



**To : Honourable MEP  
European Parliament**

Brussels, 8 October 2013  
Ref : HG/VH/KKH/B19/13-098

**E-MAIL**

**Subject: Key concerns for Trialogue on Deposit Guarantee Schemes Directive**

Dear Sir/Madam,

In view of the revival of the Trialogue discussions on the proposal for the Directive on Deposit Guarantees (DGSD), the members of the EACB would like to stress their four priorities for the negotiations.

**i. 3-pillar approach**

The EACB welcomes the fact that DGS systems shall remain national. In addition, it is necessary to maintain the 'three pillar' approach as proposed by the European Parliament. DGS should be enabled to take whatever action it considers necessary to achieve the objectives of depositor protection and financial stability. This would provide additional flexibility, and minimise intervention costs for the DGSs.

Therefore, three models of DGS should be possible:

- DGS with pure reimbursement functions ('pay box')
- DGS in a form of an Institutional Protection Scheme (IPS) as referred to Art 113.7 CRR, which protects its member institutions and ensures their liquidity and solvency
- DGS with options to take support measures or use its resources to support orderly winding-up of problematic institutions in order to avoid costs of reimbursing depositors and other adverse impacts of insolvency.

**ii. The DGS Funds: Target level, build-up period & investment**

As for the target level of the DGS fund financed through ex-ante contributions, a level of 0,5% of covered deposits, built over a longer period of 15 years, would present an appropriate and realistic approach. Three years have past since the Commission has proposed its revision of the DGSD, during which the prudential regulatory environment has been significantly overhauled and the stability of the banking systems has grown along with the increased capital of the banks. Additionally, the new preventative crisis management measures, combined with bail-in and depositor preference will significantly decrease the probability of a drawdown form DGSs. This new environment calls for a more balanced approach.



Moreover, financial resources of the DGS should be proportionate to their liabilities. Thus, up to 50% of financing of the DGS should be accepted in a form of collateral backed irrevocable payment commitments.

In terms of the investment of the fund means, a portfolio approach is necessary to achieve adequate return while minimising risks. The dismissal of earlier proposals to limit the maturity of the assets qualified as available financial means is very much welcome. In addition, any quotas on investments should be also rejected.

### **iii. Pay-out delay**

Our assessment is that implementing a pay-out delay of 5 working days within too short of a period would be faced with too many obstacles, resulting from operational limitations (covered deposit amount assessment, verification process, obtaining information accounts for transfer, etc.). It is worth pointing out that banks are already actively working and have made investments to set up systems enabling repayment to customers within 20 days<sup>1</sup>, and at this stage this delay should be opted for. Further gradual reduction of the pay out delay from 20 to 7 working days by 2025 could then be a realistic solution.

### **iv. Standardized and individual models for contributions**

Finally, banks' contributions to the DGS should imperatively reflect banks' risk profile and shall thus be risk-based. The particularities of Member States, their different banking systems and the nature of the deposit protection systems (DGS and IPS) must be duly taken into account. For example, the IPS models require contribution models that differ from 'pay box' systems. Thus, in addition to a standardised approach, as described in Annex I and II, there should also be an alternative approach for the calculation of risk based contributions. Such alternative approach would allow for contributions proportional to the commercial risk of the bank, and would be approved by competent authorities

We would like to thank you for taking the time to consider those comments. More detailed suggestions developed by the EACB members at the start of the Trialogue discussions in Autumn 2011 are annexed to this letter for your perusal.

We remain at your disposal for any questions.

Yours sincerely,

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Annex: EACB suggestions for Trialogue on DGS

<sup>1</sup> "Single customer view"



**Annex: EACB suggestions for Trialogue on DGS**

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### Three Pillar Approach

- **Stress the 'Three pillar' approach to Deposit Protection**

The EACB strongly supports Rapporteur Simon's concept for highlighting a 'three pillar' structure in the area of DGS. This acknowledges the fact that there are different systems in Member States: pure paybox systems, systems with early intervention/ resolution powers, and institutional protection schemes and that these are all valid and equivalent way to protect consumers. This approach provides the necessary flexibility to address the specificities of the various DGS structures, ensure appropriate depositors' protection and leaves options open for the future.

This concept is in line with the Commission's and Council's approaches. However, in his report Mr. Simon introduces recitals, which stress this diversity. We therefore suggest to take over the recitals of Rapporteur Simon's report which describing the 'three pillar' structure, which are as follows:

#### Suggestion for wording - Three Pillar Approach 1

**Proposal for a Directive**  
**Recital 9 b (new)**

| <i>Text proposed by the European Commission</i> | <i>Suggestion for wording (EP text)</i>                                                                                                                                                                                                                                                                                                                                                       |
|-------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                 | <b><i>(9b) The key task of Deposit Guarantee Schemes is to protect depositors against the consequences of insolvency of a credit institution. Deposit Guarantee Schemes should be able to provide this protection in various ways: at one end of the activity range of Deposit Guarantee Schemes, therefore, schemes with pure reimbursement ('paybox') function should be possible."</i></b> |

#### Suggestion for wording - Three Pillar Approach 2

**Proposal for a Directive**  
**Recital 9 c (new)**

| <i>Text proposed by the European Commission</i> | <i>Suggestion for wording (EP text)</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
|-------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                 | <b><i>(9c) It should also, however, be possible for Deposit Guarantee Schemes to go beyond a pure reimbursement function by requiring member institutions to supply additional information and on this basis building up early warning systems. In this way, risk-dependent contributions can be adjusted at an early stage or preventive measures against recognised risks can be proposed. In the event of impending imbalances, Deposit Guarantee Scheme operators should be able to decide on support measures or to use their resources to support orderly winding-up of problematic institutions in order to avoid the costs of reimbursing depositors and the</i></b> |



other adverse impacts of insolvency.”

### Suggestion for wording - Three Pillar Approach 3

#### Proposal for a Directive Recital 9 d (new)

| <i>Text proposed by the European Commission</i> | <i>Suggestion for wording (EP text)</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
|-------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                 | <i>9d) At the other end of the range of activities, it should be possible for Deposit Guarantee Schemes to take the form of institutional protection schemes as referred to in Article 80(8) of Directive 2006/48/EC of the European Parliament and of the Council of 14 June relating to the taking up and pursuit of the business of credit institutions<sup>2</sup>. They protect the credit institution itself, in particular by ensuring its liquidity and solvency. They should be recognised as Deposit Guarantee Schemes by the competent authorities if they fulfill all criteria laid down in that Article and in this Directive. These criteria ensure, in particular, that, as in other Deposit Guarantee Schemes, sufficient resources are always available for a potential payout.</i> |

### Target Level

- **A lower target level**

The EACB acknowledges the aim to require ex-ante funding for all DGS falling under this Directive. However, the target level should be considerably lower than the suggested 1.5% of the Commission and ECON Committee. We support the Council proposal of a target level of 0.5% of covered deposits as a minimum harmonisation rule.

A target level of 1.5% covered deposits is disproportionately high. It would put a significant burden on banks at an inappropriate time and will tie up resources. It should be kept in mind that the implementation of the Basel III framework in the EU in the form of the 'CRD IV/CRR I package' will lead to significantly increased quantity and quality of capital for banks. In particular, the concept of capital buffers implies that banks, which are not well capitalized, will be under closer scrutiny by supervisors. This will considerably reduce the risk of bank defaults. In addition, the new supervisory architecture allows for stricter supervision of new and existing players and the consistent and convergent enforcement of rules across the EU

- **Collateralized Guarantees as Funding Tools**

Moreover, in our opinion collateralized guarantees should be considered as possible funding tool for financing DGS, at least under certain conditions. They offer a high degree of safety regarding the availability of financial means, while allowing for flexibility.

A high ex-ante target level without the possibility for payment commitments will

<sup>2</sup> OJ L 177, 30.6.2006, p. 1.



- lead to a pile up of actual resources which could and should be put to better use towards the economy.
- entail enormous immediate costs for the industry and harm the sustainability of funding for banks as it diminishes their capacity to support the economy.

Building up ex-ante funds in DGS to a size that goes beyond what is required in ordinary or outstanding individual cases creates inefficiencies and is inconsistent with the Commission's objective of making DGS' financial resources proportionate to their liabilities. We therefore suggest accepting collateralized guarantees up to a level of 50%

- **A Build-up Period of 15 years**

In addition, we consider that an initial build-up period of 15 years to bring funds to the target level is reasonable and realistic. As mentioned, given that banks will be subject to increased capital requirements in parallel to the requirements for the funding of DGS, investor compensation scheme and possibly also future resolution funding obligations, a longer build-up period seems appropriate.

For all these reasons, we think that the Council is moving in the right direction by fixing a lower *minimum* target level in combination with the possibility for payment commitments and a build up period of 15 years:

**Suggestion for wording - Target Level 1**

**Proposal for a Directive  
 Article 2(1) (h)/Article 9(1) para 3**

| <i>Text proposed by the European Commission</i>                                                                     | <i>Suggestion for wording (Council text)</i>                                                                                                             |
|---------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------|
| 'target level' means 1.5% of eligible deposits for the coverage of which a Deposit Guarantee Scheme is responsible; | "The available financial means of a DGS shall at least reach a target level of <b>0.5%</b> of the <u>amount of the covered deposits of its members</u> " |

**Suggestion for wording - Collateralized Guarantees 1**

**Proposal for a Directive  
 Article 2(1)(i)**

| <i>Text proposed by the European Commission</i>                                                                                                                                                                            | <i>Suggestion for wording</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 'available financial means' means cash, deposits and low-risk assets with a residual term to final maturity of 24 months or less, which can be liquidated within a time limit not exceeding the limit set by Article 7(1); | 'available financial means' means <u>the assets of the DGS, which can be liquidated within a time limit not exceeding the limit set by Article 7(1). Available financial means may also include payment commitments, which are duly backed by collateral of low risk assets unencumbered by any third party rights, at the free disposal, and earmarked for the exclusive use of the DGS which has the irrevocable right to claim these payments on demand. Appropriate arrangements should be in place which ensure that DGSs are able to obtain cash out of these commitments within reasonable time that allows for fulfilling the obligation under Article 7</u> |



**Suggestion for wording - Collateralized Guarantees 2**

**Proposal for a Directive  
Article 9(1) para 3 (new)**

| <i>Text proposed by the European Commission</i> | <i>EACB Suggestion for wording</i>                                                                                                             |
|-------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                 | <u>The share of irrevocable payment commitments as defined in Article 2(1)(i) shall not exceed 50% of the total available financial means.</u> |

**Suggestion for wording - Build-up Period of 15 years**

**Proposal for a Directive  
Article 20(1) para 2/Article 19(1) para 2**

| <i>Text proposed by the European Commission</i>                                                                                                                                                                                                                      | <i>Suggestion for wording</i>                                                                                                                                                                                                                     |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| By way of derogation from the first subparagraph, Member States shall bring into force the laws, regulations and administrative provisions necessary for them to comply with the third subparagraph of Article 9(1), Article 9(3) and Article 10 by 31 December 2020 | “By way of derogation from the first subparagraph, Member States shall bring into force the laws, regulations and administrative provisions necessary for them to comply with the third subparagraph of Article 9(1) by 31 December <u>2027</u> ” |

**Fund Investment**

- **No maturity period and no cap on the amount of available financial means allowed for investment**

We support Rapporteur Simon’s suggestion to delete the Commission’s proposal to limit the investments of DGS to securities with a maturity of 24 months or less. A restricted maturity period could harm the continuity of outstanding investments and could have as a result that the investments are released shortly one after the other and create liquidity problems for the market.

Furthermore, we consider that DGS should not be limited to invest only 5% of the available financial means in low-risk assets. The Deposit Guarantee Schemes should be allowed to determine their own asset allocation. Some DGS and IPS systems of cooperative banks have shown that the return of the invested assets can cover the operational costs of the system and can also indirectly contribute to the funding of the DGS system.

Therefore, it is suggested to take over the following proposal:

**Suggestion for wording - Maturity and Payment Commitments**

**Proposal for a Directive  
Article 2(j)**

| <i>Text proposed by the European Commission</i> | <i>Suggestion for wording (Council text)</i> |
|-------------------------------------------------|----------------------------------------------|
|                                                 |                                              |



|                                                                                                                                                                                                                                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
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| <p>'available financial means' means cash, deposits and low-risk assets with a residual term to final maturity of 24 months or less, which can be liquidated within a time limit not exceeding the limit set by Article 7(1);</p> | <p>'available financial means' means cash, deposits and low-risk assets which can be liquidated within a time limit not exceeding the limit set by Article 7(1). <u>Available financial means may also include payment commitments, which are duly backed by collateral of low risk assets unencumbered by any third party rights, at the free disposal, and earmarked for the exclusive use of the DGS which has the irrevocable right to claim these payments on demand. Appropriate arrangements should be in place which ensure that DGSs are able to obtain cash out of these commitments within reasonable time that allows for fulfilling the obligation under Article 7</u></p> |
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**Suggestion for wording - Low risk assets**

**Proposal for a Directive  
 Article 9(2)**

| <i>Text proposed by the European Commission</i>                                                                                                                                                                                                                                                                                                                                                                                | <i>EACB Suggestion for wording</i>                                                                                                                                                                                                                                                                                                                                                                                   |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>The cumulated amount of deposits and investments of a scheme related to a single body shall not exceed 5% of its available financial means. Companies which are included in the same group for the purposes of consolidated accounts, as defined in Directive 83/349/EEC or in accordance with recognised international accounting rules, shall be regarded as a single body for the purpose of calculating this limit.</p> | <p><b><i>The available financial means of Deposit Guarantee Schemes shall be invested in a low-risk and sufficiently diversified manner.</i></b> Companies which are included in the same group for the purposes of consolidated accounts, as defined in Directive 83/349/EEC or in accordance with recognised international accounting rules, shall be regarded as a single body for <b><i>this</i></b> purpose</p> |

**Pay Out Delay**

- ***Need for a pragmatic approach regarding the pay-out period***

The EACB welcomes the Council's wish to first duly put into practice the 20 working day pay out delay stipulated in Directive 2009/14/EC. This pay out period only entered into force by 31 December 2010 and has not been sufficiently tested or reviewed yet. Assessing the possibilities for further shortening the pay out period should be based on such a review and should demonstrate that it would indeed increase depositors' protection.

When determining the pay out period, it is necessary to consider the processes that have to be realised in this given time frame: assessment of the amount of covered deposits available in institutions, launch of pay out process, verification processes and obtain information of accounts that can be used for transfers. A delay of 5 working days or 7 days is insufficient and too short in this respect. Moreover, it would be inappropriate to raise the expectations of the depositors that they can dispose of their money in 5 working days or 7 days is inappropriate when the necessary actions and processes cannot be reasonably executed. Therefore, the wording regarding when a pay out period starts and which tasks the DGS has to fulfil in that period should be sufficiently clear. Both the wording of the Commission and ECON do not seem to be sufficiently clear cf. "DGS shall be in a position to repay...". As such, we consider the wording of the Council which





clearly indicates that the “DGS shall make the repayable amount available.....” most appropriate.

Moreover, there are certain cases, where a strict payout period seems inappropriate due to the complexity or the particularities of the situation. This could be the case especially when there is more than one account holder, when there is a legal dispute about an account, when there are temporary high balances, etc. The ECON Committee has suggested a list of specific cases where payments should be deferred beyond the payout period. We think that such a list is highly important and we strongly support to introduce such a rule for an extend payout period in those specific cases.

**Suggestion for wording - Payout Period**

**Proposal for a Directive  
 Article 7(1)a**

| <i>Text proposed by the European Commission</i>                                                                                                                                                                                                                                     | <i>Suggestion for wording (Council text)</i>                                                                                                                                                                                                                         |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Deposit Guarantee Schemes shall be in a position to repay unavailable deposits within 7 days of the date on which the competent authorities make a determination as referred to in Article 2(1)(e)(i) or a judicial authority makes a ruling as referred to in Article 2(1)(e)(ii). | <u>DGSs shall make the repayable amount available within 20 working days</u> of the date on which the competent authorities make a determination as referred to in Article 2(1)(e)(i) or a judicial authority makes a ruling as referred to in Article 2(1)(e)(ii).” |

**Suggestion for wording Payout Period Special Cases**

**Proposal for a Directive  
 Article 7(1)b**

| <i>Text proposed by the European Commission</i> | <i>EACB Suggestion for wording</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
|-------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                 | <p><b><i>1b (NEW). Repayment or payout as referred to in paragraph 1 may be deferred in the following cases:</i></b></p> <p><b><i>(i) it is uncertain whether a person is legally entitled to receive a repayment or the deposit is subject to legal dispute;</i></b></p> <p><b><i>(ii) the deposit is subject to economic sanctions imposed by national governments or international bodies;</i></b></p> <p><b><i>(iii) there has been no transaction relating to the deposit within the last 24 months (the account is dormant);</i></b></p> <p><b><i>(iv) the amount to be repaid is deemed part of a temporary high balance as defined in Article 5(1a);</i></b></p> <p><b><i>(v) the amount to be repaid is to be paid out by the Deposit Guarantee Scheme of the host Member State scheme in accordance with Article 12(2).</i></b></p> |



(vi) the depositor has not provided the system with a valid account number or address for payout.

## Contributions

- **Impose a general limit on annual contributions**

As regards the build up of an ex-ante fund, we agree that there should be a general cap on annual contributions of 1% of covered deposits for ex-ante and ex-post payments together as suggested by Rapporteur Simon.

This backstop limit would reduce the impact of banks failures on other banks and thus ensure the stability of the banking system and market-discipline. If there is no reasonable limit on ex-post payments it might bring banks which are not in difficulties into problems.

However, with regard to their specific purpose and due to the fact that they may intervene also beyond covered deposits, such a rule should not apply to Institutional Protection Schemes.

- **Risk based contributions as a general rule**

The EACB is highly convinced that contributions to the DGS **shall** be risk-based as suggested by the Commission and European Parliament. The Council's suggestion that it 'may comprise both a non risk-based and a risk based element' does not create any incentive for banks to strive for an appropriate risk profile. Banks' contributions should be based on their risk profile. This would ensure a fair allocation of contributions among member banks, be consistent with the EU prudential regulatory framework and create an additional incentive for improving risk management.

- **Standardized and individual models for contributions**

As for the calculation methods, we would also be in favour of Rapporteur Simon's approach to use the Commission's proposed calculation model as a standardised approach and complete it with EBA technical standards, while also allowing for a non-standardised approach as an equivalent that would leave the discretion for calculation to the relevant systems in the Member States. The non-standardised approach can take into account the particularities of Member States, their legal situation and the particularities of the different protection schemes. The IPS models, for instance, require contribution models that differ from pay box systems.

- **Contributions of institutions affiliated to a central body**

We welcome the ECON Committee and Council's approach that credit institutions affiliated to the same central body under Art. 10(1) CRR should be considered as one credit institution. This is necessary in order to ensure equal and fair competition and ensure consistency with the CRDIV/CRR approach.

- **Extend the risk spread to between 75% and 250%**



A range of the risk spread between 75% to 250% as suggested by the ECON Committee seems to be the most suitable. A broader risk spread with an increase on the high end allows for a better distinction between the banks with lower and banks with a higher risk profile without putting too much of a burden on banks with an average risk profile.

- **Maintain the discount for complementary institutional protection schemes.**

In addition, we welcome that all EU institutions recognise the stabilising effect of complementary institutional protection schemes and therefore grant a discount up to 37.5%. We consider that the proposal of both the Commission and Rapporteur Simon in this respect is the best option as it would rightly allow taking into account the variety of cooperative structures across the EU.

- **Create a special regime of low risk sectors.**

Finally, we support the introduction of the possibility for Member States to apply a special regime for low-risk sectors which are governed by special laws for certain sectors as put forward by the ECON Committee.

#### Suggestion for wording - Limit to Contributions 1

##### Proposal for a Directive Article 9(4)

| <i>Text proposed by the European Commission</i>                                                                         | <i>Suggestion for wording (EP text)</i>                                                                                                                              |
|-------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| “The cumulated amount of contributions referred to paragraphs 1 and 3 may not exceed 1% of eligible deposits per year.” | “The cumulated amount of contributions referred to paragraphs 1 and 3 may not exceed 1% of <b>covered</b> deposits per year., except for systems under article 1(3). |

#### Suggestion for wording - Risk Based Contributions 1

##### Proposal for a Directive Article. 11(1) para 1, 1st sentence

| <i>Text proposed by the European Commission</i>                                                                                                                 | <i>Suggestion for wording (EP text)</i>                                                                                                                                   |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| The contributions to Deposit Guarantee Schemes referred to in Article 9 shall be determined for each member on the basis of the degree of risk incurred by it.” | The contributions to Deposit Guarantee Schemes referred to in Article 9 shall be determined for each member <b>in proportion to</b> of the degree of risk incurred by it. |

#### Suggestions for wording - Models for Contributions 1

##### Proposal for a Directive Article 11(2)

| <i>Text proposed by the European Commission</i> | <i>Suggestion for wording (EP text)</i> |
|-------------------------------------------------|-----------------------------------------|
|-------------------------------------------------|-----------------------------------------|



|                                                                                                                                                             |                                                                                                                                                                                                                 |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>The determination of the degree of risk incurred and the calculation of contributions shall be based on the elements referred to in Annex I and II.”</p> | <p><b><i>Annexes I and II describe the standardised approach for determining of the degree of risk incurred and the calculation of contributions by member bodies to the Deposit Guarantee Scheme.”</i></b></p> |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

**Suggestions for wording - Models for Contributions 2**

**Proposal for a Directive  
 Article 11(3) a new**

| <i>Text proposed by the European Commission</i> | <i>Suggestion for wording</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
|-------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                 | <p><b><i>“3a) By way of derogation from the standardised approach in paragraphs 1 and 2, Deposit Guarantee Schemes may use their own risk-based methods as alternative approaches to determine the degree of risk incurred by members and calculate contributions by member bodies to the Deposit Guarantee Scheme. Calculation of the contributions shall be proportional to the commercial risk of the institute in question and take due account of the risk profiles of the various business models. The alternative approaches may also calculate the contribution base from the assets side of the balance sheet and consider capital adequacy, the quality of the assets and liquidity at least as risk indicators. The alternative approaches shall be approved by the respective competent authorities and shall comply with the guidelines developed by EBA pursuant to Article 11(5). EBA shall conduct a review of compliance with the guidelines whenever the scheme is changed and at periodic intervals of which shall not exceed five years.”</i></b></p> |

**Suggestions for wording - Models for Contributions 3**

**Proposal for a Directive  
 Article 11(4)**

| <i>Text proposed by the European Commission</i>                                                                                                             | <i>Suggestion for wording (EP text)</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>The determination of the degree of risk incurred and the calculation of contributions shall be based on the elements referred to in Annex I and II.”</p> | <p><b><i>“4) In order to ensure consistent harmonisation of the definitions and methods described in Annex II Part A for the standardised approach set out in paragraphs 1 and 2 of this Article EBA shall develop draft regulatory technical standards. If necessary, EBA may suggest adjustments to the definitions and methods to ensure full comparability and avoid distortionary elements. EBA shall submit its draft regulatory technical standards to the Commission for endorsement by 31 December 2012.”</i></b></p> |



**Suggestion for wording - Institutions affiliated to a Central Body**

**Proposal for a Directive**  
**Article. 11(1) para 5**

| <i>Text proposed by the European Commission</i> | <i>Suggestion for wording (Council text)</i>                                                                                                                                                                                                                                                   |
|-------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                 | <u>Member States may allow that the central body and all credit institutions affiliated to this central body under Article 3(1) of Directive 2006/48/EC are subject as a whole to the risk weight determined for the central body and its affiliated institutions on a consolidated basis.</u> |

**Suggestion for wording - Risk Spread**

**Proposal for a Directive**  
**Article. 11(1) para 1, 2<sup>nd</sup> sentence**

| <i>Text proposed by the European Commission</i>                                                                                            | <i>Suggestion for wording (EP text)</i>                                                                                                             |
|--------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------|
| Credit institutions shall not pay less than 75% or more than 200% of the amount that a bank with an average risk would have to contribute. | “Credit institutions shall not pay less than 75% or more than <b>250%</b> of the amount that a bank with an average risk would have to contribute.” |

**Suggestion for wording - Complementary IPS**

**Proposal for a Directive**  
**Article. 11(1) 2<sup>nd</sup> sentence/1a (new)**

| <i>Text proposed by the European Commission</i>                                                                                                                                                                                             | <i>Suggestion for wording (EP text)</i>                                                                                                                                                                                                     |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Member States may decide that members of Schemes referred to in Article 1(3) and (4) pay lower contributions to Deposit Guarantee Schemes but not less than 37.5% of the amount that a bank with an average risk would have to contribute.” | Member States may decide that members of Schemes referred to in Article 1 ( <b>4</b> ) pay lower contributions to Deposit Guarantee Schemes but not less than 37.5% of the amount that a bank with an average risk would have to contribute |

**Suggestion for wording - Contributions of low risk sectors**

**Proposal for a Directive**  
**Article. 11(1) para 2**

| <i>Text proposed by the European Commission</i> | <i>Suggestion for wording</i>                                                                                            |
|-------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------|
|                                                 | <b><i>Member States may provide for lower contributions for low-risk sectors which are governed by special laws.</i></b> |



**Early Intervention**

- **Create the possibility to use DGS funds for early intervention and resolution**

The EACB notes and welcomes the wide agreement between the EU institutions for an early intervention mandate to the DGS. While the repayment of depositors should remain the main focus of DGS, it may sometimes be more efficient and/or less expensive to take preventive action, while ensuring a high level of protection for depositors. Therefore, the DGS funds could also be used for preventive and resolution measures. This is already the case in numerous Member States. It has a stabilising effect for the banking sector and it helps to minimise the effects of a potential distress or bank default on the economy and even avoid reaching a stage where a pay out to depositors has to be made.

The EACB strongly supports Rapporteur Simon's 'three pillar' DGS model for deposit protection, which allows different approaches (pure paybox systems, systems with possibilities for early intervention/resolution and institutional protection schemes). It is evident that the mandate for the use of DGS funds should run in line with this 'three-pillar' model.

Thus, all different types of DGS should be free to determine their own policy to what degree they wish to use funds for prevention and resolution. This means that it should be up to the DGS to decide on the amount it is willing to use to finance these types of intervention, especially for mutual guarantee schemes or IPS (Art 113.7 and 113.8 CRR) according to their mandate. This would provide additional flexibility in the management of a crisis

**Suggestion for wording – Early Intervention and resolution**

**Proposal for a Directive  
 Article 9(5)**

| <i>Text proposed by the European Commission</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | <i>Suggestion for wording<br/>(Article 9 a Council Text)</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
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| <p>The financial means referred to in paragraphs 1, 2, 3 of this article shall principally be used in order to repay depositors pursuant to this directive.</p> <p>They may however also be used in order to finance the transfer of deposits to another credit institution, provided that the costs borne by the Deposit Guarantee Scheme do not exceed the amount of covered deposits at the credit institution concerned. In this case, the Deposit Guarantee Scheme shall, within one month from the transfer of deposits, submit a report to the European Banking Authority proving that the limit referred to above was not exceeded.</p> <p>Member States may allow Deposit Guarantee Schemes to use their financial means in order to avoid a bank failure without being restricted to financing the transfer of deposits to another credit institution, provided that the following conditions are met:</p> | <p><u>The financial means referred to in Article 9 shall principally be used in order to repay depositors pursuant to this Directive.</u></p> <p><u>Member States shall allow Schemes to determine their own policy for financing early intervention, preventive measures, resolution process and activities, including deposit book transfer.</u></p> <p><u>In case early intervention and prevention measures have failed and depositors need to be reimbursed, the affiliated credit institutions can immediately provide the DGS with the means that have been used for the measures;</u></p> |



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| <p>(a) a scheme's financial means exceed 1% of eligible deposits after such measure;</p> <p>(b) the Deposit Guarantee Scheme, within one month from its decision to take such measure, submits a report to the European Banking Authority proving that the limit referred to above was not exceeded.</p> <p>On a case by case basis and subject to authorisation by the competent authorities following a reasoned request by the Deposit Guarantee Scheme concerned, the percentage referred to in (a) may be set between 0,75 and 1 %.”</p> |  |
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**Mutual Solidarity Borrowing**

- **Strong support for voluntary mutual solidarity borrowing in exceptional circumstances**

We would strongly support voluntary mutual borrowing between systems in different countries as proposed by the ECON Committee and the Council. Only under exceptional conditions and where necessary DGS systems may be allowed to lend and borrow in order to avoid any negative domino effect among DGS. It should be taken into account that the DGS models may on the hand be sufficiently equipped to pay out to depositors in their own member states but on the other hand do not have enough funds available for borrowing between schemes. There could thus be possibilities that negative effects are enhanced due to the borrowing.

Therefore, we propose to take over the suggestion of Rapporteur Simon which is most suitable:

**Suggestion for wording - Voluntary Borrowing between Systems**

**Proposal for a Directive  
 Article 7(1)b**

| <i>Text proposed by the European Commission</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | <i>Suggestion for wording</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
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| <p>A scheme shall have the right to borrow from all other Deposit Guarantee Schemes referred to in Article 1(2) within the Union provided that all of the following conditions are met:</p> <p>(a) the borrowing scheme is not able to fulfil its obligations under Article 8(1) because of previous payments within the scope of the first and second subparagraph of Article 9(5).</p> <p>(b) the situation referred to in point (a) of this subparagraph is due to a lack of available financial means referred to in Article 9.</p> <p>(c) the borrowing scheme has made recourse to extraordinary contributions referred in Article 9(3)</p> <p>(d) the borrowing scheme undertakes the legal</p> | <p><b><i>There is no obligation to lend among Deposit Guarantee Schemes. Deposit Guarantee Schemes shall, however, have the option to lend to other schemes within the Union on a voluntary basis, provided that all of the following conditions are met:</i></b></p> <p>(a) the borrowing scheme is not able to fulfil its obligations under Article 8(1) because of previous payments within the scope of the first and second subparagraph of Article 9(5).</p> <p>(b) the situation referred to in point (a) of this subparagraph is due to a lack of available financial means referred to in Article 9.</p> <p>(c) the borrowing scheme has made recourse to extraordinary contributions referred in Article 9(3)</p> |



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| <p>commitment that the borrowed funds will be used in order to pay claims under Article 8(1).</p> <p>(e) the borrowing scheme is not currently subject to an obligation to repay a loan to other Deposit Guarantee Schemes under this Article.</p> <p>(f) the borrowing scheme shall state the amount of money requested.</p> <p>(g) the total amount lent may not exceed 0.5% of eligible deposits of the borrowing scheme.</p> <p>(h) the borrowing scheme informs without delay the European Banking Authority and states the reasons why the above conditions are fulfilled and the amount of money requested</p> | <p>(d) the borrowing scheme undertakes the legal commitment that the borrowed funds will be used in order to pay claims under Article 8(1).</p> <p>(e) the borrowing scheme is not currently subject to an obligation to repay a loan to other Deposit Guarantee Schemes under this Article.</p> <p>(f) the borrowing scheme shall <b>inform the competent authorities of the</b> amount of money requested.</p> <p>(g) the total amount lent may not exceed 0.5% of <b>covered</b> deposits of the borrowing scheme.</p> <p>(h) the borrowing scheme informs without delay the European Banking Authority and states the reasons why the above conditions are fulfilled.</p> |
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**Pan European DGS**

- **Need to postpone a study for a Pan-EU DGS**

We consider that the time is not right for the suggestion to request the Commission to issue a study by 2015 on the possibility of pan-European DGS or to set out how DGS operating in the Union may, under the coordination of EBA, cooperate through a European scheme. This is too early and should be postponed. Before any assessment can be made on whether a pan-European DGS system or EBA coordinate European Scheme is desirable and possible, the target level of the DGS funds, as well as the other safety net components (i.e. the CRD IV/CRR package, the new EU supervisory framework and the EU bank resolution framework) should have been duly established and up and running for several years.

**Suggestion for wording - Study on Pan-European DGS**

**Proposal for a Directive  
 Article 19(4)**

| <i>Text proposed by the European Commission</i>                                                                                                                                                                                                                                         | <i>EACB Suggestion</i> |
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| <p>“By 31 December 2015 the Commission shall submit a report, and, if appropriate, a legislative proposal to the European Parliament and the Council with the aim to determine whether existing Deposit Guarantee Schemes should be replaced by a single scheme for the whole Union</p> | <p><i>deleted</i></p>  |

**Role of EBA**

- **Clear-cut role of EBA**





In our opinion the mandates of EBA should be concrete and proportionate to ensure consistency and convergence of rules and practices. The legal mandates to EBA should not interfere with the operational work of DGSs. EBA has an important role to play for example as regards ensuring harmonisation of the standardised approach for the risk based contributions' calculation.

However, extending the role of EBA beyond what is appropriate could overburden EBA and unnecessarily hinder activities of banks and DGS which will already be supervised and subject to the scrutiny of the national supervisors.

Therefore, we suggest not taking up the following proposals of the European Parliament as regards EBA:

**Suggestions for deletion - Models for Risk based Contributions**

**Proposal for a Directive  
 Article 11(3) a new**

| <i>Text proposed by the European Commission</i> | <i>Suggestion for wording</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
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|                                                 | <p><i>“3a) By way of derogation from the standardised approach in paragraphs 1 and 2, Deposit Guarantee Schemes may use their own risk-based methods as alternative approaches to determine the degree of risk incurred by members and calculate contributions by member bodies to the Deposit Guarantee Scheme. Calculation of the contributions shall be proportional to the commercial risk of the institute in question and take due account of the risk profiles of the various business models. The alternative approaches may also calculate the contribution base from the assets side of the balance sheet and consider capital adequacy, the quality of the assets and liquidity at least as risk indicators. The alternative approaches shall be approved by the respective competent authorities and shall comply with the guidelines developed by EBA pursuant to Article 11(5). EBA shall conduct a review of compliance with the guidelines whenever the scheme is changed and at periodic intervals of which shall not exceed five years.”</i></p> |

**Suggestions for deletion: Cross Border Mergers**

**Proposal for a Directive  
 Article 3(1)**

| <i>Text proposed by the European Commission</i> | <i>Suggestion for deletion in EP Text</i>                                                                                                                                                                                              |
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|                                                 | <p>Each Member State shall ensure that within its territory one or more <u>D</u>eposit-<u>G</u>uarantee <u>S</u>chemes are introduced and officially recognized.</p> <p>This shall not preclude <i>the establishment of cross-</i></p> |



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|  | <p><b><i>border Deposit Guarantee Schemes by Member States or the merger of schemes of different Member States by them.</i></b></p> |
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