Economic and Monetary Union more effective. However, the current setup of the Banking Union, consisting of the Single Supervisory Mechanism (SSM) and the Single Resolution Mechanism (SRM), is not yet complete. Consequently, the Five Presidents' Report proposed EDIS as the third pillar of a fully-fledged Banking Union.

The Commission welcomes the contribution of the Camera Deputaților to the debate. The Commission is pleased to have this opportunity to provide a number of clarifications and observations.

EDIS will enhance depositor confidence across all participating Member States. This will be achieved by pooling contributions in one fund that will be able to absorb larger shocks than any of the national schemes acting in isolation. The Commission is therefore confident that EDIS will provide a significant benefit compared to the current system. The proposal is also open to non-eurozone Member States. If Romania decided to join the Banking Union, it could also benefit from the higher protection provided by EDIS.

The Commission shares the view of the Camera Deputaților that further accompanying measures are necessary to reduce the level of risk in the banking sector. The EDIS proposal is therefore part of a wider package including a number of risk sharing and reduction measures set out in the Commission Communication of 24 November 2015, designed to further strengthen the Banking Union. For instance, the Commission is planning to issue in 2016 a proposal to ensure adequate loss absorbing capacity in the banking sector through

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the implementation of the international Total Loss Absorbing Capacity (TLAC) standard. Risk reduction measures, EDIS and a common backstop should be promoted in parallel.

With regard to the concerns that EDIS could generate moral hazard, the proposal contains a wide range of safeguards to avoid creating the wrong incentives. For instance, as a precondition to benefit from EDIS, Member States must comply with the Deposit Guarantee Scheme Directive (DGSD). National Deposit Guarantee Schemes must reach the required target funding levels. During the reinsurance phase, funding support by EDIS will only be provided once the national scheme has been exhausted.

The Commission fully agrees with the Camera Deputaților that the implementation of a consistent risk-based methodology for calculating contributions is important for the functioning of EDIS.

In response to the more technical comments in the Opinion the Commission would like to refer to the attached annex. The points made in this reply are based on the initial proposal presented by the Commission which is currently in the legislative process involving both the European Parliament and the Council in which the Romanian government is represented.

The Commission hopes that the clarifications provided in this reply address the issues raised by the Camera Deputaților and looks forward to continuing the political dialogue in the future.

Yours faithfully,

Frans Timmermans
First Vice-President

Lord Hill
Member of the Commission

ANNEX

The Commission has carefully considered each of the issues raised by the Camera Deputaților in its Opinion and is pleased to offer the following clarifications.

1. As regards the collection of ex-post contributions:

Under EDIS the collection of ex-post contributions is possible as from the start of the co-insurance phase if the European Deposit Insurance Fund's available means are insufficient for funding and loss cover (Article 74 (d) of the proposal). Details of the mechanism, in particular with regard to the risk-based calculation method for ex-post-contributions, are currently under discussion.

2. As regards the involvement of relevant national institutions:

The proposed governance structure under EDIS offers every participating Member State the possibility to address specific features of the national banking sector. According to the proposal, Member States´ designated authorities are represented in the EDIS plenary session of the Single Resolution Board to decide on important EDIS-related issues. Moreover, when it comes to a pay-out procedure of a credit institution located in only one Member State, the relevant member of the EDIS plenary session has to be involved in the decision-making process at the level of the EDIS executive session according to Article 53(1) of the proposal. The envisaged governance under EDIS therefore ensures that relevant national institutions are sufficiently involved in the procedures.

3. As regards the disqualification from EDIS coverage:

According to Article 41 (i) of the legislative proposal, coverage by EDIS is not possible if the Deposit Guarantee Scheme (DGS) "fails to comply" with key provisions of the Deposit Guarantee Scheme Directive (DGSD), or if the DGS or any other involved authority of the respective Member State act in a way that runs counter to the "principle of sincere cooperation" as laid down in Article 4 (3) of the Treaty on European Union. The Commission decides on the disqualification on its own initiative or upon request of the Board or a participating Member State. To clarify the whole procedure further, in particular with regard to the conditions for disqualification, negotiations are currently underway.

4. As regards the investment strategy of the Single Resolution Board (SRB):

The SRB must follow a prudent and safe investment strategy for both the Single Resolution Fund (SRF) and the Deposit Insurance Fund (DIF) according to Article 75 of the proposal. Investments must be sufficiently diversified sectorally, geographically and proportionally. The Commission is empowered to adopt delegated acts on the general principles and criteria for the investment strategy. Decisions regarding the investment strategy of both funds are up to the Board in its Joint plenary session – consisting of the chair and the four full time members of the Board and for each Member State, members representing the respective *national resolution authority and the designated authority. The Commission therefore believes that the provisions stated in the proposal are sufficient to ensure a prudent and safe investment strategy.*

5. As regards the different financial capacities of national schemes:

In order to overcome the different levels of accumulated resources in the participating Member States, the proposal sets out a mandatory funding path to ensure that funds are built up at the same pace everywhere under EDIS (Art. 41 (j)). The mandatory funding path also serves as a means to reduce possible moral hazard: support by EDIS will only be provided if the national DGS meets the funding path.

6. As regards the termination of close cooperation and the refund of contributions:

Concerning the termination of close cooperation of a Member State whose currency is not the euro and a possible refund of contributions to the national DGS, it is important to note that the foreseen cap (Art. 4 (3) subparagraph 5 of the proposal) relates to the (mandatory) 0,8% target level and not to the actual funding level of the DGS, which is potentially higher. Therefore, a national DGS could hypothetically benefit from a refund, but that refund must not exceed two-thirds of the DGS´s target level under the DGSD. The cap aims to protect the financial capacity of the Deposit Insurance Fund as well as to ensure an appropriate refund to the national DGS. In the view of the Commission, this is a fair deal which takes into account the interests of EDIS and the Member State concerned.