Opinion of the European Economic and Social Committee on the 'Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) No 806/2014 in order to establish a European Deposit Insurance Scheme'

(COM(2015) 586 final — 2015/0270 (COD))

(2016/C 177/04)

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On 18 January 2016 and 20 January 2016 respectively the European Parliament and the Council decided to consult the European Economic and Social Committee, under Article 114 of the Treaty on the Functioning of the European Union, on the:

Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) No 806/2014 in order to establish a European Deposit Insurance Scheme

(COM(2015) 586 final — 2015/0270 (COD)).

The Section for Economic and Monetary Union and Economic and Social Cohesion, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 3 March 2016.

At its 515th plenary session, held on 16 and 17 March 2016 (meeting of 17 March 2016), the European Economic and Social Committee adopted the following opinion by 197 votes to 2 with 8 abstentions.

1. **Conclusions and recommendations**

1.1 **Together and in parallel** with its proposal for a European Deposit Insurance Scheme (**EDIS**), the Commission published a **Communication** entitled **Towards the completion of the Banking Union** ([1]). It is apparent that the two texts are to be considered in parallel and that the introduction of further risk sharing (see the EDIS proposal) is to be accompanied by further risk reduction in the Banking Union (see the Communication). It therefore appears that the two documents are two sides of the same coin, and the Committee therefore considers that it should express its views on the Communication as well. The EESC welcomes both the legislative proposal and the Communication.

1.2 To sum up, the Committee believes that, as the **EDIS** and the **risk reduction measures** announced have a number of fundamental and important objectives in common relating to the strengthening and completion of the Banking Union, both types of measure should be **achieved in the same manner, using equivalent instruments and methods**. These methods, which should provide the same guarantees for attaining the respective objectives, are all the more relevant, given that both kinds of measure are complementary and necessary for offering a balanced solution, acceptable to all, which is also definitive. And so, with a view to achieving real progress, the Committee considers it **essential** to ensure that both the EDIS and the relevant risk reduction measures are **dealt with in parallel and without delay and actually put into effect**, in accordance with a clear and specific timetable. Creating the right conditions to move forward is also very important for the **further completion of the EMU**, of which the **Banking Union** is an important part.

1.3 EDIS is in turn of great importance in the Banking Union, of which it forms the third pillar. The Committee has previously been strongly in favour of the further completion of the Banking Union and of the deposit insurance scheme and has urged that this be done quickly. This is with a view to strengthening the EU's economic and financial stability.

([1]) COM(2015) 587 final.

1.4 Stable, secure and well protected deposits are in everyone's interest, and first and foremost the interest of savers and depositors. Underpinning their confidence and offering them the best possible protection remain important for the EESC. It is now important to boost the confidence of savers and depositors in the banks and to allow them to reap the benefits of financial integration and a level playing field between banks. Moreover, stable deposits remain necessary for the financing of the economy, and of families and businesses, in particular SMEs.

1.5 For the EESC it is essential to use the EDIS to further strengthen the Banking Union, to increase its resilience against potential financial crises and to boost financial stability. An EDIS will have a positive impact on the situation of individual Member States and banks by being more able to cushion local shocks. This may discourage certain people from speculating against specific countries or banks, thus reducing the risk of bank runs. At the same time it will further weaken the link between the banks and their national sovereign.

1.6 For the banks the measures announced to reduce risk in the Banking Union are essential. They help to strengthen the Banking Union by ensuring a more level playing field between banks and weakening their links with their national sovereigns. This improves the resilience and stability of the system. The acceptance of risk-sharing mechanisms requires the actual implementation of the level playing field in terms of rules and supervision, and that in turn will contribute to the necessary mutual confidence between all parties involved in the Banking Union.

1.7 These measures require that the existing legislative framework of the Banking Union (BRRD and DGS Directive) is fully implemented by all Member States. It is positive to see that the number of Member States still needing to do more work has fallen since the publication of the EDIS proposals and the communication. And the Commission is taking action vis-à-vis the other countries.

1.8 Attention must be paid to further reducing risk in the banking sector and to achieving maximum harmonisation in the Banking Union in the areas in which action has already been taken. The prior establishment of well capitalised, stable and effective national deposit guarantee schemes (DGS) is also considered necessary. Strenuous efforts must be made to prevent potential risks of moral hazard with respect to banks, government and savers when further developing this pillar of the Banking Union. Moral hazard could seriously jeopardise the safe and efficient operation of the Banking Union. The proviso that a Member State can make use of the EDIS only if it fulfils all the conditions is appropriate here.

1.9 The Committee believes that the Commission should carry out a comprehensive in-depth impact study, possibly based on the previous similar studies carried out in the context of the DGS Directives, in view of the importance of the issue for the Banking Union, the completion of the EMU and the trust of savers and depositors. The results of this study should be published, also in order to further strengthen the legitimacy of the proposal.

1.10 Moreover, major differences persist between the countries and there continue to be a number of challenges in different areas, as is apparent from a number of recent international reports. The differences and challenges should be tackled. Without wishing to go into detail, these include the considerable volume of non-performing loans in the banking sector and the uneven distribution of those loans among the banks and Member States of the euro area.

1.11 The Committee considers that, in the process of further reducing risk, sufficient attention should be paid to the effects of this on the granting of credit. In particular, lending to SMEs, SMIs, start-ups and other young companies should remain a key priority for the EU and the Member States.

1.12 In this connection, the Committee also considers progress on the further completion of the EMU to be of great importance; this is based, inter alia, on a monetary and financial pillar, which includes the implementation of a fully-fledged Banking Union led by the EU. As the Committee has previously stated that the EMU is still fragile and faces huge challenges, it needs to be further strengthened by developing all its pillars.

1.13 The EESC believes that it is imperative in this respect to create the proper and appropriate conditions needed to make progress possible. For the Committee, everything depends on trust, and strengthening this between Member States. Trust between the Member States also requires a level playing field and coordinated approaches aimed at convergence.

1.14 Convergence has been negatively affected by the crisis and it is important in the short term to make further progress in this regard in and between Member States. At the same time, the recovery must be supported, the correction of macroeconomic imbalances facilitated and adaptability improved.

1.15 The EESC welcomes the fact that the new deposit insurance scheme is to be cost-neutral for the banking sector, but at the same time believes that it would be preferable for the proposed risk-based contribution arrangements to be directly incorporated into the EDIS proposal, rather than dealing with this issue in delegated acts. This is after all an essential element of the proposed scheme, which should in principle be laid down at the highest level.

2. **Background**

2.1 When the Banking Union was set up, it was decided that the pillars would be introduced gradually.

2.2 The first two steps have been taken with the introduction of the Single Supervisory Mechanism (SSM), through which the ECB exercises supervision ([2]) over banks ([3]) in the euro area, and the establishment of the Single Resolution Mechanism (SRM) as from 1 January 2016.

2.3 A **European Deposit Insurance Scheme** ([4]) is now proposed as the third pillar of the Banking Union. This system builds on the existing Deposit Guarantee Schemes Directive ([5]), which introduced national DGSs and provided for the recognition of institutional protection schemes as DGSs. The Report of the Five Presidents on Completing Europe's Economic and Monetary Union ([6]) also proposed the launch of the EDIS in the longer term.

2.4 The new proposal ([7]) would be developed gradually ([8]).

2.4.1 In the first phase there will be a *reinsurance scheme* for a period of three years until 2020. In this phase a national DGS will have access to the resources of the EDIS only after it has exhausted all its own resources and on condition that the relevant rules of the DGS Directive have been fully applied by the Member State concerned. The aim is thus to weaken the link between the banks and their national sovereigns.

2.4.2 Subsequently, the system would move progressively to a mutualised approach (co-insurance). In this phase a national DGS would not have to use up all its own resources before having access to those of the EDIS, in the event that intervention is required. Access to these resources would begin at a low level (20 %) and increase over a period of four years to 80 %. This therefore involves a higher degree of risk sharing between national systems.

2.4.3 In the third phase the risk borne by the EDIS will gradually increase to 100 %. Thus, the new system will fully replace the national DGSs from 2024 onwards and would assume sole responsibility for paying compensation to depositors.

2.5 In this context, the proposal provides for the immediate establishment of an EDIS. The fund will be financed by risk-weighted contributions from the banks. The system is intended to be cost-neutral for the banking sector to the extent that the European contributions will be deducted from contributions to the national DGSs.

2.6 The system will have strict safeguards. For example, only national DGSs that comply with EU rules and are structured in accordance with those rules will be insured.

([2]) Since November 2014.

([3]) For the largest players (approximately 130) this will be done directly by the ECB, for the others (more than 6 000 banks), primarily by the national regulators.

([4]) Also known by the acronym EDIS.

([5]) This provides for the protection of EU savers' deposits of up to EUR 100 000.

([6]) See *Completing Europe's Economic and Monetary Union, Report by Jean-Claude Juncker in close cooperation with Donald Tusk, Jeroen Dijsselbloem, Mario Draghi and Martin Schulz,* in particular p. 11.

([7]) See Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) No 806/2014 in order to establish a European Deposit Insurance Scheme — COM(2015) 586 final — 2015/0270 (COD), published on 24 November 2015.

([8]) The architecture of the EDIS would follow the classic Banking Union structure: a 'single rulebook' in the form of the current DGS Directive applicable to all 28 Member States, supplemented by the EDIS, which is binding for all euro area Member States and open to other EU Member States wishing to join the Banking Union.

2.7 In parallel, the Commission has announced a number of measures aimed at reducing risk in the Banking Union [9] [10] in the Communication entitled Towards the completion of the Banking Union.

3. **General comments**

3.1 The Commission has published a Communication [11] on further reduction of risk in the Banking Union together with the proposals on the EDIS. According to the Commission, these two publications should be considered in parallel. The introduction of further risk sharing (see the EDIS proposal) is to be accompanied by further risk reduction. The Committee therefore sees these two texts as two sides of the same coin. The following observations and comments on the new texts should be seen in that light.

3.2 The EESC has from the outset been in favour of the Banking Union and the steps which have been taken in connection with the first two pillars [12]. For the Committee, it was important that this should be done without delay [13].

3.3 In the same way, the Committee has always supported further completion of the Banking Union [14] and the rapid addition of a third pillar on deposit protection. In that context, the Committee has already urged the strengthening and improvement of the Community system of deposit protection [15].

3.4 The Committee welcomes the EDIS proposals and endorses the objectives of strengthening the Banking Union, improving and harmonising the protection of deposit holders, strengthening financial stability and further restricting the link between banks and their national sovereigns.

3.5 Through the principle of risk sharing such a scheme may have a positive impact on the situation of certain Member States and banks, as it is more able than the current national systems to help, where necessary, to absorb major local shocks. This could discourage certain people from speculating against specific countries or banks, thus reducing overall risk in the whole Banking Union.

3.6 A high level of protection and maximum safeguards for savers' deposits are essential. Since the crisis significant progress had been made and the purpose of the new proposals could help to further increase confidence, since they can contribute to greater financial integration between countries and a level playing field between banks.

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(9) These measures include:
- Reduction of national choice and room for manoeuvre in the application of prudential rules so that the SSM can operate as efficiently as possible.
- Harmonisation of the national DGSs.
- Adoption of legislation implementing the remaining components, applicable to banks, of the regulatory framework agreed at international level, including limiting banks' leverage, ensuring stable bank financing and improving the comparability of risk-weighted assets, and making it possible to implement by around 2019 the Council's financial stability recommendations concerning the banks' Total Loss Absorbing Capacity, so that sufficient funds are available for ailing banks without the need for recourse to the taxpayer.
- Implementation of the existing rules in such a way that as little public funding as possible is used to maintain a solvent and resilient banking sector.
- Greater convergence in the insolvency laws, as set out in the Action Plan on building a Capital Markets Union.
- Initiatives with regard to the prudential treatment of banks' exposure to sovereign risk, such as reducing the exposure of banks to a specific sovereign to ensure that the risk is diversified.

(10) See Communication from the Commission to the European Parliament, the Council, the European Central Bank, the European Economic and Social Committee and the Committee of the Regions 'Towards the completion of the Banking Union' COM(2015) 587 final of 24 November 2015.

(11) See point 2.7 above.

(12) See the Single Supervisory Mechanism (SSM) and the Single Resolution Mechanism (SRM).

(13) See, inter alia, the EESC Opinion on the 'Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) No 1093/2010 establishing a European Supervisory Authority (European Banking Authority) as regards its interaction with Council Regulation (EU) No…/… conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions COM(2012) 512 final — 2012/0244 (COD)' and the 'Communication from the Commission to the European Parliament and the Council — A Roadmap towards a Banking Union' (OJ C 11, 15.1.2013, p. 34) point 1.12.

(14) See, inter alia, the EESC Opinions on 'Completing EMU — The proposals of the European Economic and Social Committee for the next European legislature' (OJ C 451, 16.12.2014, p. 10) and 'Completing EMU: The political pillar' (OJ C 332, 8.10.2015, p. 8).

(15) See opinions referred to in footnotes 13 and 14.

3.7 Stable deposits are a healthy and necessary source of financing for the economy, households and above all small and young businesses (SMEs, SMIs ([16]) and start-ups), thus contributing to the necessary economic growth. SMEs (in the broad sense) make a vital contribution to the European economy, accounting for more than two thirds of total private employment and 85 % of the net increase in jobs. For the EESC it is clear that ensuring lending to viable SMEs is essential for economic growth and new jobs and this should therefore be a key priority at both European and national level.

3.8 When it comes to further risk reduction, the same approach as that taken for the EDIS is appropriate, and the Committee therefore welcomes the Commission document. This is certainly the case, as both texts have a number of fundamental objectives in common, such as strengthening the Banking Union and weakening the link between banks and national sovereigns, and as achieving the objectives clearly requires a combination of measures.

3.9 From the point of view of risk reduction, the existing situation cannot be ignored. Priority attention should be paid to further reducing risk in the banking sector and to greater harmonisation in the Banking Union in the areas in which action has already been taken.

3.10 First, all Member States must fully transpose and implement the existing Banking Union framework. Although when the EDIS proposal was published, a significant number of Member States had not transposed the Recovery and Resolution Directive (BRRD) and/or the DGS texts, or only partially, the situation has since improved. And the Commission is taking action vis-à-vis the other countries ([17]).

3.11 The further implementation of the DGSs and the related *ex-ante* financing system poses certain challenges. Greater harmonisation and the prior establishment of well capitalised, stable and effective national DGSs are also considered necessary to limit the risk of 'moral hazard'. Attention should be paid to containing this risk at all stages of the implementation of the EDIS. In this connection, the potential dangers of excessively rapid and strict mutualisation of risks must be guarded against. The proviso that a Member State can make use of the EDIS only if it fulfils all the conditions and has implemented the existing legislation is appropriate here.

3.12 Moreover, major differences persist between the countries and there continue to be a number of challenges in different areas, as is apparent from a number of recent international reports ([18]) ([19]). These need to be addressed. These issues include, inter alia, the considerable volume of non-performing loans in the banking sector and the uneven distribution of those loans among the banks and Member States of the euro area ([20]). An effective remedy for this situation, taking account of all other relevant elements, can be considered a prerequisite for moving in the direction of risk sharing in connection with deposit protection. Among other things, this requires a homogeneous, EU-driven supervisory mechanism.

([16]) Small and medium-sized industry.

([17]) On the DGS, see European Commission press release of 10 December 2015: Commission requests 10 Member States to implement EU rules on Deposit Guarantee Schemes (see http://europa.eu/rapid/press-release_IP-15-6253_en.htm);
On the BRRD, see press release dated 22 October 2015: Commission refers six Member States to the Court of Justice of the EU for failing to transpose EU rules on Bank Recovery and Resolution (see http://europa.eu/rapid/press-release_IP-15-5827_en.htm).

([18]) See, inter alia, EBA — 2015 EU-wide transparency exercise — aggregate report, see https://www.eba.europa.eu/documents/10180/1280458/2015+EU-wide+Transparency+Exercise+Report+FINAL.pdf (November 2015) and ECB Economic Bulletin, Issue 2015/5 https://www.ecb.europa.eu/pub/pdf/ecbu/eb201505.en.pdf

([19]) See EBA report (executive summary), pp. 6 and 7: 'The quality of assets and the levels of profitability have also improved, albeit from a low base and remain a source of concern. Non-performing exposures, for the first time published following the EBA's harmonised definition, are close to 6 % of total loans and advances across the EU, 10 % if only non-financial corporations are considered, albeit with substantial variations across countries and banks. Profitability has improved through 2015 but remains weak by historical standards and relative to banks' estimated cost of equity. EU banks aggregate return on regulatory capital is 9,1 % as of June 2015.
Finally, in terms of sovereign exposures, the data released today shows that a home bias when investing in sovereign debt is still relevant although gradually receding, as banks reported in June 2015 an increase in their holdings of non-domestic sovereign debt.'

([20]) ECB Financial Stability report, November 2015, see https://www.ecb.europa.eu/pub/pdf/other/financialstabilityreview201511.en.pdf?24cc5509b94b997f161b841fa57d5eca, p. 74 et seq.

3.13 There are no results available from the in-depth prior impact assessment of the EDIS. This is in contravention of the transparency requirements. A comprehensive in-depth impact study, possibly based on the previous similar studies in the context of the DGS Directives ([21]), is certainly needed, in view of the importance of the issue for the Banking Union, the completion of the EMU and the trust of savers and depositors. The results of this study should be published, also in order to further strengthen the legitimacy of the proposal.

3.14 The additional future measures announced on risk reduction should be approached in the same way as the EDIS, as both contribute to strengthening the Banking Union, and will require action to implement them in detail as soon as the necessary conditions have been met.

3.15 In the light of the above, it is clear that the realisation of both types of measure must be approached in the same way. Both kinds of measure are complementary and necessary for offering a balanced solution which is also definitive. It is therefore essential that both the EDIS and the risk reduction measures ([22]) be tackled and realised without delay and in parallel. This will not only ensure the greatest possible contribution to achieving the Banking Union and further completion of the EMU (see below) but will also provide the best possible guarantee of real progress.

3.16 For the Committee this issue is also of great importance in connection with the further completion of the EMU. This is, inter alia, based on a monetary and financial pillar, including a fully-fledged Banking Union. As the Committee has previously stated that the EMU is still fragile and faces huge challenges ([23]), the Union needs to be further strengthened by developing all its pillars.

3.17 It has already been pointed out that, because of the links that still exist between sovereigns and banks, Member States are reluctant to create the necessary political and economic conditions, with the result that the most suitable and effective decisions are put off ([24]).

3.18 It is therefore important to make it possible to progress, and here everything depends on trust and strengthening this between Member States. Trust between the Member States also requires a level playing field and coordinated approaches aimed at convergence.

3.19 Convergence has been negatively affected by the crisis and it is important in the short term to make further progress in this regard in and between Member States. At the same time, the recovery must be supported, the correction of macroeconomic imbalances facilitated and adaptability improved.

4. **Specific comments**

4.1 In relation to the EDIS proposal, the EESC endorses the principle that the system should be cost-neutral for the banking sector. The contribution of the banking sector was set at 0,8 % ([25]) ([26]) of covered deposits, following a thorough impact assessment. It is therefore important that the total contribution to the national and European systems is not increased, in order to respect cost-neutrality.

4.2 Moreover, it is important in this connection to ensure maximum harmonisation of national contributions, thus creating a completely level playing field for the national DGSs and avoiding differences between these systems.

4.3 This level playing field approach should also be adopted by the countries participating in the Banking Union and vis-à-vis those Member States that are not part of it. This requires, inter alia, the further harmonisation of the current provisions of the DGS Directive in order to achieve greater convergence between the systems in all the Member States.

([21]) According to statements by representatives of the Commission, the current proposals build on the impact study carried out in connection with the amendment of the DGS Directive. See http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52010SC0834. See in particular sections 7.8 and 7.11 of the document.
([22]) With regard to these risk reduction measures, a key challenge will be to implement as a matter of priority the measures that are most relevant from the perspective described here.
([23]) See opinions referred to in footnote 14.
([24]) See first opinion referred to in footnote 14, point 4.1.2.
([25]) In the context of the DGS Directive.
([26]) Or 0,5 % if certain conditions are met.

4.4 Institutional protection schemes can provide financial support when their members find themselves in difficult situations and thus help prevent bank failures. The preventive action of these systems should be fully acknowledged in the new EDIS Regulation; if it is not, this could undermine the whole concept.

Brussels, 17 March 2016.

The President
of the European Economic and Social Committee
Georges DASSIS