

EUROPEAN PARLIAMENT

2004



2009

Committee on Economic and Monetary Affairs

2008/0199(COD)

30.10.2008

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DRAFT REPORT

on the proposal for a directive of the European Parliament and of the Council amending Directive 94/19/EC on Deposit Guarantee Schemes as regards the coverage level and the payout delay
(COM(2008)0661 – C6-0361/2008 – 2008/0199(COD))

Committee on Economic and Monetary Affairs

Rapporteur: Christian Ehler

Symbols for procedures

- * Consultation procedure
majority of the votes cast
- **I Cooperation procedure (first reading)
majority of the votes cast
- **II Cooperation procedure (second reading)
*majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend
the common position*
- *** Assent procedure
*majority of Parliament's component Members except in cases
covered by Articles 105, 107, 161 and 300 of the EC Treaty and
Article 7 of the EU Treaty*
- ***I Codecision procedure (first reading)
majority of the votes cast
- ***II Codecision procedure (second reading)
*majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend
the common position*
- ***III Codecision procedure (third reading)
majority of the votes cast, to approve the joint text

(The type of procedure depends on the legal basis proposed by the Commission.)

Amendments to a legislative text

In amendments by Parliament, amended text is highlighted in ***bold italics***. In the case of amending acts, passages in an existing provision that the Commission has left unchanged, but that Parliament wishes to amend, are highlighted in **bold**. Any deletions that Parliament wishes to make in passages of this kind are indicated thus: [...]. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the legislative text for which a correction is proposed, to assist preparation of the final text (for instance, obvious errors or omissions in a given language version). Suggested corrections of this kind are subject to the agreement of the departments concerned.

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

**on the proposal for a directive of the European Parliament and of the Council amending Directive 94/19/EC on Deposit Guarantee Schemes as regards the coverage level and the payout delay
(COM(2008)0661 – C6-0361/2008 – 2008/0199(COD))**

(Codecision procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to the European Parliament and the Council (COM(2008)0661),
 - having regard to Article 251(2) and Article 47(2) of the EC Treaty, pursuant to which the Commission submitted the proposal to Parliament (C6-0361/2008),
 - having regard to Rule 51 of its Rules of Procedure,
 - having regard to the report of the Committee on Economic and Monetary Affairs and the opinions of the Committee on the Internal Market and Consumer Protection and the Committee on Legal Affairs (A6-0000/2008),
1. Approves the Commission proposal as amended;
 2. Calls on the Commission to refer the matter to Parliament again if it intends to amend the proposal substantially or replace it with another text;
 3. Instructs its President to forward its position to the Council and the Commission.

Amendment 1

Proposal for a directive – amending act

Article 1 – point 2 – subpoint a

Directive 94/19/EC

Article 4 – paragraph 5

Text proposed by the Commission

Amendment

5. In the cases referred to in paragraphs 1 to 4, Member States shall ensure that Deposit-guarantee Schemes cooperate with each other.

5. In the cases referred to in paragraphs 1 to 4, Member States shall ensure that Deposit-guarantee Schemes cooperate with each other ***and shall, by 31 December 2009, adopt measures relating to the procedure, the exchange of all relevant information and interaction of all participants in the event of a possible***

cross-border crisis.

Or. en

Justification

The Parliament Resolution from December 2007 already made clear that procedures need to be set out in the case of a cross-border crisis. Given the ambitious aim regarding the shortening of payout deadlines, the Member States need to clarify the mechanisms as soon as possible.

Amendment 2

Proposal for a directive – amending act

Article 1 – point 2 – subpoint b

Directive 94/19/EC

Article 4 – paragraph 6

Text proposed by the Commission

6. The Commission shall review the functioning of this Article and, if appropriate, propose amendments thereto.

Amendment

6. The Commission shall review the functioning of this Article **annually** and **shall**, if appropriate, propose amendments thereto.

Or. en

Justification

Given the importance, a regular review is to be aspired.

Amendment 3

Proposal for a directive – amending act

Article 1 – point 3 – subpoint a

Directive 94/19/EC

Article 7 – paragraph 1 – subparagraph 2

Text proposed by the Commission

By 31 December 2009 at the latest coverage shall be increased to at least EUR 100 000.

Amendment

By 31 December 2009 at the latest coverage shall be increased to at least EUR 100 000 **in the event that a Commission impact assessment, submitted to the European Parliament and the Council by**

31 March 2009, concludes that such an increase is required and financially viable for all Member States in order to ensure consumer protection and financial market stability.

Or. en

Justification

The Commission has renounced to work out an impact assessment with reference to the short-term nature of the proposed amendments of the directive. Since the raise to an amount of coverage of 100 000 Euros is supposed to only happen in December 2009, the proof through respective enquiries can be awaited.

Amendment 4

Proposal for a directive – amending act

Article 1 – point 3 – subpoint a

Directive 94/19/EC

Article 7 – paragraph 3

Text proposed by the Commission

3. This Directive shall cover depositors who are natural persons ***acting for purposes other than their trade, business or profession.***

Amendment

3. This Directive shall cover depositors who are natural persons ***and small and medium-sized enterprises. This Article shall not preclude the retention or adoption of provisions which offer a higher or more comprehensive cover for deposits.***

Or. en

Justification

To exclude small- and medium-sized enterprises from the Directive's depositor protection would undermine the aim of "stabilisation of confidence". The European standard of coverage would be clearly lowered. Furthermore, through a loss of coverage, extreme economic and labour-market-political impacts would have to be expected for these enterprises in case of a crisis.

Amendment 5

Proposal for a directive – amending act

Article 1 – point 3 – subpoint d

Directive 94/19/EC

Article 7 – paragraph 6

Text proposed by the Commission

Amendment

6. The Commission may adjust the amount referred to in paragraph 1, taking account in particular of developments in the banking sector and the economic and monetary situation in the Community.

deleted

That measure, designed to amend non-essential elements of this Directive, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 7a(2).

Or. en

Justification

Further changes should be carried out in normal procedure. The annual review by the Commission will ensure that action can be taken in time.

Amendment 6

Proposal for a directive – amending act

Article 1 – point 3 – subpoint d

Directive 94/19/EC

Article 7 – paragraph 7

Text proposed by the Commission

Amendment

7. The Commission may, for a period not exceeding 18 months, decide upon a temporary increase of the amount referred to in paragraph 1.

deleted

That measure, designed to amend non-essential elements of this Directive, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 7a(3).

Justification

Further changes should be carried out in normal procedure. The annual review by the Commission will ensure that action can be taken in time.

Amendment 7

Proposal for a directive – amending act

Article 1 – point 4

Directive 94/19/EC

Article 7a – paragraph 2

Text proposed by the Commission

Amendment

2. Where reference is made to this paragraph, Article 5a(1) to (4), and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.** *deleted*

** OJ L 184, 17.7.1999, p. 23.

Justification

Further changes should be carried out in normal procedure. The annual review by the Commission will ensure that action can be taken in time.

Amendment 8

Proposal for a directive – amending act

Article 1 – point 4

Directive 94/19/EC

Article 7a – paragraph 3

Text proposed by the Commission

Amendment

3. Where reference is made to this paragraph, Article 5a(1), (2), (4) and (6), and Article 7 of Decision 1999/468/EC shall apply, having regard to the *deleted*

provisions of Article 8 thereof.

Or. en

Justification

Further changes should be carried out in normal procedure. The annual review by the Commission will ensure that action can be taken in time.

Amendment 9

Proposal for a directive – amending act

Article 1 – point 5 – subpoint a

Directive 94/19/EC

Article 10 – paragraph 1 – subparagraph 2

Text proposed by the Commission

Amendment

Deposit-guarantee schemes shall be in a position to pay duly verified claims by depositors in respect of unavailable deposits within **three** days of the date on which the data referred to in the first subparagraph have been made available to them.

Deposit-guarantee schemes shall be in a position to pay duly verified claims by depositors in respect of unavailable deposits within **ten working** days of the date on which the data referred to in the first subparagraph have been made available to them.

Or. en

Justification

All discussions showed that the Commission guidelines are unrealistic in their implementation. Giving too short deadlines rather leads to a loss of confidence than to set realistic aims. A fund of emergency payouts can provide the necessary liquidities for the depositors until the time of the complete payout.

Amendment 10

Proposal for a directive – amending act

Article 1 – point 5 – subpoint a

Directive 94/19/EC

Article 10 – paragraph 1 – subparagraph 2 a (new)

Text proposed by the Commission

Amendment

Deposit-guarantee schemes shall make arrangements for ensuring emergency payouts upon application of the affected depositor amounting up to 50 % of the maximum compensation of the deposit volume and a maximum of EUR 5 000 within three days or less after the application.

Or. en

Justification

It is to be expected that a majority of depositors, which are affected by a compensation case, will need liquidities for food, rent, mobility etc. on short term. A partial payout will ensure the necessary payments and, at the same time, a proper assessment of allowance can be carried out.

Amendment 11

Proposal for a directive – amending act

Article 1 – point 6

Directive 94/19/EC

Article 12 – paragraph 1

Text proposed by the Commission

Amendment

1. By 31 December 2009 at the latest, the Commission shall submit to the European Parliament and to the Council a report on a harmonisation of the funding mechanisms of deposit-guarantee schemes and the possible introduction of a Community deposit-guarantee scheme, together with any appropriate proposals.

The Commission shall submit to the European Parliament and to the Council:

- by 30 April 2009, a report on the harmonisation of the funding mechanisms of deposit-guarantee schemes addressing, in particular, the effects of such harmonisation in the event of a cross-border crisis, in regard to the availability of the compensation payouts of the deposit and in regard to fair competition,

and the costs of such harmonisation;

- by 30 April 2009, a report on standards for better early-risk warning;

- by 30 September 2009, draft models for introducing risk-based contributions.

If necessary, the Commission shall submit appropriate proposals to amend the legal basis.

Or. en

Justification

The Parliament, through its December 2007 Resolution, has already called for respective reports. Therefore, the deadline can respectively be shortened.

EXPLANATORY STATEMENT

The current crisis of confidence in the financial markets showed that also the current standards of deposit guarantee are not considered as sufficient.

At the end of the year 2007, the Parliament passed a resolution, which asks for extensive inquiries regarding:

- the different funding mechanisms,
- the interaction of all participants in case of a cross-border crisis,
- an equalisation of burdens in cross-border crisis situations, as well as
- the implementation of an improved early risk warning and the possibility of introducing risk-based contributions.

Furthermore, the Parliament made clear that a significant scope for the shortening of deadlines in case of compensation is seen and that an increased minimum level of depositor protection is desired.

The submitted Commission Proposal presents Amendments regarding:

- payout deadlines,
- the amount covered,
- the scope of cover of deposit guarantee,
- cost sharing,
- cross-border cooperation.

In addition, the Commission shall be obliged to work out reports rather respective proposals for law amendments on the funding mechanisms as well as for joint deposit guarantee schemes.

In the Rapporteur's view, the Commission Proposal shows particularly the following problems:

- The deadline for payouts was assessed short. A payout within three days is not possible. Comparisons with other systems are not comprehensible since the responsibilities are differently delivered and the guarantee schemes are differently organised. In the Rapporteur's view, a too short and unrealistic deadline will impair the consumer's confidence even more in case of a crisis. In order to provide people shortly with the necessary liquidity and, at the same time, to ensure a proper processing of the guarantee cases, the Rapporteur demands to make arrangements for emergency payouts within three days.
- The Commission Proposal has been submitted without an Impact Assessment. Since the current situation on the financial market requires immediate action, this renouncement seems to be acceptable. However, it is arguable why the further increase of amount covered until the end of the following year should not be linked to a submission of an Impact Assessment.

- In future, the Commission wants to work with the help of the comitology procedure in case of increasing the amount covered. Given the achieved coverage of the average deposits with amount covered of 50 000 Euros rather 100 000 Euros of 80 % rather 90%, this procedure does not seem to be necessary. Also, the Directive and the amount covered will be annually reviewed. In the Rapporteur's view, a necessary amendment can therefore be assured in a normal procedure.
- The obligation to cross-border cooperation was integrated, however, given dates of review are missing as well as the definition of activities to be taken in case of a crisis, as demanded from the European Parliament in the previous year.
- The scope of application of the Directive was limited to private investors through the Commission proposal. The Commission considers that small and medium sized enterprises no longer need to be protected under the European regulation. Given the importance for the economic situation in the Member States and the labour market in Europe, these enterprises need to be further included and protected.
- Furthermore, the considerations that, in future, funding mechanisms shall only be submitted within more than twelve months are regarded to be problematic. In apprehension of difficulties in the compliance with new payout deadlines through single guarantee schemes, the workings on the review need to be accelerated. The Rapporteur proposes a draft by the end of April 2009.