

COMMISSION RECOMMENDATION
of 22 December 1986
concerning the introduction of deposit-guarantee schemes in the Community

(87/63/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 155 thereof,

Whereas the Commission transmitted to the Council on 6 January 1986 a proposal for a Council Directive on the coordination of laws, regulations and administrative provisions relating to the reorganization and the winding-up of credit institutions⁽¹⁾;

Whereas Article 16 (2) of that proposal for a Directive contains a transitional provision stipulating that, pending entry into force of a deposit-guarantee scheme in each Member State, the deposit-guarantee schemes in which credit institutions take part must extend cover to deposits received by branches set up in host countries which have no guarantee scheme;

Whereas six Member States currently still have no deposit-guarantee scheme; whereas that situation is likely, when Article 16 (2) of the proposed Directive is applied, to curb the opening of branches on their territory by imposing an additional burden both on a credit institution and on the guarantee scheme in which it is taking part, in the event of a winding-up revealing insufficient assets;

Whereas a number of Member States have deposit-protection schemes which were set up on a voluntary basis under the responsibility of professional organizations, and which have proved just as suitable and effective as compulsory schemes set up and administered on a statutory basis; whereas it is therefore necessary to safeguard, in those Member States which do not yet have guarantee schemes, both private and governmental initiatives;

Whereas a recommendation, which is not binding on the Member States to which it is addressed as to the result to be achieved but solicits their cooperation on a voluntary basis, should be an effective means of enabling them to stimulate the parties concerned;

Whereas the requirement that the branches of institutions having their head office outside national territory must join the deposit-guarantee scheme of the host country, which will result from the implementation of Article 16 of the abovementioned Directive, in conjunction with this recommendation, will maintain at European level the disparities of protection which are already encountered at national level between the various schemes;

Whereas this situation may prove prejudicial to the proper functioning of the European internal market; whereas, in order to verify this, practical experience should be gained of the operation of deposit-guarantee schemes in the Community before binding rules of law are put forward in the context of a proposal for a Directive,

HEREBY RECOMMENDS:

1. That Member States which already have one or more deposit-guarantee schemes⁽²⁾ should check, in the event of the winding-up of a credit institution revealing insufficient assets, that those schemes:
 - (a) guarantee compensation for depositors who do not possess the means of properly assessing the financial policies of the institutions to which they entrust their deposits;
 - (b) cover the depositors of all authorized credit institutions, including the depositors of branches of credit institutions that have their head offices in other Member States;
 - (c) distinguish sufficiently clearly between intervention prior to winding-up and compensation after winding-up;
 - (d) clearly set out the criteria for compensation and the formalities to be completed in order to receive compensation.
2. That Member States which already have plans for introducing deposit-guarantee schemes⁽³⁾:
 - (a) should check that those plans meet the conditions set out in points 1 (a) to (d);
 - (b) should take all appropriate measures to ensure that those deposit-guarantee schemes are adopted by 31 December 1988.
3. That Member States which do not have a deposit-guarantee scheme covering all their institutions and which have not yet drawn up plans for such a scheme⁽⁴⁾:
 - (a) should draw up, in collaboration with the authorities responsible for supervising credit institutions and the professional organizations representing the categories of institution concerned, a plan for one or more deposit-guarantee schemes meeting the conditions set out in points 1 (a) to (d);

⁽²⁾ Belgium, the Federal Republic of Germany, Spain, France, the Netherlands and the United Kingdom.

⁽³⁾ Italy, Ireland and Portugal.

⁽⁴⁾ Denmark, Greece and Luxembourg.

⁽¹⁾ OJ C 356, 31. 12. 1985, p. 55.

(b) should take all appropriate measures to ensure that those schemes come into force by 1 January 1990.

5. This recommendation is addressed to the Member States.

Done at Brussels, 22 December 1986.

4. The Member State shall inform the Commission of any changes made to their deposit-guarantee schemes and of all measures or plans for measures adopted in connection with points 1, 2 and 3.

For the Commission

COCKFIELD

Vice-President
