EUROPEAN CENTRAL BANK

BANKING SUPERVISION

# Public consultation

# Draft ECB Guide on the approach for the recognition of institutional protection schemes (IPS) for prudential purposes

## Template for comments

Institution/Company

Austrian Federal Economic Chamber, Division Bank and Insurance

**Contact person**

Mr ☒ Ms ☐

First name
Franz

Surname
Rudorfer

E-mail address
[redacted]

Telephone number
[redacted]

☐ Please tick here if you do not wish your personal data to be published.

Please make sure that each comment only deals with a single issue.

In each comment, please indicate:

- the relevant article/chapter/paragraph, where appropriate
- whether your comment is a proposed amendment, clarification or deletion

If you require more space for your comments, please copy page 2.

EUROPEAN CENTRAL BANK

BANKING SUPERVISION

PUBLIC CONSULTATION

Draft ECB Guide on the approach for the recognition of institutional protection schemes (IPS) for prudential purposes

## Template for comments

| | |
|---|---|
| Name of Institution/Company | Austrian Federal Economic Chamber, Division Bank and Insurance |
| Country | Austria |

**Comments**

| Issue | Article | Comment | Concise statement why your comment should be taken on board |
|---|---|---|---|
| General Remarks | | Clarification | The sectors in the Austrian banking industry with institutional protection schemes support the approach taken by the European Central Bank that aims to ensure coherence, effectiveness and transparency in the recognition of institutional protection schemes (IPS pursuant to Regulation (EU) No 575/2013) without establishing new legal requirements.<br><br>Before turning our attention to the specifics of the consultation text, we would like to make some general remarks on the key aspects of an IPS, which, so far, have played only a secondary role in the ongoing discussion.<br><br>The role of institutional protection schemes for Europe |

50% of the credit institutions in the EUR currency area participate in an institutional protection scheme (IPS). Austrian savings banks and Raiffeisen banks are regional institutions that cater primarily to the "small savers" and small- and mid-cap companies. They pool together customer funds and invest these in regional business, maintaining their focus on lending to individual and entities. This secures growth and jobs and for them, as local suppliers for financial services, forms the cornerstone of their business model with its particular regional orientation. They also contribute substantially to financial market stability and bolster the funding of the real economy. The European institutions acknowledge their essential role in the European context and thus support these institutions actively in the Basel III environment that, to small banks, poses a particular prudential challenge.

The institutional protection schemes provide a comprehensive early-warning system for its members. Early recognition is ensured for members of the scheme and economic difficulties are avoided.

Implementation of the Basel III requirements presents the credit institutions with a host of challenges. Fulfilment of the Basel III specifications puts a considerable onus on over 6,500 small- and medium-sized institutions within the EU (approx. 5,000 in the SSM). Alone because of their relatively limited resources, small institutions are crippled by excessive regulatory oversight and exorbitant reporting requirements, which, in terms of scope and complexity, scarcely ever differ from those imposed on large institutions. These problems exist for all small and medium seized banks. Legislators have provided the possibility of calibrating the terms, particularly for IPS, and this option is of crucial significance. This allows small- and medium- sized institutions to balance out the size-related prejudices resulting from the Basel III requirements (at least in part). On this count, we would like to refer to the related benefits for financial stability, as

| | | | |
|---|---|---|---|
| | | | previously formulated in a Non-paper of the EU Commission. Legislators acknowledge these benefits and address them elsewhere. The DGSD and BRRD/SRM as two examples.<br><br>The ECB apparently intends to set up a coherent framework for these institutions. This new framework must take its bearings from the level 1 text and not go beyond it. In so doing, the objective must be to knowingly dispense with unnecessary obstacles and set the requirements at the strict legal minimum, on the one hand, and at the risk-induced maximum, on the other.<br><br>In the overall assessment, IPSs also help to achieve the key prudential objectives of creating more solvent and liquid institutions while reducing risk. |
| Detailed remarks on the "Introduction" | t1 | Amendment | For the sake of coherence and transparency, we would like the Guide to specifically address DGSs/IPSs on account of the many similarities (e.g. stress tests and the fund). Although a directive provides that legislators must implement a deposit guarantee scheme and this directive should by no means be pre-empted, the principles at EU level have been defined and thus adherence with these principles when it comes to IPSs must be transparent and coherent. |
| | Section 2 | Amendment | As rightly pointed out in section 2, IPSs and their organisation are very diverse and complex. Not only are significant and less significant institutions members in IPSs, they also have their origins in different sectors. IPSs support the autonomy and independence of the individual members as well as the sectors as they operate today and thus contribute to financial market stability and real economy funding.<br><br>Both the supervisory authority tasked with the assessment and the pertinent Guide must make allowances for this diversity. |

| | | | |
|---|---|---|---|
| | Section 3 | Amendment | In addition, credit institutions included in an institutional protection scheme that have set up a cross-guarantee scheme pursuant to Art 4(1) No 127 CRR must fully recognise any minority interest arising within the cross-guarantee scheme in accordance with Art 84 (6) CRR. Any interest in an IPS owned by cooperative members or legal entities that are not members of an institutional protection scheme does not need to be deducted once the conditions defined under Art 49(3)(a)(v) CRR have been met. |
| | Section 4 | Clarification | As previously indicated, the specifications laid out in the Guide must always be read as a means of preserving the diversity while bearing in mind the unique nature of each individual IPS. |
| | Section 6 | Amendment | The IPS must have at its disposal suitable and uniformly stipulated systems to monitor and classify risk with a corresponding possibility to intervene. A complete overview of the risk situation of the individual members and the IPS as a whole must be warranted. Thus, against this backdrop, the explicit obligation that an IPS must ensure that its members permanently abide by the regulatory own funds requirement by taking proactive and timely measures goes too far. |
| | Section 9 and 10 | Clarification | If, however, in specific cases, there are factors that justify departure from these specifications, the ECB is empowered to decision to do so, provided clear and sufficient reasons are provided. The rationale behind this decision to diverge from the established approach must also be compatible with the general principles of EU law, in particular equal treatment, proportionality and the legitimate expectations of the supervised institutions.<br><br>We welcome this reliance on the principle of legitimate expectation, but must insist that the consultation process not lead to further requirements for IPSs that go beyond the scope of the law. In particular, level 1 requirements must be |

| | | | |
|---|---|---|---|
| | | | observed. |
| Detailed remarks on "Specifications for the assessment under Article 113(7) of the CRR" | Art 113(7)(a) in conjunction with Art 113(6)(e) CRR | Amendment | In view of the requirements set forth under Art 113, the specifications under Art 113(7)(a) cannot be tied up with those of Art 7(1) CRR. Not only would such a supervisory proceeding represent an additional and considerable difficulty when establishing an IPS and thus be in contradiction to the approach outlined under section 3 General Remarks above, but the requirements under Art 7(1) CRR were not designed for direct application to IPSs by the legislators.<br><br>Any such "upgrade" of the requirements under Art 113(7) CRR goes much too far and should be deleted from the intended assessment specifications. |
| | Art 113(7)(b) CRR | Clarification | According to Art 113(7)(b) CRR, the liability arrangement of an IPS must ensure that the IPS is able to grant the support necessary under its commitment from funds readily available to it. The wording of Art 113(7)(b) CRR does not explicitly provide for the installation of a fund to ensure the support necessary under its commitment from funds readily available to it. This notwithstanding, the ECB should verify on the basis of Art 113 (7)(h)(iv) whether a fund was set up to meet this requirement.<br><br>Unequivocal clarification is needed in this regard to show up that this fund can be identical with the fund of the deposit guarantee scheme if the IPS and the deposit guarantee scheme are one and the same. |
| | Art 113 (7) b iii) CRR | Amendment | Art 113 (7) (b) CRR provides that the support pledged to the member must be granted from funds readily available.<br><br>The members thus undertake to provide mutual support within the framework of |

the IPS up to its maximum regulatory limit and to initiate support measures accordingly. What needs to be clarified in this context is that the support provided within the IPS is not to be understood as a commitment as defined under Art 208 in conjunction with Art 210 CRR.

In addition, the ECB states that an IPS may not refuse to provide support to its members if that refusal would lead to the insolvency of its member institution.

We would assume that this element cannot be construed to mean that an IPS has to provide support measures to an IPS member at all events. After all, such an obligation to provide support would encourage moral hazard and 'free-riders" and call into question the IPS as such. We therefore presume that the IPS may also refuse to provide support if the member institution fails to observe the criteria/requirements an IPS must meet to obtain support measures.

According to the Guide, the IPS must ensure that its member institutions permanently abide by the regulatory own funds and liquidity requirements. This requirement is excessive and may at any rate not be construed to mean that an obligation arises to support other member institutions merely because they fall short (temporarily) of these requirements. As previously stated in the general remarks, the IPS must have at its disposal suitable and uniformly stipulated systems to monitor and classify risk with a corresponding possibility to intervene. A complete overview of the risk situation of the individual members and the IPS as a whole must be warranted in order to make available appropriate support in case of need. This implies the monitoring of a number of different indicators, which must not be reduced to own funds and liquidity indicators alone. An explicit requirement obliging the IPS to guarantee that regulatory own funds and liquidity requirements are observed by the IPS members is going too far.

| | | | |
|---|---|---|---|
| | Art 113 (7) (b) (vi) (c) CRR | Clarification | This provision sets the minimum target amount for available ex-ante funds calculated on the basis of a medium/severe stress test.<br>The designation 'medium/severe stress test" is misleading. What needs to be made clear at this point is that the minimum target amount for ex-ante funds is quantified on the basis of a medium or severe stress test.<br><br>This is necessary because, compared to the scenarios in a medium stress test, the severe stress test builds on very unlikely scenarios. The stricter the stress test, the less likely the actual occurrence of the scenario is. It is ill-advised to prescribe an annual severe stress test that is costly if the actual occurrence of the scenario is unlikely. In case of a real crisis, a well-endowed IPS must have the financial means to provide the support measures on the basis of emergency plans.<br><br>We would further assume that ex-ante funds are broadly defined. They include all funds that are available ex-ante, irrespective of the form in which they are available. This must be considered as it would only appear expedient to evaluate the whole liability volume available in the IPS. Anything else would be misleading and represent an over-restrictive view of the funds readily available. |
| | Art 113 (7)(c)(ii) CRR | Clarification | This provision requires that appropriate data flows and IT systems are in place. This demand is understandable, but we assume that that the ECB would not expect authorised IPSs to set up new databases and IT systems regardless of the costs. Rather, we would assume that any functional existing systems can ensure the functioning of an IPS. |
| | Art 113 (7) (c) (iv) CRR | Clarification | We ask for a specification that the different models and different regulatory approaches (AMA, standard approach, IRB) do not contradict the requirements |

| | | | |
|---|---|---|---|
| | | | of uniformly stipulated systems. |
| | Art 113 (7)(h)(ii) CRR | Amendment | The predominant homogeneity requirement must be considered from the global perspective of all members in the system. No emphasis should be given to individual elements (e.g. varying member size, when all members are linked up to an central institution and all use uniformly stipulated systems with which to warrant the classification of the risk situation).<br>Even the criteria of a single legal form could not be used when verifying homogeneity. The prerequisite set forth by Art 113(7)(a) CRR is that a member must be an institution, financial institution or ancillary services undertaking. |
| | Art 113 (7)(h)(iv) CRR | Clarification | According to this provision, IPS sectors are frequently based on collaboration, meaning that central institutions and other specialised institutions in the network offer products and services to other IPS members. When assessing the homogeneity of business profiles the ECB considers the extent to which the business activities of the IPS member are related to the IPS network (products and services provided to local banks, services to shared customers, capital market activities etc.).<br><br>In our understanding, this provision allows central institutions to continue providing banking business services that go beyond mere specialised sector services. Central institutions should not necessarily be reduced to units that, from now on, are permitted to provide products and services only for the sector or the IPS. |
| Answer to question 3 - page 2 (Q & A document) | | Clarification | As a whole, the consultation should only be applicable for new applications. IPSs that have already been authorised should not be affected by the rules. |

| | | |
|---|---|---|
| | | In the last sentence of the reply to Question 3, the ECB points out that in the event of structural changes to an IPS or incidents that may give rise to doubts regarding its compliance with the CRR conditions, a reassessment can be considered.<br><br>It is not clear when the ECB considers such structural changes to have taken place. What specific criteria need to be met for a previously authorised IPS needs to be reassessed? Clear specifications need to be provided for this.<br><br>Structural changes only occur when an IPS is seriously challenged. A mere change in an IPS's membership, for instance, cannot be considered to be such a structural change. |
| | Choose one option | |
| | Choose one option | |
| | Choose one option | |
| | Choose one option | |