EUROPEAN CENTRAL BANK

EUROSYSTEM

THE EUROSYSTEM'S STANCE ON THE COMMISSION'S CONSULTATION DOCUMENT ON THE REVIEW OF DIRECTIVE 94/19/EC ON DEPOSIT-GUARANTEE SCHEMES

This document provides the Eurosystem's stance on the Consultation Document by the European Commission on the Review of Directive 94/19/EC on Deposit-Guarantee Schemes (DGS). The Eurosystem's stance is based on two main principles: first, DGS are important elements of the safety net and therefore their role in promoting financial stability and enhancing public confidence in the financial system should be strengthened. Second, DGS play a role in achieving a single market for financial services, including the promotion of a level playing field for internationally active banks and banking groups. This latter principle calls for a higher level of harmonisation among DGS in the EU, both from an institutional and operational perspective.

The Eurosystem provides answers only to those questions which are closely related to these fundamental principles. Thus, questions dealing with certain specific, more technical issues are not addressed in the context of this public consultation.

Question 1:
Do you agree in general that the current framework of DGS in the EU needs to be revised? Are the areas identified for review the right ones, or are there other priorities?

The financial crisis has revealed a number of weaknesses in the operation of DGS in some European countries. These shortcomings clearly call for a comprehensive revision of the current regulatory framework for DGS. In this context, enhancing their role in promoting financial stability and achieving a higher degree of harmonisation among DGS should be considered as the primary objectives of the review process. Importantly, this process should be closely aligned with the ongoing work on enhancing supervisory cooperation as well as with the recent developments concerning the revision of the supervisory architecture in Europe. In our view, the consultation document has properly identified the priority areas that need to be revised.

APPROPRIATENESS OF THE COVERAGE LEVELS

The following options could be considered:
(a) Revert to a coverage of €50,000
(b) Coverage of €100,000 (current approach – from end 2010 onwards)
(c) Coverage of a higher amount
(d) Coverage depending on the actual size of deposits or economic indicators such as the Gross Domestic Product per capita (thus different in each Member State)
(e) Unlimited coverage.

Question 2:
Which of the above options would you prefer? Would you prefer another option? Please explain your choice.
See also Question 3 on differences in coverage level and Question 30(e) on a possible deminimis rule (i.e. deposits below a certain size, e.g. €10 would not have to be paid out).

The current provision of reaching a €100,000 coverage level by the end of 2010 represents a direct policy response to the financial crisis, which is considered to be appropriate at this

juncture.[1] Moreover, at this level the very large majority of deposits in all Member States would be covered. The forthcoming report of the Commission will need to provide further evidence about the appropriateness of the €100,000 coverage level. A provision for regularly revisiting the level of coverage should be included also in the revised Directive, which should take into account, inter alia, developments in the structure of deposits/savings as well as level-playing-field considerations. Global developments should be monitored as well as they might call, over time, for a higher degree of convergence of the level of coverage at international level.

Question 3:
Should the coverage level you prefer (Question 2) be a minimum or a fixed level? Or do you think a different solution would be more suitable, e.g. a range with a minimum and maximum level? If so, please describe. Please give reasons for your choice.

For single market and level-playing-field considerations, we are in favour of introducing a fixed coverage level, to be applied uniformly across Member States. This implies that the current approach, which is based on defining a minimum coverage level and allowing countries to set higher thresholds if they wish so, should be abandoned. In this context, the application of a €100,000 coverage level (which represents a substantial increase from the previous minimum coverage of €20,000 and also from the current minimum coverage of €50,000) reduces the margin of national discretion.

Question 4:
Do you have background information or evidence whether depositors have split up their deposits when the financial crisis aggravated in autumn 2008? Should depositors be actively encouraged to split up their deposits between different banks or is this inappropriate? Please give reasons.

We are of the view that neither banks nor regulators should be directly involved in the investment decisions of individual clients. Moreover, possible encouragement to depositors to split their deposits would distort market competition, as banks would not be able to attract additional deposits above the coverage level, should they be required to advise their clients to split up their deposits (implying that deposits should be transferred to other credit institutions, i.e. to competitors). However, we strongly support the provision of sufficient information to depositors on the scope and level of coverage, as well as on other characteristics of the deposit guarantee scheme, in order to allow them to make well informed investment decisions.

Question 5:
Do you think this problem could be solved with a mere information obligation towards depositors (see Questions 22-25)? Or do you think banks should have the option to ask for coverage per brand name to avoid aggregation of accounts in case of failure? If so, and how, should this be taken into account when the contributions of such banks to DGS are calculated?

In general, the coverage should concern legal entities and not be per brand name.[2] Moreover, as emphasised above, we strongly support that adequate information is given to banks' clients on deposit guarantee coverage. (See also our answers on Questions 22-25).

1 Currently, a coverage of at least €50,000 is required by EU law. By December 2010, coverage for the aggregate deposits of each depositor should be set at €100,000, unless a Commission report, to be submitted to the European Parliament and the Council by 31 December 2009, concludes that such an increase and such a harmonisation are inappropriate.

2 As regards the question whether banks should have the option to ask for coverage per brand name to avoid aggregation of accounts in case of failure, the following explanation is made in the Consultation Document: "All deposits of a depositor at a bank including its branches are aggregated. If a depositor has e.g. a savings account of €70,000 and a current account of €50,000 at the same bank, he or she would only receive €100,000 (from end 2010 onwards). This may lead to problems if, as is the situation in particular the United Kingdom, different products such as savings and current accounts are traded under different brand names even if they are sold by the same bank. In such a case, the depositor may not know that both accounts are aggregated for the purpose of calculating the coverage level."

Question 6:
If the coverage level is fixed, should there be exemptions that allow a higher coverage of certain products for social considerations? If so, for which products should there be exemptions and up to which amount? Should this be harmonised or should Member States have the discretion to decide on this? In the latter case, which elements should be within the discretion of Member States (e.g. amount and duration of coverage)?

In principle, social considerations should be dealt with outside the DGS framework, where national governments have sole authority. The role of DGS in promoting financial stability and providing consumer protection should remain, to the extent possible, distinct from social policy considerations. The implications of such an approach for the level-playing field should also be taken into account.

Question 7:
Should temporary high account balances be covered? If so, up to which amount and for how much time? In which situations should these balances be covered? Should this be harmonised or should Member States have the discretion to decide on this? In the latter case, which elements should be within the discretion of Member States (e.g. situation, amount and duration of coverage). Should, in order to facilitate payout, such balances be transferred to special accounts that are 'tagged'? Do you see other solutions to protect temporary high balances?

In principle, temporary high account balances should not be reimbursed above the fixed coverage level. However, in certain, well defined cases there could be good reasons for covering these amounts as well. In these cases, however, uniform rules on defining the procedure to be followed by banks, supervisors and DGS should apply across countries.

Question 8:
Should mutual guarantee schemes and voluntary schemes be integrated into the Directive so that the same rules would apply for them as for 'classical' DGS? If so, how? Should there be restrictions on advertising for these schemes? Please provide reasons.

Mutual and voluntary schemes should not be integrated into the Directive.[3] Rather, these schemes should be allowed to provide complementary services on a voluntary basis, including cross-border, in line with the principles of free movement of capital and services. However, in order to protect the depositors' rights for true and fair information, misleading advertisements by these schemes (such as those referring to "unlimited coverage") should not be allowed. In principle, the same information/disclosure requirements should be imposed on such schemes as for DGS so that depositors can make easy comparisons.

SCOPE OF DEPOSITS COVERED BY DGS

A. Structured deposits

Question 9:
Which solution(s) would you prefer as regards structured deposits? Please provide reasons. Would you prefer another option? Please describe.

B. Debt certificates issued by a credit institution

Question 10:
Which solution(s) would you prefer as regards debt certificates? Please provide

3 As explained by the Consultation Document: "A mutual guarantee system protects the credit institution itself and ensures its liquidity and solvency: if necessary to avoid a failure, the other members of the system step in and support the bank or reorganise it. Such systems have in particular been established by the German and Austrian Cooperative and Savings Banks." "Currently, mutual guarantee schemes are exempt from the Directive if they fulfil certain criteria. Such schemes aim at avoiding failures of their member banks "at all cost" – thus offering a kind of "unlimited" protection without the need for a coverage limit. There are also voluntary DGS that so far have not been covered by the Directive and offer a quasi unlimited protection. According to the Commission paper "maintaining the status quo could lead to competitive distortions if from end 2010 onwards all DGS under the Directive were prohibited to increase their coverage level".

reasons. Would you prefer another option? Please describe.

C. Accounts in non-EU currencies

Question 11:
Which solution would you prefer as regards accounts in non-EU currencies? Please provide reasons. Would you prefer another option? Please describe.

We are of the view that the scope of eligible deposits should be completely harmonised. As regards accounts in non-EU currencies, we believe that foreign exchange deposits (e.g. in USD, JPY and CHF) should be fully covered up to the fixed amount set by the Directive. However, the timing of the extension of the scope of eligible deposits to non-EU currencies should be carefully considered, as the financial burden for DGS has just been increased by the introduction of a higher level of coverage.

Concerning structured deposits and certificates of deposit issued by credit institutions, we believe that these products should, in principle, also be covered in order to promote financial stability and enhance consumer protection. However, careful examination of the specific characteristics of such financial contracts is required when allowing coverage for products in case the yields and principal payments are linked to a performance of a market indicator/ index, resulting in a substantial risk for the investor on the principal amount at redemption. Thus, such products may in certain cases be qualified as investment products rather than deposits, and should therefore fall outside the scope of the DGS. In this context, ensuring consistency between the regulatory frameworks for deposit guarantee schemes and investor protection schemes is of paramount importance.

Question 12:
Should the eligibility criteria as regards depositors (provided for in Annex 1 no. 1-11 of the Directive) be fully harmonised or should Member States retain some discretion to decide about eligibility of depositors? (If you prefer that Member States retain discretion, please skip questions 13-16).

For level playing field and internal market reasons, we are of the view that the eligibility criteria as regards depositors (provided for in Annex 1 no. 1-11 of the Directive) should be fully harmonised.

ELIGIBILITY OF DEPOSITORS

If the eligibility criteria in Annex 1 no. 1-11 are harmonised, it could be considered to fully cover all depositors, to cover them only up to a certain percentage of the normal coverage level, or not to cover them at all.

A. Enterprises in the financial sector (Annex 1 no. 1, 2, 5, 6)

Question 13:
Do you have background information or evidence whether a covered amount of €100,000 is relevant for these enterprises? Which solution would you prefer? Please provide reasons. Would you prefer another option? Please describe.

B. Authorities on central and local level (Annex 1 no. 3, 4)

Question 14:
Do you have background information or evidence whether a covered amount of €100,000 is relevant for authorities? Which solution would you prefer? Please provide reasons. Would you prefer another option? Please describe.

C. Depositors having a relationship with the failed bank (Annex 1 no. 7, 8, 9, 11)

Question 15:
Do you have background information or evidence on how many depositors are actually concerned by this?

Which solution would you prefer? Please provide reasons. Would you prefer another option? Please describe.

D. Depositors who opened their account anonymously (Annex I no. 10)

Question 16:
Do you have background information or evidence on how many depositors are actually concerned by this?
Which solution would you prefer? Please provide reasons. Would you prefer another option? Please describe.

If the Commission proposes to fully harmonise the eligibility criteria for depositors, the inclusion of deposits of enterprises in the coverage of the DGS should be carefully considered. Although enterprises can be considered in principle as professional counterparties who are able to make their own risk assessments, this is not always the case in practice. Therefore, objective and clear criteria should be defined by the Commission in order to identify those enterprises that have no further information than private depositors as regards the situation of the banks on which they have deposits and would need therefore to have an equivalent level of protection.

As regards deposits of the public sector, these could be excluded from DGS coverage (as these deposits constitute taxpayers' money anyway).

Depositors having a relationship with the failed bank[4] should not be covered, since, on the one hand, they are supposed to have sufficient information of the financial position of the bank, and, on the other hand, such depositors do not represent a systemic risk.

Anonymous accounts are not allowed by law (banks should identify their clients), therefore there is no reason for DGS to provide protection for these deposits.

COVERAGE OF COMPANIES/ENTERPRISES

The following categories could be used: Companies that cannot draw up abridged balance sheets; micro-, small, medium-sized enterprises or all enterprises).

The following options could be considered:
(a) No coverage for any company or enterprise (i.e. no coverage of accounts used for professional purposes)
(b) Include certain categories of companies or enterprises but exclude others in a harmonised way
(c) Include certain categories and leave exclusion of other categories to the discretion of Member States (similar to current approach)
(d) Coverage for all enterprises and companies regardless of their size
(e) Limited coverage according to the category.

Question 17:
Do you have background information or evidence whether a covered amount of €100,000 is relevant for companies or enterprises above a certain size?
Would you prefer to keep the current approach (companies that cannot draw up abridged balance sheets may be excluded by Member States)? If not, which solution would you prefer?
Please specify, which category/-ies should be used to distinguish and if so, to which amount you would limit the coverage. Please provide reasons. Would you prefer another option? Please describe.

We do not have background information or evidence whether a covered amount of €100,000 is relevant for companies or enterprises above a certain size.
(See also our comments on the earlier question.)

4 As defined in Annex 1 points 7, 8, 9 and 11 of Directive 94/19/EC.

A possible solution would be the establishment of a pan-European DGS.

Question 18:
Would you be generally in favour of a pan-EU DGS? (If you disagree, please skip questions 19-20.) If so, should there be a transition period until a pan-EU DGS should be operational? If so, how long? Please provide reasons.

Deposit guarantee schemes are important components of the safety net. The financial crisis has shown the importance of the effectiveness of such arrangements to safeguard the confidence of depositors. The financial crisis also underscored the need to enhance the coordination among national DGS. In particular the current "topping up" system (according to which a banking branch can opt to participate in the host country's scheme if the latter provides wider coverage than the home country's scheme) proved to be problematic and raised confusion among depositors as regards the procedures and the responsibilities for the protection of their deposits. Therefore, to avoid such issues of coordination among national DGS, the removal of the topping up arrangement could be considered. Further harmonisation of the main features of national DGS, and in particular the harmonisation of the coverage level (as advocated above), would address the problems related to the topping up system.

As alternative, there is a growing debate about the possibility of setting up a pan-European DGS as a way to overcome the above-mentioned coordination problems. In principle this solution offers some benefits and may gain momentum over the long term, especially if the degree of harmonisation and efficiency of national DGS proves inadequate despite possible regulatory initiatives. However, before any decisions are taken, there is a need for a thorough analysis of the main features of such pan-European DGS as regards its coverage, membership, function and funding arrangements. Moreover, the interplay of a pan-European DGS with existing national responsibilities for supervision and fiscal policy should be further assessed, in particular as regards the functions attributed to DGS in the area of crisis management and resolution.

STRUCTURE OF A POTENTIAL PAN-EU DGS

There seem to be at least the following options concerning the possible structure of a potential pan-EU DGS:
(a) Single entity replacing the existing DGS
(b) A DGS that is complementary to existing DGS that would support the existing DGS if needed ("28th regime")
(c) "European system of DGS" (i.e. a network of schemes in the Member States that provide each other mutual assistance if needed, e.g. by borrowing from each other).

Question 19:
Which solution would you prefer? Please provide reasons. Would you prefer another option? Please describe. If you support option (c), please indicate how in your view, such mutual assistance should be provided. Should mutual guarantee schemes and voluntary schemes (see question 8) be integrated into a pan-EU DGS? If so, how?

See our answer to Question 18 above.

SCOPE OF A POTENTIAL PAN-EU DGS

With regard to the scope of a potential pan-EU DGS, there are at least the following options:
(a) All banks should contribute to a potential pan-EU DGS
(b) Only large cross-border banking groups (i.e. banks with a certain systemic relevance that have subsidiaries in other Member States)
(c) All cross-border banks (i.e. those who operate directly or by means of branches in other Member States than in the one where they are licensed).

Question 20:
Which solution would you prefer? Please provide reasons. Would you prefer another option? Please describe.

See our answer to Question 18 above.

MANDATE OF DGS

The following options could be considered:
(a) Retain current approach (other DGS functions than paying out depositors within discretion of Member States)
(b) DGS provide liquidity assistance to banks in need
(c) DGS participate in the reorganisation of banks
(d) DGS play an active role in the winding up of banks.

Question 21:
Which solution would you prefer? Should this solution be recommended or mandatory? Please provide reasons. Would you prefer another option? Please describe. Would a broader mandate from DGS require a different funding mechanism or a higher level of funding? If you prefer a pan-EU DGS (Question 18), please precise which options you would prefer in that case.

Member States have currently very different arrangements as regards the role played by DGS in crisis management and resolution. In principle, the harmonisation effort should mainly focus on the function of DGS in reimbursing depositors. In addition, a clear division of labour between DGS and the authorities involved in the resolution of a crisis should be defined. However, subject to the ongoing work on crisis resolution arrangements in Europe, further efforts could be devoted to identifying additional tasks that may be delegated to DGS in the medium to long run and which should also be subject to harmonised rules.

HARMONISATION OF THE INFORMATION FOR DEPOSITORS

In order to ensure that all depositors throughout the EU get the same information, it could be considered to recommend or prescribe a template for standardised information. This template could be annexed to the Directive or be developed by stakeholders.

Question 22:
Which solution would you prefer? Please provide reasons. Would you prefer another option? Please describe.

The use of a template for standardised information by banks to their customers is supported. This template, to be developed with the involvement of all relevant stakeholders, could be annexed to the Directive. In addition, apart from providing standardised information by banks to their customers about the deposit coverage, the DGS should disclose in a standardised way information on their features, which is somehow consistent with the supervisory disclosure that is required under the Capital Requirements Directive (see also our answer to Question 40); also for this disclosure a standardised template could be developed.

ADVICE TO SPLIT UP DEPOSITS BETWEEN BANKS (SEE ALSO QUESTION 4)

Currently, depositors do not have to be informed that it is safer to split up deposits if the coverage limit is exceeded.

Question 23:
Should such information be required or recommended? Please provide reasons. Would you prefer another option? Please describe.

As already mentioned, (answer to Question 4) banks should not explicitly recommend clients to make certain business decisions, including the splitting up of deposits. However, sufficient

information about the deposit guarantee coverage should be provided to them.

WHEN AND HOW SHOULD DEPOSITORS BE INFORMED?

The following options could be considered:

(a) Retain current approach (details left to the discretion of Member States)

(b) Mandatory reference to information on DGS in advertisements

(c) Mandatory reference to information on DGS on account statements

(d) Require depositors to countersign information on DGS before entering into a contractual relationship and to receive a copy.

Question 24:
Which solution(s) would you prefer? Please provide reasons. Would you prefer another option? Please describe.

We support the mandatory reference to information on DGS on account statements. In addition, depositors may be required to countersign information on DGS before entering into a contractual relationship. The information content of the account statement as well as the contract to be countersigned by depositors should be harmonised across Europe.

INFORMATION IN CASE OF A BANK FAILURE

With regard to the question, from which DGS depositors should receive information when their bank fails, the following options could be considered:

(a) Retain current approach (Home country scheme must inform)

(b) Host country DGS must inform depositors at branches in another Member State

(c) Individual agreement between DGS about who informs depositors.

Question 25:
Which solution would you prefer? Please provide reasons. Would you prefer another option? Please describe.

Which approach would you prefer in case of a pan-EU scheme not being a single entity (see question 19)? Please explain.

In principle, the DGS which provides the protection should inform the depositors concerned. However, we strongly support the conclusion of memoranda of understanding (MoUs) between the DGS of home and host countries with the aim of facilitating the information and payout process. Such MoUs could specify the involvement of host DGS in informing depositors about the details of the payout process and possibly also define their role in the reimbursement procedure.

SET-OFF ARRANGEMENTS

The following options could be considered (please note that the options below are not mutually exclusive):

(a) Retain current approach (unlimited set-off; within discretion of Member States)

(b) Discontinue or limit set-off for the payout of depositors

(c) Discontinue or limit set-off in the insolvency procedure (when the DGS has subrogated into the depositors' claims against the bank)

(d) Limit set-off to claims that have fallen due or are delinquent

(e) Limit set-off to a certain amount or percentage of covered deposits but leave it optional

(f) Encourage depositors to split deposits and liabilities between different banks (rendering set-off obsolete if this encouragement is effective).

Question 26:
Which solution would you prefer? Please provide reasons. Would you prefer another option? Please describe.

For financial stability and depositor protection reasons, we are of the view that set-off arrangements should be limited as much as possible. It might indeed not always be clear when set-off arrangements apply, therefore creating uncertainty for the depositors.

Depending on the legal system, set-off arrangements may also reduce the effective coverage for depositors (thus increasing the possibility of a bank run). In addition, it may raise problems of financing for the DGS.[5]

PAYOUT DELAYS

In order to reduce payout delays as such, the following options could be considered (Please note that the options below are not mutually exclusive):

(a) Retain current approach (4-6 weeks from end 2010 onwards)

(b) Reduce payout delay to one week after a certain transition period

(c) Differentiate payout delay, i.e. a longer payout delay only for depositors where set-off has to be calculated or whose eligibility has to be thoroughly examined.

Question 27:
Which solution would you prefer? Please provide reasons. Would you prefer another option? Please describe.

In principle the reduction of the payout delay to one week would be desiderable. However, it is crucial for the credibility of DGS that they are effectively able to reimburse the deposits within the prescribed period. In this context, before reducing further the payout delay it would be advisable to gather evidence as regards the experience of DGS in realising the current payout delay and the practical feasibility of any further reduction of the timing for reimbursement.

ALTERNATIVE SOLUTIONS

As an alternative (or supplementary) to a mere reduction of the payout delay, it could be considered to transfer deposits to another bank or to have an emergency payout procedure in place (e.g. €10,000 within 3 days).

Question 28:
Would you prefer such solutions? If so, on a voluntary or mandatory basis? Please provide reasons. Would you prefer any other option? Please describe.

If the pay-box function of DGS is preserved, then transferring the deposits to another bank or merging the ailing institution with a sound one should be decided by the supervisory authorities, not by the DGS.

If the reduction of the reimbursement period to one week (5 working days) proves to be not feasible, then the introduction of an emergency payout procedure (i.e. advance payments) may be a reasonable complementary measure.

INVOLVING DGS AT AN EARLY STAGE

In order to involve DGS at an early stage, it could be considered to require competent authorities to inform DGS either if appropriate (current approach) or by default when triggering of DGS becomes likely.

Question 32:
Which solution would you prefer? Please provide reasons. Would you prefer another option? Please describe.

Competent authorities should be required to inform DGS by default when triggering of DGS becomes likely. In this way, DGS can better prepare for a potential timely pay-out, e.g. by mobilising credit lines or liquidating assets.

INFORMATION EXCHANGE BETWEEN BANKS AND SCHEMES

In order to improve information exchange between banks and schemes it could be considered to recommend or require that DGS have access to relevant banks' records

5 According to the Commission's Consultation Document in some Member States the insolvency practitioner can opt to set off liabilities of the bank (i.e. deposits now claimed by the DGS instead of the depositor) against claims of the bank (i.e. the claim against the depositor). If the insolvency practitioner exerts this right, the DGS would not receive the amount that has been set-off and might thus have refinancing problems, leading to higher funding needs. The payment of the DGS to the depositor would remain untouched.

when DGS are informed by competent authorities and that DGS and their member banks have a common interface to quickly exchange information.

Question 33:
Which solution would you prefer? Please provide reasons. Would you prefer another option? Please describe.

DGS should have access to relevant banks' records when they are informed by competent authorities. DGS and their member banks should be required to have a common interface to quickly exchange information. In this context, due consideration should be given to the confidential nature of data.

PROVEN CAPABILITY OF DGS TO HANDLE PAYOUT SITUATIONS EFFECTIVELY

In order to ensure that DGS are capable to deal with payout situations, the following options could be considered:
(a) Retain current approach (stress testing required in general)
(b) Require DGS to regularly disclose the amount of ex-ante funds, their workforce and the result of regular stress testing exercises
(c) Make such disclosure (as referred to under point b) a precondition for cross-border services or establishment of branches
(d) Regular peer review among DGS.

Question 34:
Which solution would you prefer? Please provide reasons. Would you prefer another option? Please describe.

In general, transparency of DGS should be improved. In this context, option (b) is supported. The application of option (b) would also imply a uniform application of ex-ante funding across Member States. More information is also required as regards the overall financial capacity of DGS, such as the credit lines they can draw or the assets they can liquidate to meet pay-outs.

Option (c) could not be supported, in so far as making the publication of certain information a precondition for cross-border services or establishment of branches could carry the risk of introducing fragmentations within the Single Market. The mutual confidence among Member States as regards the capability of DGS should be reinforced by setting appropriate mechanisms for peer review and surveillance.

TOPPING-UP ARRANGEMENTS

The following options could be considered:
(a) Retain current approach (topping up within discretion of Member States; host country topping up regulated in some detail by the Directive (Annex 2) but home country topping up permitted)
(b) Make topping up mandatory in whatever form
(c) Recommend home country topping up
(d) Making home country topping up mandatory
(e) Making host country topping up mandatory
(f) Discontinue topping up.

Question 35:
Do you consider topping up a problem? If so, which solution would you prefer? Please provide reasons. Would you prefer another option? Please describe.

We are in favour of applying a single coverage level, to be applied uniformly across Member States (see Question 2 and Question 18). This solution would make topping-up arrangements unnecessary. (See also answer to Question 18).

CROSS-BORDER COOPERATION BETWEEN DGS

It could be considered that a DGS in a host country acts as a single point of contact for depositors at a branch in the host country. This could encompass features such as post box services, advice in the host country's language or being a paying agent for the home country DGS.

Question 36:
Which solution would you prefer? Please provide reasons. Would you prefer another option? Please describe.

In general, the role of host country DGS in depositor protection and reimbursement should be strengthened. This may imply that the host DGS acts as an information/paying agent for the home country DGS. In this case, however, prompt access to information on frozen deposits as well as to financial resources should be ensured.

LEVEL OF FUNDING OF DGS

On top of improving the financing mechanism (Question 39) and a possible introduction of a pan-EU DGS (Questions 17-19), it could be considered to recommend or require a target level (certain percentage of deposits) for ex-ante funds, ex-post contributions and alternative means of financing (e.g. borrowing). A maximum level for the contribution of banks could also be considered.

Question 37:
Which solution would you prefer? Please provide reasons. Would you prefer another option? Please describe.

In line with our opinion expressed in previous consultations, in first instance it is of utmost importance that agreement is reached on the introduction and general application of sufficient ex-ante funding for DGS. In this context, the definition of a target level (expressed as a certain percentage of covered deposits) for ex-ante DGS is recommended. For DGS which presently fall below this target level, mechanisms should be developed to bring their funding to the required level. In case the funding gap resulting from this target level proves to be substantial, a transition period may be required for DGS to achieve the target level.

Furthermore, since ex-ante schemes would most probably not be able to reimburse depositors of a larger (cross-border) institution, mechanism for ex-post/increased contributions and alternative means of financing (e.g. borrowing) should also be developed. However, in line with the Eurosystem stance expressed in previous consultations, national schemes' funding arrangements must comply with the monetary financing prohibition laid down in the Treaty, and in particular with the prohibition of national central banks providing overdraft facilities or any other type of facility within the meaning of Art. 101 of the Treaty.

In order to avoid excessive procyclicality, a maximum level for the annual contribution of banks could also be considered, especially in cases of systemic distress/crisis.

RISK-ADJUSTMENT OF CONTRIBUTIONS TO DGS

It could be considered to introduce risk-based contributions on a voluntary or mandatory basis. Particular models could be recommended or required.

Question 38:
Would you prefer introducing risk-based contributions? Which models would you envisage? Please provide reasons. Please describe.

We strongly support the introduction of risk-based contributions on a mandatory basis. Those institutions which pose higher risks for DGS (i.e. the probability of using DGS funds is higher) should, in principle, pay higher premia. We believe that this would create the right incentives for banks as regards prudent risk management. In order to limit the reporting burden on banks, risk based contributions should be based as much as possible on existing reporting information (such as solvency or capital adequacy ratios).

FUNDING MECHANISMS

It could be considered to make ex-ante funding mandatory and to require alternative

short-term (interim) financing or long term borrowing in case of need.

Question 39
Which solution would you prefer? Please provide reasons. Would you prefer another option? Please describe.
If you prefer interim financing, please describe how and by whom such financing should be provided.

Ex-ante funding of DGS presents distinct advantages and we are, in principle, in favour of making ex-ante funding mandatory. However, as mentioned above (see Question 37) ex-ante funding per se could not suffice to address the financing needs of DGS when a crisis arises. Moreover, recently adopted international standards[6] suggest that all funding mechanisms should be available to ensure the prompt reimbursement of depositors' claims. In this context, in practice the need might arise for a combination of elements of both ex-ante and ex-post funding arrangements.

However, funding arrangements must comply with the monetary financing prohibition laid down in the Treaty. (See also our comments on Question 37).

Question 40:
Are there any other issues that have not been mentioned above but should be dealt with in the context of the review of the DGS Directive? If so, please describe the problem and its different impacts as precisely as possible.

We are of the view that the following issues should also be addressed during the revision of the regulatory framework for DGS.

- *Disclosure by DGS*. DGS should be required to disclose information about their key features in an easily accessible from (e.g. internet) and according to a standardised template, thus allowing an easy comparison across schemes and countries.
- *Asset and liability management by DGS*. DGS should be required to manage their assets and liabilities in a prudent way so that they can quickly meet their pay-out obligations. This requirement will have implications for the assets in which they can invest the collected premiums, the maturity mismatches they can take on, asset concentration, etc.
- *Interaction between DGS, investor protection and insurance protection schemes*. We are of the view that arbitrage between different compensation schemes should be avoided. In this vein, it should be ensured that products which are economically the same (e.g. deposit vs. certain insurance/investment products) should be treated the same way.
- *Potential implications for public finances*. If DGS are not financed fully by banks, as it can be the case in crisis situations, the implications for public finances should be considered.

6 See the *Core Principles for Effective Deposit Insurance Systems* issued by the Basel Committee on Banking Supervision and the International Association of Deposit Insurers on 18 June 2009.

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