Deposit Guarantee Schemes:

General aspects and recent institutional and regulatory developments at international and EU level*

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Executive summary

The present study undertakes a brief overview of the *regulatory* developments which have taken place, both at international (see below, **under 2**) and at EU level (**under 3.3**), as a response to the recent (2007-2009) international financial crisis with regard to the operation of deposit guarantee schemes (for a brief cost-benefit analysis of deposit guarantee schemes see below, **under 1**).

It also overviews the current proposal for an EU Regulation pertaining to the establishment of a European Deposit Insurance Scheme and a European Deposit Insurance Fund (on this *institutional* development see below, **under 3.2**), as the (still missing) third main pillar of the European Banking Union, which is a child of the current fiscal crisis in the euro area (**under 3.1**).

1. Operation of deposit guarantee schemes

1.1 Functions of deposit guarantee schemes

1.1.1 The 'paybox' function

1.1.1.1 General considerations

If bank insolvency problems arise,[2] and provided that no 'private money solution' can be achieved, governments and competent authorities are faced with a 'trilemma' with regard to the crisis management instrument to be applied:

- to bail-out undercapitalised (usually systemically significant) banks by using taxpayers' money, judging that a withdrawal of their authorisation would have significant systemic consequences,[3]
- to resolve insolvent banks through the competent resolution authorities,[4] provided that the relevant resolution conditions are met, or
- to withdraw their authorisation and subsequently activate the deposit guarantee scheme.[5]

The primary function of deposit guarantee schemes (**'DGSs'**) is thus considered that of the 'paybox' for depositors. In that respect, DGSs follow two (2) objectives:

- the protection of small depositors (see below, under 1.1.1.2), and
- acting as buffer mechanisms in the event of a banking crisis and contributing to ensuring the stability of the banking system (being part of the 'bank safety net', on the components of which see below **Table 1**) (see below, under 1.1.1.3).

DGSs guarantee the default-free character of deposits in the event of bank failure.

[2] A bank becomes insolvent when either its liquidity is so low that it cannot repay its outstanding debt or the market value of its non-equity liabilities exceeds that of its assets.

[3] On this, see **Padoa-Schioppa (2000)**, pp. 24-26, as well as **Nijskens and Eijffinger (2010)** with regard to the link between bail-outs and last-resort lending.

[4] For more on this form of regulatory intervention, see indicatively **Avgouleas, Goodhart and Schoenmaker (2009)**, **Claessens, Herring, and Schoenmaker (2010)**, and **Financial Stability Board (2011)**: "Key Attributes of Effective Resolution Regimes for Financial Institutions", November (available at: http://www.financialstabilityboard.org/publications/r_111104cc.htm).

[5] It should be noted that following the withdrawal of authorisation and activation of a deposit guarantee scheme, a credit institution is usually placed under liquidation.

1.1.1.2. Protection of small depositors

The establishment of a DGS is firstly required for the protection of small depositors.[6] The concept of 'small depositor' refers to those categories of savers who, given their limited knowledge, are insufficiently informed in order to be in a position to assess the solvency of the banks entrusted with their savings. This category of savers, usually hold a significant share of their total savings in their bank accounts (*inter alia*, for conducting payments), and they cannot be expected to discipline the market by behaving as 'investors'.

1.1.1.3 Contribution to the stability of the banking system

(a) DGSs also act as buffer mechanisms in the event of a banking crisis, contributing to ensuring the stability of the banking system. They protect the banking system from massive withdrawals by panic-stricken depositors.

Panics occur when "bank debtholders at all, or many, banks in the banking system suddenly demand that banks convert their debt into cash at par to such an extent that banks suspend convertibility of their debt into cash".[7] Panic is the cause of failure in the banking market to the extent that as the panic evolves even solvent banks can face a heavy liquidity strain, which in turn may cause their insolvency.

There are several models explaining banking panics.[8] All of them view panics as caused by imperfect information to depositors about the quality of bank asset portfolios and bank viability. Depending on the economic event triggering depositors' sudden demand for convertibility, the models on banking panics are classified in accordance with two theories:

- *the non-fundamental theory (based on the 'sunspot' or 'random withdrawal hypothesis'),[9] and*
- *the fundamental theory, according to which bank panics are caused by any economic event that can induce depositors to change perceptions about bank risk exposure.[10]*

Depositor panic results in mass deposit withdrawals. Under such circumstances, even the most solvent bank is not in a position to meet its obligations, but only either by borrowing funds on money and capital markets or from its central bank at particularly high rates (last resort lending), or by liquidating its assets at unfavourably low prices. The failure of coordination among depositors under adverse market conditions, leading to runs and panics, can be addressed:

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[6] It is considered that small depositors should have access to safe financial instruments for their payments and savings. Taking into account that banks – just like all other enterprises operating in accordance with market rules – are exposed to insolvency risk, it is only through regulatory intervention, i.e. the establishment of DGSs, that bank deposits become the relatively safer financial instrument.

[7] This definition of panics is given by **Calomiris and Gorton (1990).**

[8] These models are reviewed in **Carisano (1992)**, pp. 32-56.

[9] See on this **Diamond and Dybvig (1983)**, p. 410.

[10] **Gorton (1988)** presents three (3) different versions of the fundamental theory: the 'recession hypothesis', the 'seasonal hypothesis', and the 'failure hypothesis', according to which panics are generated by the unexpected failure of a usually, but not necessarily, large bank.

- either by suspending the convertibility of deposits into cash (including by the imposition of capital controls), or
- by the establishment of DGSs.

(b) The establishment of DGSs is aimed at eliminating the incentive for massive withdrawals from individual banks or, in the worst-case scenario, the entire banking system. Thus, DGSs alleviate some of the inherent problems leading to runs and panics. DGSs assure small and unsophisticated depositors that the guarantee fund will compensate them if their bank is unable to convert their deposits into cash.[11]

As a component of the bank safety net, DGSs seek to curb incentives for depositor involvement in banking runs and panics by guaranteeing the transformation of illiquid bank assets into cash and maintaining public confidence in the banking system. Accordingly, the contribution of DGSs to the stability of the banking system is that they act as a buffer against the spreading of panic across the entire banking system through indiscriminate cash withdrawals from most banks, which result in the depletion of banks' net worth.

This is achieved by guaranteeing depositor coverage across all banks and preventing solvent banks from becoming unviable due to their objective inability to meet the widespread demand for deposits' withdrawal. If a bank cannot meet depositor claims, the incentive for such withdrawals is reduced by the existence of an entity (the DGS) responsible for reimbursing each depositor to an amount equal to his/her deposit (normally up to a certain ceiling, known as the 'coverage level').

(c) The existence, therefore, of a DGS reduces the incentive for the manifestation of depositor panic after the spreading of news on the financial condition of individual banks. A DGS's effectiveness is, however, contingent upon its credibility to meet its obligations and is definitely lower under conditions of a generalised economic crisis in a jurisdiction, leading to a situation of several banks (including large ones) being simultaneously exposed to insolvency. In that sense, DGSs are not designed to perform the above-mentioned function in case of a systemic crisis (as they are also not designed to compensate depositors of large banks in general).

1.1.2 Other functions

DGSs may also be called upon to serve one or more of the following additional three (3) functions:

(a) Their financial means may be used in order to contribute to the financing of the resolution of credit institutions, where the conditions for resolution are met. Usually, it is up to the resolution authorities to determine, after consulting the DGS, the amount by which the latter will be liable.[12]

(b) DGSs may also be required to use their financial means for the adoption of 'alternative measures' in order to prevent the failure of a credit institution (*e.g.*, liquidity provisions, guarantees) and hence reduce the likelihood of future claims against DGSs. Those measures must be compliant with State aid rules.

[11] See **Carisano (1992)**, p. 17.

[12] This is currently the situation in the EU according to the provisions of EU banking law. See on this below, **under 3.3 (c)(i)**.

(c) Finally, legislation may provide that the available financial means can be used to finance measures to preserve the access of depositors to covered deposits, including transfer of assets and liabilities and deposit book transfer, in the context of national insolvency proceedings.

1.2 Problems arising from the operation of deposit guarantee schemes

1.2.1 General overview

The obviously positive contribution of a DGS in terms of safeguarding public confidence in the banking system may be mitigated, in reality, by the adverse effects of its operation. The setting up of DGSs has been linked to two main negative effects:

- banks' exposure to moral hazard (see below, under 1.2.2), and
- the 'too-big-to-fail' problem (under 1.2.3).[13]

These two negative effects of DGSs are significantly mitigated through the interaction of deposit guarantee with a (credible) resolution framework. The minimization of banks' exposure to moral hazard, as well as the solution to the 'too-big-to-fail' problem, are two of the main goals for the setting up of resolution regimes and, as such, it could be argued that a credible resolution framework, especially through the design and application of the 'bail-in' tool, balances out the weaknesses inherent in DGSs.

1.2.2 Exposure to moral hazard

(a) Participation in a DGS enables a bank to finance risky assets with partially insured liabilities. Excessive risk-taking is also made possible by the fact that insured depositors lack the incentive to monitor and control their bank. For these reasons it is claimed that the existence of deposit guarantee undermines the safety of banks and creates the need *per se* for enhanced prudential supervision.[14]

Hence, the first adverse effect is that participation in a DGS gives banks an incentive to take greater risks than they would otherwise have, if their depositors were uninsured. Such behaviour on the part of banks, also known as exposure to moral hazard, is a rational reaction to the behaviour of uninsured depositors who seek protection from the DGS rather than the bank. This also applies to uninsured depositors who consider that they would be compensated by the DGS *ex post*, once the payment procedure is put into effect.[15]

[13] On the relation between deposit guarantee, bank risk and systemic fragility in the years leading up to and during the recent (2007-2009) international financial crisis, see **Anginer, Demirguc-Kunt and Zhu (2013)**.

[14] Alternative means for encouraging proper portfolio management in the presence of deposit guarantee are market-value accounting, risk-based deposit insurance premiums and radical structural solutions. For a detailed overview of these alternatives, see **Carisano (1992)**, pp. 128-151.

[15] Inadequate market discipline can be explained by the fact that depositors – either explicitly insured or expecting to be compensated *ex post* after their bank's authorisation is withdrawn, do not have an incentive to monitor the development of their bank's financial condition. Therefore, depositors do not request (as would normally happen in a market without deposit guarantees) higher interest rates from a bank with relatively lower solvency.

(b) The second adverse effect of DGSs regards exposure to moral hazard of participating banks in terms of the level of their own funds. Since insured depositors do not have an incentive to control their bank, the latter may be tempted to reduce its capital adequacy ratio (which supposedly contributes to increasing its solvency and, hence, the level of public confidence) at the minimum required by the regulatory framework, whilst reducing its 'antibodies' for absorbing losses in the event of risk emergence.

In this case, a spillover mechanism may be set in motion. The smaller a bank's capital base the greater its tendency to take extensive risks, as the profits from higher returns stay with shareholders, whereas losses are rolled over to the DGS.

1.2.3 Differential treatment of banks deemed 'too big (to be left) to fail'

The *ex post* treatment of small and large banks participating in a DGS can be unequal under given circumstances. In particular:

(a) In the absence of a credible and adequately designed regime for bank resolution,[16] governments may feel urged to bailout large failing banks, especially if these are considered 'too big to fail' (or, more accurately, 'too-big-to-be-left-to-fail'), due to the extent of the losses they would cause to their creditors and the economy as a whole (i.e. the 'public interest criterion' would be met).[17] In such a case, depositors of large banks are covered *ex post* comprehensively. The same may apply in the (rare) cases where the decision is taken to withdraw a large bank's authorisation and activate the payout mechanism of the DGS.[18]

(b) By contrast, depositors in small banks fully assume the losses incurred as a result of an insolvency decision on the part of competent authorities, since, as a rule, small banks are not being bailed out and, if the decision is taken to withdraw their authorisation, depositors are compensated only up to the 'coverage level'. Such behaviour by the competent authorities can be explained by the fact that if a small bank's authorisation were to be withdrawn, the risk of spillover effects in the banking market would not be severe, since the 'public interest criterion' would not be met.

1.3 Attributes of deposit guarantee schemes

Taking into account the above-mentioned, explicit DGSs are characterised by six (6) main attributes:[19]

(a) In principle, they are activated only if a bank's authorisation has been withdrawn (without resolution), i.e. its *deposits have become unavailable* to the public.

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[16] On bank resolution, see above, **under 1.1.1**.

[17] On the definition of this category of banks and the policy issues arising from their operation, see, by mere indication, **Carmassi, Luchetti and Micossi (2010)** and **Hofer (2014)**.

[18] For instance, this was the case of depositors with two big failed US banking institutions, Continental Illinois Bank (defunct in 1984) and the Bank of New England (closed in 1991), who received compensation for the entirety of their deposits.

[19] See **Carisano (1992)**, pp. 22-29.

(b) They assume an *explicit obligation*; upon the withdrawal of a bank's authorisation (without resolution), they are required to compensate, within a pre-specified (short) period, its depositors to the extent that their deposits are covered.

(c) The guarantee they provide is *non-discretionary*; once a bank's authorisation has been withdrawn (without resolution), depositors have in principle a direct claim for compensation against DGSs,[20] irrespective of the conditions underlying the bank failure.

(d) Deposit guarantee is an *ex-ante 'safe device'* for depositors; it makes them certain of compensation, thus curbing the incentives for bank runs and panics.

(e) The *level of protection* offered by a DGS is usually *limited*; the amount of the compensation has a ceiling ('coverage level') mainly for the mitigation of the above-mentioned moral hazard problem.[21]

(f) Finally, the cost of bank failures is incurred by the banking system ('no taxpayers' money solution'). DGSs are typically *funded exclusively by contributions of the participating banks* (without any contribution by the government and/or the central bank, which may be participating in their administration[22]). These contributions include the (usually annual) contributions, which may be either *ex ante* or *ex post* (as regards payment of the amounts required for depositors' compensation), as well as various *ex post* financing arrangements (including borrowing between DGSs).[23]

2. The IADI and regulatory developments at international level

2.1 The IADI as an international financial forum

The vast majority of rules of public international financial law,[24] in the form of international financial standards, which are aimed at achieving, with resort to international cooperation, most of the policy objectives relating to regulatory intervention in the financial system, are being adopted by international financial fora which do not have the capacity of an international organisation. These fora:

(i) have not been established by virtue of an international treaty,

[20] As an exception, in the case of the Swiss DGS ('esisuisse'), the claim is not on the DGS but on the bank's liquidator.

[21] This coverage level is also of importance if, in a resolution procedure, the bail-in instrument is applied, since in most jurisdictions deposits covered by the DGS may not be bailed-in. On this resolution tool see, by mere indication, **Coffee (2010)**, **Huertas (2012)** and **Goodhart and Avgouleas (2014)**.

[22] It should be pointed out that the body responsible for the management of a DGS may also have supervisory competencies on banks, the deposits of which are guaranteed by it, as in the case of the Federal Deposit Insurance Corporation (FDIC) in the United States. See **Carisano (1992)**, pp. 156-161.

[23] A typical example of *ex post* contributions is the Swiss DGS ('esisuisse'). In the EU, several Member States' DGSs also used to operate with *ex post* contributions, but this has been ruled out under the new DGS Directive 2014/49/EU (see below, **under 3.3 (c)(vii)**).

On the Swiss legal framework governing deposit guarantee, see indicatively **Zulauf and Eggen (2013)**, pp. 103-104. On the esisuisse, see at: http://www.eilagensicherung.ch.

[24] For more details on public international financial law, see **Giovanoli (2010)**, **Gortsos (2012)** and **Thiele (2014)**, pp. 531-562.

(ii) do not usually have a charter, by-laws or articles of association,

(iii) are not administered by formal governing bodies,

(iv) are usually set up, as already mentioned, *ad hoc* and in several cases as a response of the international community to major financial crises with international dimensions, and

(v) are referred to as 'standard-setting bodies', or 'standard-setters', because their main objective (with the exception of the Committee on the Global Financial System) is the adoption of international financial standards.[25]

***Boyle and Chinkin (2007)** characterise these fora as 'transnational networks', making a distinction between 'sub-state networks with the participation of administrative agencies' - with reference to **Slaughter (2000)**, and 'professional networks' - with reference to **Baldwin (1907)**.*[26]

2.2 Establishment, statutes, seat and membership

2.2.1 Establishment and Statutes

The International Association of Deposit Insurers (**'IADI'**) is one of these international financial fora (see **Table 2** below for an overview of all these fora[27]) and was set up in May 2002 upon an initiative of the Financial Stability Forum **('FSF')**.[28] The framework governing the operation of the IADI, which is a non-profit organisation under Swiss law of unlimited duration,[29] comprises its Statutes[30] and its By-laws.[31]

2.2.2 Seat

The IADI is seated in Basel at the premises of the Bank for International Settlements (**'BIS'**).[32] Accordingly, it is a part of the so-called "Basel Process", which refers to the role of the BIS in hosting and supporting the work of the international secretariats engaged in standard-setting and the pursuit of financial stability.[33]

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[25] On this term, see **Giovanoli (2000b)**, p. 8, and **Norton (2001)**, p. 14.

[26] See **Boyle and Chinkin (2007)**, pp. 50-52.

[27] On all these fora see **Giovanoli (2000b)**, pp. 20-29, **Nobel (2010)**, pp. 189-226, **Gortsos (2012)**, pp. 160-174, **Thiele (2014)**, pp. 552-554, **Wandel (2014)**, pp. 30-44, and **Lastra (2015)**, pp. 501-507.

[28] The FSF set up a 'Study Group on Deposit Insurance' in 1999. Drawing from the latter's findings, the FSF constituted a 'Working Group on Deposit Insurance' in 2000, which led to the establishment of the IADI two years later. On the FSF see **Gortsos (2012)**, pp. 143-145.

[29] **IADI Statutes**, Article 1.

[30] The text of the Statutes is available at: http://www.iadi.org/docs/AGM-2012-02C%20IADI%20Statutes%20(as%20amended%20thru%2010-2012)%20(clean).pdf.

[31] The text of the By-laws is available at: http://www.iadi.org/CMS/Secure/docs/IADI%20BYLAWS%20%289%20June%202010%29.pdf.

[32] **IADI Statutes**, Article 1, first sentence.

[33] The Basel process is based on three key features: synergies of co-location, flexibility and openness in the exchange of information, and support from BIS expertise in the field of economics, banking and regulation.

Nevertheless, unlike other international financial fora, the IADI has a separate legal personality,[34] its own financial resources,[35] and its own governance arrangements[36] (the same applies also to the FSB and the International Association of Insurance Supervisors). Hence, there is no oversight of its work by the BIS's Group of Governors and Heads of Supervision ('GHOS'),[37] Global Economy Meeting ('GEM'),[38] or All Governors' Meeting.[39]

2.2.3 Membership

In March 2016, the IADI was participated in by eighty (80) full members[40] from seventy-seven (77) jurisdictions across the globe that represent national deposit guarantee[41] organisations responsible for the management of their respective DGSs.[42] The IADI also has:

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[34] *Ibid*., Article 4.

[35] *Ibid*., Article 5.

[36] See on this below, **under 2.4**.

[37] The GHOS oversees the Basel Committee on Banking Supervision ('BCBS'), which is the primary international standard-setting body for banking regulation and supervision. See on this at: http://www.bis.org/about/orggov.htm?m=1%7C2%7C603.

[38] The GEM provides guidance to three (3) BIS committees: the Committee on the Global Financial System ('CGFS'), the Committee on Payments and Market Infrastructures ('CPMI'), and the Markets Committee.

In this regard, it oversees the organisation of these committees and is responsible for appointing their chairs, receiving reports from the committees and deciding on their publication, as well as providing guidance on work priorities. See on this at: http://www.bis.org/about/bimonthly_meetings.htm#GEM.

[39] The All Governors' Meeting oversees the work of two (2) groups whose membership is broader than that of the GEM: the Central Bank Governance Forum, and the Irving Fisher Committee on Central Bank Statistics ('IFC'). See on this at: http://www.bis.org/about/bimonthly_meetings.htm#Governors.

[40] The status of Members is governed by Article 6 of the **IADI Statutes**.

The "Savings Deposit Insurance Fund of Turkey" (Tasarruf Mevduatı Sigorta Fonu, **'TMSF'**, see at: http://www.tmsf.org.tr), governed mainly by Articles 63-64 of the Banking Law No. 5411 (Official Gazette No. 25983 (bis), 1 November 2005), as in force, is one of these members. On the Turkish deposit guarantee system, see **Gundogdu (2015)**.

[41] The IADI makes consistent use of the term 'deposit insurance' (also contained in its name) rather than the term 'deposit guarantee', which prevails in European banking law (it also uses the term 'deposit insurance *systems*' instead of 'deposit guarantee *schemes*').

Nevertheless, in its current proposal for a Regulation on the establishment of a European Scheme, the Commission resorts for the first time to the term 'deposit insurance' (see on this below, **under 3.2**). In addition, the cooperation of EU Member States' deposit guarantee schemes takes place in the context of the European Forum of Deposit *Insurers* (see the Box just below).

Without undermining the significance of the underlying differences, in the author's view, the two terms can be used alternatively.

[42] Unlike other international fora, membership of the IADI is open-ended in the sense that any deposit guarantee organisation may become a member.

- ten (10) Associates[43] representing other 'bank safety-net organisations' (i.e. central banks, supervisors and regulators) from states that have established or are considering the establishment of a deposit insurance system, and
- thirteen (13) Partners, i.e. entities that entered into a cooperative arrangement with the IADI in the pursuit and furtherance of its objects,[44] including the International Monetary Fund (IMF), the World Bank, the European Bank for Reconstruction and Development (EBRD), the Inter-American Development Bank and the European Forum of Deposit Insurers (see **Box** just below).[45]

Box: EU law

At the European level, national DGSs cooperate within the European Forum of Deposit Insurers (**'EFDI'**), which was also set up in 2002. The EFDI's objective consists mainly in investigating, analysing and exploring cross-border issues, burden-sharing and the efficiency of its members. It also plays an important role, upon explicit request of the European Commission, in the ongoing review and amendment of EU legislation on DGSs.

In March 2016, membership in the EFDI, which is seated in Brussels and formally became an international non-profit association in June 2007, included fifty-six (56) full Member-Institutions (DGSs) and ten (10) Associates (investor compensation schemes)) out of forty-four (44) Member States of the Council of Europe, including all EU Member States.[46]

2.3 Objectives and means of achievement

The IADI's objectives consist in contributing to the stability of financial systems by promoting international cooperation in the field of deposit insurance, in providing guidance for establishing new, and enhancing existing, deposit insurance systems, and in encouraging wide international contact among deposit insurers and other interested parties.[47] In order to achieve its objectives, the IADI undertakes the following courses of action:[48]

(a) It enhances the understanding of common interests and issues relating to deposit insurance, facilitates the sharing and exchange of expertise and information on deposit insurance issues through training, development and educational programs and provides advice on the establishment or enhancement of effective deposit insurance systems through capacity-building services.

[43] The status of Associates (like that of Observers) is governed by Article 7 of the **IADI Statutes**.

[44] The status of Partners is governed by Article 10 of the **IADI Statutes**.

[45] For more details on the current IADI Members, Associates and Partners, see at: http://www.iadi.org/aboutIADI.aspx?id=48.

[46] For more information on the work of the EFDI, see at: http://efdi.eu.

The Turkish TMSF is a full Member and the Turkish investor compensation scheme (Yatırımcı Tazmin Merkezi, see at: http://www.ytm.gov.tr) an Associate.

[47] **IADI Statutes**, Article 3(a).

[48] *Ibid.*, Article 3(b).

(b) It acts as a standard-setting body by:

- developing principles, standards and guidance to enhance the effectiveness of deposit insurance systems, taking into account different circumstances, settings and structures,
- encouraging consideration and voluntary application thereof, as well as
- developing methodologies for the assessment of compliance therewith and facilitating assessment processes.

Within this framework, in 2009, the IADI adopted jointly with the Basel Committee on Banking Supervision[49] the "Core Principles for Effective Deposit Insurance Systems", which were revised in 2014, solely by the IADI. They are included in the Compendium of the Financial Stability Board **('FSB')**.[50]

This Compendium, entitled "International Standards and Codes to Strengthen Financial Systems", was established in April 2001 by the Financial Stability Forum, the forerunner of the FSB. Since then is has been gradually expanded by the FSB and in November 2015 it included fourteen (14) of the numerous reports issued by the above-mentioned international organisations and fora assigned with the task of governing both the international monetary and the international financial system.

The selection was made on the premise that the rules included therein, in the form of standards and codes,[51] are of fundamental importance to ensuring the stability of the international monetary and financial system, as well as achieving other objectives of regulatory intervention in the monetary and financial system. According to the FSB:

"The standards under the broad policy areas (...) have been designated by the FSB as key for sound financial systems and deserving of priority implementation depending on country circumstances. These standards are broadly accepted as representing minimum requirements for good practice that countries are encouraged to meet or exceed."[52]

(c) It undertakes research on issues relating to deposit insurance.[53]

(d) It co-operates with other international organisations and fora, particularly those involved in issues pertaining to financial markets and promotion of financial growth, stability and integrity.

(e) Finally, it creates awareness among supervisors and regulators of financial institutions concerning the key role of deposit insurance systems, i.e. maintaining financial stability.

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[49] On the Basel Committee see indicatively **Gortsos (2012)**, pp. 175-195.

[50] On the 2014 Core Principles see below, **under 2.5**. On the FSB see indicatively **Gortsos (2012)**, pp. 145-150.

[51] The terms 'standard' and 'code' are used as synonyms.

[52] The Compendium's components are presented below in **Table 3**. On its standards and codes, as in force in 2012, see **Gortsos (2012)**, pp. 203-211.

[53] See on this at: http://www.iadi.org/Research.aspx.

2.4 Governance

(a) The IADI is governed by the General Meeting of Members and the Executive Council composed of individuals elected by the Members.[54] The Chair of the Executive Council also acts in the capacity of President of the IADI.[55] Both these bodies are assisted in their work by a Secretary General.[56]

(b) The Executive Council may establish Committees and bodies as required.[57] In this respect, in March 2016 seven (7) Standing Committees were operative (Governance, Audit, Data and Survey, Finance and Planning, Membership and Communications, Research and Guidance, Training and Conference), participated in by members of the Executive Council, and a permanent Secretariat.

In addition, and in view of reflecting regional interests and common issues through the sharing and exchange of information, eight (8) Regional Committees have also been created for Africa, Asia-Pacific, the Caribbean, Eurasia, Europe, Latin America, the Middle East and North Africa, and North America.

2.5 The Core Principles for Effective Deposit Insurance Systems

(a) As already mentioned,[58] on 18 June 2009, the Basel Committee and IADI jointly issued a report on "Core Principles for Effective Deposit Insurance Systems", followed by the revised "IADI Core Principles for Effective Deposit Insurance Systems" of **1 November 2014**.[59] According to this report, a deposit insurance system can be credible and avoid banks' exposure to moral hazard, if it forms an integral part of a well-structured and effective 'safety net' for the banking system and it does not operate independently of its other components.[60]

(b) The revised IADI Core Principles were influenced by the recent (2007-2009) international financial crisis (the Great Financial Crisis in the terminology of the Bank for International Settlements) and reflect the need for effective deposit insurance in preserving financial stability. As mentioned in the Introduction:

"In the aftermath of the crisis, many deposit insurers saw their mandates enhanced and, in some cases, expanded to include resolution tools in addition to depositor reimbursement. As a result of the crisis, a greater emphasis has also been placed on ensuring that the deposit insurer has the necessary operational independence to fulfil its mandate. The crisis has shown that deposit insurers need to have additional tools and an ability to be better integrated into the financial safety-net."

[54] **IADI Statutes**, Articles 11-18, and **IADI By-laws**, Part 2.

[55] In March 2016, President (and Chairman of the Executive Council) of IADI was Thomas Hoenig, Vice-Chairman (acting) of the Federal Deposit Insurance Corporation (FDIC) of the United States.

[56] **IADI Statutes**, Article 19.

[57] *Ibid.*, Article 18, second paragraph, point (j), and **IADI By-laws**, Part 3.

[58] See above, **under 2.3(b)**.

[59] This report is available at: http://www.financialstabilityboard.org/2014/11/cos_090618.

[60] This is fully consistent with the analysis above, **under 1.1.1.1**.

The revised Core Principles seek to strike a balance between retaining them as a flexible, internationally applicable standard and enhancing the effectiveness of deposit insurance systems on a global basis.

(c) The 2014 IADI report is structured in five (5) sections. After the introductory **Section I**,[61] **Section II** gives the definitions of key terms.[62] **Section III** deals with moral hazard, operating environment and other considerations,[63] while **Section IV** deals with some special issues in applying the Core Principles.[64] The sixteen (16) Core Principles (including the compliance assessment) are listed in **Section V**[65] and can be classified in two categories:

(i) The majority of these Principles (12) are taken over, with due adjustments, from the 2009 Core Principles. This is the case with regard to:

- the public policy objectives of deposit insurance systems,[66]
- their mandate and their powers,
- their governance,
- the relationship with other components of the 'bank safety net',
- the obligation for all banks to participate in principle in a deposit insurance system,
- the coverage provided to depositors by these systems,
- their funding mechanisms ('sources and uses of funds'),
- the information provided to depositors ('public awareness'),
- specific legal issues ('legal protection'),
- the dealing with parties at fault in a bank failure,
- the link with failure resolution, and
- the pay-out to depositors.

(ii) In addition, there are four (4) new Principles which refer to the following aspects:

- the international dimension ('cross-border issues'),
- the deposit insurers' role in contingency planning and crisis management,
- early detection and timely intervention, and
- the recoveries by deposit insurance systems.

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[61] **IADI Core Principles (2014)**, pp. 5-8.

[62] *Ibid.*, pp. 8-10.

[63] *Ibid.*, pp. 11-15.

[64] *Ibid.*, pp. 16-17.

[65] *Ibid.*, pp. 18-41.

[66] These objectives are fully consistent with the analysis above, **under 1.1.1.2-1.1.1.3**.

The report is supplemented by two (2) Annexes:

- **Annex I** presents guidance and a format for compliance assessment, as well as the structure of the assessment reports,[67] while
- **Annex II** lists the members of the IADI Steering Committee and the Joint Working Group which contributed to the elaboration of the revised Core Principles.[68] A list of references to relevant primary and secondary sources completes the report.[69]

3. Institutional and regulatory developments at EU level

3.1 General overview

(a) The creation of a 'European Banking Union' (**'EBU'**) in the European Union (**'EU'**) was tabled at the Euro Area Summit of 29 June 2012, amidst the current fiscal crisis in the euro area, which became manifest in 2010. The establishment of the EBU is aimed at creating a 'Europeanised bank safety net' consisting of three (3) 'main' pillars:[70]

(aa) The first main pillar is the Single Supervisory Mechanism **('SSM')**, which pertains to the micro-prudential supervision of credit institutions[71] and some types of holding companies mainly (but not exclusively) incorporated in euro area Member States. Its main legal basis is **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",[72] which became operative on **4 November 2014**.[73]

The institutional framework governing the SSM is further specified in several legal acts of the European Central Bank (**'ECB'**),[74] an **Interinstitutional Agreement** between the European Parliament and the ECB of October 2013 "on the practical modalities of the exercise of democratic accountability and oversight over the exercise of the tasks conferred on the ECB within the framework of the Single Supervisory Mechanism",[75] and a **Memorandum of Understanding** of December 2013 between the Council and

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[67] **IADI Core Principles (2014)**, pp. 42-48.

[68] *Ibid.*, pp. 49-53.

[69] *Ibid.*, pp. 54-56.

[70] For a Compendium of all legal acts (as of May 2015) governing the EBU, including a brief overview of the EBU and the legal acts, see **Binder and Gortsos (2015)**. For the other four (4) elements towards a complete EBU see **Gortsos (2015a)**, pp. 29-37.

[71] The term 'credit institution' is the standard legal term used in EU banking law to cover banks and any other types of institutions receiving deposits or other repayable funds from the public and granting credits for their own account (**Regulation (EU) No 575/2013**, Article 4(1), point (1)).

[72] OJ L 287, 29.10.2013, pp. 63-89. On the legal framework of the SSM see by mere indication **Alexander (2015)** and **Gortsos (2015a)** with extensive further references.

[73] **SSMR**, Article 33(2), first sub-paragraph.

[74] See **Gortsos (2015a)**, pp. 71-83.

[75] OJ L 320, 30.11.2013, pp. 1-6.

the ECB “on the cooperation on procedures related to the Single Supervisory Mechanism (SSM)”.[76]

(ab) The second main pillar contains two elements:

(i) The first element is the Single Resolution Mechanism **(‘SRM’)** for unviable credit institutions (also mainly incorporated in euro area Member States). It was established on the basis of **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 (...)” (the **‘SRMR’**),[77] and became fully operative on **1 January 2016**.[78]

(ii) The second element is the Single Resolution Fund **(‘SRF’)** to cover funding gaps from the resolution of credit institutions.[79] It was established by virtue of **Article 67(1) SRMR** and became operative on **1 January 2016** as well.[80] It is governed by **Articles 67-79 SRMR**, the **Intergovernmental Agreement** adopted on 16 December 2015 by twenty-six (26) EU Member States “on the transfer and mutualisation of contributions to the Single Resolution Fund”,[81] and a **Memorandum of Understanding** between the Single Resolution Board and the ECB of 22 December 2015 “in respect of cooperation and information exchange”.[82]

(ac) Finally, the third pillar, not yet established, consists of a single deposit guarantee scheme and fund (see in more detail below, **under 3.2**).

Accordingly, the most significant institutional developments towards establishing the EBU took place in the course of 2013 and 2014, in an exceptionally short timeframe under enormous political pressure (reflecting the widespread loss of public trust in the financial system, at least in some Member States). With the exception of the creation of a single deposit guarantee scheme, on which there are current developments, all the other main components of the EBU, *which apply mainly (but not exclusively) to the euro area Member States*, are in place.[83]

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[76] This is available at: http://www.ecb.europa.eu/ecb/legal/pdf/mou_between_eucouncil_ecb.pdf.

[77] OJ L 225, 30.7.2014, pp. 1-90.

[78] **SRMR**, Article 99(2).

[79] On the SRM and the SRF see indicatively **Alexander (2015)** and **Gortsos (2015b)** with extensive further references as well.

[80] **SRMR**, Article 99(2).

[81] The text of this Intergovernmental Agreement is available at: http://register.consilium.europa.eu/content/out?lang=EN&typ=ENTRY&i=SMPL&DOC_ID=ST%208457%202014%20COR%201.

[82] The text of this MoU, adopted on the basis of Articles 30(7) and 34(5) SRMR, is available at : http://www.bankingsupervision.europa.eu/ecb/legal/pdf/en_mou_ecb_srb_cooperation_information_exchange_f_sign_.pdf.

[83] Member States with a derogation may establish a ‘close cooperation’ with the SSM under the conditions laid down in **Article 7 SSMR** (see on this **Gortsos (2015a)**, pp. 183-193). In such a case, all credit institutions incorporated in their jurisdiction will be directly supervised by the ECB, in accordance with the provisions of the SSMR (**SSMR**, Articles 2, point (1), and 7(1)), and the resolution thereof will be governed by the SRMR and the 2015 Intergovernmental Agreement (**SRMR**, Article 2, point (1)).

(b) The new EU institutional framework on the EBU is coupled with a 'single rulebook', shaped by legal acts of the European Parliament and the EcoFin Council and further detailed by the European Commission and the European Banking Authority (**'EBA'**). The content of this single rulebook, as currently in force, is mainly a child of the recent (2007-2009) international financial crisis, is *applicable across all EU Member States* as part of the single market for financial services, is based on a 'total harmonisation approach', and contains substantive rules on:

- the prudential regulation and supervision of credit institutions by virtue of **Regulation (EU) No 575/2013** "on prudential requirements for credit institutions and investment firms (…) ('Capital Requirements Regulation' or **'CRR'**),[84] and **Directive 2013/36/EU** "on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms (...)" ('Capital Requirements Directive IV' or **'CRD IV'**),[85]
- their recovery and resolution by virtue of **Directive 2014/59/EU** "establishing a framework for the recovery and resolution of credit institutions and investment firms (...)" ('Bank Recovery and Resolution Directive' or **'BRRD'**),[86] and
- the guarantee of bank deposits, in accordance with the provisions of the Deposit Guarantee **Directive 2014/59/EU** (**'DGSD'**) (see in more detail below, **under 3.3**).

(c) It is finally worth mentioning that the legal bases of the above-mentioned legal acts are multiple. The SSMR was adopted on the basis of **Article 127(6)** of the Treaty on the Functioning of the European Union (**'TFEU'**), the SRMR, the CRR and the BRRD by virtue of **Article 114 TFEU**, the CRD IV and the DGSD on the basis of **Article 53(1) TFEU**, while the Intergovernmental Agreement is an instrument of public international law, since there was no adequate legal basis in the TFEU for the operation of the SRF.

3.2 The European Deposit Insurance Scheme and the European Deposit Insurance Fund

3.2.1 Introductory remarks

(a) At the initial stage, the prospect of establishing a European deposit guarantee scheme, as the third main component of the EBU, had only been discussed in terms of principles and 'high-level politics'. Accordingly, no specific regulatory proposals had been tabled by the European Commission on this field and DGSs still remain national, even though their merger or the establishment of cross-border DGSs is not ruled out.[87]

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[84] OJ L 176, 27.6.2013, pp. 1-337.

[85] OJ L 176, 27.6.2013, pp. 338-436. The acronym 'CRD IV' implies that there were three (3) previous 'CRDs'. See on this **Gortsos (2015a)**, p. 17.

[86] OJ L 173, 12.6.2014, pp. 190-348. For a comprehensive overview of the BRRD, see **Binder (2015)**, with further references.

[87] See on this also below, **under 3.3 (a)**.

(b) Nevertheless, the prospective of creating a 'European Deposit Insurance Scheme' (the **'EDIS'**) was laid down in the "Five Presidents' Report" of **22 June 2015** entitled: "Completing Europe's Economic and Monetary Union", which is included in the framework of the proposals on the creation of an (EU) **'Financial Union'**.[88] According to this Report, and a Commission's follow-up Communication of 21 October 2015,[89] an EDIS would increase the resilience against future crises, and is also more likely to be fiscally neutral over time than national DGSs, since risks are spread more widely and private contributions are raised over a much larger pool of financial institutions.

3.2.2 The November 2015 Commission's proposal for a Regulation

(a) On **24 November 2015**, the Commission submitted a proposal for a Regulation of the European Parliament and of the Council "amending Regulation EU No 806/2014 in order to establish a European Deposit Insurance Scheme".[90] The legal basis is **Article 114 of the Treaty** on the Functioning of the European Union.[91]

This scheme (**'EDIS'**) is planned to be introduced gradually, in three stages (see just below, under (c)). The proposal includes a series of strict safeguards. The EDIS will be:

- built on the existing system, composed of national DGSs, while individual depositors will continue to enjoy the same level of protection (up to 100,000 euros);
- overall cost-neutral for the banking sector, since credit institutions' contributions to the EDIS can be deducted from those to the national DGSs;
- risk-weighted, since riskier credit institutions will pay relatively higher contributions; risk adjustments will apply from the outset;
- accompanied by strict safeguards against moral hazard and inappropriate use, in order to give incentives to national DGSs to manage their potential risks in a prudent way; and
- mandatory for euro area Member States whose credit institutions are covered by the SSM, but open to other EU Member States who want to join the EBU.

(b) A European Deposit Insurance Fund (**'EDIF'**) will also be created from the outset. It will be financed directly by risk-adjusted credit institutions' contributions. The EDIF's management would be entrusted to the SRB.[92]

(c) According to the proposal, the three phases in the evolution of the EDIS are as follows:[93]

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[88] This study is available at: http://ec.europa.eu/priorities/economic-monetary-union/docs/5-presidents-report_en.pdf.

[89] This is available at: http://ec.europa.eu/finance/general-policy/docs/banking-union/european-deposit-insurance-scheme/151124-communication_en.pdf.

[90] This proposal is available at: http://ec.europa.eu/finance/general-policy/docs/banking-union/european-deposit-insurance-scheme/151124-proposal_en.pdf. As already mentioned, this is the first time that an EU legal act makes reference to a 'deposit *insurance* scheme' (as the IADI does) and not to 'deposit *guarantee* scheme'.

[91] OJ C 326, 26.10.2012, pp. 47-200.

[92] **EDIS Regulation Proposal**, Article 2(34), inserting a new Section 1A in Part III, Title V, Chapter 2 to the SRMR (new Articles 74a-74g), Article 2(35), Article 2(36), replacing Article 75 SRMR, Article 2(37), inserting a new Article 77a to the SRMR, and Article 2(38)-(41).

(i) ***Phase 1: re-insurance***: during the first three-years phase (**2017-2019**), the 're-insurance approach' will apply, whereby a national DGS will have access to EDIS funds only when all its own resources are exhausted, and if it fully complies with the DGS **Directive 2014/49/EU**.[94] EDIS funds would provide additional funds to a national DGS only up to a certain level.

National DGSs can access the EDIS only when justified, since EDIS funds will only be available, if the relevant rules in the DGS Directive have been fully applied by the Member State concerned. Use of EDIS funds will be closely monitored, and any EDIS funds found to have been received inappropriately by a national DGS will have to be fully reimbursed.[95]

(ii) ***Phase 2: co-insurance***: in **2020**, the EDIS will become a progressively mutualised system ('co-insurance'), still subject to appropriate limits and safeguards against abuse. During this phase, a national DGS will not be required to exhaust its own funds before accessing EDIS funds.

The EDIS will be available to contribute a share of the costs from the moment when the DGS is activated and depositors need to be reimbursed, leading to a higher degree of risk-sharing between national DGSs through the EDIS. The share to be contributed by the EDIS will start at a level of 20% and gradually increase to 100% over a four (4) years period.[96]

(iii) ***Phase 3: full insurance***: the EDIS will fully insure national DGSs as of **2024**. This is the same year when the SRF and the requirements of the DGS Directive will be fully phased in.[97]

3.3 The single rulebook

(a) Directive 2014/49/EU of the European Parliament and of the Council "on deposit guarantee schemes"[98] (**'DGSD'**) was adopted in April 2014 as part of the single rulebook. It repealed **Directive 94/19/EC** of the same EU institutions,[99] which remained applicable **until 3 July 2015**.[100] Its legal basis being **Article 53(1) TFEU**, it lays down rules and procedures on the establishment and functioning of national DGSs in Member States.[101] Under the DGSD, the merger of DGSs or the establishment of cross-border DGSs is allowed upon approval from the Member States where the DGSs concerned are established.[102]

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[93] For a critical review of this Proposal see **Gros (2015)**.

[94] See on this just below, **under 3.3 (a)**.

[95] **EDIS Regulation Proposal**, Article 2(10), inserting a new Part IIa to the SRMR (new Articles 41a-41c).

[96] *Ibid*., Article 2(10), inserting a new Part IIa to the SRMR (new Articles 41d-41g).

[97] *Ibid*., Article 2(10), inserting a new Part IIa to the SRMR (new Articles 41h).

[98] OJ L 173, 12.6.2014, pp. 149-178.

[99] OJ L 135, 31.5.1994, pp. 5-14.

[100] **DGSD**, Article 21.

[101] *Ibid*., Article 1(1).

[102] *Ibid*., Article 4(1), second sub-paragraph.

(b) The DGSD, whose provisions are broadly in line with the above-mentioned[103] (**under 2.5**) IADI 2014 Core Principles, substantially modified certain aspects of Directive 94/19/EC and concurrently contains several innovative elements. In terms of harmonisation with regard to enhancing the stability of the banking system and the protection of depositors, it has a threefold aim:

- broadening the perimeter of aspects covered by harmonisation,
- enhancing harmonisation in aspects already covered by it, and
- moving from minimum to maximum harmonisation.

The ultimate objective is laid down in **recital 7**: *"As a result of this Directive, depositors will benefit from significantly improved access to DGSs, thanks to a broadened and clarified scope of coverage, faster repayment periods, improved information and robust funding requirements. This will improve consumer confidence in financial stability throughout the internal market."*

(c) In summary, the most important innovative elements of this Directive can be summarized as follows:[104]

(i) The main function of DGSs, the 'paybox function', has been retained, but ranks first among four (4) functions that DGSs may serve, nevertheless under specific conditions.[105] Of particular interest is the fact that DGSs may be called upon to contribute to the financing of the resolution of credit institutions.[106]

(ii) The DGSD's field of application is wider, since it applies not only to statutory DGSs, but also to contractual DGSs and IPSs, to the extent that they are officially recognised by the Member State in which they are established.[107]

(iii) Rules have been adopted for the first time on the supervision of DGSs by designated authorities with regard to their operation.[108]

(iv) Cooperation between home and host Member State DGSs with regard to the repayment of depositors of branches of EU credit institutions established in other Member States is enhanced.[109]

(v) The information requirements imposed on credit institutions with regard to their participation in DGSs and the rights of their depositors, if deposits become unavailable, are more enhanced and more standardised than in Directive 94/19/EC.[110]

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[103] See above, **under 2.5**.

[104] For a detailed analysis of this Directive, as well as the compatibility of its provisions with the 2009 IADI Core Principles, see **Gortsos (2014)**, Sections B-F.

[105] On these four (4) functions, see above, **under 1.1**.

[106] **DGSD**, Article 10(5).

[107] *Ibid.*, Article 1(2).

[108] *Ibid.*, Article 4(7).

[109] *Ibid.*, Article 14.

[110] *Ibid.*, Article 16.

(vii) An important new element is also the introduction of provisions pertaining to the financing of DGSs, an aspect that was left entirely at national discretion under Directive 94/19/EC. In that respect *ex ante* financing becomes the rule, while *ex post* financing arrangements, including borrowing between DGSs,[111] are also prescribed and regulated.[112] Contributions to DGSs must be made (only) by the participating credit institutions.[113]

(viii) National discretions with regard to the exclusion of certain categories of deposits from coverage have been minimised. 'Eligible deposits' are almost identical across Member States.[114]

(ix) The minimum level of coverage has been maintained at 100,000 euros for each depositor at each credit institution. By the **end of 2018** at the latest, this level will apply to all Member States as the maximum level as well, with limited exemptions and without any favourable deviations.[115]

(x) Finally, the repayment period will be gradually reduced from twenty (20) to seven (7) working days at the latest by the **end of 2023**.[116] During the transitional period until 31 December 2023, 'interim' payments must be made by DGSs, upon depositor request, under the conditions laid down in the Directive.[117]

4. Concluding remarks

(a) The enhancement of the role of DGSs and of their optimal interconnection with the other components of the bank safety net after the recent (2007-2009) international financial crisis has been a priority for both the international community and the EU. This has been manifested, as discussed in this paper, in several ways:

(i) Firstly, it was at the end of this crisis, in 2009, that the IADI adopted, jointly with the Basel Committee its Core Principles, which have since then been revised within a very short period of time – in 2014.[118] It is interesting to follow the path of implementation of these Core Principles on an international basis, since the standards contained therein, being soft law, are of legal significance, but are not legally binding. The role of the IADI in this sense is of paramount importance.[119]

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[111] *Ibid*., Article 12.

[112] *Ibid*., Article 10.

[113] *Ibid*., Article 13.

[114] *Ibid*., Article 5.

[115] *Ibid*., Articles 6 and 19(4).

[116] *Ibid*., Article 8(1)-(3) and 8(5).

[117] *Ibid*., Article 8(4)-(5).

[118] See above, **under 2.5**.

[119] It is reminded (see above, **under 2.3**) that, under Article 3(b) of its Statutes, the IADI, acting as standard-setting body, is encouraging consideration and voluntary application of the Core Principles, developing methodologies for the assessment of compliance therewith and facilitating assessment processes.

(ii) In the EU, on the other hand, the 1994 DGS Directive was repealed in July 2015, as the new Directive 2014/49/EU (the DGSD as mentioned above) entered into force.[120] Its provisions have been implemented in the majority of Member States[121] and the degree of harmonisation has increased considerably, in line with the DGSD's provisions, reducing the scope for regulatory arbitrage. Also noteworthy is the role that DGSs are expected to play in the financing of bank resolutions, since the paybox function ranks now only first among other functions.

Nevertheless, some national DGSs, notably those which were funded by *ex post* contributions of the participating credit institutions and have resorted to collecting *ex ante* contributions only recently, are undercapitalised under the standards set in the DGSD. This may be a matter of concern given the current state of fragility in the EU banking system.

(iii) Finally, in November 2015 the European Commission submitted a proposal for a European Parliament and Commission Regulation on the establishment of the EDIS and the EDIF.[122] Upon the adoption of this Regulation in the coming months (still unclear when and under which amendments), a single deposit insurance scheme and a single deposit fund will gradually be established (the steady state to be reached in 2024) as the third main pillar of the EBU.

Despite the critical remarks on behalf of those who are prioritising burden-sharing concerns, there is no doubt that this is a positive development. Apart from being another step in completing the new financial architecture in the Eurozone, it could, as far as and to the extent that DGSs can contribute, enhance the sensitive confidence in the fragile EU banking system after the two crises of the last decade, which have negatively affected its viability.

(b) Overall, the existence of well-designed and adequately funded DGSs, properly embedded in the bank safety net, is a positive factor towards the achievement of the objective of (a sustainable degree of) stability in the banking system. DGSs cannot substitute for poor prudential regulations and supervision, nor for recognition, reaction and implementation lags in the performance of supervisory and resolution authorities and of Governments. They can, nevertheless, contribute to confidence-building against solvency crises, both *ex ante* and *ex post*.

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[120] See above, **under 3.3**.

[121] As of March 2016, four (4) Member States (i.e. Italy, Poland, Slovenia and Sweden) have not yet communicated the related transposition measures, while one (1) Member State has done that on a partial basis (i.e. Belgium). See on this at: http://ec.europa.eu/finance/enforcement/directives/index_en.htm#deposit-guarantee-schemes.

[122] See above, **under 3.2.2**.

Tables

TABLE 1 The bank safety net	
Policy objective	**Policy instruments**
Ensuring the stability of the banking system	**1. Crisis prevention** • Authorisation of banks • Micro- and macro-prudential banking regulation • Micro-prudential banking supervision • Macro-prudential financial oversight • Resolution preparation (recovery and resolution planning, intra-group financial support agreements) • Early intervention measures **2. Crisis management** **2.1 Management of liquidity crises** Lending of last resort by the central bank **2.2 Management of solvency crises** • Recapitalisation of banks by public funds (state aid) • Resolution of banks • Winding-up of banks • Operation of deposit guarantee schemes (activated for the payment of compensations in the latter case only)

TABLE 2

International fora (in chronological order of establishment)

Forum	Year of establishment	Seat	Regular membership	Objective
Committee on the Global Financial System (CGFS)	1971	Basel	Central banks	Study of financial systems
International Accounting Standards Board (IASB)	1973	London	Accountancy	International accounting standards
Basel Committee on Banking Supervision (BCBS)	1974	Basel	Banking supervisory authorities	Banking regulation and supervision
International Federation of Accountants (IFAC)	1977	New York	Professional accounting associations	International auditing standards
International Organisation of Securities Commissions (IOSCO)	1983	Madrid	Capital markets' supervisory authorities	Capital markets' regulation and supervision
Financial Action Task Force on Money Laundering (FATF)	1989	Paris	G7 States, the European Commission, and the Gulf Cooperation Council	Combating money laundering and terrorist financing
Committee on Payments and Market Infrastructures (CPMI)	1990	Basel	Central banks	Oversight of payments and market infrastructures
International Association of Insurance Supervisors (IAIS)	1994	Basel	Supervisory authorities for the insurance sector	Insurance sector regulation and supervision
Joint Forum	1996	Basel	BCBS, IOSCO, IAIS and national supervisory authorities	Regulation and supervision of financial conglomerates
International Association of Deposit Insurers (IADI)	2002	Basel	Deposit guarantee organisations	Operation of deposit guarantee systems
Global Partnership for Financial Inclusion (GPFI)	2010		various	Financial inclusion

TABLE 3 Compendium: Key Standards for Sound Financial Systems		
Area	**Report**	**Issuing body**
A. Macroeconomic Policy and Data Transparency		
Monetary and financial policy transparency	Code of Good Practices on Transparency in Monetary and Financial Policies **(2007)**	IMF
Fiscal policy transparency	Code of Good Practices on Fiscal Transparency **(2000)**	IMF
Data dissemination	General Data Dissemination System **(1997)** Special Data Dissemination Standard **(1996)**	IMF
B. Institutional and Market Infrastructure		
Insolvency	Insolvency and Creditor Rights Standard **(2011)**	World Bank
Corporate governance	Principles of Corporate Governance **(2015)**	OECD
Accounting	International Financial Reporting Standards (IFRS) **(2012)**	IASB
Auditing	International Standards on Auditing (ISA) **(2014)**	IFAC
Payment and settlement	Principles for Financial Market Infrastructures **(2012)**	CPMI/IOSCO
Market integrity	FATF Recommendations on Combating Money Laundering and the Financing of Terrorism & Proliferation **(2012)**	FATF
Deposit guarantee	IADI Core Principles for Effective Deposit Insurance Systems **(2014)**	IADI
C. Financial Regulation and Supervision		
Banking supervision	Core Principles for Effective Banking Supervision **(2012)**	Basel Committee
Securities regulation	Objectives and Principles of Securities Regulation **(2010)**	IOSCO
Insurance supervision	Insurance Core Principles, Standards, Guidance and Assessment Methodology **(2013)**	IAIS

TABLE 4

The key legal sources of the three main pillars of the European Banking Union

	Prudential supervision and regulation of credit institutions	**Resolution of non-viable credit institutions**	**Deposit guarantee schemes**
European 'Single Mechanisms'	Single Supervisory Mechanism: • Council Regulation (EU) No 1024/2013 **('SSMR')** • ECB Regulation (EU) No 468/2014 **('ECB Framework Regulation')** • other ECB legal acts	Single Resolution Mechanism and Fund: • Regulation (EU) No 806/2014 of the European Parliament and of the Council **('SRMR')**, and Commission delegated and implementing acts • Intergovernmental Agreement (2014) **('SRF')**	Proposal for a Regulation of the European Parliament and of the Council "amending Regulation EU No 806/2014 in order to establish an **'EDIS'**"
Harmonisation of substantive rules ('single rulebook')	• Regulation (EU) No 575/2013 of the European Parliament and of the Council **('CRR')**, and Commission delegated and implementing acts • Directive 2013/36/EU of the European Parliament and of the Council **('CRD IV')**, and Commission delegated and implementing acts	• Directive 2014/59/EU of the European Parliament and of the Council **('BRRD')**, and Commission delegated and implementing acts	• Directive 2014/49/EU of the European Parliament and of the Council **('DGSD')**, and a Commission delegated act

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