26 April 2023

DECLARATION and CALL FOR ACTION

of

Institutional Protection Schemes in Europe

Haftungsverbund der Österreichischen Sparkassen
Austria

Österreichischer Raiffeisenverband on behalf of Raiffeisen Bankengruppe Österreich
Austria

BVR Institutssicherung GmbH
Germany

Sicherungssystem der Sparkassen-Finanzgruppe
Germany

Raiffeisen Südtirol IPS Genossenschaft
Italy

Spółdzielczy System Ochrony SGB
Poland

Spółdzielnia Systemu Ochrony Zrzeszenia BPS
Poland

Grupo Caja Rural
Spain

with regard to the legislative proposal of the European Commission on the review of the Crisis Management and Deposit Insurance Framework

Declaration and call for action of Institutional Protection Schemes in Europe with regard to the legislative proposal of the European Commission on the review of the Crisis Management and Deposit Insurance Framework

26 April 2023

On 18 April 2023 the European Commission published a comprehensive legislative proposal on the review of the EU crisis management and deposit insurance framework (CMDI Framework). The current framework was established 2014 after the global financial crisis and consists of the Bank Recovery and Resolution Directive (BRRD), the Single Resolution Mechanism Regulation (SRMR) and the Deposit Guarantee Schemes Directive (DGSD).

We, the Institutional Protection Schemes in Europe (EU IPS), would like to contribute to the upcoming negotiations between the European Institutions by way of a joint declaration setting out our common understanding of the Commission`s proposal and the principles that should be taken into account for the development of the legislation.

Assessment of the Proposal of the European Commission with special regard to the functionality of Institutional Protection Schemes

We emphasise the importance of a strong and resilient CMDI Framework. Certainly, failing banks must be handled effectively and coherently to ensure financial stability and protect the taxpayers.

In this context, we explicitly highlight the statement of the Eurogroup from June 2022, according to which the *"improved CMDI framework will take due account of the specificities in the national banking sectors, including by preserving a functioning framework for institutional protection schemes to implement preventive measures"*.

EU IPS value the clarity of the Statement of the Eurogroup and have analyzed the European Commission's CMDI proposals in the light of this statement, especially with regard to the preservation of a functioning framework for IPS.

As a result, we come to the conclusion that a number of elements of the CMDI proposal are not compatible with the proper functioning of our EU IPS and, therefore, are not in line with the Eurogroup statement which bears the risk of a substantial detrimental effect on financial stability – at least – in the members states in which IPSs are operated:

1) **EU IPS will be substantially affected by the shift towards a resolution for small and medium sized banks and the expansion of the public interest.**

   Irrespective of whether a shift towards resolution for small and medium sized banks is justified, such extension in combination with an earlier begin of resolution activities and the exclusive competence of resolution authorities for such actions would reduce the ability of IPSs to act and can therefore impair their functioning significantly.

   This important limitation is reinforced by the introduction of a "warning period", in which the supervisory authorities already have to assess IPS measures and could therefore ultimately also prohibit them at that point in time.

   While an IPS would usually use its financial means as an ultima ratio to prevent a failure of one of its affiliated credit institutions, the proposed expanded timeframe in favor of resolution authorities would force an IPS to use its financial means already before a failure becomes even probable. Such forward displacement in the time horizon would thus question the economical sustainability and viability of an IPS that has to use its financial means as efficiently and targeted as possible.

   Moreover, resolution will lead to a mandatory market exit of the credit institution. Members of an IPS often all use the same trademark that would significantly suffer from a forced market exit of one member and would not be in the interest of other IPS members, who would rather use their own money to avoid such consequences.

It should also be taken into account, that some of the groups of institutions that have entered into an IPS draw up a group recovery plan, which may involve the execution of appropriate recovery options before financial support is provided. In that case, an IPS would need appropriate time in order to fulfill its goal and prevent an institution from failure.

2) **For IPS which are also recognized as a deposit insurance scheme, the DGSD would establish various additional conditions that need to be fulfilled before an IPS can apply preventive measures. Intensive consultation and notification needs as well as requirements for the affiliated banks when applying for a measure would significantly delay a preventive measure of the IPS and make it de facto impossible.**

The concept of IPS is enshrined in Article 113(7) of the CRR, which defines an IPS as a "contractual or statutory liability arrangement [between institutions] which protects those institutions and in particular ensures their liquidity and solvency to avoid bankruptcy where necessary." This means that institutions that enter into an IPS agree and oblige themselves contractually to contribute financially to a system, which protect all other institutions of that IPS and in particular ensure their liquidity and solvency to avoid bankruptcy. These far-reaching obligations have to be duly recognized in the legal framework.

However, the proposed procedure in the CMDI proposals would lead to a violation of Article 113 CRR, namely No. (7) lit. a) in conjunction with (6) lit. e) CRR, according to which there must not be any material factual or legal obstacles to the immediate transfer of funds to the institution in the event of a crisis.

At least for an IPS, the proposed procedure is neither necessary nor feasible. The recognition as IPS depends on the compliance with strict requirements and of supervisory approval. For the Eurozone, the ECB (Single Supervisory Mechanism) has given very stringent guidance on how these requirements have to be applied.

The restrictive new requirements in the DGSD would de facto make the exercise of preventive measures in the form of financial support by an IPS impossible.

On a more general note, and based on our practical experience, we consider it neither desirable nor realistic to apply MREL requirements to small and medium sized banks, which have no access to capital markets, especially small and non-complex banks.

Call for action with regard to the forthcoming legislative negotiations

We, the EU IPS, call upon the Co-Legislators to take into account the structure, nature and operational needs of EU IPS through the following call for actions:

Call for action no. 1: The current prerogative of IPS measures having priority over actions of a resolution authority must be maintained.

Call for action no. 2: When it comes to the application of preventive measures, the DGSD should distinguish between mere DGSs and DGSs that are also legally recognized as IPS pursuant to Article 113(7) CRR. For such IPSs the current provisions in Article 11 DGSD should be maintained as they already take into account the mandate of an IPS that fulfils the requirements of Article 113(7) CRR.

These two stipulations need to be respected to ensure that the stabilising function of EU IPS within the EU is maintained.

The European Commission`s proposal in its current form would significantly restrict EU IPS in their functioning. Thereby, it violates the Eurogroup statement of 22 June 2022.

Institutional Protection Schemes

The creation of IPS goes back to the idea that also small banks (less significant institutions), especially in the cooperative or savings banks sector, should dispose of possibilities to enhance their efficiency and competitiveness while increasing financial stability at the same time.

Today, institutional protection schemes exist in Austria, Germany, Italy, Poland and Spain. A relevant part of the European banking system and their customers are protected by IPS:

IPS *(data as of 31.12.2022)*	**Country**	**Affiliated Banks**	**Customers in Million**	**Covered Deposits in Million Euro**
Raiffeisen Banking Group	AT	330	4,0	95.000
Austrian Savings Banks Group	AT	50	3,8	65.000
BVR Institutssicherung GmbH	DE	737	30,0	616.100
Sicherungssystem der Sparkassen-Finanzgruppe	DE	378	50,0	846.095
Grupo Caja Rural	ES	30	6,5	47.329
Raiffeisen Südtirol IPS	IT	40	0,3	7.482
IPS – SGB	PL	179	2,4	9.189
SOZ BPS	PL	308	3,0	14.871
TOTAL		**2.234**	**97,6**	**1.492.759**

To fulfil their tasks, IPS have to accumulate not only a sufficient amount of ex-ante funds, but also dispose of a toolbox comprising a broad range of efficient and uninterrupted measures, processes and mechanisms.

Moreover, applicable law and the regulatory authorities require that an IPS must have at its disposal suitable and uniformly stipulated systems for monitoring and classifying risks, which give a complete overview of the risk situations of all individual members and the IPS as a whole, with corresponding possibilities to intervene at a very early stage. These early warning and early intervention systems prevent bank insolvencies and therefore strengthen the financial stability, not only in theory but in practice. The risk mitigating effect of IPSs is also reflected in an IPS' permission to draw recovery plans for its members.

At the same time, IPS do not provide a safety net for inefficient banks. As a principle, the affiliated banks are obliged to pay back support granted by an IPS. Business models may have to be reviewed and structures adjusted; and should it become necessary new directors will replace those who have proven resistant to required changes or are unreliable. In each IPS, despite the differences in the organization, there is an audit system in place that allows to thoroughly examine the economic situation and resources of affiliated institutions.

Due to their effective early warning and early intervention systems IPS provide an additional layer of safety to the customers of the institutions adhering to an IPS. IPS are therefore a very efficient way to grant more safety to customers and the financial stability of the banking markets.

By exclusively basing their mission on private funds provided by their members, their history of dealing with failing banks is also an example of protecting taxpayers.

SPARKASSE
Verband Österreich

ÖSTERREICHISCHER RAIFFEISENVERBAND

BVR Institutssicherung GmbH

Finanzgruppe
Deutscher Sparkassen- und Giroverband

Raiffeisen
Raiffeisen Südtirol IPS
Genossenschaft / Società cooperativa

IPS SGB SPÓŁDZIELCZY
System Ochrony SGB

System Ochrony Zrzeszenia BPS

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