BANKING STAKEHOLDER GROUP

CONSULTATION ON EBA/CP/2014/35 ON "DRAFT GUIDELINES ON METHODS FOR CALCULATING CONTRIBUTIONS TO DEPOSIT GUARANTEE SCHEMES

General Comments and Replies to Questions

BY THE EBA BANKING STAKEHOLDER GROUP

London, 6th February, 2015

Foreword

Directive 2014/49/EU of the European Parliament and of the Council on deposit guarantee schemes (DGSD), recasting Directive 94/19/EC and its subsequent amendments, was published in the Official Journal of the European Union on 12 June 2014.

As prior to the recast there have been significant differences throughout the EU, Article 10 of the new DGSD introduced an obligation for the DGS to annually raise ex-ante contributions from their members in order to reach a target level of 0.8% of covered deposits by 3 July 2024.

DGSD establishes under Article 13 that the contributions shall be risk based and that the Member States (MS) may use their own methods to determine and calculate these contributions. It also lays down that the contributions are compulsory, but that MS may allow lower contributions for institutional protection schemes (IPS) members and low-risk sectors regulated under national law.

In order to ensure consistent application of these calculations, Article 13 (3) requests the EBA to issue guidelines to specify methods of calculation which take into account, amongst others, criteria such as:

- a calculation formula;
- specific indicators;
- risk classes for members;
- thresholds for risk classes and other elements.

This BSG response to the Consultation Paper has been prepared on the basis of comments circulated and shared among the BSG members and the BSG's Technical Working Group on Recovery, Resolution and Systemic Issues. BSG welcomes the opportunity to contribute to the development of these guidelines. This response outlines some general comments by the BSG, as well as our detailed answers to some questions indicated in the CP.

Comments on the General Questions

Question 1

Do you have any general comments on the draft Guidelines on methods for calculating contributions to DGSs?

BSG welcomes the DGSD as a measure that should increase the consistency of deposit insurance across the EU and strengthen depositors' confidence in Deposit Guarantee Schemes. BSG supports the aim for financial institutions themselves to bear the risk of compensating depositors and, in line with this, for Deposit Guarantee Schemes to be financed ex ante. BSG supports the application of proportionality in this context and also the emphasis on a risk-based approach that is designed to ensure that riskier institutions pay higher contributions. BSG appreciates that EBA conducted a test exercise on three different systems for calculating risk-based contributions to DGSs to increase the evidence base for the Guidelines.

BSG subscribes to the fact that MS may admit a lower contribution for low risk sectors regulated under national law and to institutions which adhere to an IPS as stipulated under Article 13.1. of the Directive 2014/49/EU.

BSG also supports the treatment given to banks which adhere to an institutional protection scheme (IPS) under recitals (12), (17) and (18) which stipulate that:

- IPS additional safeguard role shall be taken into account when they are separate from DGS (restated under Article 13.1),
- it may be recognized as a DGS if they fulfill the criteria laid down in the Directive and
- the Directive shall not apply to IPS if they are not officially recognized as a DGS except for some advertising and information requirements.

These principles are reflected under part IV (ii) and (iii) of the present Guidelines.

BSG welcomes the use of principles for developing calculation methods and regards this as a helpful approach in striking an appropriate balance between harmonisation and flexibility. BSG notes positively Principle 6 of the Guidelines: it is of utmost importance for credit institutions that the data for calculating contributions shall not lead to excessive additional reporting requirements for the member institutions.

In addition, the confidentiality of information as described under Principle 7 of the Guidelines is essential: whilst BSG supports transparency with respect to calculation methods and parameters, it underlines that the risk classification of an institution should only be disclosed to the institution itself and not to the public, as such information in the public domain could be detrimental to the stability of the institution and/or the banking sector as a whole.

Question 2

Do you consider the level of detail of these draft Guidelines to be appropriate?

BSG considers that the level of detail used in the Guidelines is appropriate in order to harmonise at a minimum level the calculation of the contributions to the DGS. There are still a number of options, especially regarding the measurement of the different risk levels, which give discretionary power to the national DGS so that they can reflect the differences in the structure of the various banking sectors.

Replies to Specific Questions

Question 3

Is the proposed formula for calculating contributions to DGS sufficiently clear and transparent?

Yes, the calculations are explicit enough to understand the method and the reasoning behind it.

However, it could be argued that in a high risk environment, in order to protect the deposits, the adjustment factor should not be used until the threshold value of 0.8<% of the total deposits is obtained.

Question 4

Considering the need for sufficient risk differentiation and consistency across the EU, do you agree on the minimum risk interval (75%-150%) proposed in these Guidelines?

This minimum interval is the outcome of the EU survey. The BSG agrees with the EBA that a bigger interval may be used by the national DGSs if they deem this necessary in order to reflect the diversity of risk structures of their banking sector.

Question 5

Do you agree with the core risk indicators proposed in these Guidelines? If not, please specify your reasons and suggest alternative indicators that can be applied to institutions in all Member States. Do you foresee any unintended consequences that could stem from the suggested indicators?

The list represents 10 core indicators, which is more than the number of indicators presently used by DGSs which apply risk criteria. It should be made sure that the DGS have access to data and that the data used do not imply unnecessary reporting measures in addition to those already made to NCAs. Access to data is described as one of the problems for DGS in EU countries.[1] Therefore, it should be made sure that statutory or formal arrangements to provide the necessary information for calculations are in place according to principle 6 of the Guidelines.

[1] European Commission Joint Research Center Unit; Risk-based contributions to EU Deposit Guarantee Schemes: current practices, June 2008

Question 6

Do you agree with the option to use either capital coverage ratio or Common Equity Tier 1 ratio as a measure of capital? Would you favour one of these indicators rather than the other, and why?

The Common Equity Tier 1 ratio as defined in the regulation 575/2013/EU gives an image of the institution without discretionary supervisory power. It therefore enables a greater comparability between institutions.

Question 7

Are there any particular types of institutions for which the core risk indicators specified in these Guidelines are not available due to the legal characteristics or supervisory regime of these institutions? Please describe the reasons why these core indicators are not available.

If an IPS is going to be acknowledged as a DGS, the DGS guidelines must accommodate for the respective features of the IPS. The DGS Directive allows for such situations.

According to the Deutscher Sparkassen-und Giroverband (DSGV), the draft guidelines on methods for calculating contributions to DGSs appropriately reflect DGSs, as depicted in Art. 13 (1) DGSD. As a second method, (Art 13.2) DGS are allowed to use "their own risk-based methods for determining and calculating the risk-based contributions by their members." For this calculation method,

> "The calculation of contributions shall be proportional to the risk of the members and shall take due account of the risk profiles of the various business models. Those methods may also take into account the asset side of the balance sheet and risk indicators, such as capital adequacy, asset quality and liquidity."

In Art. 13 (3) Point 3 DGSD, this calculation method is named the "alternative own-risk-based method". For DSGV, the proposed draft Guidelines on methods for calculating contributions to DGSs do not apply to the specific case of IPSs (in which all members of the IPS are also members of the relevant DGS) which are officially recognised as DGSs according to Art. 1 (2c) and Art. 4 (2) DGSD, and fall under the "alternative own-risk-based calculation method" detailed in Art. 13 (2) DGSD. This Article allows DGSs to use their own risk-based methods for determining and calculating the risk-based contributions by their members (see above), which is incompatible with the approach suggested by the EBA of basing the calculation of contributions to a large extent on the amount of covered deposits only.

For the Deutscher Sparkassen-und Giroverband (DSGV), the calculation formula in the EBA draft guidelines does not provide the necessary room to reconcile its parameters and the needs of these IPSs regarding a contribution system: due to the division of tasks in such banking networks regarding deposit-taking (as. recently confirmed by Article 16 of Regulation 2015/61 to supplement CRR with regards to the liquidity coverage requirement for credit institutions), the amount of covered deposits in certain institutions, especially central institutions, may be extremely low. Therefore, the suggested adjusting factor “systemic role in an IPS” would never be sufficient to ensure an appropriate scaling. Central institutions holding a low amount of covered deposits would always pay a contribution which is too low in proportion to the risk they bring to an IPS.

Therefore, the current proposal does not meet the requirement imposed by article 13(2) of the DGSD that “the calculation of contributions shall be proportional to the risk of the members and shall take due account of the risk profiles of the various business models”.

As Art. 26 of Regulation 1093/2010 establishing the European Banking Authority states that:

> “The Authority shall contribute to strengthening the European system of national deposit guarantee schemes […] and provide a high level of protection to all depositors in a harmonised framework throughout the Union, which leaves the stabilising safeguard role of mutual guarantee schemes intact, provided they comply with Union legislation.”

the DSGV suggests that the EBA complements the draft guidelines with a part that regulates the “alternative own-risk-based method” and thus allows for an appropriate reflection of the situation of IPSs according to article to 1(2)(c) of the DGSD. In order to avoid moral hazard, these IPSs use a calculation method based on the risk of their members as a core element for the determination of the contribution, especially RWA. Consequently, this method should be recognised as compliant.

Question 8

Do you think that more guidance, or specific thresholds, should be provided in these Guidelines with regard to calibration of buckets for risk indicators, or minimum and maximum values for a sliding scale approach?

BSG considers that the specific thresholds depend on the structure of the banking sector in the relevant country. Therefore, more guidance on the calibration of buckets is not necessary.

However, the BSG acknowledges that the calibration of thresholds is complex and requires careful measurement. The supervisory authorities should include the measurement of the calibration in their supervisory schedule.

Questions related to the Impact Assessment

Question 9

Do you agree with our analysis of the impact of the proposals in this Consultation Paper? If not, can you provide any evidence or data that would explain why you disagree or might further inform our analysis of the likely impacts of the proposals?

The BSG considers that it is necessary to create a level playing field for DGS and agrees with the analysis made in the Impact Assessment.

Submitted on behalf of the EBA Banking Stakeholder Group

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