

**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**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,
Having regard to the Treaty on the Functioning of the European Union, and in particular
Article 114 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Central Bank¹,

Having regard to the opinion of the European Economic and Social Committee²,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) Over the past years, the Union has made progress in creating an internal market for banking services. A better integrated internal market for banking services is essential in order to foster economic growth in the Union **and the competitiveness of European financial markets**, to safeguard the stability of the banking system and to protect depositors, **as well as to give greater impetus to the Capital Markets Union (CMU) project.** (Benjumea et al., AM 4)
- (1a) **The 2008 global financial crisis exposed the vulnerabilities in the financial and banking sector, highlighting the close link between a country's fiscal health and that of its banks. In response to this complex scenario, in 2012 the European authorities launched an ambitious project to create a Banking Union as a mechanism to establish a strong, transparent and secure European banking system with a view to moving towards a genuine Economic and Monetary Union in Europe.** (Benjumea et al., AM 5)
- (1b) **A completed Banking Union would be a positive development for citizens and the EU economy, providing the basis for a more stable banking system, the reduction of systemic risk, enhanced competition, improved consumer choice, increased opportunities for cross-border banking and access to retail financial services, greater economic investment, better access to funding for households and businesses, and the reduction of costs for banking customers.** (Benjumea et al., AM 6)
- (2+) On 18 October 2012, the European Council concluded that "In the light of the fundamental challenges facing it, the Economic and Monetary Union (EMU) needs to be strengthened to ensure economic and social welfare as well as stability and sustained prosperity" and "that the process towards deeper economic and monetary union should build on the Union institutional and legal framework and be characterised by openness and transparency towards Member States whose currency is not the euro

¹ OJ C , , p. .

² OJ C , , p. .

and by respect for the integrity of the internal market". To that end, the Banking Union has been established, underpinned by a comprehensive and detailed single rulebook for financial services for the internal market as a whole. The process towards establishing the Banking Union has been characterised by openness and transparency towards non-participating Member States and by respect for the integrity of the internal market.

- (32) The European Parliament, in its resolution of 20 November 2012 'Towards a genuine Economic and Monetary Union', also stated that breaking the negative feedback loops between sovereigns, banks and the real economy is crucial for a smooth functioning of the EMU, stressed the urgent need for additional and far-reaching measures for the realisation of a fully operational Banking Union, while ensuring the continued proper functioning of the internal market for financial services and the free movement of capital.
- (43) While key steps have been made towards ensuring the efficient functioning of the Banking Union, with the Single Supervisory Mechanism (the 'SSM') established by Council Regulation (EU) No 1024/2013³ ensuring that the Union's policy relating to the prudential supervision of credit institutions in the euro area Member States and those non euro area Member States who choose to participate in the SSM (the 'participating Member States') is implemented in a coherent and effective manner and with the Single Resolution Mechanism (the 'SRM') established by Regulation (EU) No 806/2014 ensuring a consistent framework for the resolution of banks that are failing or likely to fail in the participating Member States, further steps are still needed to complete the Banking Union.
- (54) In June 2015, the Five Presidents Report on Completing Europe's Economic and Monetary Union pointed out that a single banking system can only be truly single if confidence in the safety of bank deposits is the same irrespective of the Member State in which a bank operates. This requires single bank supervision, single bank resolution and single deposit insurance. The Five Presidents report therefore proposed to complete the Banking Union by establishing a European Deposit Insurance Scheme (EDIS), the third pillar of a fully-fledged Banking Union alongside bank supervision and resolution. Concrete steps in that direction should already be taken as a priority, with a re-insurance system at the European level for the national deposit guarantee schemes as a first step towards a fully mutualised approach. The scope of this reinsurance system should coincide with that of the SSM.
- (5a) *The creation of a European Deposit Insurance Scheme would not only increase confidence among European depositors in the financial markets, but would also reduce risks for consumers, while facilitating access to a wider choice of financial products and promoting the stability and integration of the European banking system. (Benjumea et al., AM 10)*
- (65) The recent ~~crises~~ **crises over the last two decades have** ~~has~~ shown that the functioning of the internal market may be under threat and that there is an increasing risk of financial fragmentation. The failure of a bank that is relatively large compared to the national banking sector or the concurrent failure of a part of the national banking sector may cause national DGSs to be vulnerable to large local shocks, even with the

³ Council Regulation (EU) No 1024/2013 of 15 October 2013 conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions (OJ L 287, 29.10.2013, p. 63).

additional funding mechanisms provided by Directive 2014/49/EU of the European Parliament and of the Council⁴. This vulnerability of national DGSs ***underlines the added value of establishing a European Deposit Insurance Scheme – a mechanism to shield the network of national schemes against local shocks avoiding to large local shocks*** can contribute to adverse feedback between banks and their national sovereign undermining the homogeneity of protection for deposits and contributing to a lack of confidence among depositors and resulting in market instability. (*Benjumea et al., AM 13; Pereira et al., AM 14*)

- (76) The absence of a homogenous level of depositor protection can distort competition, ***hinder competitiveness*** and create an effective barrier for the freedoms of establishment and free provision of services by credit institutions within the internal market. A common deposit insurance scheme is therefore ***urgent and*** essential for the completion of the internal market in financial services. (*Pereira et al., AM 18; Benjumea et al., AM 19*)
- (87) Although Directive 2014/49/EU significantly improves the capacity of national schemes to compensate depositors, more efficient deposit guarantee arrangements are needed at the level of the Banking Union to ensure sufficient financial means to underpin the confidence of all depositors ***on an equal basis throughout the Banking Union countries*** and thereby safeguard financial stability. EDIS would increase the resilience of the Banking Union against future crises ~~by sharing risk more widely~~ and would offer equal protection for insured depositors, supporting the proper functioning of the internal market. (*Papadimoulis, AM 22*)
- (98) ~~Funds used by deposit guarantee schemes to repay depositors for unavailable covered deposits in accordance with Article 8 of Directive 2014/49/EU on deposit guarantee schemes do not constitute State aid or Fund aid. However, where those funds are used in the restructuring of credit institutions and constitute State aid or Fund aid, they must comply with Article 108 of the Treaty on the Functioning of the European Union and, respectively, with Article 19 of Regulation (EU) No 806/2014 of the European Parliament and of the Council⁵, which should be amended for that purpose.~~
- (109) Despite the further harmonisation introduced by the Directive 2014/49/EU, national DGSs retain certain options and discretions, including with respect to certain essential elements like target levels, risk factors to be applied when assessing credit institutions' contributions, repayment periods or the use of funds. Those differences between national rules may obstruct the free provision of services and create distortions of competition. In a highly integrated banking sector, uniformity of rules and approaches is needed to ensure a consistently robust level of protection of depositors throughout the Union and so guarantee the objective of financial stability.
- (110) ***This regulation establishes the first stage of a European Deposit Insurance Scheme (EDIS I), which operates as a liquidity scheme that provides loans to participating deposit guarantee schemes, with the aim to make progress to a full insurance scheme with loss coverage at a later stage, in accordance with Article 94a.*** The establishment

⁴ Directive 2014/49/EU of the European Parliament and of the Council of 16 April 2014 on deposit guarantee schemes (OJ L 173, 12.6.2014, p. 149).

⁵ Regulation (EU) No 806/2014 of the European Parliament and of the Council of 15 July 2014 establishing uniform rules and a uniform procedure for the resolution of credit institutions and certain investment firms in the framework of a Single Resolution Mechanism and a Single Resolution Fund and amending Regulation (EU) No 1093/2010 (OJ L 225, 30.7.2014, p. 1).

of an EDIS *I*, with decision-making, monitoring and enforcement powers centralised and entrusted to the Single Resolution and Deposit Insurance Board ("the Board"), will be essential in achieving the objective of a harmonised deposit guarantee framework. The uniform application of the deposit guarantee requirements in the participating Member States will be enhanced as a result of it being entrusted to such a central authority. In this way, the operation of EDIS *I* should facilitate, by supporting and providing a framework for the establishment and subsequent implementation of uniform rules on deposit guarantee arrangements, the harmonisation process in the field of financial services.

- (124) Furthermore, EDIS *I* is part of the wider EU rules harmonising prudential supervision and recovery and resolution, which are complementary aspects of the internal market for banking services. Supervision can only be effective and meaningful if an adequate deposit insurance scheme, corresponding to the developments in the field of supervision, is created. EDIS *I* is therefore instrumental to a wider process of harmonisation and its objectives are closely linked to the Union framework on prudential supervision and recovery and resolution whose centralised application are mutually dependant. For instance, adequate coordination at the level of supervision and deposit guarantee is needed in cases where the European Central Bank (ECB) envisages withdrawing an authorisation to a credit institution or where a credit institution does not comply with the obligation to be a member of a DGS. A similar high level of integration is needed between the resolution actions and the deposit insurance tasks attributed to the Board.
- (132) This Regulation applies ~~only~~ in respect of banks ***which are members of participating DGSs whose home supervisor is the ECB or the national competent authority in Member States whose currency is the euro or in Member States whose currency is not the euro which have established a close cooperation in accordance with Article 7 of Regulation (EU) No 1024/2013. The scope of application of this Regulation is linked to the scope of application of Regulation (EU) No 1024/2013. Indeed, bearing in mind the significant level to which the supervisory tasks attributed to the SSM and deposit guarantee actions are interwoven, the establishment of a centralised system of supervision operated under Article 127(6) of the Treaty on the Functioning of the European Union is fundamentally important to the process of harmonisation of deposit guarantee in participating Member States. The fact of being subject to supervision by the SSM constitutes a specific attribute that places the entities falling within the scope of application of Regulation (EU) No 1024/2013 in an objectively and characterised distinct position for deposit guarantee purposes. It is necessary to adopt measures to create a single deposit insurance scheme for all Member States participating in the SSM in order to facilitate the proper and stable functioning of the internal market. (Benjumea et al., AM 30)***
- (143) In order to ensure parallelism with the SSM and the SRM, EDIS *I* should apply to participating Member States. Banks established in the Member States not participating in the SSM should not be subject to EDIS *I*. As long as supervision in a Member State remains outside the SSM, that Member State should remain responsible for ensuring the protection of depositors against the consequences of the insolvency of a credit institution. As Member States join the SSM, they should also automatically become subject to the EDIS *I*. Ultimately, the EDIS *I* could potentially extend to the entire internal market.

- (154) In order to ensure a level playing field within the internal market as a whole, this Regulation is consistent with Directive 2014/49/EU. It complements the rules and principles of that Directive to ensure the proper functioning of EDIS *I* and that appropriate funding is available to the latter. The material law on deposit guarantee to be applied within the EDIS *I* framework will therefore be consistent with the one applicable by the national DGSs or designated authorities of the non-participating Member States, harmonised through the Directive 2014/49/EU.
- (165) In integrated financial markets, any financial support to reimburse depositors enhances the financial stability not only in the participating Member State concerned but also in other Member States, by preventing any spill-over of bank crises into non-participating Member States. The conferral of deposit insurance tasks to the Board should not in any way hamper the functioning of the internal market for financial services. The European Banking Authority (EBA) should therefore maintain its role and retain its existing powers and tasks: it should develop and contribute to the consistent application of the Union legislation applicable to all Member States and enhance convergence of deposit guarantee practices across the Union as a whole.
- ~~(176) EDIS should progressively evolve from a reinsurance scheme into a fully mutualised co-insurance scheme over a number of years. In the context of efforts to deepen the EMU, together with the work on the establishment of bridge financing arrangements for the Single Resolution Fund (SRF) and on developing a common fiscal backstop, this step is necessary to reduce the bank/sovereign links in individual Member States by means of steps towards risk sharing among all the Member States in the Banking Union, and thereby to reinforce the Banking Union in achieving its key objective. However, such risk sharing implied by steps to reinforce Banking Union must proceed in parallel with risk reducing measures designed to break the bank-sovereign link more directly.~~
- (187) *This Regulation establishes the modalities for the use of the Deposit Insurance Fund and the general criteria to determine the fixing and calculation of contributions and lays down the powers of the Board for using and managing the Deposit Insurance Fund. The Deposit Insurance Fund could provide liquidity support where the available financial means of a DGS are used for payout, in resolution in accordance with Article 79 of this Regulation or for measures referred to in Article 11(3) or 11(6) of Directive 2014/49/EU. Liquidity support should be kept at ten times the target level of the participating DGS and thereby increases the available financial means to protect depositors significantly.* ~~EDIS should be established in three sequential stages, first a reinsurance scheme that covers a share of the liquidity shortfall and of the excess losses of participating DGSs, followed by a co-insurance scheme that covers a gradually increasing share of the liquidity shortfall and losses of participating DGSs and eventually resulting in a full insurance scheme that covers all liquidity needs and losses of participating deposit guarantee schemes. (Papadimoulis, AM 35; Ferber, AM 44; Ormel, AM 45)~~
- (198) ~~In the reinsurance stage, and~~ In order to limit the liability for the European Deposit Insurance Fund (“the Deposit Insurance Fund”) and to reduce moral hazard risk at the national level, assistance from the Deposit Insurance Fund can only be requested if the ~~participating~~ national DGS has raised ex-ante contributions in accordance with **Article 10 of Directive 2014/49/EU** ~~a precise funding path~~, and if it first depletes these funds ~~would not be sufficient~~. However, to the extent that a national DGS has collected funds over and above that which is required by the funding path, it only needs to use up the

funds it had to collect to comply with the funding path before being able to receive **liquidity support** coverage by EDIS I. Therefore, DGSs which have collected more funds than is needed to comply with the funding path should not be in a worse position than those which have collected funds not exceeding the levels set out in the funding path. **Liquidity support from the DIF should be as an instrument only after funds from participating DGSs have been used. However, spending the necessary administrative expenses of the participating DGS should not be considered as a condition to access funds from the DIF. Additionally, the procedure of preliminary information and the duty to notify the Board should ensure that necessary liquidity support is provided at an appropriate time before complete depletion of participating DGS funds. (Peter-Hansen, AM 132)**

- (19a) ***In cases where the DIF funds are insufficient to provide the amount of liquidity support to a participating DGSs, all other participating deposit guarantee schemes should be obliged to lend to the DIF upon request from the Board. This mandatory lending should be kept to 30% of the target level of each lending DGS. The Board should always take into consideration the effect on financial stability when making the decision on mandatory lending. Before the DIF is fully funded, the cap on mandatory lending should decrease evenly from 60% to 30% of the target level of each DGS.***
- (19b) ***If a DGS has received liquidity support by the DIF or via mandatory lending from other participating DGS, this liquidity support should be paid back within six years in accordance with a clear repayment plan and as a matter of priority for the DGS that has received the liquidity support. Repaying the liquidity support within the agreed timeframe should take priority over all other liabilities of the DGS that are not outstanding at the moment of the provision of the liquidity support. It is the legal responsibility of the participating DGS to meet and maintain both the target level of the DGS and the DIF. (Ferber, AM 68)***
- (19c) ***In order to ensure that participating DGSs continue to have the same terms for using financial means in their DGS fund, no interest is charged for any liquidity support up to their contributions to the DIF. However, to ensure incentives for repayment an interest is charged and progresses for amounts exceeding these contributions.***
- (19d) ***To avoid moral hazard the Commission should be able to disqualify participating DGS from the eligibility from the liquidity support if the participating DGS does not comply with certain obligations or acts counter to the principle of sincere cooperation.***
- ~~(2019) As the Deposit Insurance Fund, in the re-insurance stage, would only provide an additional source of funding and would only weaken the link between banks and their national sovereign, without however ensuring that all depositors in the Banking Union enjoy an equal level of protection, the reinsurance stage should, after three years, gradually progress into a co-insurance scheme and ultimately into a fully mutualised deposit insurance scheme. (Ferber, AM 49)~~
- ~~(210) While the reinsurance and coinsurance stages would share many common features, ensuring a smooth gradual evolution, pay-outs under the co-insurance stage would be shared between national DGS and the Deposit Insurance Fund as of the first euro of loss. The relative contribution from the Deposit Insurance Fund would gradually increase to 100 percent, resulting in the full mutualisation of depositor risk across the Banking Union after four years. (Ferber, AM 53)~~

- (224) ~~Safeguards should be built into EDIS so as to limit moral hazard risk and to ensure that the coverage by EDIS is only provided where national DGSs act in a prudent manner. Firstly, national DGSs should comply with their obligations under this Regulation, the Directive 2014/49/EU and other relevant EU law, in particular their obligation to build up their funds in accordance with Article 10 of Directive 2014/49/EU as further specified in this Regulation. In order to benefit from coverage by EDIS, participating DGSs need to raise ex-ante contributions in accordance with a precise funding path. This also implies that the possibility of a target level reduction in accordance with Article 10(6) of Directive 2014/49/EU is no longer available if the DGS wants to benefit from EDIS. Secondly, in case of a pay out event or where its funds are used in resolution, a national DGS should bear a fair share of the loss themselves. It should therefore be required to collect ex-post contributions from its members to replenish its fund and to repay EDIS to the extent that the initially received funding exceeds the share of loss to be borne by EDIS. Thirdly, following a pay out event, the national DGS should maximise the proceeds from the insolvency estate and repay the Board and the Board should have sufficient powers to safeguards its rights. Fourthly, the Board should have the powers to recover all or part of funding in case of a participating DGS did not comply with key obligations. (Ferber, AM 56; Sailliet, AM 57)~~
- (232) The Deposit Insurance Fund is an essential element without which the ~~progressive~~ establishment of EDIS *I* could not be achieved. Different national systems of funding would not provide for homogenous deposit insurance across the Banking Union. ~~Throughout the three stages,~~ the Deposit Insurance Fund should help ensuring the stabilising role of DGSs, a uniform high level of protection to all depositors in a harmonised framework throughout the Union and avoiding the creation of obstacles for the exercise of fundamental freedoms or the distortion of competition in the internal market due to different levels of protection at national level.
- 243) The Deposit Insurance Fund should be financed by *transfers from participating DGSs of direct contributions collected* from banks. ~~Decisions taken within the EDIS, requiring T~~ the use of the Deposit Insurance Fund ~~or of a national deposit guarantee scheme~~ should not impinge on the fiscal responsibilities of the Member States. In that regard, only extraordinary public financial support should be considered to be an impingement on the budgetary sovereignty and fiscal responsibilities of the Member States.
- ~~(254) This Regulation establishes the modalities for the use of the Deposit Insurance Fund and the general criteria to determine the fixing and calculation of ex-ante and ex-post contributions and lays down the powers of the Board for using and managing the Deposit Insurance Fund.~~
- (265) ~~Contributions would be directly levied on banks to finance the Deposit Insurance Fund. The Board would collect the contributions and administer the Deposit Insurance Fund that should be financed from contributions collected from banks and transferred to the DIF by the participating DGSs., while national Participating DGSs would continue to collect national contributions and administer national funds. In order to ensure fair and harmonised contributions for participating banks and provide incentives to operate under a model which presents less risk, both contributions to EDIS I and to participating national DGS should be calculated on the basis of covered deposits and a risk-adjustment factor per bank. During the re-insurance period T~~ the risk-adjustment factor *for contributions to the Deposit Insurance Fund* should

consider the degree of risk incurred by a bank relative to all other banks *in the scope of EDIS I*. ~~affiliated to the same participating DGS. Once the stage of co-insurance is reached, the risk adjustment factor should consider the degree of risk incurred by a bank relative to all other banks established in the participating Member States. This would ensure that, overall, EDIS is cost neutral for banks and national DGSs and avoid any redistribution of contributions during the build-up phase of the Deposit Insurance Fund.~~

- (26a) *After three years, 50% of the target level of the participating DGS should be transferred to the DIF. The Board should ensure that the contributions are transferred and spread out in an evenly manner. In the case that the participating DGS does not have sufficient financial means, the Board should draw up a plan to reach the target level to the DIF in six years at the most. It is the legal responsibility of the participating DGS to meet and maintain both the target level of the DGS and the DIF.*
- (276) ~~In principle, contributions should be collected from the industry prior to, and independently of, any deposit insurance action. When prior funding is insufficient to cover the losses or costs incurred by the use of the Deposit Insurance Fund, additional contributions should be collected to bear the additional cost or loss. Moreover, Tthe Deposit Insurance Fund should be able to contract borrowings or other forms of support from credit institutions, financial institutions or other third parties *along with recourse to mandatory lending* in the event that *the funds available in the Deposit Insurance Fund are not sufficient for the requested liquidity support*. the ex-ante and ex-post contributions are not immediately accessible or do not cover the expenses incurred by the use of the Deposit Insurance Fund in relation to deposit insurance actions. *These alternative funding means for the Deposit Insurance Fund should be enhanced in a manner that optimises the cost of funding and preserves the creditworthiness of the Deposit Insurance Fund. Immediately after the entry into force of this Regulation, the necessary steps should be taken by the Board in cooperation with the participating Member States to develop the appropriate methods and modalities permitting the enhancement of the borrowing capacity of the Deposit Insurance Fund that should be in place by the date of application of this Regulation.*~~
- (287) In order to reach a critical mass and to avoid pro-cyclical effects which would arise if the Deposit Insurance Fund had to rely solely on ex post contributions in a systemic crisis, it is indispensable that the ex-ante available financial means of the Deposit Insurance Fund amount at least to a certain minimum target level.
- (298) ~~The initial and final target level of the Deposit Insurance Fund should be established as a percentage of the total minimum target levels of participating DGS. It should progressively reach 20% of four ninth of the total minimum target levels by the end of the reinsurance period and the sum of all minimum target levels by the end of the co-insurance period. The possibility to apply for approval to authorise a lower target level in accordance with Article 10(6) of Directive 2014/49/EU should not be considered when setting the initial or final target levels of the Deposit Insurance Fund. An appropriate time frame should be set to reach the target level for the Deposit Insurance Fund. *This should not prevent granting a deferral for the transferring of contributions by a national DGS following an intervention.*~~

- (29a) *In order to ensure availability of liquidity support from the entry into force of this regulation a proportionally higher amount of funds in participating DGSs should be available for mandatory lending during the build-up period of the DIF.*
- ~~(3029) Ensuring effective and sufficient financing of the Deposit Insurance Fund is of paramount importance to the credibility of EDIS. The capacity of the Board to contract alternative funding means for the Deposit Insurance Fund should be enhanced in a manner that optimises the cost of funding and preserves the creditworthiness of the Deposit Insurance Fund. Immediately after the entry into force of this Regulation, the necessary steps should be taken by the Board in cooperation with the participating Member States to develop the appropriate methods and modalities permitting the enhancement of the borrowing capacity of the Deposit Insurance Fund that should be in place by the date of application of this Regulation.~~
- (310) ~~It is necessary to ensure that the Deposit Insurance Fund is fully available for the purpose of ensuring the guarantee of deposits. Therefore, the Deposit Insurance Fund should primarily be used for the efficient implementation of deposit guarantee requirements and actions. Furthermore, it should be used only in accordance with the applicable deposit guarantee objectives and principles. Under certain conditions, the Deposit Insurance Fund could also provide funding where the available financial means of a DGS are used in resolution in accordance with Article 79 of this Regulation. (Ferber, AM 62)~~
- (324) In order to protect the value of the amounts held in the Deposit Insurance Fund, those amounts should be invested in sufficiently safe, diversified and liquid assets.
- (332) Where close cooperation with the ECB of a participating Member State whose currency is not the euro is terminated in accordance with Article 7 of Regulation (EU) No 1024/2013, a fair partition of the cumulated contributions of the participating Member State concerned should be decided taking into account the interests of the participating Member State concerned and the Deposit Insurance Fund.
- ~~(343) In order to guarantee its full autonomy and independence when undertaking deposit insurance actions under this Regulation, the Board should have an autonomous budget with revenues from obligatory contributions *collected* from the institutions in the participating Member States. This Regulation should be without prejudice to the ability of Member States to levy fees to cover the administrative expenses of their national DGSs or designated authorities.~~
- (354) The Board, where all the criteria relating to the use of the Deposit Insurance Fund are met, should provide the relevant *liquidity support* ~~funding and loss cover~~ to the *participating* DGS.
- ~~(365) The Board should operate in joint-plenary, plenary and executive sessions. The Board, in its executive session, should prepare all decisions concerning *provision of liquidity pay-out procedures* and, to the fullest extent possible, adopt those decisions. ~~Regarding the use of the Deposit Insurance Fund, it is important that there is no first-mover advantage and that the outflows of the Deposit Insurance Fund are monitored. Once the net accumulated use of the Deposit Insurance Fund in the previous consecutive 12 months reaches the threshold of 25% of the final target level, the plenary session should evaluate the application of the deposit insurance actions or the participations in resolution actions and the use of the Deposit Insurance Fund, and should provide guidance which the executive session should follow in subsequent decisions. Guidance~~~~

to the executive session should, in particular, focus on ensuring the non-discriminatory application of deposit insurance actions or participation in resolution actions, on measures to be taken to avoid a depletion of the Deposit Insurance Fund.

- (376) The efficiency and uniformity of deposit insurance actions should be ensured in all of the participating Member States. For that purpose, 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 any of the deposit insurance scheme's objectives or to the efficient implementation of the deposit insurance action, the Board should be empowered to order any necessary action which significantly addresses the concern or threat to the EDIS I objectives. Any action by a participating DGS that would restrain or affect the exercise of powers or functions of the Board should be excluded.
- (387) When making decisions or taking actions, in particular regarding entities established both in participating Member States and in non-participating Member States, possible adverse effects on those Member States, such as threats to the financial stability of their financial markets, and on the entities established in those Member States, should also be taken into consideration.
- ~~(398) The Board, the designated authorities, the competent authorities, including the ECB, and the resolution authorities should, where necessary, conclude a memorandum of understanding describing in general terms how they will cooperate with one another in the performance of their respective tasks under Union law. The memorandum should be reviewed on a regular basis.~~
- (4039) The relevant entities, bodies and authorities involved in the application of this Regulation should cooperate with each other in accordance with the duty of sincere cooperation enshrined in the Treaties.
- ~~(410) The Board and the designated authorities and competent authorities of the non-participating Member States should also conclude memoranda of understanding describing in general terms how they will cooperate with one another in the performance of their tasks under Directive 2014/49/EU. The memoranda of understanding could, inter alia, clarify the consultation relating to decisions of the Board that have effect on branches located in the non-participating Member States, where the credit institution is established in a participating Member State. The memoranda should be reviewed on a regular basis.~~
- (424) The procedure relating to the adoption of decisions by the Board respects the principle of delegation of powers to agencies as interpreted by the Court of Justice of the European Union.
- (432) This Regulation respects the fundamental rights and observes the rights, freedoms and principles recognised in particular by the Charter, and, in particular, the right to property, the protection of personal data, the freedom to conduct a business, the right to an effective remedy and to a fair trial and the right of defence, and should be implemented in accordance with those rights and principles.
- (443) Since the objectives of this Regulation, namely setting up a more efficient and effective deposit guarantee framework and ensuring the consistent application of deposit guarantee rules, cannot be sufficiently achieved by the Member States but can rather be better achieved at the Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European

Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives.

- (454) The Commission should review the application of this Regulation in order to assess its impact on the internal market and to determine whether any modifications or further developments are needed in order to improve the efficiency and the effectiveness of the EDIS I. *This review should be conducted independently from any assessment on the necessity of a full-fledged EDIS.* (Ferber, AM 65)
- (45a) *On a continuous basis, the Commission should review the appropriateness of extending EDIS I from providing liquidity support to a full insurance scheme with loss coverage. The Commission should consider the treatment of institutional protection schemes, changes to the general DGS target level, convergence of contributions to the DIF and the need for a publicly funded backstop mechanism. Sufficient progress on the NPL framework and an asset quality review of less significant institutions should be a condition for making any legislative proposals.* (Poulsen, AM 12; Nagtegaal et al., AM 21; Heinäluoma, AM 28; Kelleher et al., AM 39; Benjumea et al., AM 41; Pereira et al., AM 42; Benjumea et al., AM 43; Ferber, AM 48; Benjumea et al., AM 50; Papadimoulis, AM 61; Benjumea et al., AM 66; Peter-Hansen, AM 70)
- (45b) *This amending Regulation sets out a clear path to complete the long overdue Banking Union. Apart from the completion of EDIS, there are interconnected and incomplete legislative building blocks of the Single Market for banking which should be assessed. The Commission should consider to amend the capital and liquidity waivers and the level of application of the output floor in the Capital Requirements Regulation, progress on legislation and reviews on risk reduction and the diversification of banks' sovereign bond holdings and progress on international level on the regulatory treatment of sovereign exposures.* (Poulsen, AM 12; Nagtegaal et al., AM 21; Kelleher et al., AM 39; Ormel, AM 40; Ferber, AM 71)
- (45c) *Conducting the reviews on EDIS I, the completion of EDIS and the completion of the Banking Union and making associated legislative proposals will result in the ultimate final completion of the Banking Union.*
- (465) In order for EDIS I to function in an effective manner as *soon as possible*, ~~of [...]~~, the provisions concerning the payment of contributions to the Deposit Insurance Fund, the establishment of all the relevant procedures and any other operational and institutional aspects should apply from *the date of entry into force*. ~~XX-~~(Papadimoulis, AM 67)
- (476) Regulation (EU) No 806/2014 should be amended to incorporate and respectively take into account the establishment of EDIS I.;