EBA publishes Opinion proposing to further strengthen depositor protection in the EU

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**The European Banking Authority (EBA) published today its second opinion addressed to the EU Commission on the implementation of the Deposit Guarantee Schemes Directive (DGSD) in the EU. The Opinion focuses on the payouts by deposit guarantee schemes (DGSs) and proposes a number of changes to the EU legal framework, aimed at strengthening depositor protection, improving depositor information, enhancing financial stability and reinforcing operational effectiveness of DGSs.**

In its Opinion, the EBA assesses nine different topics related to DGS payouts and sets out 30 proposals on how to improve the current EU legal framework. The proposals include changes in relation to cases where depositors have lost access to their funds but payouts have not started, and cases where there are money laundering and terrorism financing (ML/TF) concerns. The Opinion also proposes improvements to the treatment of specific situations, such as the treatment of beneficiary accounts and depositors temporarily holding deposits above the coverage level or with banks headquartered in another EU Member State.

More specifically, based on recent real-life cases, the Opinion proposes changes aimed at ensuring that depositors are not unduly left without access to their funds when the decision  that deposits have become unavailable has not (yet) been made by the authorities. The Opinion proposes that, in such instances, depositors should have access to an appropriate daily amount from their deposits.

Similarly, the EBA proposes that the EU framework could benefit from more clarity on DGS payouts where there are ML/TF concerns, including the introduction of powers necessary to suspend payouts to depositors suspected of ML/TF. The Opinion also proposes how cooperation between DGSs and AML authorities can be improved and highlights the importance of informing depositors in such instances. Given the complexity of such cases, the EBA is of the view that further analysis is needed, both from the DGS and the AML perspective.

Finally, throughout the Opinion, the EBA underlines the importance of enhancing depositor protection, and clearly informing depositors about the most relevant features of such protection, in normal times, as well as during a DGS payout. In this respect, the EBA proposes, for example, that depositors should be clearly informed about their rights in relation to temporary high balances, and the possibility that their deposits would be set-off against their liabilities that have fallen due before their deposits had became unavailable. The EBA also proposes that depositors should have sufficient time to claim their funds after a bank failure.

Legal basis, background and next steps

Article 19(6) DGSD requires the EBA to support the EU Commission in its development of a report on the progress towards the implementation of the DGSD. This Opinion is the second part of the EBA’s fulfilment of this mandate, which should be read alongside two other Opinions – on eligibility of deposits, coverage level and cooperation between DGSs, and on DGS funding and uses of DGS funds.

This Opinion follows the first one on the eligibility of deposits, coverage level and cooperation between DGSs, which was published in August 2019. The third and final EBA opinion on DGS funding and uses of DGS funds, will be published in early 2020.

The EBA invites the Commission to consider the proposals outlined in the Opinion when preparing a report on the implementation of the DGSD to be submitted to the European Parliament and the Council.