



EBA/DC/2016/173 – **The Decision has been repealed and replaced by EBA/DC/2018/243**

25 October 2016

Decision of the European Banking Authority on notifications to the EBA relating to Directive 2014/49/EU on deposit guarantee schemes

The Board of Supervisors of the European Banking Authority

Having regard to

- (1) Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC¹ (the 'EBA Regulation' and 'the EBA'), in particular Articles 2(4), 8(1)(h), 8(1)(k), 8(2)(h), 26, 30 and 31 thereof, and
- (2) Directive 2014/49/EU of the European Parliament and of the Council of 16 April 2014 on deposit guarantee schemes².

Whereas:

- (1) Articles 8 and 26 of the EBA Regulation entrust the EBA with the tasks, among others, 'to foster depositor and investor protection', 'to conduct publications and update regularly information relating to its field of activities' and 'to ensure the correct application of Directive 2014/49/EU', as well as with the power 'to collect the necessary information concerning financial institutions as provided for in Article 35'.
- (2) Article 35 of the EBA Regulation empowers the EBA to request competent authorities to provide the EBA 'all the necessary information, in specified formats' including 'at recurring intervals', 'to carry out the tasks conferred on it by this Regulation, provided that they have legal access to the relevant information'

1. OJ L331, 15.12.2010, p. 12.

2 OJ L 173, 12.6.2014, p.149.

(3) In accordance with Article 4(2)(iii) of the EBA Regulation, competent authorities as defined therein fall within the scope of action of the EBA.

Has decided as follows:

Article 1 – Information to be provided

Subject to Article 4(2), competent authorities, referred to in Article 4(2)(iii) of the EBA Regulation, shall submit to the EBA:

- (a)
 - (i) a notification of any determination of unavailability of deposits pursuant to point (8) of Article 2(1) of Directive 2014/49/EU, including information on deposit guarantee schemes' (DGSs) pay-out arrangements in accordance with the pre-defined eGate template set out in Annex 1 (Part I);
 - (ii) a notice summarising the information provided in the form set out in the template in Annex 1 (Part I), including a description of the circumstances which led to the credit institution's inability to repay deposits, the date from which such measures are or will be effective'the pay-out arrangements and any cross-border aspects of the pay-out, if applicable.
- (b)
 - (i) a notification of any decision to use, pursuant to Article 11(3) of Directive 2014/49/EU, the available financial means of a DGS for alternative measures in order to prevent the failure of a credit institution, in accordance with the pre-defined eGate template set out in Annex 1 (Part II);
 - (ii) a notice summarising the information provided in the form set out in the template in Annex 1 (Part II), including the description of the circumstances which led to the use of the DGS's available financial means to prevent the failure of the credit institution, the measures adopted, and the the date from which such measures are or will be effective.
- (c)
 - (i) a notification of any decision to use, pursuant to Article 11(6) of Directive 2014/49/EU, the available financial means of a DGS to finance measures to preserve the access of depositors to covered deposits in the context of national insolvency proceedings, in accordance with the pre-defined eGate template set out in Annex 1 (Part III);
 - (ii) a notice summarising the information provided in the form set out in the template in Annex 1 (Part III), including the description of the circumstances which led to the

use of the DGS's available financial means to finance measures to preserve the access of depositors to covered deposits in the context of national insolvency proceedings, the financing provided, and the date from which such measures are or will be effective'.

Article 2 – Institutions covered

Competent authorities shall submit the information referred to in Article 1 for credit institutions as defined in point (1) of Article 4(1) of Regulation (EU) 575/2013³, authorised in a Member State pursuant to Article 8 of Directive 2013/36/EU⁴ and, to the extent that that information is available to the competent authorities, for branches of credit institutions having their head office in a third country, which are members of a DGS in the EU.

Article 3 – Date of submission

Competent authorities shall submit to the EBA the information referred to in:

- (a) Article 1 (a) as soon as reasonably practicable after the determination of unavailability of deposits pursuant to point (8) of Article 2(1) of Directive 2014 /49/EU.
- (b) Article 1 (b) as soon as reasonably practicable after taking the decision on the use of the available financial means for alternative measures in order to prevent the failure of a credit institution, pursuant to Article 11(3) of Directive 2014/49/EU.
- (c) Article 1(c) as soon as reasonably practicable after taking the decision to finance measures to preserve the access of depositors to covered deposits in the context of national insolvency proceedings, pursuant to Article 11(6) of Directive 2014/49/EU.

Article 4 – Confidentiality, disclosure and use of the information

1. All the information submitted to the EBA in accordance with this Decision shall be covered by the EU law framework of professional secrecy and confidentiality as applicable to the EBA.
2. The notices referred to in points (a)(ii), (b)(ii) and (c)(ii) of Article 1 shall only include information of non-confidential nature for which there are no obstacles preventing their publication.
3. The EBA shall publish on its website the notices received from competent authorities pursuant to points (a)(ii), (b)(ii) and (c)(ii) of Article 1.

³ Regulation (EU) No 575/2013 of European parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 (OJ L 321, 30.11.2013, p. 6).

⁴ Directive 2013/36/EU of European parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC (OJ L 176, 27.6.2013, p. 338).

4. The EBA shall provide direct access, through the EBA extranet, to the information submitted by competent authorities in accordance with points (a)(i), (b)(i) and (c)(i) of Article 1 to other competent authorities as referred to in Article 4(2)(i), (iii) and (iv) of the EBA Regulation.
5. By way of derogation of paragraph 4, the EBA shall not provide access to the information submitted by a competent authority if the submitting authority requests, when providing the information in accordance with the template set out in Annex 1, that such information should not be disclosed through the EBA Extranet.
6. The EBA shall use the information submitted by the competent authorities in accordance with Article 1 to carry out its tasks, in particular, for the purpose of ensuring the correct application of Directive 2014/49/EU, conducting various analytical or comparison reports, including peer review reports, and fulfilling a general coordination role between competent authorities, with a view to promoting best practices, developing more effective policy and rule-making and ensuring the stability of the financial system in the Union.

Article 5 – Implementation

Where a Member State has designated more than one authority pursuant to Directive 2014/49/EU, those authorities should cooperate and share relevant information with each other for the purposes of complying with this Decision, in accordance with Articles 3(2), 14(6) and (7) of Directive 2014/49/EU.

Article 6 – Miscellaneous

This Decision is without prejudice to the EBA's power in accordance with Article 35 of the EBA Regulation to request the competent authorities to submit other information not falling under Article 1 or information from institutions not falling under Article 2.

Article 7 – Final provisions

This Decision enters into force immediately.

Done at London, 25 October 2016

[signed]

Andrea Enria

Chairperson

For the Board of Supervisors