

COMP B on Deposit Insurance Fund

as of 15 April 2024, covering relevant parts of AM 1 and AMs 240-308

34. in Chapter 2 of Title V of Part III, the following section is inserted:

"SECTION 1A CONSTITUTION OF THE DEPOSIT INSURANCE FUND

Article 74a General Provisions

1. The DIF is hereby established. It shall be filled by *transfers from participating DGSs of contributions collected from* ~~owed to the Board by credit institutions affiliated to those participating DGSs.~~ The *amounts of contributions to be transferred* shall be calculated ~~by and invoiced, on behalf of the Board,~~ *in accordance with paragraph 1a* ~~by participating DGSs.~~ (*Ferber, AM 240; Van Overtveldt, AM 241*)
 - 1a. *Each year the individual contribution of each participating credit institution shall be calculated based on:*
 - a) *a flat contribution, that is pro-rata based on the amount of an institution's covered deposits, with respect to the total covered deposits in the credit institutions referred to in Article 2(2), point (b);*
 - b) *a risk-adjusted contribution with respect to the other participating credit institutions in the Banking Union.* (*Boyer et al., AM 242; Kelleher, AM 243*)
2. The Board shall use the DIF only in order to provide the funding to, ~~and cover the losses of,~~ *the participating DGS in the different stages set out in Article 1(2) and in accordance with the objectives and the principles governing EDIS referred to in Article 6.* Under no circumstances shall the Union budget or the national budgets be held liable for expenses or losses of the Fund.
3. The owner of the DIF shall be the Board. The Board's activities under this Regulation may under no circumstances engage the budgetary liability of the Member States.

Article 74b Target levels of the Deposit Insurance Fund

1. ~~By 3 years from the date of entry into force of this amending Regulation, the end of the reinsurance period~~ the available financial means of the DIF shall reach ~~an initial target level of 50% of the target level referred to in Article 10(2) of Directive 2014/49/EU calculated as a percentage of the amount of covered deposits in all credit institutions referred to in Article 2(2), point (b), of this Regulation. 20% of four ninth of the sum of the minimum target levels that participating DGSs shall reach in accordance with the first subparagraph of Article 10(2) of Directive 2014/49/EU.~~
2. ~~By the end of the co-insurance period~~ the available financial means of the DIF shall reach ~~the sum of the minimum target levels that participating DGSs shall reach under the first subparagraph of Article 10(2) of Directive 2014/49/EU.~~
3. ~~During the reinsurance and co-insurance periods~~ contributions to the DIF calculated in accordance with Article 74c shall be spread out in time as evenly as possible until the respective target level is reached.

4. ~~After the target level specified in paragraph 2 has been reached for the first time and where the available financial means have subsequently been reduced to less than two-thirds of the target level, the contributions calculated in accordance with Article 74e shall be set at a level allowing to reach the target level within six years.~~
5. ~~The Commission shall be empowered to adopt delegated acts in accordance with Article 93 to specify the following:~~
 - (a) ~~criteria for the spreading out in time of the contributions to the DIF calculated under paragraph 2;~~
 - (b) ~~criteria for establishing the annual contributions provided for in paragraph 4. (Ferber, AM 247; Peter-Hansen, AM 248; Boyer et al., AM 249; Ferber, AM 250; Ferber, AM 251; Ferber, AM 252; Ferber, AM 253)~~

Article 74c

Funding of the DIF ~~Ex-ante contributions~~ (Peter-Hansen, AM 254; Ferber, AM 255)

1. Each year *until 3 years from the date of entry into force of this amending Regulation* during the reinsurance and co-insurance period, the Board shall, after consulting the ~~ECB and the national competent authority and~~ in close cooperation with the *EBA, the participating DGS and designated authorities*, determine for each participating DGS the total amount of *ex-ante contributions to be transferred to the DIF* ~~that it may claim from the credit institutions affiliated to the respective participating DGS~~ in order to reach the target levels provided for in Article 74b. The total amount of contributions *to be transferred* shall not exceed the target levels provided for in Article 74b. ~~(1) and (2). (Peter-Hansen, AM 256; Ferber, AM 257; Papadimoulis, AM 258; Van Overtveldt, AM 259)~~
2. *The amounts to be transferred referred to in paragraph 1 of this Article shall be spread out in time as evenly as possible until the target level referred to in Article 74b is reached. The Board shall determine the amount to be transferred by each participating DGS in accordance with Article 74a(2) and in accordance with the method to calculate the risk-adjusted contributions laid down in the delegated act referred to in paragraph 5.*

~~During the reinsurance period each participating DGS shall calculate, on the basis of the total amount determined by the Board under paragraph 1, the contribution of each credit institution affiliated to it. It shall apply the risk-based method established by the delegated act according to the second subparagraph of paragraph 5.~~

~~After the reinsurance period, the Board itself shall calculate the contribution of each credit institution affiliated to a participating DGS. The Board shall apply the risk-based method established by the delegated act according to the third subparagraph of paragraph 5.~~

~~In all stages of EDIS the participating DGS shall invoice, on behalf of the Board, the contribution of each credit institution on an annual basis. Credit institutions shall pay the invoiced amount directly to the Board.~~

The transfers from the participating DGS to the Board contributions shall take place by 30 June ~~become due on 31 May~~ of each year *at the latest.* (Ferber, AM 261; Ferber, AM 262; Ferber, AM 263)

3. The duly received *transfers from each participating DGS* contributions of each credit institution referred to in Article 2(2) shall not be reimbursed to *the participating DGSs* those entities. (Ferber, AM 264)
4. The *amounts transferred by* contributions that credit institutions affiliated to a participating DGS pay into the DIF in accordance with this Article shall count towards the minimum target level that *each* the participating DGS shall reach in accordance with the first subparagraph of Article 10(2) of Directive 2014/49/EU. If the participating DGS, by 3 July 2024 or any later date, has followed the funding path set out in Article 41j and credit institutions affiliated to it paid to the DIF all ex ante contributions that, until 3 July 2024, had to be paid to the DIF, these contributions shall constitute the full contribution owed in order to reach the target level in accordance with the first subparagraph of Article 10(2) of Directive 2014/49/EU. (Ferber, AM 266)

Member States may provide that a participating DGS may consider the contributions that credit institutions affiliated to it paid into the DIF when setting the level of their ex ante contributions or may reimburse these credit institutions from its available financial means to the extent they exceed the amounts set out in Article 41j on the relevant date. (Ferber, AM 267)

4a. By way of derogation from paragraph 1, The Board, after consulting the participating DGS concerned and the designated authority, shall defer by a maximum of 6 years, in whole or in part, the transfer of the amount determined by Board in accordance with paragraph 2 of this Article when:

- (a) a participating DGS does not have sufficient financial means to transfer the amounts due, due to having used DGS available financial means pursuant to Article 11 of Directive 2014/49/EU prior to the date where the first transfer from the participating DGS to the Board shall take place; or*
- (b) a participating DGS does not have sufficient financial means to transfer the amounts due – due to having used DGS available financial means for purposes as referred to in Article 41a before the target level referred to in Article 74b is reached.*

The Board, after consulting the participating DGS and the designated authority, shall define a plan for the payment of the transfer owed by the participating DGS, taking into account the contributions that the participating DGS can raise pursuant to Article 10 of Directive 2014/49/EU and the need for the participating DGS to repay any amounts borrowed.

Deferrals granted shall not prevent the general target level referred to in Article 74b from being reached and cannot lead to increases in transfers for other participating DGSs aimed at reaching the target level in accordance with Article 74b or maintaining the target level in accordance with paragraph 7 of this Article. (Ferber, AM 268)

4b. The plan referred to in paragraph 5 shall give priority to transfers of the following sources to the DIF to comply with the obligations under paragraphs 1 and 2 over reaching the target level of the participating DGS again:

- (a) any extraordinary contributions raised in accordance with Article 10(8) of Directive 2014/49/EU;*

- (b) *any recoveries on the DGS's claims pursuant to Article 9(2) of Directive 2014/49/EU and Article 75 of Directive 2014/59/EU;*
- (c) *any repayment of or income derived from measures taken in accordance with Article 109 of Directive 2014/59/EU or Articles 11(3) and 11(6) of Directive 2014/49/EU. (Ferber, AM 291)*
- 4c. *After 3 years from the date of entry into force of this amending Regulation the Board shall, in close cooperation with the participating DGSs and designated authorities, determine contributions to be collected from each credit institution referred to in Article 2(2), point (b), and to be transferred to DIF by the participating DGS in order to maintain the target level provided for in Article 74b. (Ferber, AM 292; Peter-Hansen, AM 295)*
- 4d. *After 3 years from the date of entry into force of this amending Regulation the Board may, in close cooperation with the participating DGSs and designated authorities, defer the required contributions to be collected in accordance with paragraph 4c to ensure that the amount to be transferred reaches an amount that is proportionate to the costs of the collection process for participating DGSs, provided that such deferral does not materially affect the capacity of the Board to use the DIF in accordance with Article 41a. (Peter-Hansen, AM 297)*
95. The Commission shall be empowered to adopt a delegated acts in accordance with Article 93 in order to specify a risk-based method for the calculation of *the amounts to be transferred to the DIF by the participating DGSs* contributions in accordance with paragraph 12 of this Article. *(Fernández et al., AM 269)*
- ~~It shall adopt one delegated act specifying the method for the calculation of contributions payable to participating DGSs and, for the reinsurance period only, to the DIF. In this delegated act the calculation shall be based on the amount of covered deposits and the degree of risk incurred by each credit institution relative to all other credit institutions affiliated to the same participating DGS. (Fernández et al., AM 270; Ferber, AM 271; Kelleher et al., AM 272)~~
- ~~It shall adopt a second delegated act specifying the method for the calculation of the contributions payable to the DIF as from the co-insurance period. In this second delegated act the calculation shall be based on the amount of covered deposits and the degree of risk incurred by each credit institution relative to all other credit institutions referred to in point (b) of Article 2(2). (Fernández et al., AM 273; Ferber, AM 274; Kelleher et al., AM 275)~~
- The Both* delegated acts shall include a calculation formula, specific indicators, risk classes for members, thresholds for risk weights assigned to specific risk classes, and other necessary elements. The degree of risk shall be assessed *taking into account all the credit institutions referred to in Article 2(2), point (b)*, on the basis of the following criteria: *(Kelleher et al., AM 277)*
- (a) *the level and quality of loss absorbing capacity of the institution; (Boyer et al., AM 279)*
- (b) *the institution's ability to meet its short- and long-term obligations;*
- ~~(c) *the stability and variety of the institutions sources of funding and its unencumbered highly liquid assets';*~~
- (d) *the quality of the institution's assets, including its level II and III assets; (Fernández et al., AM 280)*

- (e) the institution's business model, **governance**, and management; (*Kelleher et al., AM 281*)
- (f) the degree to which the institution's assets are encumbered.
- (fa) *concentration within exposures of the credit institution to each participating Member State's central, regional and local government and central bank, where applicable; (Kelleher, AM 282; Ormel, AM 283; Van Overtveldt, AM 284; Peter-Hansen, AM 285)*
- (fb) *the fact that the institution is part of an IPS.*

Article 74ca

Limits for mandatory lending during the build-up phase of the EDIS I

Participating DGS shall provide mandatory lending in accordance with Article 41ba starting from 1st of July following 1 year after date of entry into force of this amending Regulation within the following limits:

- a) from the date of entry into force of this amending Regulation, 60% of the target level of each participating DGS, in accordance with Article 10(2), first subparagraph, of Directive 2014/49/EU;*
- b) from one year after the date of entry into force of this amending Regulation, 50% of the target level of each participating DGS, in accordance with Article 10(2), first subparagraph, of Directive 2014/49/EU;*
- c) from two years after the date of entry into force of this amending Regulation, 40% of the target level of each participating DGS, in accordance with Article 10(2), first subparagraph, of Directive 2014/49/EU;*
- d) from three years after the date of entry into force of this amending Regulation, 30% of the target level of each participating DGS, in accordance with Article 10(2), first subparagraph, of Directive 2014/49/EU; (Ferber, AM 298)*

Article 74d

Extraordinary ex post contributions

- ~~1. Where, after the reinsurance period, the available financial means are not sufficient to cover the losses, costs or other expenses incurred by the DIF following a payout event, extraordinary ex post contributions from the credit institutions affiliated to participating DGSs shall be raised in order to cover the additional amounts. Notwithstanding paragraphs 2 and 3, the amount of ex post contributions to be raised shall be equal to the shortfall of available financial means but shall not exceed the maximum share of total covered deposits of all credit institutions within the scope of EDIS laid down by delegated act of the Commission in accordance with paragraph 5.~~
- ~~2. The Board shall itself calculate the contribution of each credit institution affiliated to each participating DGS. It shall apply the risk based method specified in the delegated act adopted by the Commission in accordance with the third subparagraph of Article 74e(5).~~
The third subparagraph of Article 74e(2) shall apply by analogy.
- ~~3. The Board shall, on its own initiative after consulting the relevant competent authority, or upon proposal by the relevant competent authority, defer, in whole or in~~

~~part, in accordance with the delegated acts referred to in paragraph 4, an institution's payment of extraordinary *ex post* contributions if it is necessary to protect its financial position. Such a deferral shall not be granted for a period of longer than six months but may be renewed on request of the institution. The contributions deferred pursuant to this paragraph shall be made later at a point in time when the payment no longer jeopardises the institution's financial position.~~

- ~~4. The Commission shall be empowered to adopt delegated acts in accordance with Article 93 to specify the annual limits referred to in paragraph 1 and the circumstances and conditions under which the payment of *ex post* contributions by an entity referred to in point (b) of Article 2(2) may be partially or entirely deferred pursuant to paragraph 3 of this Article. (Ferber, AM 299; Ferber, AM 300; Ferber, AM 301; Ferber; AM 302, Ferber, AM 303)~~

Article 74e

Implementation of decisions under this Regulation

1. The participating DGS shall take the necessary action to implement decisions referred to in this Regulation.

Subject to this Regulation, the participating DGS shall exercise its powers under national law transposing the Directive 2014/49/EU and in accordance with the conditions laid down in national law. The participating DGS shall fully inform the Board of the exercise of those powers.

2. Where a participating DGS has not applied or has not complied with a decision by the Board pursuant to this Regulation or has applied it in a way which poses a threat to the efficient implementation of EDIS **I** and to the objectives of this Regulation, the Board may order the participating DGS to adopt any necessary action to comply with the decision in question.
3. Where a participating DGS addressed a decision to a credit institution affiliated to it, including the invoicing of contributions, and the credit institution has intentionally or negligently not complied with that decision, the Board shall take a decision **to instruct a participating DGS to charge interest** imposing a fine on the credit institution in accordance with Article 38.

Article 74f

Voluntary lending to and borrowing from non-participating DGS

1. The Board shall decide to make a request to borrow for the DIF from deposit guarantee schemes within non-participating Member States in the event that:
 - (a) **the available financing means of the DIF and the amounts raised under mandatory lending** ~~Article 74e~~ are not sufficient to cover the losses, costs or other expenses incurred by the use of the DIF **pursuant to Article 41a** ~~in relation to resolution actions;~~
 - ~~(b) the extraordinary *ex post* contributions provided for in Article 74d are not immediately accessible;~~
 - (c) the alternative funding means provided for in Article 74g are not immediately accessible on reasonable terms.
2. Those deposit guarantee schemes shall decide on such a request in accordance with Article 12 of Directive 2014/49/EU.

3. The Board may decide to lend to other deposit guarantee schemes within non-participating Member States upon request **and up to a limit of 25% of the available financial means of the DIF. Such a decision should be taken unanimously in the Plenary session.** Article 12 of Directive 2014/49/EU shall apply by analogy with respect to the borrowing conditions. (*Boyer et al., AM 304*)

*Article 74g
Alternative funding means*

1. The Board may contract for the DIF borrowings or other forms of support from institutions, financial institutions or other third parties, which offer better financial terms, at the most appropriate time so as to optimise the cost of funding and preserve its reputation. The proceeds of such borrowings shall be used exclusively to **provide liquidity support or** meet payment obligations towards participating DGSs, in the event that the amounts raised in accordance with Articles 74c ~~and 74d~~ are not immediately accessible or do not cover the amounts claimed from the DIF in relation to **the use of DGS funds referred to in Article 41a** ~~payout events~~.
 2. The borrowing or other forms of support referred to in paragraph 1 shall be fully recouped in accordance with Articles 74c ~~and 74d~~.
 3. Any expenses incurred by the use of the borrowings specified in paragraph 1 shall be borne by Part III of the budget of the Board and not by the Union budget or the participating Member States.
 4. The Board may decide to invest proceeds from borrowings in accordance with Article 75 in order to protect their real value.";
35. in Chapter 2 of Title V of Part III, the heading of Section 2 is replaced by "Administration of the SRF and DIF".
36. Article 75 is replaced by the following:

*"Article 75
Investments*

1. The Board shall administer the SRF and the DIF in accordance with this Regulation and delegated acts adopted under paragraph 4.
2. The amounts received from an institution under resolution or a bridge institution, the interests and other earnings on investments and any other earnings shall benefit only the SRF and the DIF.
3. The Board shall have a prudent and safe investment strategy that is provided for in the delegated acts adopted pursuant to paragraph 4 of this Article, and shall invest the amounts held in the SRF and the DIF in obligations of the Member States or intergovernmental organisations, or in highly liquid assets of high creditworthiness, taking into account the delegated act referred to in Article 460 of Regulation (EU) No 575/2013 as well as other relevant provisions of that Regulation. Investments shall be sufficiently sectorally, geographically and proportionally diversified. The return on those investments shall benefit the SRF and the DIF respectively.
4. The Commission shall be empowered to adopt delegated acts on the detailed rules for the administration of the SRF and the DIF and general principles and criteria for their investment strategy, in accordance with the procedure laid down in Article 93. **Those**

delegated acts shall also clearly define 'low-risk assets' within the meaning of Article 3(1), point (57)"; (Van Overtveldt, AM 114)

37. ~~the following Article 77a is inserted:~~

*"Article 77a
Use of the DIF*

1. ~~During the reinsurance period the Board shall use the DIF to provide the funding in accordance with Article 41a(2) and cover a share of the excess loss in accordance with Article 41a(3).~~
 2. ~~During and after the co-insurance period the Board shall use the DIF to provide the funding in accordance with Article 41d(2) and Article 41h(2), respectively, and cover the loss in accordance with Article 41d(3) and 41h(3), respectively.~~
 3. ~~The use of the DIF with respect to a credit institution affiliated to a participating DGS shall be contingent upon compliance by this credit institution with the obligations incumbent on it as a member of the participating DGS set out in this Regulation and in Directive 2014/49/EU."; (Ferber, AM 307)~~
38. in Title VI of Part III, in Article 81(4), Article 83(2) and (3), Article 87(4), Article 88(2) and (6), the words "national resolution authority" are replaced by "national resolution authority, participating DGS or designated authorities where relevant" and the words "national resolution authorities" are replaced by "national resolution authorities, participating DGS or designated authorities where relevant";
- 38a. *Article 92 is amended as follows:*
- (a) *paragraph 2 is replaced by the following:*
 - "2. *Each report shall examine whether:*
 - (a) *sufficient regard was had to economy, efficiency and effectiveness with which the SRF and the DIF have been used, in particular the need to minimise the use of the SRF and the DIF;*
 - (b) *the assessment of Fund aid was efficient and rigorous.";* (Papadimoulis, AM 308)
39. Article 93 is amended as follows:
- (a) paragraph 2 is replaced by the following:

"2. The delegation of power referred to in Article 19(8), Article 65(5), Article 69(5), Article 71(3), Article 74b (5), Article 74c (5), Article 74d(4) and Article 75(4) shall be conferred for an indeterminate period of time from the relevant dates referred to in Article 99.";
 - (b) paragraph 4 is replaced by the following:

"4. The delegation of power referred to in Article 19(8), Article 65(5), Article 69(5), Article 71(3), Article 74b (5), Article 74c (5), Article 74d(4) and Article 75(4) may be revoked at any time by the European Parliament or by the Council. A decision of revocation shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.";

(c) paragraph 6 is replaced by the following:

"6. A delegated act adopted pursuant to Article 19(8), Article 65(5), Article 69(5), Article 71(3), Article 74b (5), Article 74c (5), Article 74d(4) and Article 75(4) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of three months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by three months at the initiative of the European Parliament or the Council.";

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