

## **Credit Agricole's response to the draft ECB Guide on the approach for the recognition of institutional protection schemes (IPS) for prudential purposes**

We welcome the clarifications provided by the draft ECB guide. These are of utmost importance considering that the concept of IPS is very present across European regulations. In addition to our responses to the questions, we would like to make the following comments:

**1.** As pointed out at the hearing of March 31, 50% of total euro area credit institutions are members of an IPS.

This concept has been validated for the German, Austrian and Spanish cooperative and saving banks and it will soon be the case for Italian cooperative banks.

Regarding the French mutual groups, there is no specific prudential status. However, a group like Crédit Agricole for example would be able to meet the criteria of Article 113.7 of the CRR. The draft guide of the ECB reinforces this conclusion:

- It was confirmed at the hearing that there is a possibility of being both a consolidated group (i.e. accounting group consolidation) and an IPS,

- We noted that the criterion 113.7 (h) should be interpreted as follows: there are no quantitative measures and / or thresholds for the qualification of homogeneous business models. IPS networks may include different activities and sizes. What matters is "the common link in the network of the bank", the "existence of services for IPS members" and "the cooperation within the IPS network." This may therefore include banks with corporate and investment banking (CIB) activities in a retail banking network if the CIB entity contributes to the functioning of the network (for instance through funding).

**2.** A decentralized group should not be imposed more constraints than a single unit group. The existence of sub-national entities should never penalize decentralized groups. Provisions such as the 0% risk-weight for exposures to other IPS members; the absence of large exposure limits to other IPS members and other waivers are essential in that respect.

This "non-discrimination" principle should be systematically included in the supervision application. It is at least as fundamental as the principle of proportionality.

**3.** Our final point deals with the sustainability of IPS.

An IPS funds can perform different functions: it can be a solidarity mechanism but also, in some countries, be used as the deposit guarantee scheme.

This mix of objectives can be perilous. Therefore, for the IPS funds these two functions of pure IPS on the one hand and Deposit Guarantee Scheme on the other hand should be clearly separated and appropriately sized.

Issue	Article	Comment (Amendment, Clarification, Deletion)	Concise Statement why your comment should be taken on board
General comment on the conditions for IPS intervention	point 6, p. 2	Clarification	<p>The ECB considers that IPS intervention is triggered upon entry into resolution (“there is no reasonable prospect that any alternative private-sector measures, including in particular the recovery measures provided for in the plan, would prevent the failure of that institution”).</p> <p>However, an intervention of the central body to provide support to an affiliated entity under the IPS would much occur earlier than entry in resolution at group level (under SPE resolution strategies). The French law (article L.511-31 of the <i>Code Monétaire et Financier</i>) provides that the central body guarantees the solvency and liquidity of each of its affiliated institution and of the affiliates’ network as a whole. As such, the central body shall intervene as soon as an affiliated institution is facing solvency or liquidity problems. We interpret that legal obligation as meaning that the central institution guarantees compliance with the applicable local prudential requirements at the level of each affiliated institution. The central body would then intervene in the recovery phase, when the member institution concerned still is in going concern and ahead of the resolution stage.</p> <p>The ECB seems to be sharing our analysis when it underlines (at the end of point 6, top of p. 3) the preventive nature of IPS intervention so as to ensure the permanent compliance of its member institutions with capital requirements.</p>
Extent of IPS support	Art. 113(7)(b), p. 6	Clarification	<p>Point (iii): The support of the central body is not based on contractual commitments but on legal provisions (French <i>Code Monétaire et Financier</i>). Therefore, the financial support provided by the central body is clearly stronger than a contractual guarantee: it is an obligation imposed upon the central body, which is legally responsible should a liquidity or solvency incident arise at the level of one of its affiliated institutions. Financial support shall in addition be set up under the monitoring of the relevant banking authorities.</p> <p>Point (vi) : The condition laid down in Article 113(7)(b) provides that arrangements should be in place to ensure that the IPS is able to grant the support to which it is committed out of readily available funds. This should not be construed as implying the</p>

			<p>setting up of an ex-ante fund as an exclusive option, as it is currently the case in the ECB consultation document.,</p> <p>We believe that alternative options should be recognised and approved on a case by case basis by the ECB, to the extent such options allow the IPS to fund whole or part of its support in a timely fashion.</p> <p>With respect to the readily available funds test, we are of the opinion that the approach of the ECB should be pragmatic and should not impose an exclusive prerequisite consisting in the creation of an ex-ante fund.</p> <p>Other options may be available in order to allow the IPS to be punctually provided with funds to fulfill its obligations.</p>
Consolidated report based on the IPS scope of consolidation	Art. 113(7)(e), p.8	Clarification	When assessing compliance with the condition laid down in Article 113(7)(e), it should be clarified that the ECB will take into account the existence of a consolidated report based on a broader scope (i.e. not only including the central body and its affiliated members, but also affiliated entities of the central body) .
24-month notice	Art. 113(7)(f), P. 8	Amendment	<p>According to French law, entities that are affiliated to a central body may not unilaterally decide to exit the scope of affiliation (and end the IPS). Affiliation withdrawal falls under the exclusive competence of the central body (article L.511-31 of the <i>Code Monétaire et Financier</i>).</p> <p>Such a decision must furthermore be notified to the supervisory authority which will assess its impacts on the banking license of the concerned affiliated institution.</p>
Homogeneity of business profiles	Art. 113(7)(h), P. 9	Clarification	<p>It should be clarified under point iv that the homogeneity criteria will be interpreted in a sufficiently flexible way. This is necessary to take into account the structure of certain mutualist banking groups, where total or parts of the group’s business activities are organised through subsidiaries, and even if these activities have no direct links with the IPS network institutions.</p> <p>In the same vein, considering experience with foreign IPS (eg. Raiffeisen) it should be clarified that coexistence of retail banking activities and investment banking activities does not constitute, as such, an obstacle to the recognition of the relevant consolidation scope as IPS.</p>