

VISIONS OF THE EUROPEAN UNION DIRECTIVE ON DEPOSIT GUARANTEE SCHEMES

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The article aims to illustrate the role of directives of the European Union in organizing the activity of banking deposit guarantee. Given the fact that, at present, financial crises are becoming more frequent, and the consequences affect the confidence of depositors in the banking system, it is necessary to undertake measures for the creation and improvement of institutions for guaranteeing bank deposits. At the European level, are drawn up directives relating to the imposition of banking deposit guarantee schemes and the member countries, during a given period of time, shall be obliged to transpose the requirements of this directive in the national law.

The goal of research is to identify elements of deposit-guarantee schemes recommended by European directives, appreciation of amendments made to Directive 2014/49/EU.

The methodology of research. The article was elaborated in base of European directives given in bibliographic references. In order to obtain research results the author was use the analytical method and comparison method, the last having a higher share.

The research results. The study allowed the appreciation of the importance of European directives in elaborating the deposit guarantee schemes.

Key words: *deposit guarantee schemes, the European Union, guarantee ceiling, directives, bank deposits, financial crisis, financial instability, depositors' information.*

Articolul î i propune s ilustreze rolul directivelor Uniunii Europene în organizarea activit ii de garantare a depozitelor bancare. Dat fiind faptul c , în prezent, crizele financiare sunt tot mai frecvente, iar consecin ele afectează încrederea deponen ilor în sistemele bancare, este necesar de a întreprinde m suri de creare i perfec ionare a institu iilor de garantare a depozitelor bancare. La nivel european, sunt elaborate directive ce in de impunerea schemelor de garantare a depozitelor bancare, iar rile membre, pe parcursul unei perioade determinate de timp, sunt obligate s transpun cerin ele acestei directive în legisla ia na ional .

Scopul cercet rii îl reprezint identificarea elementelor schemelor de garantare a depozitelor recomandate de directivele europene, aprecierea modific rilor operate în directiva 2014/49/UE.

Metodele cercet rii. Articolul dat a fost elaborat în baza directivelor europene indicate la referin ele bibliografice. În scopul ob inerii rezultatelor cercet rii autorul a utilizat metoda analitic i metoda compara iei, ultima avînd o pondere mai important .

Rezultatele cercet rii. Studiul efectuat a permis aprecierea importan ei directivelor europene în elaborarea schemelor de garantare a depozitelor.

Cuvinte cheie: *scheme de garantare a depozitelor, Uniunea European , plafon de garantare, directive, depozite bancare, crize financiare, informarea deponen ilor, instabilitate financiar .*

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Introduction. Through banking institutions are accumulated in the form of deposits, the surplus of capital from depositors, natural and legal persons, which subsequently, distributed in the form of loans, contribute to the development, modernization and upgrading of various sectors of the economy.

Taking into account the importance of these resources, must be taken into consideration to maintain depositors' confidence in banking institutions.

Financial markets present a high level of integration and interconnection, many institutions carrying out operations beyond national borders, and the difficulty of such institutions affect the stability and reliability of the banking system.

The instability of the banking system generates a number of negative effects, including the loss of confidence of depositors in the banking system, which contributes to the withdrawal of savings from bank accounts. In order to eliminate them, most countries of the world have taken measures of increasing people's confidence in banking systems. These measures, in general, refer to the regulations laid down by the monetary authority of each country, which, by means of laws adopted, prohibit or restrict engagement of banks in unhealthy practices that lead to bankrupt.

At present, in most countries of the world, maintaining stability, along with the Central Bank, is ensured by the deposit-guarantee schemes. They are aimed primarily to maintain confidence in the banking system and to protect small depositors in case of bank bankrupt.

Analyzing the international practice on guaranteeing deposits, we note that, in recent times, the emphasis is on improving existing deposit guarantee schemes and, in countries where they do not exist, to be set up. A recent example of this is the case of the Austrian State, deposits in its banking system are guaranteed until July 2015. The guaranteed amount being of 100 000 Euros, half of which is provided by the banking institution, and half by the State. However, from July 2015, since the entry into force of the new legislative changes will create a special insurance fund that will guarantee bank deposits, eliminating the State participation in this process.

At the moment, there is no model of deposit guarantee system, which can be applied by each country, but by the Basel Committee on Banking Supervision and the International Association of Deposit Insurers were developed fundamental principles in adopting effective deposit guarantee systems. The fundamental principles are developed so that it can be adapted to a wide range of circumstances and structures of each country. These principles are not compulsory, but it will be a general voluntary framework for effective practices of deposit guarantee, the national authorities are free to apply and additional measures they deem necessary in their own jurisdiction. At the same time, given the fact that these are general principles, there are times when they do not cover all the needs and circumstances of each banking system. Instead, the specific circumstances of each country should be addressed in the context of existing laws and the powers of achieving public policy objectives and mandate of the deposit guarantee system.

At the European level are drawn up directives aimed to impose deposit guarantee schemes, as a necessary element, as well as the harmonization of issues relating to the deposit guarantee schemes.

The first directive on deposit guarantee scheme was drawn up in 1994, namely Directive 1994/19/EC on deposit guarantee schemes [2], as amended successively by the Directive 2009/14/EC of the European Parliament and of the Council on deposit guarantee schemes as regards the guarantee ceiling and period payout [3].

On April 16, 2014 was adopted the Directive 2014/49/EU of the European Parliament and the European Council on deposit guarantee schemes [1], this directive is coming to replace the directive of 1994, bringing in this way additional improvements of the objective of protection of depositors.

In accordance with the article 4 of this Directive, which deals with the formal recognition of deposit guarantee schemes, each Member State shall bear the responsibility for the establishment and official recognition of one or more deposit-guarantee schemes (DGSs).

At the same time, it is allowed the merger of DGSs of different Member States, or the setting up of cross-border DGSs. If a credit institution fails to comply with its obligations as a member of DGSs, shall be notified immediately the competent authorities, in cooperation with DGSs, promptly adopts all necessary measures, including, if needed, to impose sanctions, to ensure that the credit institution complies with its obligations [1].

Directive requires every credit institution to join to a deposit guarantee scheme; the new Directive recognizes the following deposit guarantee schemes (DGSs):

- statutory DGSs;
- contract DGSs;
- Institutional protection systems (IPS).

Based on the analysis of the functioning period of Directive 94/19/EC, have been synthesized and its main shortcomings. Finally, the new Directive provides for:

- simplification and harmonization of payment arrangements;
- the period during which payment of deposits is made, become unavailable, to be reduced from 20 days at present to 7 working days;
- the introduction of ex-ante funding arrangements, which include a minimum target level established, in general, to 0.8% of the guaranteed deposits, to be set up within a period of 10 years, until 2024;
- the introduction of a standardized form, which will contain information about guaranteeing deposits and deposit guarantee scheme, and are provided for information measures relating to the guarantee scheme for banks and depositors.

In table 1 it is shown the structure of the Directive 2014/49/EU. Comparing with Directive of 1994, it is most voluminous. Comparison of them reveal changes over the existing articles, as well as introducing new articles that covers loans granted between the guarantee schemes, cooperation within the European Union, etc.

Table 1

Structure of Directive 2014/49/EU on deposit guarantee schemes [made by the author]

Nr. Crt.	Directive 2014/49/UE
1.	Subject matter and scope
2.	Definitions
3.	Relevant administrative authorities
4.	Official recognition, joining the system and supervision
5.	Eligibility of deposits
6.	Level of coverage
7.	Determination of the amount refundable
8.	Reimbursement
9.	Loans on DGSs
10.	Funding of DGSs
11.	Use of funds
12.	Loans between DGSs
13.	Calculation of contributions to DGSs
14.	Cooperation within the Union
15.	Branches of credit institutions established in third countries
16.	Information provided to depositors
17.	List of authorized credit institutions
18.	Exercise of delegation of powers. Transitional provisions, etc.

Directive 94/19/EC focuses on the principle of minimum harmonisation, i.e. has contributed as at present in the European Union to be the deposit guarantee schemes with different characteristics. As an example, note the different guarantee ceiling as well as the uncoordinated increases of the guarantee ceiling on the periods of financial crises. As a result, it was noted that depositors transferred their funds to credit institutions from countries where the deposit guarantee level was highest. This has contributed to the depletion of credit institutions' liquidity in times of financial difficulties. During periods of stability, cover differs, causes depositors to select those deposits which are better protected. This, ultimately, contribute to the distortion of competition within the internal market. In order to eliminate them, Directive 2014/49/EU calls for deposit guarantee schemes to ensure depositors a uniform level of protection throughout the Union of 100 000 euro.

Thus, all deposits will be guaranteed apart from: deposits made by other credit institutions on their own behalf and their own; own funds; deposits arising out of transactions in connection with which there has been a criminal conviction for money laundering; deposits by financial institutions; deposits made by investment firms; deposits whose holder has never been identified; deposits by insurance undertakings and reinsurance undertakings; deposits by collective investment undertakings; deposits made by the pension funds; deposits by the public authorities; debt securities issued by a credit institution and liabilities arising out of own acceptances and promissory notes [1].

Member States shall ensure that deposit guarantee schemes have adequate systems to determine their potential liabilities, and their available financial resources should be commensurate with these debts. In the event that they are not sufficient, additional funding will be required.

The Directive requires that up to July 3, 2024, available financial resources of DGS to attain at least a target level of 0.8% from the amount of covered deposits of its members. When the capacity of funding will not achieve the target, the payment of the contributions will resume at least until reaching the target.

Where, after the target was reached for the first time, the financial resources available has been reduced to less than two-thirds of the target level, the regular contribution shall be set at a ceiling which would achieve the target levels within six years.

Regular contribution shall take into account, properly, the stage of the economic cycle, as well as the impact it may have pro-cyclical contributions when the annual contributions shall be determined. A Member State may obtain the financial resources available through the compulsory contributions paid by credit institutions to the existing mandatory schemes imposed by a Member State within its territory in order to cover the costs related to systemic risk, bankruptcy and resolution institutions [1].

In addition, it is requested that to the extent permitted by national law, deposit guarantee schemes to use available financial resources to prevent the bankruptcy of a credit institution, which will help to reduce the cost of repayment schemes, as well as other negative effects.

Analyzing the payment of deposits which have become available in recent years, it has been noted that there is still the necessary procedures for a short term of repayment. Therefore, Member States are given the possibility to choose, on a transition period to gradually reduce the repayment period up to seven working days, maximum repayment periods laid down in the directive are [1]:

- 20 working days, until 31 December 2018;
- 15 working days, as from 1 January 2019 until 31 December 2020;
- 10 working days, as from 1 January 2021 until 31 December 2023.

However, the maximum period established by the directive will not prevent deposit guarantee schemes to make early repayments to depositors. But, in order to ensure that, in the transitional period, depositors will not encounter financial difficulties in the case of bankruptcy of the credit institution, it is shown that depositors can have access, upon request, to an amount corresponding to their covered deposits, in order to cover the cost of living. Such access should be provided only on the basis of data supplied by the credit institution. Given the differences between the cost of living in different Member States the amount has to be set by each country in part [1].

Member States may allow deposit guarantee schemes to lend other DGSs on the territory of the Union, on a voluntary basis, if the following conditions are met [1]:

- loaned DGS cannot honor its obligations incumbent;
- loaned DGS appealed to the extraordinary contributions;
- loaned DGS takes its legal commitment to use borrowed funds to pay claims;
- loaned DGS is not already required to repay a loan other DGSs under this article;

- loaned DGS declares the amount of money requested.

The loan will be granted on condition that it will be repaid within a maximum period of five years. At the same time, Member States shall ensure that sufficient contributions levied loaned DGS to repay the amount borrowed and to restore the level of the target as soon as possible.

Equally, taking into account the practice gained, it was proved to be important to inform depositors about the institution guarantying deposits, the conditions under which it will guarantee the guarantee amount, etc. To this end, Directive 2014/49/EU imposes the need of informing depositors via a special form which the depositor shall be handed over before the contract is concluded. Also, depositors must be informed and if at the level of credit institution have taken place changes that can lead to the alteration of the level of protection, the granting of loans on a voluntary basis, between the national deposit-guarantee schemes.

Results and conclusions. Following the study, it was noted that deposit guarantee schemes constitute an essential requirement in the conditions of globalization. Currently, more and more attention is directed towards maintaining the stability of banking systems, the creation of deposit guarantee schemes and to improve existing ones.

Thus, as a result of the analysis, it was noted the tendency of the European Union to harmonise deposit insurance schemes in order to create equitable conditions for banking institutions, but also for depositors.

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