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WK 10091/2023 INIT

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WORKING DOCUMENT

From: European Central Bank (ECB)
To: Working Party on Financial Services and the Banking Union (CMDI)
Financial Services Attachés

Subject: CMDI Review: working party 20.07.23
Item 5: ECB opinion on the CMDI framework

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EUROPEAN CENTRAL BANK

EUROSYSTEM

ECB opinion on the revision of the CMDI framework



20/07/2023



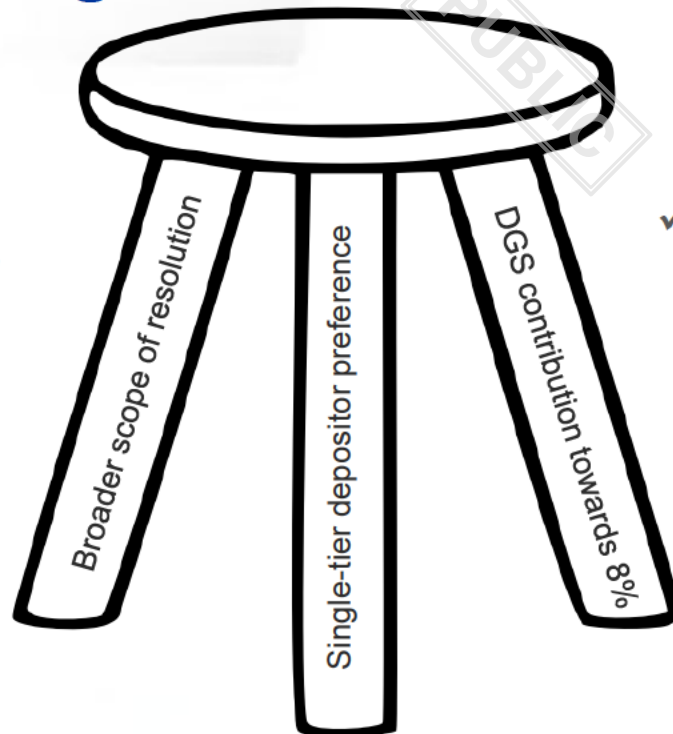
Key messages



- ✓ **Strong support for the key elements of the package**
- ✓ **Need to maintain coherence of package to ensure an effective framework**
- ✓ **Call for a swift finalisation of the legislative process**

A coherent package: resolution scope and funding

✓ Broader scope of resolution



✓ Counting the DGS contribution towards the 8% threshold to access the Single Resolution Fund

✓ Single-tier depositor preference

Broadening the scope of resolution



Broader scope

- Welcome
- More effective crisis management for smaller and medium-sized banks

Resolution not for all banks

- Proportionate expansion
- Important to also improve crisis management options for non-resolution banks

Funding is key

- Improved access to funding needs to accompany broader scope

Ensuring adequate funding

Shareholders and
creditors bear losses first



DGS contributions counts
towards 8% threshold



Recourse to the
resolution fund

Exclusive reliance on
MREL challenging for
smaller banks

Builds on single-tier
depositor preference
and is subject to several
safeguards

Following 8% loss
absorption



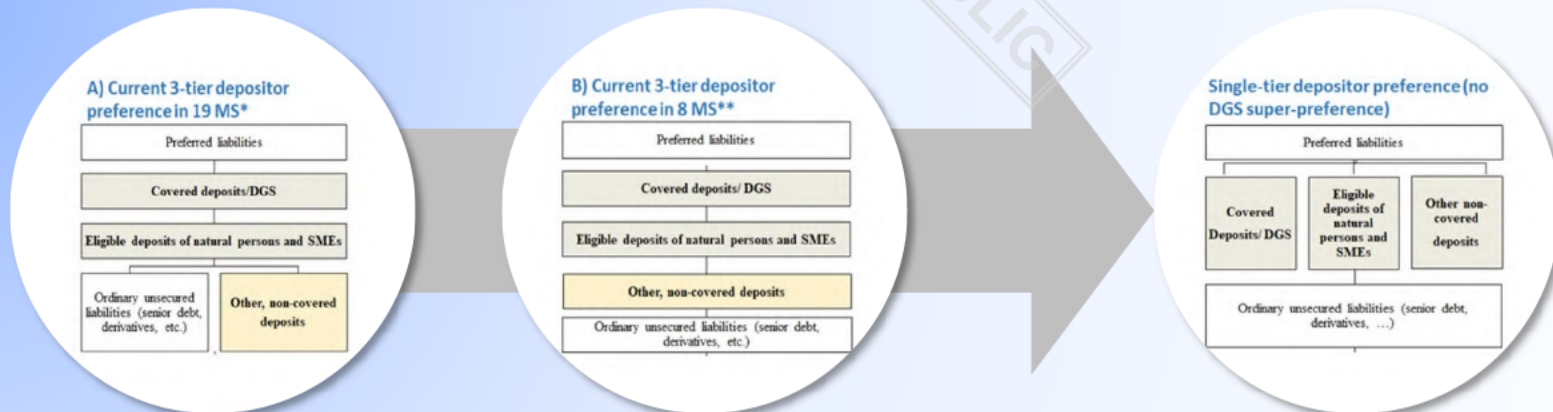
Helps to address possible
funding shortfall

For exceptional cases:

Financial stability exemption
to 8% threshold needed

... subject to strict safeguards

Single-tier depositor preference



- Improved access to **DGS funding**
- More crisis management solutions available, facilitates **preventing contagion** and **improves outcomes for depositors**
- Reduces depositor payouts

- Ranking all deposits above senior unsecured **facilitates loss allocation** and **minimises NCWO risks**
- Builds on experience in other jurisdictions, but some **further analysis proposed**

Completion of the banking union

1

Putting a **European Deposit Insurance Scheme** in place

2

Full operationalisation of the **ESM backstop to the SRF**

3

Develop a **European framework for liquidity in resolution**



Other key topics in the ECB opinion



Early intervention measures



FOLTF early warning



Precautionary recapitalisation



Limbo Situations



DGS interventions



IPCs

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ECB welcomes alignment of early intervention rules



Early intervention measures



Precap and liquidity support



DGS interventions



FOLTF early warning



Limbo situations



Resolution funding

-
- **ECB welcomes COM proposals** on EIM, which consider past ECB recommendations and address existing framework challenges, such as:
 - **direct legal basis** for ECB to adopt EIMs (w/o escalation ladder);
 - the **removal of overlap** between EIM and supervisory measures; and
 - **alignment of the conditions** to use supervisory measures and EIM.
 - **ECB recommends that:**
 - **RAs should address pure MREL breaches**, as they are better placed;
 - a **voluntary wind-down plan** may be requested

Precautionary recapitalisation is and should be part of the toolkit



Early intervention measures



Precap and liquidity support



DGS interventions



FOLTF early warning



Limbo situations



Resolution funding



- ECB welcomes **keeping precap** in the toolkit
- **Exceptionally** used
- 2% CET1 instrument limit may unduly **constrain use** of tool



- Must **not constrain CA** ability to consider case specificities
- New solvency definition is **too stringent**



- Having a **fixed exit timeline** may be counterproductive

Improving the toolkit of DGSs



Early intervention measures



Precap and liquidity support



DGS interventions



FOLTF early warning



Limbo situations



Resolution funding



- ➔ Clarifications of LCT welcome
- ➔ Alternative and preventive measures are useful and should be widely available



- ➔ Call for requirement for IPSSs recognised as DGSs to have segregated funds
- ➔ Their DGS function should remain subject to DGSD



- ➔ Transfer of DGS contributions should be aligned to the transferred risks
- ➔ ECB supports mandating EBA to develop methodology

Early warning process is welcome, while it does not prejudice resolution process



Early intervention measures



Precap and liquidity support



DGS interventions



FOLTF early warning



Limbo situations



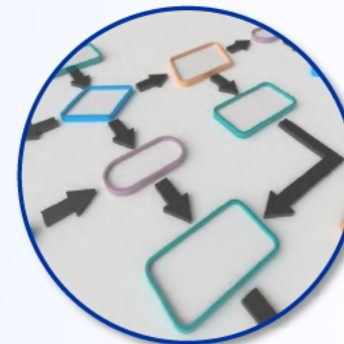
Resolution funding



- ➔ ECB welcomes closer cooperation and info exchange directly in the legislation
- ➔ ECB / NCA to notify SRB, as early as possible, if there is a risk of FOLTF



- ➔ ECB/NCA/NRA & SRB exchange views on possible measures to prevent FOLTF
- ➔ Ensures authorities can better assess crisis situations as they evolve



- ➔ FOLTF early warning is not indicative of future action
- ➔ Does not alter establish principles, competence and process re. FOLTF

Failing but unresolved banks need to exit the market



Early intervention measures



Precap and liquidity support



DGS interventions



FOLTF early warning



Limbo situations



Resolution funding



- ➔ The ECB welcomes the further strengthening of Article 32b BRRD
- ➔ Unresolved FOLTF institutions should be wound up under national law
- ➔ Exit should be swift and without delay



- ➔ National procedures to manage non-resolution cases should be harmonised
- ➔ Withdrawal of authorisation should remain discretionary
- ➔ Withdrawal should not be a harmonised precondition for wind-up

Share of IPCs should not increase to 50%



Early intervention measures



Recap and liquidity support



DGS interventions



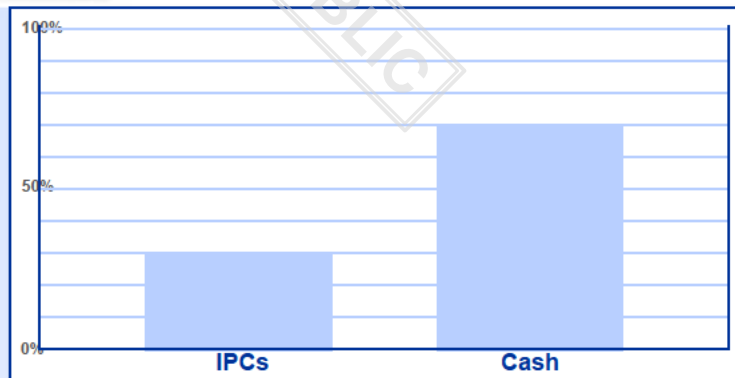
FOLTF early warning



Limbo situations



Resolution funding



- ➔ Proposed increase in total IPC funding share from 30% to 50%
- ➔ ECB strongly recommends not to increase to 50%
- ➔ IPCs may generate risk of overstating banks' CET1 capital
- ➔ They can have a procyclical effect and are therefore problematic from the perspective of systemic risk

Thank you for your attention!



Questions & Answers

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ANNEX

Other topics

DGS supervisory powers and DGS contributions



Supervision of DGS obligations

→ Should stay with DGS authorities



Holding of funds with NCBs

→ May require changes under national law

Other topics

Daisy chains, info exchange and data protection



MREL requirements

- Consolidated or sub-consolidated requirements may only be imposed under the conditions in the CRR



Information Exchange

- More cooperation among authorities, further clarification required



Personal Data

- Further guidance could be provided re.: personal data protection in resolution