



“Mind the gap!”

*A comparative analysis between
the IADI CPs and the DGSD*

IADI- ERC Subgroup

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Introduction

In 2009, IADI and the Basel Committee on Banking Supervision (BCBS) released the “*Core Principles for Effective Deposit Insurance Systems*”. A “*Compliance Assessment Methodology for the Core Principles*” was issued in 2010. The Core Principles (CPs) and the compliance assessment methodology are a powerful tool for assessing the effectiveness and the efficiency of deposit insurance systems,¹ identifying criticalities and defining measures to address them. The CPs have been structured to cover all aspects of a deposit insurance scheme, irrespective of its geographical location or legal and judicial environment.

In the autumn of 2014, the new revised version of the CPs was released. It comprises 16 Principles (compared to the previous 18). Each Principle is now integrated with Essential Criteria, included in the Assessment Methodology. The Essential Criteria explain each principle and give operational guidance for the evaluation of compliance between the deposit insurer and the CPs. In November 2014, the Revised Core Principles were communicated to the Financial Stability Board for inclusion in the *FSB Compendium of Key Standards for Sound Financial Systems*.

In order to simplify the evaluation assessment and provide as objective an approach as possible, in February 2015² IADI made available a *Handbook for the Assessment of Compliance with the Core Principles for Effective Deposit Insurance Systems*. The Handbook provides a complete guide, outlining fundamental steps of the assessment methodology.³

In the EU, the milestone in deposit guarantee scheme (DGS) regulation was Directive 94/19/EC (the Deposit Guarantee Scheme Directive, DGSD). It aimed to harmonise the fundamental aspects of DGS activity, on the basis of minimum harmonisation and mutual recognition principles. Directive 2009/14/EC of 11 March 2009 was a first step towards a comprehensive reform of the system.

The international debate on further strengthening DGSs and possibly establishing a centralised DGS at European level increased with the deepening of the financial crisis. In July 2010, the EU Commission presented a draft proposal to amend the previous Directive. The aims were to enhance consumer protection and boost confidence in financial services. The legislative intervention was based on a maximum harmonisation approach. A compromise was reached in 2013 and the final text of Directive 2014/49/EU was approved at a plenary meeting of the European Parliament on 15 April 2014. Member States were required to transpose the Directive within one year of its entry into force (3 July 2015).

In this context of the transposition of the DGSD, it could also be opportune to evaluate the degree to which the DGSD provisions correspond with the Core Principles.

¹For simplicity, this paper uses the abbreviation “DGS” (Deposit Guarantee Schemes) to refer to a DIS or DI.

² The last update of the Handbook (version 16.0) was released in March 2016.

³ The steps are: i) preparation, consisting of selecting the assessing team, and scheduling the meetings and on-site visits in the case of external evaluators; ii) field work, namely the core assessment process based on: analysis of the legal and regulatory framework in which the deposit insurer operates; assessment of compliance with the Essential Criteria of the Core Principles; preparation of a draft assessment report; iii) post-field work, where the assessment report is finalised and ready to be shared with authorities and IADI experts.

This paper performs a qualitative gap analysis between the Core Principles and the 2014/49/EU Directive. Where appropriate, references were made to European regulatory documents, such as the European Bank Recovery and Resolution Directive (BBRD) and other European Union regulations (i.e. EBA Guidelines). National regulations or legislation were not considered.

The paper should not be viewed as an assessment of the compliance of deposit insurance systems in the EU with the CPs. The review of national laws and institutional structures (outside the purpose of this study) is important and fundamental to evaluate whether a jurisdiction’s deposit insurance system is compliant with the CPs.

Discussion of the paper could form a general basis for continuous monitoring of compliance of DGSs with the DGSD and CPs, resulting in an ongoing stimulus for improvement. The paper could, furthermore, be a useful tool in the run-up to external assessments.

Methodology

In a first step, we conducted an in-depth study of the Essential Criteria of the Core Principles, the commentary sections of the Handbook, the DGSD, the European Bank Recovery and Resolution Directive (BBRD) and other European Banking Union regulations.⁴

The second step consisted of a qualitative comparison of the different sources outlined above. The most relevant text of each source was selected and analysed. The results are described in the last chapter of the discussion paper (see ‘*The gap analysis*’).

The outcomes of the analysis may be grouped into four main categories:⁵

⁴ These include the set of harmonised prudential rules, which institutions throughout the EU must respect: ITS, RTS and Guidelines provided by the European Banking Authority (EBA); Regulations, Directives and Decisions by the European Commission; Legal Acts issued by the European Central Bank.

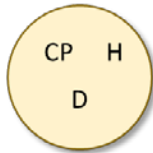
Regarding EBA Guidelines, the assumption is that they are fully implemented by EU countries and DGSs fully comply with them.

⁵ Core Principles (CP); Handbook (H); DGSD (D).

1. Full matching with CPs.

This category comprises two types of outcomes:

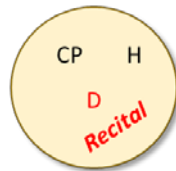
Full Matching



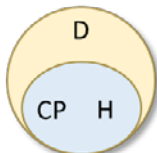
The analysis found a **Full matching** when the Essential Criterion of the Core Principle and the Handbook in support of such a Criterion are not in conflict with the provisions of the DGSD.

Full matching may be reached with both Articles and Recitals of the DGSD or only with one of them. However, since the Recitals are not of the same binding nature as the Articles, the analysis has been done with the Articles alone. Nevertheless, a Recital may contain aspects which more closely match the CP. This is indicated in the following figure:

Full Matching



Type 2 gap



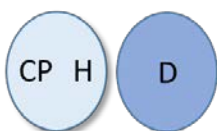
A **Type 2 gap** occurred when the DGSD shows greater details and provides for specificities not covered by the CP and the Handbook.

A Type 2 gap might occur only in presence of a matching; that is, Essential Criteria showing a type 2 gap are a «sub-set» of the ones showing a matching.

2. Mismatching with CPs.

This category comprises one type of outcome:

Mismatching



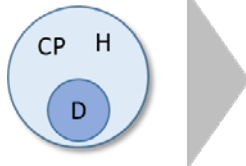
A **Mismatching** occurred when the Essential Criterion and the DGSD are in contrast.



3. Risk of mismatching with CPs.

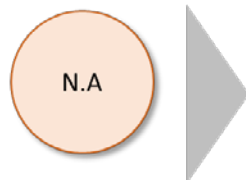
This category comprises two types of outcomes:

Type 1 gap



A **Type 1 gap** occurred when the CP and the Handbook show greater details and provide for specificities not covered by the DGSD.

Not applicable

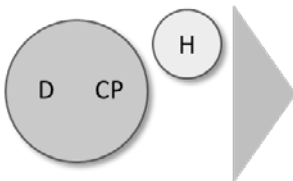


The outcome **Not Applicable** occurred when the gap analysis of the Essential Criterion could not be carried out, as the issue under scrutiny is not within the scope of the DGSD. It could be a «sub-set» of the Type 1 gap.

4. Risk of mismatching with Handbook.

This category comprises one type of outcome:

Additional Handbook



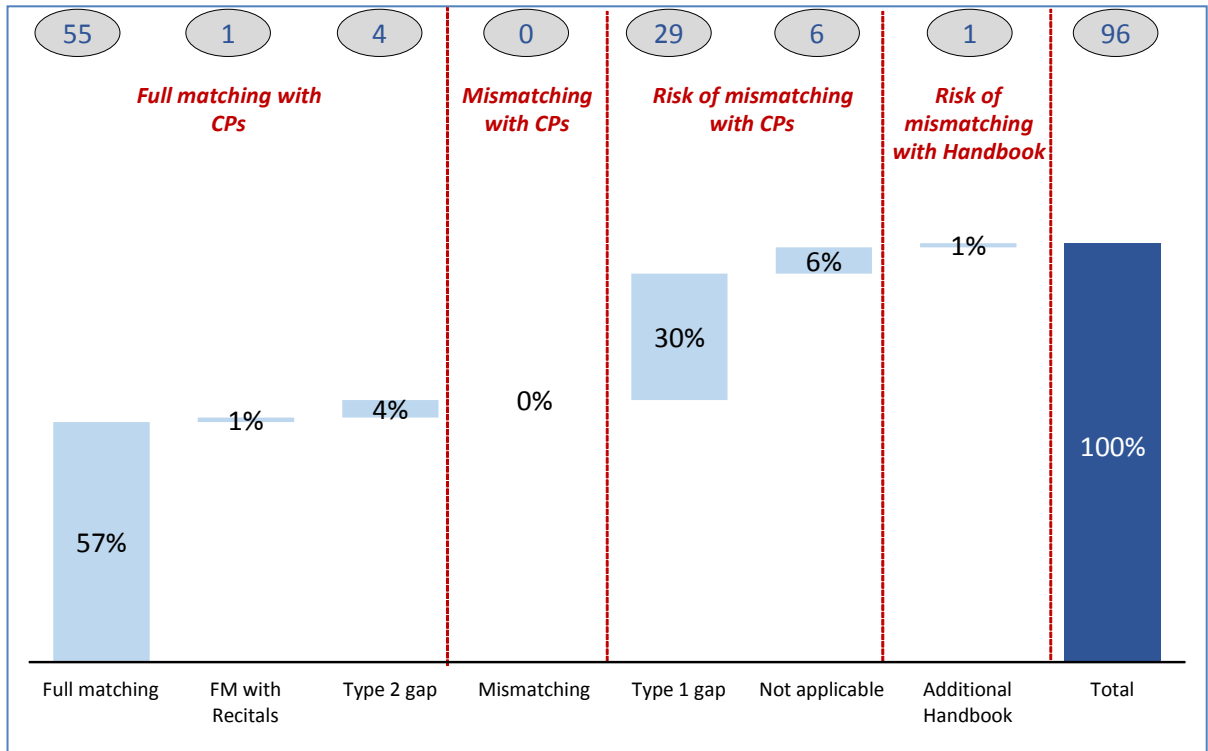
The **Additional Handbook** occurred when the comparison between the three documents highlighted that the additional guidance provided for by the Handbook could be in conflict with the Articles of the DGSD, thus raising a risk of mismatching.

Finally, the main results are summarised in frequency tables, which represent the basis for the discussion.



Summary of findings

The following graph summarises the results of the gap analysis.



The graph illustrates that out of 96 Essential Criteria:

- 55 (57,3%) show full matching with the DGSD
- 1 (1%) shows full matching with the DGSD, based on Recitals
- 4 (4,2%) show a Type 2 gap
- 0 (0%) show mismatching between the CPs and the DGSD
- 29 (30,2%) show a Type 1 gap
- 6 (6,3%) are Not applicable
- 1 (1%) shows an ‘Additional Handbook’ outcome



The tables below provide for a summary of the gap analysis results.

CP		Full matching with CPs			Mismatching with CPs	Risk of mismatching with CPs		Risk of mismatching with Handbook	DGSD
		Full matching	FM with Recitals	Type 2 gap	Mismatching	Type 1 gap	Not applicable	Additional Handbook	
CP 1	Public policy objectives								
	EC 1	Public policy objectives: to protect depositors and contribute to financial stability	✓						Recitals 3 and 14
	EC 2	The design of the DGS is consistent with the system’s public policy objectives	✓				✓		Articles 11 and 4 (12)
	EC 3	Internal and external review for meeting public policy objectives							No specific provision for internal review
EC 4	If additional PPOs, they do not conflict with the two principal objectives	✓						Article 11 and Recital 16	
CP 2	Mandate and powers								
	EC 1	Mandate and powers are formally and clearly specified in legislation	✓						Recitals 14-16 and Art 11(1)
	EC 2	Mandate clarifies the roles and responsibilities	✓						Article 11
	EC 3	Powers support DGS mandate	✓						Articles 4 (8) and 3 (2)
EC 4	List of powers of the DGS	✓						Articles 3, 4, 10 and 11	
CP 3	Governance								
	EC 1	DGS is operationally independent				✓			No reference
	EC 2	The governing body of DGS is held accountable to a higher authority	✓						Articles 4 (7)
	EC 3	DGS has capacity and capability to operate					✓		No reference
	EC 4	Minimum conflicts of interest					✓		Article 4 (12). Conflict of interest not mentioned
	EC 5	DGS discloses and publishes appropriate information on a regular basis	✓						Article 4 (12)
	EC 6	Professional characteristics of governing and managing bodies					✓		No reference
	EC 7	DGS subject to internal and external audits					✓		Article 4 (7)
	EC 8	Governance: minimising conflicts of interest					✓		No reference
EC 9	Regular meetings of governing body to manage DGS affairs					✓		No reference	
CP 4	Relationships with other safety-net participants								
	EC 1	Explicit framework for information sharing b/w DIA and other FSN participants	✓				✓		Art. 3 (2) DGSD. Art. 84 (4) BRRD. Art 88 (6) Regulation 806/2014.
	EC 2	Rules regarding confidentiality of information							Articles 4 (9), 4 (10) and 4 (11). Art 84 BRRD.
	EC 3	Explicit and formal arrangements for information sharing b/w FSN participants					✓		Article 4 (10). No reference to formal and explicit arrangements
EC 4	If multiple DGSs, appropriate coordination arrangements are in place	✓						Article 14 (6)	
CP 5	Cross-border issues								
	EC 1	In presence of foreign banks, formal information sharing is in place	✓				✓		Article 14 (4) and 14 (6)
EC 2	Bilateral or multilateral agreements			✓				No agreements between EU DGSs and third country DGSs	



“Mind the gap!” A comparative analysis between IADI CPs and DGSD

CP		Full matching with CPs			Mismatching with CPs	Risk of mismatching with CPs		Risk of mismatching with Handbook	DGSD
		Full matching	FM with Recitals	Type 2 gap	Mismatching	Type 1 gap	Not applicable	Additional Handbook	
CP 6	Deposit insurer's role in contingency planning and crisis management								
	EC 1 DGS has its own effective contingency planning and crisis management policies	✓							No reference
	EC 2 DGS regularly tests its own contingency planning and crisis management plans	✓							No reference
	EC 3 DGS is a member of institutional frameworks related to crisis management					✓			Recital 51 DGSD. Recital 96 and Article 88 BRRD
	EC 4 DGS participates in regular contingency planning related to SCM					✓			Article 88 BRRD
	EC 5 DGS participates in pre- and post-crisis management communication plans					✓			Article 88 BRRD
CP 7	Membership								
	EC 1 Membership in a DGS is compulsory for all banks	✓							Article 4 (3)
	EC 2 Plan to address deficiencies of banks for attaining membership	✓							Articles 4 (4) and 4 (5)
	EC 3 Conditions for attaining membership are explicitly stated and transparent	✓							Articles 4 (3), 17 (1) and 17 (2)
	EC 4 If DGS is not responsible for granting membership, it is consulted or informed						✓		Membership in a DGS is mandatory for banks
	EC 5 Immediate notice to depositors when membership is cancelled	✓							Article 4 (6)
	EC 6 When membership is terminated, immediate notice is given to depositors	✓							Articles 4 (6) and 16 (7)
CP 8	Coverage								
	EC 1 Insured deposits are clearly and publicly defined			✓					Art. 5 (1). Greater specification of both insured and excluded deposits
	EC 2 The level and scope of coverage are limited and are designed to be credible			✓					Art. 6 (2). Particular case of reimbursable deposits (THBs)
	EC 3 DGS applies the level and scope of coverage equally to all its member banks	✓							Article 1
	EC 4 DGS does not incorporate co-insurance	✓							Co-insurance not permitted
	EC 5 Level and scope of coverage are reviewed periodically	✓							Article 6 (6)
	EC 6 In case of merger, separate coverage is granted for a limited period	✓							Article 16 (6)
	EC 7 The residency status or nationality of depositors has no effect on coverage	✓							Article 7 (1)
	EC 8 If multiple DGS, there are no differences in coverage			✓					DGSD applies to all officially recognised DGSs and IPSs
	EC 9 Foreign currency deposits are insured if they are widely used in a jurisdiction	✓							Article 6 (4)
	EC 10 Credible plan to transition from a blanket guarantee to a limited coverage DGS						✓		Blanket guarantees are not foreseen by the DGSD
CP 9	Sources and uses of funds								
	EC 1 Funding for the DGS is provided on an ex ante basis	✓							Art. 10 (1) and Art.10 (3)
	EC 2 Funding the DGS is the responsibility of the member banks	✓							Articles 10 (1) and 10 (2)
	EC 3 Start-up or seed funding should be fully repaid						✓		Funding sources from public authorities not foreseen
	EC 4 Emergency funding arrangements for the DGS are explicitly set out					✓			No reference
	EC 5 Arrangements after establishing an ex ante deposit insurance fund	✓						✓	Article 10 (2)
	EC 6 DGS responsible for the sound investment and management of its funds							✓	Specific characteristics guiding the investment policy
	EC 7 DGS holds funds in central banks								No reference
	EC 8 DGS has the option to authorise the use of its funds for resolution	✓					✓		Articles 83 (2), 81 (3), 109 (1), 36 (1) and 74 (1) BRRD
	EC 9 Taxation of income / revenue						✓		No reference
	EC 10 Characteristics of differential premium systems	✓							Article 13 (2) and EBA Guidelines on risk-based contributions



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CP		Full matching with CPs			Mismatching with CPs	Risk of mismatching with CPs	Risk of mismatching with Handbook	DGSD
		Full matching	FM with Recitals	Type 2 gap	Mismatching	Type 1 gap	Not applicable	
CP 10	Public awareness							
	EC 1 DGS is responsible for promoting public awareness	✓						Articles 16 (3) , 16 (4) and 16 (5)
	EC 2 Depositors notification in the event of a bank failure	✓						Article 16 (3)
	EC 3 Information to be given to depositors	✓						Articles 16 (3)
	EC 4 Definition of objectives of the public awareness programme					✓		No reference
	EC 5 Public awareness: long-term strategy and budget allocation					✓		No reference
	EC 6 DGS works closely with banks and FSN participants for public awareness purposes	✓				✓		Articles 16 (1) and 16 (2)
	EC 7 Monitoring and independent evaluation of public awareness activities					✓		No reference
	EC 8 Depositors of foreign banks are provided with clear information	✓						Article 14 (2)
CP 11	Legal protection							
	EC 1 Legal protection is specified in legislation and provided to the DGS					✓		No reference
	EC 2 Legal protection precludes damages and covers costs					✓		No reference
	EC 3 Disclose real or perceived conflict of interest					✓		No reference
	EC 4 Legal protections do not prevent depositors from making legitimate challenges	✓						Article 9 (1)
CP 12	Dealing with parties at fault in a bank failure							
	EC 1 Conduct of parties responsible for the failure of a bank is subject to investigation					✓		Investigation of parties is regulated by national criminal laws
	EC 2 Relevant authority takes the appropriate steps to pursue culpable parties					✓		Investigation of parties is regulated by national criminal laws
	EC 3 Insiders and other parties are appropriately investigated					✓		Investigation of parties is regulated by national criminal laws
CP 13	Early detection and timely intervention							
	EC 1 DGS part of an effective framework	✓						Art. 5 (1) , 10 (1) and 27 (1) BRRD
	EC 2 Operational independence and power within the framework	✓						Art 3 (3) BRRD
	EC 3 Clearly defined criteria used to trigger timely intervention	✓						EBA Guidelines on triggers for use of early intervention measures
CP 14	Failure resolution							
	EC 1 Operational independence and sufficient resources to exercise resolution powers	✓						Art 109 (5) BRRD
	EC 2 All banks are resolvable through a broad range of powers and options	✓						Articles 5, 10 and 37 (3) BRRD
	EC 3 Clear allocation of objectives, mandates, and powers within FSN participants	✓						Article 54 of EBA RTS on resolution colleges
	EC 4 Effective resolution tools	✓						Article 34 (1) BRRD
	EC 5 Resolution at a lesser cost than otherwise expected in a liquidation	✓						Article 11 (6) DGSD. Articles 74 (1) and 74 (2) BRRD
	EC 6 Resolution procedures follow a defined creditor hierarchy	✓						Article 108 BRRD
	EC 7 The resolution regime does not discriminate against depositors		✓					Recital 13 and 29 BRRD
	EC 8 The resolution regime is insulated against legal action for reversal of decisions	✓						Article 85 (4) BRRD
	EC 9 Period of depositors losing access to their funds kept as short as possible	✓						Articles 109 (1) and 69 BRRD



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CP		Full matching with CPs			Mismatching with CPs	Risk of mismatching with CPs	Risk of mismatching with Handbook	DGSD
		Full matching	FM with Recitals	Type 2 gap	Mismatching	Type 1 gap	Not applicable	Additional Handbook
CP 15	Reimbursing depositors							
EC 1	DGS is able to reimburse most insured depositors within seven working days	✓						Articles 8 (1) and 8 (5)
EC 2	Reimbursement plan has a clear time frame for implementation	✓						2-year time frame, compared to transitional period under DGSD
EC 3	DGS may make advance, interim or emergency partial payments	✓						Article 8 (4)
EC 4	DGS has access to depositors' records at all times and undertakes examinations	✓						Art. 4 (8), 7 (6), 4 (10) and 4 (11) and EBA Guidelines on stress tests
EC 5	DGS has the capacity and capability to carry out the reimbursement process	✓						Article 4 (10) and EBA Guidelines on stress tests
EC 6	Review for determining elements of the reimbursement					✓		No reference
EC 7	Audit of the reimbursement process by an independent party					✓		No reference
EC 8	Set-off is timely and does not delay prompt reimbursement of insured depositors	✓						Article 7 (5)
EC 9	Working arrangements with clearing and settlement agents					✓		No reference
EC 10	The liquidator is obliged to cooperate with the DGS					✓		No reference
CP 16	Recoveries							
EC 1	DGS's role in the recovery process is clearly defined in law	✓						Article 9 (2)
EC 2	DGS has at least the same creditor rights or status as a depositor	✓						Article 9 (2)
EC 3	DGS has access to information from the liquidator					✓		No reference
EC 4	Management and disposition of assets guided by economic considerations					✓		No reference
EC 5	No purchase of assets from the liquidator by those working on behalf of DGS					✓		No reference



Some conclusions

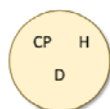
This paper performs a comparative analysis between the DGSD and the IADI CPs. It aims to identify similarities and differences between the Directive and the CPs. It also refers to the commentary sections of the Handbook, the European Bank Recovery and Resolution Directive (BRRD) and other European Union regulations as sources of further information.

1. **DGSD provisions and CPs (CP1, CP2) are similar when dealing with the general objectives of a DGS and the powers assigned to it.** In addition, the provisions introduced by the DGSD on mandatory membership of banks and on coverage are fully reflected in the Core Principles (CP7, CP8);
2. **Some differences emerge when considering the relationships between DGSs and other participants in the safety-net.** As shown in the gap analysis, the Directive lays down no explicit and formal arrangements for information sharing between financial safety-net participants. CP4 requires that there be a formal and comprehensive framework for the close coordination with other financial safety-net participants.
3. Moreover, the DGSD does not mention (and there are only few references in the BRRD) the DGS's role in **contingency planning and crisis management in a system-wide crisis**, as CP6 foresees. In fact, the role assigned by the DGSD when dealing with cooperation with other safety-net participants in system-wide crisis preparedness and management is not entirely clear. By contrast, CP6 assigns DGSs a more significant role in the same situations.
4. **Some operational aspects of a DGS are not covered by the DGSD. The CPs can be useful in providing inspiration on how to fill these gaps using domestic legislation:**
 - **Governance safeguards that DGSs should put in place.** As regards prerequisites and qualifications of board members, as well as ways to minimise potential conflicts of interest of board members, one suggestion might be to include structural elements of governance in DGS statutes, internal by-laws or codes of conduct. The DGS should take all possible steps to strengthen governance, especially on internal control systems and risk management;
 - **Legal protection of DGSs.** The DGSD does not provide legal protection to the DGS and its officers against the possibility of legal action resulting from measures adopted in good faith in the exercise of their functions. The analysis suggests that the DGS could pay the defence costs of a staff member subject to such legal action where the staff member's actions were legitimate. It is recommended that legislation provides for legal protection from liability for those DGS parties acting in the fulfilment of their duties;
 - **Develop the DGS's role in system-wide crisis preparedness and crisis management.** The DGS should participate in regular contingency planning and simulations exercises related to system-wide crisis preparedness involving all safety-net participants;
 - **Develop public awareness.** Further work is needed in line with recommendations on public awareness as a fundamental element to include in DGS activity.

The gap analysis

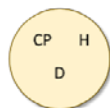
Core Principle 1 – Public policy objectives

“The principal public policy objectives for deposit insurance systems are to **protect depositors** and contribute to **financial stability**. These objectives should be formally specified and **publicly disclosed**. The design of the deposit insurance system should reflect the system’s public policy objectives”.



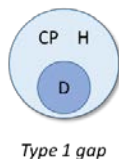
Full Matching

Essential Criterion 1:
<p>EC: “The public policy objectives of the deposit insurance system are clearly and formally specified and made public, for example through legislation or documents supporting legislation”.</p> <p>Handbook: “The overall public policy objective should be clearly and formally specified and made public through legislation or documents supporting legislation. The use of a decree is acceptable if it has the force of law. (...) Assessors could accept as Largely Compliant systems in which supporting legislation, agreed upon statements, codes of practice, or even explanations in Annual Reports, reference the original law and provide greater interpretation. The use of regulations or by-laws is permitted, especially in cases where the DIS is a private system. However set out, the public policy objectives should be available at all times to the public”.</p> <p>DGSD: Recital 14: “The key task of a DGS is to protect depositors against the consequences of the insolvency of a credit institution. DGSs should be able to provide that protection in various ways. DGSs should primarily be used to repay depositors (...)”. Recital 3: “This Directive constitutes an essential instrument for the achievement of the internal market (...), while increasing the stability of the banking system and the protection of depositors”.</p>

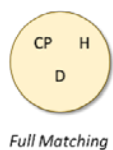


Full Matching

Essential Criterion 2:
<p>EC: “The design of the deposit insurance system is consistent with the system’s public policy objectives”.</p> <p>Handbook: “The DI should be designed in such a way that it is consistent with its public policy objectives, particularly as regards protecting depositors and contributing to financial stability. (...) if the DI is established in law but exists only as an organisation on paper, without staff or financial resources, it would be NC. Similarly, if the DI is the agency within the safety-net charged with resolving failing banks but is designed fundamentally as a pay box, the system would be MNC”.</p> <p>DGSD: Art. 11 (1): “The financial means referred to in Article 10 shall be primarily used in order to repay depositors pursuant to this Directive”. Art. 11 (2): “The financial means of a DGS shall be used in order to finance the resolution of credit institutions in accordance with Article 109 of Directive 2014/59/EU. The resolution authority shall determine, after consulting the DGS, the amount by which the DGS is liable”. Art. 11(3): “Member States may allow a DGS to use the available financial means for alternative measures in order to prevent the failure of a credit institution (...)”. Art. 11 (6): “Member States may decide that the available financial means may also be used to finance measures to preserve the access of depositors to covered deposits, including transfer of assets and liabilities and deposit book transfer, in the context of national insolvency proceedings (...)”. Art. 4 (12): “Member States shall ensure that their DGSs have in place sound and transparent governance practices. DGSs shall produce an annual report on their activities”.</p>



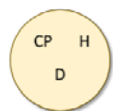
<i>Essential Criterion 3:</i>	
<p>EC: “There is a review of the extent to which a deposit insurance system meets its public policy objectives. This involves both an internal review conducted on a regular basis by the governing body and an external review conducted periodically by an external body (e.g. the body to which the deposit insurer is accountable or an independent entity with no conflicts of interest, such as an auditor general). Any review must take into consideration the views of key stakeholders”.</p> <p>Handbook: “The DI is expected to undergo two types of reviews. The first is an internal review. This could take the form of the governing body or management assessing its own performance in carrying out its public policy objectives. The second type of review is external. This review should be conducted by an independent external party, such as an auditor general, government accountability office or another type of external auditor. (...)For a finding of C, both types of reviews should be conducted and with some regularity. An organisation subjected only to internal or external reviews would be LC. Irregular or infrequent reviews would be considered MNC. An established organisation that has neither been internally nor externally reviewed would be NC”.</p> <p>DGSD: Art. 4 (7): “The designated authorities shall supervise DGSs (...) on an ongoing basis as to their compliance with this Directive. Cross-border DGSs shall be supervised by representatives of the designated authorities of the Member States where the affiliated credit institutions are authorised”.</p>	
<p>Comments: EBA Guidelines on stress tests of deposit guarantee schemes under Directive 2014/49/EU: “DGSs should test their ability to fulfil their tasks in all the types of intervention set out in Directive 2014/49/EU, namely: i) to compensate depositors in the event of a credit institution’s insolvency pursuant to Article 11(1) of that Directive; ii) to finance the resolution of credit institutions in order to preserve continuous access to deposits in pursuant to Article 11(2) of Directive 2014/59 and Article 109 of Directive 2014/59/EU; iii) to use their available financial means for alternative measures in order to prevent the failure of a credit institution, if allowed under the law of the Member State where the DGS is established, pursuant to Article 11(3) of Directive 2014/49/EU; iv) to use their available financial means to finance measures to preserve the access of depositors to covered deposits in the context of national insolvency proceedings, if allowed under the law of the Member State where the DGS is established, pursuant to Article 11(6) of Directive 2014/49/EU”. There is no specific provision for internal review.</p>	



<i>Essential Criterion 4:</i>	
<p>EC: “If additional public policy objectives are incorporated, they do not conflict with the two principal objectives of protecting depositors and contributing to the stability of the financial system”.</p> <p>Handbook: “The DI may have additional public policy objectives, but they must not conflict with the primary objectives of protecting depositors and contributing to financial stability. Policy objectives such as promoting competition among banks, generating revenue for a central government, or representing the interests of shareholders or other bank creditors could run counter to the primary objectives (...)”.</p> <p>DGSD: Art. 11(3): “Member States may allow a DGS to use the available financial means for alternative measures in order to prevent the failure of a credit institution (...)”. Art. 11 (6): “Member States may decide that the available financial means may also be used to finance measures to preserve the access of depositors to covered deposits, including transfer of assets and liabilities and deposit book transfer, in the context of national insolvency proceedings (...)”. Moreover, Recital 16 states that: “It should also be possible, where permitted under national law, for a DGS to go beyond a pure reimbursement function and to use the available financial means in order to prevent the failure of a credit institution with a view to avoiding the costs of reimbursing depositors and other adverse impacts”.</p>	

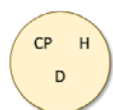
Core Principle 2 – Mandate and powers

“The mandate and powers of the deposit insurer should support the public policy objectives and be **clearly defined** and **formally specified** in legislation”.



Full Matching

<i>Essential Criterion 1:</i>
<p>EC: “The mandate and powers of the deposit insurer are formally and clearly specified in legislation, and are consistent with stated public policy objectives”.</p> <p>Handbook: “The assessor should identify the mandate of the DI and confirm that the design features are aligned with the mandate (...)”.</p> <p>DGSD: Art. 11 (1): “The financial means (...) shall be primarily used in order to repay depositors” and Recital 14: “The key task of a DGS is to protect depositors (...)”. Recital 16: “It should also be possible, where permitted under national law, for a DGS to go beyond a pure reimbursement function and to use the available financial means in order to prevent the failure of a credit institution with a view to avoiding the costs of reimbursing depositors and other adverse impacts”.</p> <p>BRRD: Art. 109 (1): “Member States shall ensure that, where the resolution authorities take resolution action, and provided that that action ensures that depositors continue to have access to their deposits, the deposit guarantee scheme to which the institution is affiliated is liable for: (a) when the bail-in tool is applied, the amount by which covered deposits would have been written down in order to absorb the losses in the institution pursuant to point (a) of Article 46(1), had covered deposits been included within the scope of bail-in and been written down to the same extent as creditors with the same level of priority under the national law governing normal insolvency proceedings; or (b) when one or more resolution tools other than the bail-in tool is applied, the amount of losses that covered depositors would have suffered, had covered depositors suffered losses in proportion to the losses suffered by creditors with the same level of priority under the national law governing normal insolvency proceedings (...)”;</p>

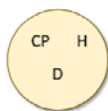


Full Matching

<i>Essential Criterion 2:</i>
<p>EC: “The mandate clarifies the roles and responsibilities of the deposit insurer and is aligned with the mandates of other safety-net participants”.</p> <p>Handbook: “(...) the assessor should ascertain that all necessary elements of supervision, problem bank resolution, and depositor protection are located somewhere within the safety-net and are suitably coordinated, and should ensure that there is no overlap or lack of clarity about where powers and responsibilities lie. Assessors may have to rely on FSAPs or other assessments of the broader safety-net to completely assess EC2”.</p> <p>DGSD: Art. 11 (1): “The financial means referred to in Article 10 shall be primarily used in order to repay depositors pursuant to this Directive”. Art. 11 (2): “The financial means of a DGS shall be used in order to finance the resolution of credit institutions in accordance with Article 109 of Directive 2014/59/EU. The resolution authority shall determine, after consulting the DGS, the amount by which the DGS is liable”. Art. 11(3): “Member States may allow a DGS to use the available financial means for alternative measures in order to prevent the failure of a credit institution (...)”. Art. 11 (6): “Member States may decide that the available financial means may also be used to finance measures to preserve the access of depositors to covered deposits, including transfer of assets and liabilities and deposit book transfer, in the context of national insolvency proceedings (...)”.</p>

Comments: Roles and responsibilities of DGSs provided for by the DGSD should be read in conjunction with the whole European framework of the Banking Union. In particular, Regulation No 1022/2013 and Regulation No 1024/2013 confer tasks on the European Central Bank concerning the prudential supervision of credit institutions (Single Supervisory Mechanism – SSM). Recital 11 of Regulation No 1024/2013 states that: “A banking union should therefore be set up in the Union, underpinned by a comprehensive and detailed single rulebook for financial services for the internal market as a whole and composed of a single supervisory mechanism and new frameworks for deposit insurance and resolution”.

Regulation 806/2014 and Directive 2014/59/EU (BRRD) establish the Single Resolution Mechanism (SRM) and the Single Resolution Fund (SRF) and confer roles regarding the resolution of failing or likely to fail banks, respectively, on the Single Resolution Board (SRB) and the national resolution authorities. Both the Regulation (Art. 79) and the Directive (Art. 109) set out the role of DGSs in the context of resolution.



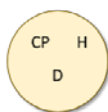
Full Matching

Essential Criterion 3:

EC: “The **powers** of the deposit insurer support its mandate and enable the deposit insurer **to fulfil its roles and responsibilities**”.

Handbook: “The powers of the DI must enable it to do in practice what its mandate sets out in theory. For example, if the DI is charged with providing financial assistance to facilitate a purchase and assumption transaction (P&A) or carrying out other more extensive resolutions of problem banks, it must have the necessary power and tools to do so. Likewise, if it is mandated to control its risk exposure or supervise banks, it must have the powers to do so. If the powers that the DI needs to carry out its mandate rest predominantly with another organisation in the safety-net and cannot be exercised by that agency at the behest or command of the DI, the EC would be MNC or LC”.

DGSD: Art. 4 (8): “Member States shall ensure that a DGS, at any time and upon the DGS’s request, receives from their members all information necessary to prepare for a repayment of depositors (...)”. Art. 3 (2): “Competent authorities, designated authorities, resolution authorities and relevant administrative authorities shall cooperate with each other and exercise their **powers** in accordance with this Directive”.



Full Matching

Essential Criterion 4:

EC: “The **powers** of the deposit insurer include, but are not limited to:

- a) assessing and **collecting premiums**, levies or other charges;
- b) **transferring** deposits to another bank;
- c) **reimbursing** insured depositors;
- d) obtaining directly **from banks** timely, accurate and comprehensive **information** necessary to fulfil its mandate;
- e) receiving and sharing timely, accurate and comprehensive **information within the safety-net**, and with applicable safety-net participants in other jurisdictions;
- f) compelling banks to **comply with** their legally enforceable **obligations** to the deposit insurer (e.g. provide access to depositor information), or requesting that another safety-net participant do so on behalf of the deposit insurer;



g) *setting operating budgets, policies, **systems and practices**; and*

h) *entering into contracts”.*

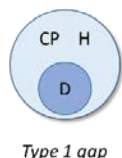
Handbook: “Powers listed under (a) to (f) are basic powers which any insurer requires, regardless of its mandate. Powers listed under (g) and (h) are administrative powers that allow an agency to function effectively”.

DGSD: In relation to the powers outlined in EC 4, the DGSD provides for the following:

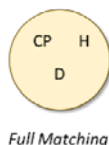
- a) Art. 10 states that deposit guarantee schemes “**shall raise the available financial means by contributions to be made by their members at least annually**”; the financial means “*may include payment commitments. The total share of payment commitments shall not exceed 30 % of the total amount of available financial means*”. If financial means are not sufficient to reimburse depositors, “*its members shall pay extraordinary contributions not exceeding 0,5 % of their covered deposits per calendar year*”. Moreover, Art. 12 states that a DGS may “*lend [or borrow] to other DGSs within the Union on a voluntary basis*”. In order to assess premiums, “*DGSs may use their own risk-based methods for determining and calculating the risk-based contributions by their members*” (Art. 13 (2));
- b) Art. 11 (6): “*Member States may decide that the available financial means may also be used to finance measures to preserve the access of depositors to covered deposits, including transfer of assets and liabilities and **deposit book transfer**, in the context of national insolvency proceedings (...)*”;
- c) Art 11 (1): “*The financial means (...) shall be primarily used in order to **repay** depositors*”;
- d) Art. 4 (8): “*Member States shall ensure that a DGS, at any time and upon the DGS’s request, receives **from their members all information** necessary to prepare for a repayment of depositors*”;
- e) Art. 3 (2): “*Competent authorities, designated authorities, resolution authorities and relevant administrative authorities shall **cooperate** with each other and exercise their powers in accordance with this Directive*”. Art. 14 (5): “*In order to facilitate an effective cooperation between DGSs, (...) the DGSs, or, where appropriate, the designated authorities, shall have written cooperation agreements in place*”;
- f) Art 4 (5): “*(...) the DGS may, subject to national law and the express consent of the competent authorities, give not less than one month’s notice of its intention to exclude the credit institution from membership of the DGS.(...) If, on expiry of that notice period, the credit institution has not **complied with its obligations**, the DGS shall exclude the credit institution*”;
- g) Art 4 (12): “*Member States shall ensure that their DGSs have in place sound and transparent governance **practices**. DGSs shall produce an annual report on their activities*”;

Core Principle 3 – Governance

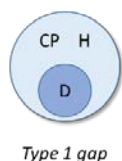
“The deposit insurer should be operationally **independent, well-governed, transparent, accountable, and insulated** from external interference”.



<i>Essential Criterion 1:</i>	
EC: “The deposit insurer is operationally independent . It is able to use its powers without interference from external parties to fulfil its mandate. There is no government, central bank, supervisory or industry interference that compromises the operational independence of the deposit insurer”.	
Handbook: Operational independence is “the ability of an organisation to use the powers assigned to it without undue influence from external parties”. ⁶	
DGSD: no reference.	
Comments: The DGSD does not state in any article the operational independence of deposit guarantee schemes from other parties. However, Art. 4 (7) states that: “The designated authorities shall supervise DGSs (...) on an ongoing basis as to their compliance with this Directive. Cross-border DGSs shall be supervised by representatives of the designated authorities of the Member States where the affiliated credit institutions are authorised”.	

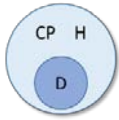


<i>Essential Criterion 2:</i>	
EC: “The governing body of the deposit insurer is held accountable to a higher authority”.	
Handbook: “The mandate of the DI is determined by another authority (such as a parliament in the case of private schemes, a banking trade association, or other legally responsible entity). It typically reports to that same authority and may be called on by that authority to explain its actions”.	
DGSD: Art. 4 (7): “The designated authorities shall supervise DGSs (...) on an ongoing basis as to their compliance with this Directive. Cross-border DGSs shall be supervised by representatives of the designated authorities of the Member States where the affiliated credit institutions are authorised”.	



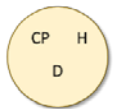
<i>Essential Criterion 3:</i>	
EC: “The deposit insurer has the capacity and capability (e.g. human resources, operating budget, and salary scales sufficient to attract and retain qualified staff) to support its operational independence and the fulfilment of its mandate”.	
Handbook: “This EC seeks to ensure that availability of resources (e.g. operating budget) and administrative procedures and policies support the independence or autonomy of the DI. The focus is on operating budget and internal decision-making about salaries, infrastructure, staffing, and training”.	
DGSD: no reference.	

⁶IADI, *Guidance Paper on Governance of Deposit Insurance Systems*, May 2009, http://www.iadi.org/docs/Governance%20Final%20Guidance%20Paper%206_May_2009.pdf.



Type 1 gap

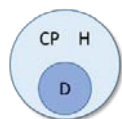
<i>Essential Criterion 4:</i>
<p>EC: “The deposit insurer is well-governed and subject to sound governance practices, including appropriate accountability, internal controls, transparency and disclosure regimes. The institutional structure of the deposit insurer minimises the potential for real or perceived conflicts of interest”.</p> <p>Handbook: “The first sentence of EC4 speaks to the governance of the DI’s internal operations. Proper controls should be in place, and the DI should be subject to internal and external audits. Proper policies should govern the contracting and disbursement of operating funds. Employees and others working for the DI should be bound by conflict-of-interest codes and codes of ethical behaviour. The second part of the EC examines whether there is any aspect of the DI’s institutional structure that would render it more susceptible to real or perceived conflicts of interest. This applies particularly in cases where the DI is a well-established separate entity yet relies on the infrastructure, staff, or resources of another organisation (e.g. another safety-net agency, bankers’ association). In these cases, the DI should be able to demonstrate how it has structured itself to minimise the potential for real or perceived conflicts of interest”.</p> <p>DGSD: Art. 4 (12): “Member States shall ensure that their DGSs have in place sound and transparent governance practices. DGSs shall produce an annual report on their activities”.</p>
<p>Comments: A Type 1 gap occurs because of several elements missing in the DGSD, with respect to those outlined in EC 4. The Handbook and the Essential Criteria specify that the DGS should be subject to internal and external audits in order to properly evaluate the efficiency of its internal operations. This requirement could be seen as a tightening of the general principle of good governance provided for by CP 3. Moreover, it seems to be a more stringent requirement compared to Article 4 (12) of the DGSD, which stresses only the need for sound and transparent governance, leaving the DGS the autonomy to decide on the revision of governance procedures and structures. Other stringent requirements may be included in provisions on dealing with conflicts of interests, as the Handbook highlights the need to evaluate the DGS on the basis of its code of conduct and/or conflict-of-interest code, while the DGSD does not give any clarification on the issue, leaving the treatment of conflicts of interest to national legislation or DGS by-laws.</p>



Full Matching

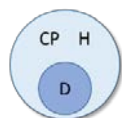
<i>Essential Criterion 5:</i>
<p>EC: “The deposit insurer operates in a transparent and responsible manner. It discloses and publishes appropriate information for stakeholders on a regular basis”.</p> <p>Handbook: “This EC addresses the transparency of DI operations. The DI discloses and publishes sufficient information to satisfy the needs of its stakeholders, which include not only the authority to which it is held accountable, but also depositors, member banks, consumer groups, trade associations and the media. However, the DI should not — and should not be required to — disclose member-specific confidential information”.</p> <p>DSGD: Art. 4 (12): “Member States shall ensure that their DGSs have in place sound and transparent governance practices. DGSs shall produce an annual report on their activities”.</p>





Type 1 gap

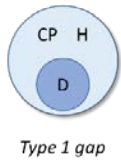
<i>Essential Criterion 6:</i>	
<p>EC: “The governing statutes or other relevant laws and policies governing the deposit insurer specify that:</p> <ul style="list-style-type: none"> a) the governing body and management are “fit and proper” persons; b) members of the governing body and the head(s) of the deposit insurer (with the exception of ex officio appointees) is/are subject to fixed terms and the fixed terms are staggered; c) there is a transparent process for the appointment and removal of the members of the governing body and head(s) of the deposit insurer. Members of the governing body and head(s) of the deposit insurer can be removed from office during their term only for reasons specified or defined in law, internal statutes or rules of professional conduct, and not without cause; and d) members of the governing body and employees are subject to high ethical standards and comprehensive codes of conduct to minimise the potential for real or perceived conflicts of interest”. <p>Handbook: Fixes in detail the requirements for assessing the integrity and the competence of the DGS governing body. In particular, it specifies that the process for appointment should be set out in law, by-laws or administrative procedures.</p> <p>DGSD: no reference.</p> <p>A Type 1 gap should be recorded, as the DGSD does not provide any instructions on the election and characteristics of the governing body.</p>	



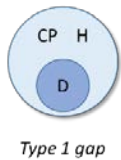
Type 1 gap

<i>Essential Criterion 7:</i>	
<p>EC: “The deposit insurer is regularly assessed on the extent to which it meets its mandate, and the deposit insurer is subject to regular internal and external audits”.</p> <p>Handbook: “Refers to both internal and external audits that assess the extent to which the DI meets its objectives and specific elements of its operations. These audits should go beyond considering the extent to which the insurer meets its public policy objectives (CP1, EC3) or has the necessary powers to do its job (CP2, EC3). Rather, they should review the extent to which the insurer’s operations carry out its mandate effectively and efficiently in practice. Internal audits are ongoing and apply regular focus on the policies and controls of the DI along with its management of key corporate risks (e.g. insurance risk, financial or investment risk, operational risk). From time to time, internal audit departments may also want to carry out “spot” evaluations of certain processes of the insurer. External audits take place at least once a year and also consider the foregoing, in addition to validating the DI’s financial statements”.</p> <p>DGSD: Art. 4 (7): “The designated authorities shall supervise DGSs (...) on an ongoing basis as to their compliance with this Directive. Cross-border DGSs shall be supervised by representatives of the designated authorities of the Member States where the affiliated credit institutions are authorised”.</p> <p>Comments: The Essential Criterion points out the necessity to have a robust structure for internal controls. The DGSD does not mention internal controls; it covers the regulatory supervision of a deposit guarantee scheme.</p>	





<i>Essential Criterion 8:</i>	
<p>EC: “The composition of the governing body minimises the potential for real or perceived conflicts of interest. In order to maintain operational independence, representatives of the other financial safety-net organisations that participate in the governing body do not serve as Chair or constitute a majority”.</p> <p>Handbook: “All members of the governing body should understand – and must act solely in the best interest of – the DI and not in their own organisation’s interest. Potential real or perceived conflicts of interest on the DI’s governing body arise predominantly from two sources: 1) active bankers, representatives of bankers’ associations, or others with material ties to member banks; or 2) a preponderance of representatives from other safety-net organisations. If active bankers are in the governing body in some capacity, mechanisms are in place to ensure that the individual does not have access to institution-specific confidential information. (...) Conflicts can also arise due to the presence of ex officio members of other financial safety-net participants on the governing body of the DI”.</p> <p>DGSD: no reference.</p>	

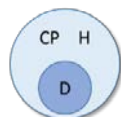


<i>Essential Criterion 9:</i>	
<p>EC: “The governing body holds regular meetings to oversee and manage the affairs of the deposit insurer (e.g. on a quarterly basis and more frequently as deemed necessary)”.</p> <p>Handbook: “The governing body should meet regularly e.g. quarterly, but more often in times of crisis. The assessor can ask to review the notes of these meetings, to determine that these meetings indeed take place and that substantive issues are discussed”.</p> <p>DGSD: no reference.</p>	
<p>Comments: The Directive does not express any obligation as regards the composition of the governing body and the frequency of its meetings. The only requirement is to put in place sound and transparent governance practices.</p>	



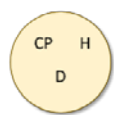
Core Principle 4 – Relationships with other safety-net participants

*“In order to protect depositors and contribute to financial stability, there should be a **formal and comprehensive framework** in place for the close coordination of activities and **information sharing**, on an ongoing basis, between the deposit insurer and other **financial safety-net participants**”.*



Type 1 gap

<i>Essential Criterion 1:</i>
<p>EC: <i>“Ongoing information sharing and the coordination of actions is explicit and formalised through legislation, regulation, memoranda of understanding, legal agreements or a combination thereof”.</i></p> <p>Handbook: <i>“There should be an explicit framework specified in legislation, written agreements or a combination thereof which formalises the process for ongoing information sharing and coordination between the DI and other FSN participants. (...) In addition, to be fully compliant with this EC, agreements for coordination and information sharing between the DI and safety-net participants must be in writing, and actual, regular, substantive meetings and exchanges of information must occur as evidenced by examination of meeting agendas and minutes where available”.</i></p> <p>DGSD: Art. 3 (2): <i>“Competent authorities, designated authorities, resolution authorities and relevant administrative authorities shall cooperate with each other and exercise their powers in accordance with this Directive”.</i></p>
<p>Comments: Art. 84 (4), let. b), BRRD: <i>“This Article shall not prevent (...) resolution authorities and competent authorities, including their employees and experts, from sharing information with each other and with other Union resolution authorities, other Union competent authorities, competent ministries, central banks, deposit guarantee schemes, investor compensation schemes, authorities responsible for normal insolvency proceedings, authorities responsible for maintaining the stability of the financial system in Member States through the use of macroprudential rules, persons charged with carrying out statutory audits of accounts, EBA, or, subject to Article 98, third-country authorities that carry out equivalent functions to resolution authorities, or, subject to strict confidentiality requirements, to a potential acquirer for the purposes of planning or carrying out a resolution action”.</i></p> <p>Regulation 806/2014, art. 88 (6): <i>“This Article shall not prevent the Board, the Council, the Commission, the ECB, the national resolution authorities or the national competent authorities, including their employees and experts, from sharing information with each other and with competent ministries, central banks, deposit guarantee schemes (...)”.</i></p> <p>The DGSD and BRRD only provide principles for information sharing and cooperation; there is no reference to explicit and formalised cooperation frameworks.</p>

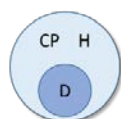


Full Matching

<i>Essential Criterion 2:</i>
<p>EC: <i>“Rules regarding confidentiality of information apply to all safety-net participants and the exchange of information among them. Confidentiality of information is protected by law or through agreements so as not to prevent information sharing within the safety-net”.</i></p> <p>Handbook: <i>“There should be no impediments to information sharing between the DI and relevant safety-net participants. Overly onerous procedures, processes or the requirement of fees for information would warrant a downgrade in rating. Laws and/or agreements sufficient to protect the confidentiality of information and its exchange among safety-net participants should be in place and apply equally to all relevant parties (...)”.</i></p>

DGSD: Art. 4 (9): “DGSs shall ensure the **confidentiality and the protection of the data** pertaining to depositors’ accounts. The processing of such data shall be carried out in accordance with Directive 95/46/EC⁷”. On stress tests, Art. 4 (10) states that: “DGSs shall be subject to the requirements of professional secrecy in accordance with Article 70 of that Regulation when exchanging information with EBA” and Art. 4 (11) stipulates that: “DGSs shall use the information necessary to perform stress tests of their systems only for the performance of those tests and shall keep such information no longer than is necessary for that purpose”.

Comments: Moreover, Art. 84, BRRD: “The requirements of professional secrecy shall be binding in respect of the following persons: (...) bodies which administer **deposit guarantee schemes** (...). With a view to ensuring that the **confidentiality requirements** laid down in paragraphs 1 and 3 are complied with, the persons in points (a), (b), (c), (g), (h), (j) and (k) of paragraph 1 shall ensure that there are internal rules in place, including rules to secure secrecy of information between persons directly involved in the resolution process”.



Type 1 gap

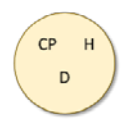
Essential Criterion 3:

EC: “Safety-net participants **exchange information on an ongoing basis**, and in particular when material supervisory actions are being taken in respect of member banks”.

Handbook: “It is critical for **explicit, formal arrangements** to be in place to ensure that the DI receives essential information on an ongoing basis, and, in particular, when material supervisory actions are being taken. (...) For full compliance, information sharing and coordination between the DI and relevant safety-net participants must be timely and occur both on an ongoing basis and whenever material supervisory actions are to be taken regarding member banks”.

DGSD: Art. 4 (10): “(...) **DGSs are informed as soon as possible** in the event that the competent authorities detect problems in a credit institution that are likely to give rise to the intervention of a DGS”.

Comments: The DGSD does not mention the need to put in place formal and explicit arrangements with all the safety-net participants, thus leaving it to the discretion of Member States.



Full Matching

Essential Criterion 4:

EC: “In situations where there are multiple deposit insurers operating in the same national jurisdiction, appropriate information sharing and **coordination arrangements** among those deposit insurers are in place”.

Handbook: “Where multiple DIs are operating in the same jurisdiction, appropriate information sharing and coordination are especially important to ensure clarity of roles and effectiveness of actions among all FSN participants (...)”.

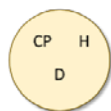
DGSD: Art. 14 (6): “Member States shall ensure that **appropriate procedures** are in place to enable DGSs to share information and communicate effectively with other DGSs, their affiliated credit institutions and the relevant competent and designated authorities within their own jurisdictions and with other agencies on a cross-border basis, where appropriate”.

⁷European Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data.



Core Principle 5 – Cross-border issues

“Where there is a material presence of foreign banks in a jurisdiction, formal **information sharing** and **coordination arrangements** should be in place among deposit insurers in relevant jurisdictions”.



Full Matching

Essential Criterion 1:

EC: “Where there is a material presence of foreign banks (i.e. foreign bank subsidiaries or branches), **formal information sharing and coordination arrangements** are in place among relevant deposit insurers and relevant safety-net participants, subject to confidentiality provisions”.

Handbook: “(...) This criterion will be evaluated on the basis of the information sharing and coordination arrangements in place among relevant DIs and relevant safety-net participants subject to confidentiality provisions. Information exchange and coordination arrangements should be formalised in MOUs or other similar agreements, including institution-specific agreements. If MOUs exist, they must be reviewed on a periodic basis with the foreign counterparts. (...)”.

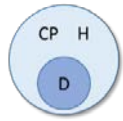
DGSD: Art. 14 (4): “Member States shall ensure that DGS of the home Member State **exchange information** referred to under Article 4(7) or (8) and (10) [Official recognition, membership and supervision] with those in host Member States”. Art. 14 (5): “In order to facilitate an effective cooperation between DGSS (...) the DGSS, or, where appropriate, the designated authorities, shall have **written cooperation agreements** in place”. Art 14 (6): “Member States shall ensure that appropriate procedures are in place to enable DGSS to share information and communicate effectively with other DGSS, their affiliated credit institutions and the relevant competent and designated authorities within their own jurisdictions and with other agencies on a cross-border basis, where appropriate”.

Also, Art 15: “1. Member States shall check that branches established in their territory by a credit institution which has its head office outside the Union have protection equivalent to that prescribed in this Directive.

If protection is not equivalent, Member States may, subject to Article 47(1) of Directive 2013/36/EU, stipulate that branches established by a credit institution which has its head office outside the Union must join a DGS in operation within their territories. When performing the check provided for in the first subparagraph of this paragraph, Member states shall at least check that depositors benefit from the same coverage level and scope of protection as provided for in this Directive.

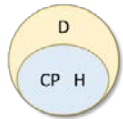
2. Each branch established by a credit institution which has its head office outside the Union and which is not a member of a DGS operating in a Member State **shall provide all relevant information** concerning the guarantee arrangements for the deposits of actual and intending depositors at that branch.

3. **The information** referred to in paragraph 2 shall be made available in the language that was agreed by the depositor and the credit institution when the account was opened or in the official language or languages of the Member State in which the branch is established in the manner prescribed by national law and shall be clear and comprehensible.



Type 1 gap

AND



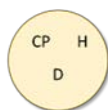
Type 2

<i>Essential Criterion 2:</i>
<p>EC: “In circumstances where a deposit insurer is responsible for coverage of deposits in a foreign jurisdiction, or where more than one deposit insurer is responsible for coverage in a jurisdiction, bilateral or multilateral agreements exist to determine which deposit insurer(s) is/are responsible for the reimbursement process, setting levies and premiums, and public awareness”.</p> <p>Handbook: “The assessors must evaluate the extent to which roles and responsibilities are clearly identified among different DIs. The objective of this criterion is to ensure that institutions cannot exploit the DI, by seeking to increase effective coverage (...)”.</p> <p>DGSD: Art. 14 (2): “(...) The DGS of the host Member State shall make repayments in accordance with the instructions of the DGS of the home Member State”. Art. 14(5): “In order to facilitate an effective cooperation between DGSs, with particular regard to this Article and to Article 12, the DGSs, or, where appropriate, the designated authorities, shall have written cooperation agreements in place (...)”. Art. 15: “Member States shall check that branches established in their territory by a credit institution which has its head office outside the Union have protection equivalent to that prescribed in this Directive. If protection is not equivalent, Member States may, subject to Article 47(1) of Directive 2013/36/EU, stipulate that branches established by a credit institution which has its head office outside the Union must join a DGS in operation within their territories”.</p>
<p>Comments: A Type 2 gap may be observed as the DGSD provides further specificities. Given that deposit insurers have to protect depositors at branches of their member banks set up in other States within the EU, the host DGS shall repay depositors on behalf of the home DGS (Art. 14 (2)).</p> <p>In case of foreign jurisdictions established in third countries, a Type 1 gap may be found, since the DGSD does not explicitly foresee cooperation agreements between European deposit insurers and DISs of third countries (i.e. outside the European Union). However, pursuant to Art. 15, branches of banks headquartered in third countries but that operate in a Member State must join a European deposit guarantee scheme, if they are not subject to the same protection as the banks within the EU.</p>



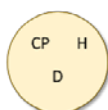
Core Principle 6 – Deposit insurer’s role in contingency planning and crisis management

“The deposit insurer should have in place **effective contingency planning and crisis management policies and procedures**, to ensure that it is able to effectively respond to the risk of, and actual, bank failures and other events. The development of system-wide crisis preparedness strategies and management policies should be the joint responsibility of all safety-net participants. The deposit insurer should **be a member** of any institutional framework for ongoing communication and coordination involving financial safety-net participants related to system-wide crisis preparedness and management”.



Full Matching

<i>Essential Criterion 1:</i>	
<p>EC: “The deposit insurer has its own effective contingency planning and crisis management policies and procedures in place, to ensure that it is able to effectively respond to the risk of, and actual, bank failures and other events”.</p> <p>Handbook: “Every DI should engage in contingency planning and crisis management to ensure that it is prepared to fulfil its mandate, whether that involves effectively implementing a payout or providing the financial assistance to facilitate a P&A, or other resolution measures that may be included in its mandate. The system will be graded C if contingency plans are in place and policies and procedures are well documented. The system will be graded LC if contingency plans exist but are not comprehensive, are infrequently tested, or if documentation is not well developed so policies and procedures need to be rewritten or revised each time. If there are no plans in place, the rating will be NC. If there are inadequate plans in place, the rating will be an MNC”.</p> <p>DGSD: Art. 4 (10): “Member States shall ensure that DGSs perform stress tests of their systems and that the DGSs are informed as soon as possible in the event that the competent authorities detect problems in a credit institution that are likely to give rise to the intervention of a DGS”.</p> <p>Comments: In May 2016, the EBA published Guidelines on stress tests of DGS. “Stress tests will verify whether the operational and funding capabilities of DGSs are sufficient to ensure deposit protection within the conditions of Directive 2014/49/EU in times of increased pressure, thereby contributing to the continuous improvement of DGSs” (p. 3).</p>	

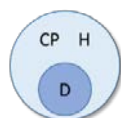


Full Matching

<i>Essential Criterion 2:</i>	
<p>EC: “The deposit insurer develops and regularly tests its own contingency planning and crisis management plans”.</p> <p>Handbook: “Plans should be tested on a regular basis. Testing is particularly important in systems where there have been few, if any, failures. Under such conditions, testing is the only means of ensuring that procedures and systems are effective. Such testing can take a variety of forms (...). Systems will be graded C if they have a regular process of testing sub-systems and, occasionally, the full system. Systems that test irregularly may be graded LC and those that do not test MNC or NC”.</p> <p>DGSD: Art. 4 (10): “Member States shall ensure that DGSs perform stress tests of their systems and that the DGSs are informed as soon as possible in the event that the competent authorities detect problems in a credit institution that are likely to give rise to the intervention of a DGS.</p> <p>Such tests shall take place at least every three years and more frequently where appropriate. The first test shall take place by 3 July 2017.</p>	

Based on the results of the stress tests, EBA shall, at least every five years, conduct peer reviews pursuant to Article 30 of Regulation (EU) No 1093/2010 in order to examine the resilience of DGSs. DGSs shall be subject to the requirements of professional secrecy in accordance with Article 70 of that Regulation when exchanging information with EBA.

Comments: The DGSD and EBA provisions regulate stress tests of DGS systems.



Type 1 gap

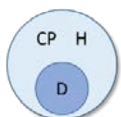
Essential Criterion 3:

EC: “The deposit insurer is a **member of any institutional framework** for ongoing communication and coordination involving safety-net participants related to system-wide crisis preparedness and management”.

Handbook: “The DI should be a member of an institutional framework for ongoing communication and coordination involving safety-net participants related to system-wide crisis preparedness and management. As an example of such framework, jurisdictions have been encouraged to create inter-agency information sharing and policy coordinating bodies. In stable times, relevant agencies monitor risk in the system and develop contingency plans. In periods of crisis, they can become the body to prepare the crisis management strategy. The DI, irrespective of its mandate, should be a member of such inter-agency bodies, if all communication and coordination involving safety-net participants related to system-wide crisis preparedness and management are conducted only through the formal meetings of such an inter-agency body. A system where the DI receives adequate information and fully participates in decision-making will be fully compliant. If the agency participates in formal meetings but is not an equal partner with other safety-net agencies (i.e. not receiving all information before meetings, not being invited to all preparatory meetings, not fully participating in deliberations), it may be graded LC or MNC depending on the level of engagement. Systems where the DI is excluded from such bodies will be NC”.

DGSD: Recital 51: “Competent authorities, designated authorities, resolution authorities, relevant administrative authorities and DGSs should cooperate with each other and exercise their powers in accordance with this Directive. They should cooperate from an early stage in the preparation and implementation of the resolution measures in order to set the amount by which the DGS is liable when the financial means are used to finance the resolution of credit institutions”.

Comments: Recital 51 of the DGSD states that safety-net participants should cooperate with each other, without mentioning the need to establish a formal institutional framework. Therefore, the gap analysis should result in a **Type 1 gap**. The BRRD regulates the institution of resolution colleges only.



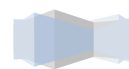
Type 1 gap

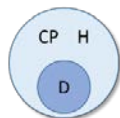
Essential Criterion 4:

EC: “The deposit insurer **participates in regular contingency planning** and simulation exercises related to system-wide crisis preparedness and management involving all safety-net participants”.

Handbook: “The DI should participate fully in coordination or contingency planning exercises on a system-wide scale. The assessors will have to determine if the DI is routinely included on all exercises, has full access to preparations and review of the results, and participates in the development of follow-up action plans”.

DGSD: no reference.





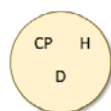
Type 1 gap

<i>Essential Criterion 5:</i>	
	<p>EC: “The deposit insurer participates in the development of pre- and post-crisis management communication plans involving all safety-net participants, to ensure comprehensive and consistent public awareness and communications”.</p> <p>Handbook: “The DI should participate in the development of communication plans that are part of the contingency planning process for all its banks. The DI has special knowledge of depositor behaviour and issues determining private sector confidence. The insurer should be frequently consulted, have input into communication strategies, and ensures a consistent communications strategy for a C rating”.</p> <p>DGSD: no reference.</p>



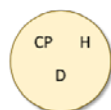
Core Principle 7 – Membership

“Membership in a deposit insurance system should be **compulsory** for all banks”.



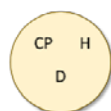
Full Matching

<i>Essential Criterion 1:</i>	
EC: “Membership in a deposit insurance system is compulsory for all banks, including state-owned banks (with or without explicit guarantees), and all banks are subject to sound prudential regulation and supervision”.	
Handbook: “Membership in a deposit insurance system is compulsory for all banks, including state-owned banks (with or without explicit guarantees), and all banks are subject to sound prudential regulation and supervision”.	
DGSD: Art. 4 (3): “A credit institution authorised in a Member State pursuant to Article 8 of Directive 2013/36/EU shall not take deposits unless it is a member of a scheme officially recognised in its home Member State”.	



Full Matching

<i>Essential Criterion 2:</i>	
EC: “If upon entry to a newly established deposit insurance system, a bank does not comply with all the supervisory or membership requirements and is allowed entry into the system, it is required to have a credible plan to address any deficiencies within a prescribed time frame (e.g. one year)”.	
Handbook: “(...) The key components of a credible plan include, but are not limited to: specifics regarding accomplishments; agency responsible for implementation; time frame or transition plan for restructuring the institution; laws or regulations that will enable implementation of the proposed change; and alternative strategies if such enabling laws or regulations are absent. In addition, the overall reasonableness of the plan must be considered. The absence of any plan would suggest a rating of NC. If one or two key elements are missing, MNC may be appropriate”.	
DGSD: Art. 4 (4): “If a credit institution does not comply with the obligations incumbent on it as a member of a DGS, the competent authorities shall be notified immediately and, in cooperation with the DGS, shall promptly take all appropriate measures including if necessary the imposition of penalties to ensure that the credit institution complies with its obligations”. Art. 4 (5): “If the measures taken under paragraph 4 fail to secure compliance on the part of the credit institution, the DGS may, subject to national law and the express consent of the competent authorities, give not less than one month’s notice of its intention to exclude the credit institution from membership of the DGS. Deposits made before the expiry of that notice period shall continue to be fully covered by the DGS. If, on expiry of that notice period, the credit institution has not complied with its obligations, the DGS shall exclude the credit institution”.	

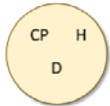


Full Matching

<i>Essential Criterion 3:</i>	
EC: “The conditions, process and time frame for attaining membership are explicitly stated and transparent ”.	
Handbook: “The process and requirements for attaining membership should be clear and easily accessible to potential members via external websites or some such medium. The absence of both clarity and accessibility would result in a rating of NC, while MNC may be appropriate if one of these two elements is missing or inadequate. If the requirements are absent, NC would be appropriate; if the requirements are not clear or not easily accessible, MNC would be appropriate”.	

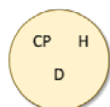


<i>Essential Criterion 4:</i>	
<p>EC: “If the deposit insurer is not responsible for granting membership in the deposit insurance system, the law or administrative procedures describe a clear and reasonable time frame within which the deposit insurer is consulted or informed in advance, and is given sufficient information about an application for a new licence”.</p> <p>Handbook: “Since the DI is assuming the risk, it should receive sufficient information about the membership application or relevant supporting information at the same time as the supervisory agency receives it. The DI should then have an opportunity to voice and discuss with the supervisor any concerns or suggestions. If the DI receives membership application information after the supervisory authority grants the membership, then MNC will be appropriate. If the time frame for the DI to receive information about potential members is not specified in laws, agreements or MOUs, or if the time frame is unreasonably short, then MNC may be appropriate.”</p>	
<p>Comments: Art. 4 DGSD states that membership in a DGS is a mandatory condition for exercising the deposit-taking functions of a bank. Thus, conditions for attaining membership are triggered by the authorisation to perform banking activities, which are regulated by Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms.</p>	



Full Matching

<i>Essential Criterion 5:</i>	
<p>EC: “When membership is cancelled upon the revocation or surrender of a bank’s licence, immediate notice is given to depositors to inform them that existing deposits will continue to be insured up to a specified deadline”.</p> <p>Handbook: “In some jurisdictions where the DI has termination powers and the supervisor has licence revocation powers, the use of these powers is coordinated and actions tend to follow each other in close order. In the case of licence revocation, immediate notice is given to depositors to inform them that existing deposits will continue to be protected up to a specific deadline. Lack of a reasonable and formal communications process would result in a rating of MNC. EC 5 focuses on the cancellation of membership upon the revocation or surrender of a bank’s licence, while EC 6 focuses on the termination of membership of a bank by the DI”.</p> <p>DGSD: Art 4 (6): “Deposits held on the date on which a credit institution is excluded from membership of the DGS shall continue to be covered by that DGS”.</p>	



Full Matching

<i>Essential Criterion 6:</i>	
<p>EC: “When membership is terminated by the deposit insurer, arrangements are in place to coordinate the immediate withdrawal of the bank’s deposit-taking licence by the relevant authority. Upon termination, immediate notice is given to depositors to inform them that existing deposits will continue to be covered up to a specified deadline.”.</p> <p>Handbook: “Timing is a critical issue here. If there is an unreasonable gap between termination of membership and withdrawal of the bank’s licence, a rating of MNC would be appropriate. An MNC rating</p>	

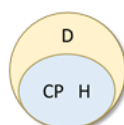


would also be given if, upon termination, immediate notice is not given to the depositors that their existing deposits will continue to be insured up to a specific deadline”.

DGSD: Art. 4 (6). “Deposits held on the date on which a credit institution is excluded from membership of the DGS shall continue to be covered by that DGS”. Art. 16 (6): “In the case of a merger, conversion of subsidiaries into branches or similar operations, **depositors shall be informed** at least one month before the operation takes legal effect unless the competent authority allows a shorter deadline on the grounds of commercial secrecy or financial stability”.

Core Principle 8 – Coverage

“Policymakers should define clearly the **level and scope** of deposit coverage. Coverage should be **limited**, credible and cover the **large majority** of depositors but **leave a substantial amount of deposits** exposed to market discipline. Deposit insurance coverage should be **consistent** with the deposit insurance system’s public policy objectives and related design features”.



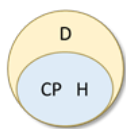
Type 2

Essential Criterion 1:
<p>EC: “Insured deposits are clearly and publicly defined in law or regulation and reflect the public policy objectives. This definition includes the level and scope of coverage. If certain types of deposits and depositors are ineligible for deposit protection, they are clearly specified, easily determined and do not affect the speed of reimbursement”.</p> <p>Handbook: “The appropriate definition of insured deposits must be consistent with the public policy objectives. Assessors must evaluate the design features of the system and then ensure that they are compatible with the public policy objectives. For example, a policy of only covering very small retail deposits may not be consistent with a public policy of ensuring financial stability. This criterion may be rated C if deposits and coverage levels are well defined and consistent with stated public policy objectives, LC if there are only minor definition and/or inconsistency issues, and MNC if there are significant discrepancies between stated objectives and coverage limits (...)”.</p> <p>DGSD: Art. 2 (1, #3): “deposit means a credit balance which results from funds left in an account or from temporary situations deriving from normal banking transactions and which a credit institution is required to repay under the legal and contractual conditions applicable, including a fixed-term deposit and a savings deposit, but excluding a credit balance where: (a) its existence can only be proven by a financial instrument as defined in Article 4(17) of Directive 2004/39/EC of the European Parliament and of the Council, unless it is a savings product which is evidenced by a certificate of deposit made out to a named person and which exists in a Member State on 2 July 2014; (b) its principal is not repayable at par; (c) its principal is only repayable at par under a particular guarantee or agreement provided by the credit institution or a third party”. Art. 2 (1, #4): “eligible deposits means deposits that are not excluded from protection pursuant to Article 5”. Art. 6 (1): “Member States shall ensure that the coverage level for the aggregate deposits of each depositor is EUR 100 000 in the event of deposits being unavailable”. Art. 5 (1): “The following shall be excluded from any repayment by a DGS:</p> <ul style="list-style-type: none"> a) subject to Article 7(3) of this Directive, deposits made by other credit institutions on their own behalf and for their own account; b) own funds as defined in point (118) of Article 4(1) of Regulation (EU) No 575/2013; c) deposits arising out of transactions in connection with which there has been a criminal conviction for money laundering as defined in Article 1(2) of Directive 2005/60/EC; d) deposits by financial institutions as defined in point (26) of Article 4(1) of Regulation (EU) No 575/2013; e) deposits by investment firms as defined in point (1) of Article 4(1) of Directive 2004/39/EC; f) deposits the holder of which has never been identified pursuant to Article 9(1) of Directive 2005/60/EC, when they have become unavailable;

- g) deposits by insurance undertakings and by reinsurance undertakings as referred to in Article 13(1) to (6) of Directive 2009/138/EC of the European Parliament and of the Council (1);
- h) deposits by collective investment undertakings;
- i) deposits by pension and retirement funds;
- j) deposits by public authorities;
- k) debt securities issued by a credit institution and liabilities arising out of own acceptances and promissory notes”.

Art. 7 (8): “Member States may decide that certain categories of deposits fulfilling a social purpose defined by national law, for which a third party has given a guarantee that complies with State aid rules, are not taken into account when aggregating the deposits held by the same depositor with the same credit institution (...). In such cases the third-party guarantee shall be limited to the coverage level (...).”
 Art. 5 (3): “Member States may provide that deposits that may be released in accordance with national law only to pay off a loan on private immovable property whether made by the credit institution or another institution holding the deposit are excluded from repayment by a DGS”.
 Art. 7 (9): “(...) the Member State shall ensure that depositors are informed clearly that the credit institution operates under different trademarks and that the coverage level laid down in Article 6(1), (2) and (3) of this Directive applies to the aggregated deposits the depositor holds with the credit institution”.

Comments: The Directive provides greater specification on determining the coverage level. It is applied per depositor; therefore, the share of each depositor in a joint account shall be taken into account in calculating the limit. However, in the absence of special provisions, such an account shall be divided equally among the depositors. Moreover, the DGSD provides an exhaustive list of ineligible deposits. Finally, the Directive ensures that DISs may at any time request banks to provide information about the aggregated amount of eligible deposits of every depositor. To this end, banks must mark eligible deposits in a way that allows an immediate identification of deposits.



Essential Criterion 2:

EC: “The level and scope of coverage are **limited** and are designed to be **credible**, so as to minimise the risk of runs on banks and do not undermine market discipline. The level and scope of coverage are set so that the large majority of depositors across banks are fully protected while leaving a substantial proportion of the value of deposits unprotected. In the event that a substantial proportion of the value of deposits is protected, moral hazard is mitigated by strong regulation and supervision, as well as by the other design features of the deposit insurance system”.

Handbook: “Coverage should be credible, provide adequate coverage and yet, at the same time, not undermine market forces. (...) Coverage levels should be set so that, given the public policy objectives, a large majority of individual depositors in banks are fully protected. The assessment should explicitly consider the authorities’ policy objectives in evaluating coverage levels. Jurisdictions with an objective of protecting only small depositors will identify the total amount of retail deposits at risk. Jurisdictions wishing a broader stability framework may extend coverage to other entities (e.g. businesses). The assessors must then come to a view about the adequacy of coverage, given the policy objectives of the authorities. If coverage levels are set too low, depositors may run when faced with uncertainty about their banks. If coverage levels are very high (and the scope of coverage is very wide), large sophisticated depositors may be less inclined to impose market discipline and banks may engage in higher risk activities. But in both cases, strong supervision and an effective bank resolution framework can mitigate some of

the negative impact of misaligned coverage limits and must be considered in determining the rating for CP 8”.

DGSD: Recital 21: *“On the one hand, the coverage level laid down in this Directive should **not leave too great a proportion of deposits without protection** in the interests both of consumer protection and of the stability of the financial system. On the other hand, the cost of funding DGSSs should be taken into account. It is therefore reasonable to set the harmonised coverage level at EUR 100 000”.* Recital 23: *“Directive 2009/14/EC of the European Parliament and of the Council introduced a **fixed coverage level of EUR 100 000**, which has put some Member States in the situation of having to lower their coverage level, with risks of undermining depositor confidence. While harmonisation is essential in order to secure the level playing field and financial stability in the internal market, risks of undermining depositor confidence should be taken into account. Therefore, Member States should be able to apply a higher coverage level if they provided for a coverage level that was higher than the harmonised level before the application of Directive 2009/14/EC. Such higher coverage level should be limited in time and in scope and the Member States concerned should adjust the target level and contributions paid to their DGSSs proportionately. Given that it is not possible to adjust the target level if the coverage level is unlimited, it is appropriate to limit the option to Member States which on 1 January 2008 applied a coverage level within a range of between EUR 100 000 and EUR 300 000. In order to limit the impact of diverging coverage levels, and taking into account that the Commission will review the implementation of this Directive by 31 December 2018, it is appropriate to allow for this option until that date”.* Art. 6(2): *“In addition to paragraph 1, Member States shall ensure that the following **deposits are protected above EUR 100 000** for at least three months and no longer than 12 months after the amount has been credited or from the moment when such deposits become legally transferable: (a) deposits resulting from real estate transactions relating to private residential properties; (b) deposits that serve social purposes laid down in national law and are linked to particular life events of a depositor such as marriage, divorce, retirement, dismissal, redundancy, invalidity or death; (c) deposits that serve purposes laid down in national law and are based on the payment of insurance benefits or compensation for criminal injuries or wrongful conviction”.*

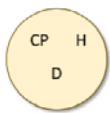
Comments: In addition to EC 2, the DGSD foresees a particular case of reimbursable deposits (Art. 6 (2)), represented by temporary high balances (THB), for which a coverage level may be set above EUR 100,000, from 3 to 12 months after the amount has been credited or from the moment when such deposits become legally transferable.

Essential Criterion 3:

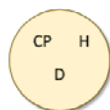
EC: *“The deposit insurer applies the level and scope of coverage **equally to all its member banks**”.*

Handbook: *“The deposit insurer applies the level and scope of coverage equally to all its member banks, regardless of size or banking institution. Different coverage limits may apply in systems where there are multiple deposit insurance systems (MDIS) in place.”*

DGSD: Art. 1 (2, let. d): *“This Directive shall apply to: **credit institutions affiliated to the schemes** referred to in points (a), (b) or (c) of this paragraph”.*

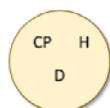


Full Matching



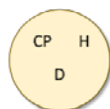
Full Matching

<i>Essential Criterion 4:</i>	
EC: “The deposit insurer does not incorporate co-insurance ”.	
Handbook: “Co-insurance, defined as a loss-sharing arrangement whereby depositors are covered for a pre-specified portion of deposits that is less than 100% of their insured deposit amount, should not be incorporated into DIS coverage”.	
DGSD: no reference.	
Comments: Co-insurance is not foreseen by the DGSD (however, its exclusion is not stated in any Article).	



Full Matching

<i>Essential Criterion 5:</i>	
EC: “The level and scope of coverage are reviewed periodically (e.g. at least every five years) to ensure that it meets the public policy objectives of the deposit insurance system”.	
Handbook: “Coverage levels should be reviewed periodically to ensure that they continue to meet the public policy objectives. The assessors must determine the appropriateness of the review period when grading for this criterion. In stable times with steady economic growth, a review every five years may be appropriate (...)”.	
DGSD: Art. 6 (6): “The amount referred to in paragraph 1 shall be reviewed periodically by the Commission and at least once every five years . If appropriate, the Commission shall submit to the European Parliament and to the Council a proposal for a Directive to adjust the amount referred to in paragraph 1, taking account in particular of developments in the banking sector and the economic and monetary situation in the Union. The first review shall not take place before 3 July 2020 unless unforeseen events necessitate an earlier review”.	

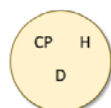


Full Matching

<i>Essential Criterion 6:</i>	
EC: “In the event of, or prior to, a merger or amalgamation of separate banks that are members of the same deposit insurance system, depositors of the merged or amalgamated banks enjoy separate coverage (up to the maximum coverage limit) for each of the banks for a limited but publicly stated period, as defined in law or regulation. Merging banks must be held responsible for notifying the affected depositors, including informing them of the date on which the separate coverage will expire”.	
Handbook: “Depositors in merged banks or amalgamated banks enjoy separate coverage (up to the maximum coverage limit that they initially had in each bank). They must have time to adjust their holdings and bring deposits in any one bank under coverage limits. Such extra coverage must be limited in time. The longer the time period, the more the purposes of limited coverage are undermined. The assessors must come to a view based on the ease of transferring deposits to new institutions, flexibility in financial markets, and the degree of concentration in the banking system(...)”.	
DGSD: Art. 16 (6): “In the case of a merger, conversion of subsidiaries into branches or similar operations, depositors shall be informed at least one month before the operation takes legal effect unless the competent authority allows a shorter deadline on the grounds of commercial secrecy or financial stability. Depositors shall be given a three-month period following notification of the merger or conversion or similar operation to withdraw or transfer to another credit institution, without incurring any penalty, their	



eligible deposits including all accrued interest and benefits in so far as they exceed the coverage level pursuant to Article 6 at the time of the operation”.



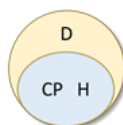
Full Matching

Essential Criterion 7:

EC: “The residency **status or nationality** of depositors has no effect on coverage”.

Handbook: “The residency status or nationality of depositors has no effect on coverage. The nationality of a depositor should make no difference to depositor protection and for financial stability purposes. Similar deposits in similar institutions should have the same coverage and should receive the same treatment. If this is not the case, a rating of NC would be appropriate.”

DGSD: Art.7 (1): “The limit referred to in Article 6(1) [EUR 100 000] shall apply to the aggregate deposits placed with the same credit institution irrespective of the number of deposits, the currency and the location within the Union”.



Type 2

Essential Criterion 8:

EC: “In situations where there are **multiple deposit insurers** operating in the same national jurisdiction, any differences in coverage across banks operating within that jurisdiction do not adversely affect overall deposit insurance system effectiveness and financial stability”.

Handbook: “The assessors will need to evaluate the impact of multiple DISs. There may be legitimate reasons for differences in coverage among different DISs. Credit unions, for example, may have their own system and have different rules and coverage levels than banks. The assessors must ask a number of questions to evaluate the impact of multiple systems:

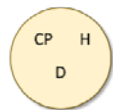
- Are there incentives for depositors to flow to those institutions with the highest coverage?
- Are funding differences between the deposit insurance funds significant, leading depositors to fly to safety during financial difficulty?
- Are regional differences so pronounced as to merit differences in the design of DISs?

This criterion may be rated C or LC if the multiple systems do not undermine financial stability or provide excessive coverage. This criterion may be rated MNC or NC if the multiple systems cover the same types of institutions and depositors, if there are significant differences in coverage levels and if depositors can exploit the insurance system to obtain unwarranted benefits”.

DGSD: no reference.

Comments: The DGSD applies to all contractual DGSs and institutional protection schemes that are officially recognised as DGSs within the European Union. Therefore, the case of multiple deposit insurers operating in the same national jurisdiction with differences in coverage is not foreseen.





Full Matching

<i>Essential Criterion 9:</i>	
<p>EC: “Foreign currency deposits are insured if they are widely used in a jurisdiction”.</p> <p>Handbook: “All foreign currency deposits are insured if they are widely used in a jurisdiction. Failure to include such deposits can result in sharp liquidity flows in periods of financial difficulty or premature capital flight and significant losses. (...) If foreign currency deposits form a significant portion of deposits, the DI may be forced to pay out in foreign currency”.</p> <p>DGSD: Art. 6 (4): “Member States shall ensure that repayments are made in any of the following:</p> <ul style="list-style-type: none"> a) the currency of the Member State where the DGS is located; b) the currency of the Member State where the account holder is resident; c) euro; d) the currency of the account; e) the currency of the Member State where the account is located. <p>Depositors shall be informed of the currency of repayment”.</p>	



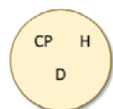
Not applicable

<i>Essential Criterion 10:</i>	
<p>EC: “In cases where there is a blanket guarantee in place, there is a credible plan to transition from the blanket guarantee to a limited coverage deposit insurance system. This includes:</p> <ul style="list-style-type: none"> a) an assessment of the economic environment as it affects the financial system, which is conducted before a jurisdiction begins the transition from a blanket guarantee to limited coverage. b) the pace of the transition to limited coverage is consistent with the state of the financial industry, prudential regulation and supervision, the legal and judicial framework, and accounting and disclosure regimes. c) policymakers have effective communication strategies to mitigate adverse public reaction to the transition. d) where there is a high level of capital mobility, and/or a regional integration policy, the decision to lower coverage limits and/or scope considers the effects of different jurisdictions’ protection levels and related policies”. <p>Handbook: “Blanket guarantees were common several years ago, but even with the proliferation of explicit limited DISs, ad hoc enhanced depositor protection was common in the 2008–2009 crisis. A fully compliant rating is justified if all elements of the plan are in place. A rating of MNC or NC is justified if serious deficiencies exist that potentially undermine financial stability or there is no plan in place”.</p> <p>DGSD: no reference.</p>	



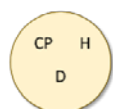
Core Principle 9 – Sources and uses of funds

“The deposit insurer should have **readily** available funds and **all funding mechanisms** necessary to ensure **prompt reimbursement** of depositors’ claims, including **assured liquidity funding arrangements**. Responsibility for paying the cost of deposit insurance should be **borne by banks**”.



Full Matching

<i>Essential Criterion 1:</i>	
EC: “Funding for the deposit insurance system is provided on an ex ante basis . Funding arrangements are clearly defined and established in law or regulation”.	
Handbook: “The importance of a stable funding source points to the need for an explicit ex ante fund. The Criterion will be rated C if the ex-ante fund is established in law. If the fund exists but is not established in law, the assessors will have to determine whether the funding structure is credible (a rating of LC), or if the fund is not considered credible (a rating of MNC). Payment commitments within banks (e.g. as foreseen in the EU Deposit Guarantee Scheme Directive) could be considered equivalent to ex ante funding if they are fully collateralised, easily liquidated, and do not represent the sole source of ex ante funding available to the DI”.	
DGSD: Art. 10 (1): “Member States shall ensure that DGSs have in place adequate systems to determine their potential liabilities. The available financial means of DGSs shall be proportionate to those liabilities. DGSs shall raise the available financial means by contributions to be made by their members at least annually. This shall not prevent additional financing from other sources”. Recital 27: “(...) In order to ensure that depositors in all Member States enjoy a similarly high level of protection, the financing of DGSs should be harmonised at a high level with a uniform ex-ante financial target level for all DGSs”. Art. 10 (3): “The available financial means to be taken into account in order to reach the target level may include payment commitments. The total share of payment commitments shall not exceed 30 % of the total amount of available financial means raised in accordance with this Article”.	



Full Matching

<i>Essential Criterion 2:</i>	
EC: “Funding the deposit insurance system is the responsibility of the member banks ”.	
Handbook: “Primary responsibility for funding rests with the banks covered under the DIS. The DIS must make such responsibility clear. However, assessors must also recognise that these institutions may not be able to quickly reconstitute a deposit insurance fund or quickly fund a new DIS. Excessive demands for rapid replenishment once the fund is depleted could undermine profitability and competitiveness. Accordingly, a timetable for reconstituting the fund should be established that balances the need for rapid build-up and cost burden on the industry. The public authorities can provide funding to the DI with the understanding that the banks will build up the fund so that it can repay the government over a specified period”.	
DGSD: Art. 10 (1): “(...) DGSs shall raise the available financial means by contributions to be made by their members at least annually. This shall not prevent additional financing from other sources”. Art. 10 (2): “Member States shall ensure that, by 3 July 2024, the available financial means of a DGS shall at least reach a target level of 0,8 % of the amount of the covered deposits of its members. Where the financing capacity falls short of the target level, the payment of contributions shall resume at least until the target level is reached again. If, after the target level has been reached for the first time, the available financial means have been reduced to less than two-thirds of the target level, the regular contribution shall be set at a level allowing the target level to be reached within six years. The regular contribution shall take due account of the phase of the business cycle, and the impact procyclical contributions may	

have when setting annual contributions in the context of this Article. Member States may extend the initial period referred to in the first subparagraph for a maximum of four years if the DGS has made cumulative disbursements in excess of 0,8 % of covered deposits”.



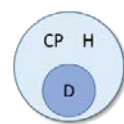
Essential Criterion 3:

EC: *“Initial “start-up” or “seed” funding (e.g. from government or international donor organisations) is permitted to help establish a deposit insurer. Any start-up funding provided by a government should be fully repaid before the deposit insurer reduces any or all bank premiums”.*

Handbook: *“While the funding of DISs is provided by the industry, new systems do not always have the time or capacity to build an adequate fund quickly. Accordingly, governments or international organisation may provide some initial funding to ensure that the system is credible (...)”.*

DGSD: no reference.

Comments: The DGSD does not foresee any funding from public authorities.



Type 1 gap

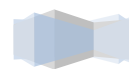
Essential Criterion 4:

EC: *“Emergency funding arrangements for the deposit insurance system, including pre-arranged and assured sources of liquidity funding, are explicitly set out (or permitted) in law or regulation. Sources may include a funding agreement with the government, the central bank or market borrowing. If market borrowing is used it is not the sole source of funding. The arrangement for emergency liquidity funding is set up in advance, to ensure effective and timely access when required”.*

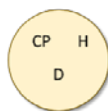
Handbook: *“(...) The DI fund must be complemented with a robust backup or emergency funding mechanism. That mechanism must be available to ensure that resource constraints do not inhibit the ability of the DI to pay out within an appropriate time frame. (...) Emergency funding arrangements (i.e. emergency backup funding) can take the form of a special line of credit from a MOF, a Treasury, or even a guaranteed line of credit from the central bank. No matter what the source, an unambiguous, pre-arranged system that guarantees a rapidly disbursing backup funding mechanism for the DI is required for an effective DIS. An unambiguous and rapidly disbursing emergency funding line is rated fully C, while an arrangement with minor limitations or restrictions that slightly delays the immediate disbursement of funds can be rated LC. If access is not guaranteed and immediate in practice, or if procedures must be followed that delay disbursement of needed funds, the DIS is rated MNC or NC. Many systems allow the DI to borrow in the market, but that authority alone is not considered an adequate backup funding capacity. Market access may become impossible in times of banking stress, and credibility may be undermined by uncertainty about the ability of the DI to pay out depositors”.*

DGSD: No reference to backup funding.

Comments: Art. 10 (8): *“If the available financial means of a DGS are insufficient to repay depositors when deposits become unavailable, its members shall pay **extraordinary contributions** not exceeding 0,5 % of their covered deposits per calendar year. DGSs may in exceptional circumstances and with the consent of the competent authority require higher contributions”.* Art. 10 (9): *“Member States shall ensure that DGSs have in place adequate **alternative funding arrangements** to enable them to obtain short-term funding to meet claims against those DGSs”.* Art. 12 (1): *“Members States may allow DGSs to **lend to other DGSs** within the Union on a voluntary basis (...)”.*



Even if there is provision for “alternative funding arrangements” to be in place, there is no specific reference to potential robust backup funding by public bodies (MoF, central bank), especially when market borrowing it is not feasible or adequate.



Full Matching

Essential Criterion 5:

EC: “After establishing an ex ante deposit insurance fund:

- a) the target fund size is determined on the basis of **clear, consistent and transparent** criteria, which are subject to **periodic review**; and
- b) a reasonable **time frame** is set to achieve the target fund size”.

Handbook: “This criterion refers to assessing (i) whether the methodology for assessing the size of the fund is appropriate and reasonable and (ii) whether the fund size is adequate. The target fund size refers to the eventual objective of the authorities, not necessarily the current size of the fund. As described above, the public must view the fund as adequate in order for public confidence in the system to be maintained. The target size of the fund should be sufficient to participate in the resolution and payout of a number of small bank failures or several medium-sized bank failures, depending on the size and composition of the banking sector. The required spending for past financial crises could be a possible factor in determining target fund size. Once the target size of the fund is determined, assessors will have to determine if the time frame for meeting the target size is adequate. Issues to be considered include the financial state of the banking system (if weak, the fund will need to be at or near its target fund ratio or a strong backup funding facility must exist) and the financial burden on banks to meet the annual premiums to constitute the target level”. Moreover: “The fund serves several functions. First, it ensures that adequate resources are available in the event of a bank failure. Adequacy of the fund, however, is difficult to determine in isolation and depends on jurisdiction-specific conditions. The assessment will need to consider several factors, including:

- the role of the fund in bank resolution — does the role of the DI in resolution create a need to review the size of the fund to finance resolution options?
- the distribution of banks — if the banking system is concentrated, the fund may have to be very large or alternative resolution tools may have to be in place;
- the strength of the banking system — if the system is perceived as weak, the fund will have to be correspondingly higher; and
- the effectiveness of bank supervision — the stronger and more effective bank supervision is, the lower the likelihood of bank failure, which means that the DI fund can be smaller.

(...) A final function of the fund is to cover the operational and related costs of the DI”.

DGSD: Art. 10 (2): “Member States shall ensure that, **by 3 July 2024**, the available financial means of a DGS shall at least reach a target level of **0,8 % of the amount of the covered deposits** of its members. Where the financing capacity falls short of the target level, the payment of contributions shall resume at least until the target level is reached again. If, after the target level has been reached for the first time, the available financial means have been reduced to less than two-thirds of the target level, the regular contribution shall be set at a level allowing the target level to be reached within six years. The regular contribution shall take due account of the phase of the business cycle, and the impact procyclical

contributions may have when setting annual contributions in the context of this Article”. Recital 19: “(...) It is therefore necessary to ensure a harmonised level of deposit protection by all recognised DGSs, regardless of where the deposits are located in the Union”.

Essential Criterion 6:

EC: “The deposit insurer has responsibility for the **sound investment and management of its funds**. The deposit insurer has a defined investment policy for its funds that aims at ensuring:

- a) the preservation of fund capital and maintenance of liquidity; and
- b) that adequate risk management policies and procedures, internal controls, and disclosure and reporting systems are in place”.

DGSD: Art. 10 (7): “The available financial means of DGSs shall be invested in a **low-risk and sufficiently diversified manner**”. Art. 2 (1, point 14): “**low-risk assets** means items falling into the first or second category referred to in Table 1 of Article 336 of Regulation (EU) No 575/2013 or any assets which are considered to be similarly safe and liquid by the competent or designated authority”.

Comments: The Handbook states that if deposits are reimbursed in foreign rather than local currency, the fund should also be invested in assets denominated in that foreign currency or appropriately hedged. By contrast, the DGSD does not provide for specific characteristics guiding the investment policy, other than diversification and low risk.

Regulatory provisions identify the strategic objective of a DGS’s investment policy as the maintenance of the value and liquidity of the resources, so that they are readily available for interventions. Functional to this objective is the principle of diversification of investments.

Essential Criterion 7:

EC: “The deposit insurer may **hold funds in the central bank**. The deposit insurer establishes and complies with rules to limit significant investments in banks”.

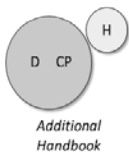
Handbook: “The DI should have the option of maintaining cash holdings at the central bank. DIs benefit from placing cash holdings at the central bank because this avoids the insolvency risk of commercial banks and liquidity disruptions in client banks following a bank failure and payout obligations. DI funds may be deposited in commercial banks. However, large balances should not be held for long periods at commercial banks where the use of such funds could undermine the bank’s position or where a failure of the bank could result in losses to the DI”.

DGSD: no reference.

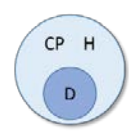
Comments: The European Directive does not mention the possibility to hold funds in central banks or to limit investments in banks.

Essential Criterion 8:

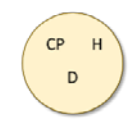
EC: “Where the deposit insurer is not the resolution authority, it has the option, within its legal framework, to **authorise the use of its funds for resolution** of member institutions other than liquidation. In such situations the following conditions are met:



Additional Handbook



Type 1 gap



Full Matching

- a) the deposit insurer is **informed** and involved in the resolution decision-making process;
- b) the use of the deposit insurer’s funds is transparent and documented, and is **clearly** and **formally specified**;
- c) ...
- d) contributions are **restricted to the costs** the deposit insurer would otherwise have incurred in a payout of insured depositors **in a liquidation** net of expected recoveries;
- ...

DGSD: Recital 16: “It should also be possible, where permitted under national law, for a DGS to go beyond a pure reimbursement function and to use the available financial means in order **to prevent the failure of a credit institution** with a view to avoiding the costs of reimbursing depositors and other adverse impacts. Those measures should, however, be carried out within a clearly defined framework and should in any event comply with State aid rules. DGSs should, inter alia, have appropriate systems and procedures in place for selecting and implementing such measures and monitoring affiliated risks. Implementing such measures should be subject to the imposition of conditions on the credit institution involving at least more stringent risk-monitoring and greater verification rights for the DGSs. The costs of the measures taken to prevent the failure of a credit institution should not exceed the costs of fulfilling the statutory or contractual mandates of the respective DGS with regard to protecting covered deposits at the credit institution or the institution itself”.

Art 11(2): The financial means of a DGS shall be used in order to finance the resolution of credit institutions in accordance with Article 109 of Directive 2014/59/EU. The resolution authority shall determine, after consulting the DGS, the amount by which the DGS is liable.

Comments: The DGSD does not further describe the role of a DGS in resolution, since this is regulated by the Bank Recovery and Resolution Directive (BRRD). Full matching is achieved if EC 8 is compared to the BRRD:

- a) Art. 83 (2): “The resolution authority shall **notify** the institution under resolution and the following authorities, if different: (...) d) the **deposit guarantee scheme** to which the credit institution under resolution is affiliated”;
- b) Art. 81 (3): “Where a competent authority or resolution authority determines that the conditions referred to in points (a) and (b) of Article 32(1) [conditions for resolution] are met in relation to an institution or an entity referred to in point (b), (c) or (d) of Article 1(1), it shall **communicate** that determination without delay to the following authorities, if different: (...) f) **the deposit guarantee scheme** to which a credit institution is affiliated where necessary to enable the functions of the deposit guarantee scheme to be discharged”;
- c) Art. 109 (1): “Member States shall ensure that, where the resolution authorities take resolution action, and provided that that action ensures that **depositors continue to have access to their deposits**, the deposit guarantee scheme to which the institution is affiliated is liable for: (a) when the bail-in tool is applied, the amount by which covered deposits would have been written down in order to **absorb the losses** in the institution pursuant to point (a) of Article 46(1), had covered deposits been included within the scope of bail-in and been written down to the same extent as creditors with the same level of priority under the national law governing normal insolvency proceedings; or (b) when one or more resolution tools other than the bail-in tool is applied, the **amount of losses** that covered depositors would have suffered, had covered depositors suffered losses in proportion to the losses



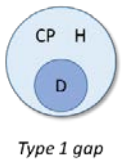
suffered by creditors with the same level of priority under the national law governing normal insolvency proceedings (...);

d) Art. 109 (1): “(...) In all cases, the **liability** of the deposit guarantee scheme shall **not be greater** than the amount of losses that it would have had to bear had the institution been wound up **under normal insolvency proceedings**”;

e) Article 59 (1): “The power to **write down or convert** relevant capital instruments may be exercised either: (a) independently of resolution action; or (b) in combination with a resolution action, where the conditions for resolution specified in Articles 32 and 33 are met”.

f) Art. 36 (1): “**Before** taking resolution action or exercising the power to write down or convert relevant capital instruments resolution authorities shall ensure that a fair, prudent and realistic **valuation** of the assets and liabilities of the institution or entity referred to in point (b), (c) or (d) of Article 1(1) is carried out by a person **independent** from any public authority, including the resolution authority, and the institution or entity referred to in point (b), (c) or (d) of Article 1(1). Subject to paragraph 13 of this Article and to Article 85, where all the requirements laid down in this Article are met, the valuation shall be considered to be definitive”. Art. 36 (4): “The purposes of the valuation shall be: (a) to **inform** the determination of whether the conditions for resolution or the conditions for the write down or conversion of capital instruments are met; (b) if the conditions for resolution are met, to inform the decision on the appropriate resolution action to be taken in respect of the institution or entity (...);”

g) Art. 74 (1): “For the purposes of assessing whether shareholders and creditors would have received better treatment if the institution under resolution had entered into normal insolvency proceedings, including but not limited to for the purpose of Article 73, Member States shall ensure that a **valuation** is carried out by an **independent person** as soon as possible after the resolution action or actions have been effected (...).”

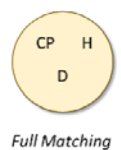


Essential Criterion 9:

EC: “Should deposit insurer income/revenue (e.g. premiums received, recoveries from failed banks and interest accrued on investment funds) be **taxed by the government**, it is at a rate which is **neither punitive nor disproportionate** to other corporate taxation, nor unduly hinders the accumulation of the deposit insurance fund. Any remittances to the government by the deposit insurer are limited to repayment of government-provided start-up funding and government-provided liquidity funding”.

Handbook: “The key role of the DI in the safety-net is to ensure that depositors have confidence in the ability to recover their deposits in the event of a failure. Having an adequate deposit insurance fund is critical to reinforcing that confidence. The DI should not be subject to taxes or “legacy expenses” (such as paying for debt from past crises) if such payments limit the effective recuperation and maintenance of an appropriately sized insurance fund. Taxation of deposit insurance funds, especially premiums, at unduly high rates limits the rate at which funds accrue in the deposit insurance fund. This may be of particular importance for jurisdictions in which the target size of the fund has not been achieved. Where deposit insurance funds are taxed at an unduly high rate, there will be a rating of NC”.

DGSD: no reference.



Essential Criterion 10:

EC: “If the deposit insurer uses **differential premium** systems:

a) the **system** for calculating premiums is **transparent** to all participating banks;

b) the **scoring/premium categories** are significantly **differentiated**; and

c) the **ratings** and rankings resulting from the system pertaining to individual banks are kept **confidential**”.

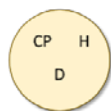
Handbook: “In systems with differential premiums, the assessors should ensure that the system for calculating risk premiums is transparent and appropriately differentiates risk categories. The scoring/premium categories should be reviewed, and the ratings and rankings resulting from the system pertaining to individual banks kept confidential”.

DGSD: Art. 13 (2): “DGSs may use their own **risk-based methods** for determining and calculating the risk-based contributions by their members. The calculation of contributions shall be **proportional to the risk** of the members and shall take due account of the risk profiles of the various business models. Those methods may also take into account the asset side of the balance sheet and risk indicators, such as capital adequacy, asset quality and liquidity. Each method shall be **approved by the competent authority** in cooperation with the designated authority. EBA shall be informed about the methods approved”.

Comments: In May 2015, the EBA issued the Guidelines on methods for calculating contributions to DGSDs, providing a calculation formula, specific indicators, risk classes for member banks and thresholds for risk weights assigned to specific risk classes. By 3 July 2017 and at least every five years, the EBA will conduct a review of the Guidelines.

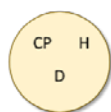
Core Principle 10 – Public awareness

“In order to protect depositors and contribute to financial stability, it is essential that the **public be informed on an ongoing basis** about the benefits and limitations of the deposit insurance system”.



Full Matching

<i>Essential Criterion 1:</i>	
<p>EC: “The deposit insurer is responsible for promoting public awareness of the deposit insurance system, using a variety of communication tools on an ongoing basis as part of a comprehensive communication programme”.</p> <p>Handbook: “A DI, no matter how well designed, must be understood by the public if it is to be effective in its role of supporting financial stability. It is the responsibility of each DI to promote public awareness of the DIS on an ongoing basis. For full compliance, the DI must have in place a comprehensive communications plan, designed to efficiently reach a defined target population within its jurisdiction. Plan components must utilise a variety of communication tools based on the resources and limitations of the jurisdiction, to ensure that information is easily accessible, readily understood and reaches a large percentage of the public”.</p> <p>DGSD: Art. 16 (3): “Confirmation that the deposits are eligible deposits shall be provided to depositors on their statements of account including a reference to the information sheet set out in Annex I. The website of the relevant DGS shall be indicated on the information sheet. The information sheet set out in Annex I shall be provided to the depositor at least annually. The website of the DGS shall contain the necessary information for depositors, in particular information concerning the provisions regarding the process for and conditions of deposit guarantees as envisaged under this Directive”. Art. 16 (4): “The information provided for in paragraph 1 shall be made available in the manner prescribed by national law in the language that was agreed by the depositor and the credit institution when the account was opened or in the official language or languages of the Member State in which the branch is established”. Art. 16 (5): “Member States shall limit the use in advertising of the information referred to in paragraphs 1, 2 and 3 to a factual reference to the DGS guaranteeing the product to which the advertisement refers and to any additional information required by national law. Such information may extend to the factual description of the functioning of the DGS but shall not contain a reference to unlimited coverage of deposits”.</p>	

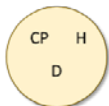


Full Matching

<i>Essential Criterion 2:</i>	
<p>EC: “In the event of a bank failure, the deposit insurer must notify depositors, as appropriate and as described in law, via media such as press releases, print advertising, websites and other media outlets, of the following details:</p> <ol style="list-style-type: none"> a) where, how and when insured depositors will be provided with access to their funds; b) the information that an insured depositor must provide in order to obtain payment; c) if advance or interim payments are being made; and d) whether any depositors will lose funds, and procedures whereby uninsured depositors can make claims to the liquidator for their uninsured portion”. <p>Handbook: “To ensure and maintain depositor confidence and ongoing financial stability, effective mechanisms must be in place to quickly disseminate information to depositors regarding where, how and when insured depositors can gain access to their funds (...). A rating of NC is appropriate if no notice is</p>	

given to depositors or if such notice is significantly delayed. If any of the elements of the communication programme listed above are missing, a rating of MNC may be appropriate. Information should be disseminated at a time and in a manner prescribed by law and/or any communications and crisis management plans of the DI”.

DGSD: Art. 16 (3): “The website of the DGS shall contain the necessary information for depositors, in particular information concerning the provisions regarding the process for and conditions of deposit guarantees as envisaged under this Directive”.



Full Matching

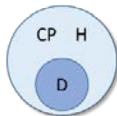
Essential Criterion 3:

EC: “The public awareness programme or activities convey information about the following:

- a) the **scope** (i.e. which types of financial instruments and depositors are covered by deposit insurance, and which are not);
- b) a **list** of which banks are members and how they can be identified;
- c) **deposit insurance coverage level limits**; and
- d) **other information**, such as the mandate of the deposit insurer”.

Handbook: “Depositors should be provided with information as to the existence and key components of their jurisdiction’s deposit insurance regime. It is the responsibility of the DI to ensure that an effective public awareness programme or activity is in place that communicates the mandate, scope, members, and coverage limits of the jurisdiction’s regime in a format and language prescribed by the DI. Any missing elements of this EC would require a full-level downgrade in rating, and only in very limited instances would the DI receive a rating higher than MNC”.

DGSD: Art. 16 (3): “Confirmation that the deposits are eligible deposits shall be provided to depositors on their statements of account including a reference to the information sheet set out in **Annex I**. The **website** of the relevant DGS shall be indicated on the information sheet. The information sheet set out in Annex I shall be provided to the depositor at least annually. The website of the DGS shall contain the necessary information for depositors, in particular information concerning the provisions regarding the process for and conditions of deposit guarantees as envisaged under this Directive”.



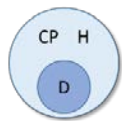
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Essential Criterion 4:

EC: “The objectives of the **public awareness programme** (e.g. target awareness levels) are clearly defined and consistent with the public policy objectives and mandate of the deposit insurance system”.

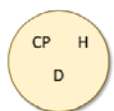
Handbook: “For full compliance, the objectives of a DI’s public awareness programme or activity must support its public policy objectives and mandate. The objectives must be clearly defined, measurable and supported by a process for execution and programme activities. A complete lack of stated objectives would warrant a rating of NC. Where public awareness objectives exist, but are not in support of a jurisdiction’s mandate or public policy objectives, or there are significant gaps/omissions in the public awareness programmes process that cannot be easily overcome, a rating of MNC is appropriate”.

DGSD: no reference.



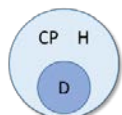
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<i>Essential Criterion 5:</i>	
<p>EC: “The deposit insurer sets a long-term strategy to meet its public awareness objectives, and makes budget allocations to build and maintain a target level of public awareness about deposit insurance”.</p> <p>Handbook: “In addition to the execution of activities as prescribed in its ongoing public awareness programme or activity, the DI must set a long-term (forward-looking) communication strategy, accompanying implementation plan, and make budget allocations to maintain or reach target levels of awareness and understanding of deposit insurance within the jurisdiction. A lack of either element (strategy or budget) would warrant a rating of MNC, and lack of both a rating of NC”.</p> <p>DGSD: no reference.</p>	
<p>Comments: The DGSD does not give any guidance about either the allocation of resources to public awareness campaigns or the setting of a forward-looking strategy.</p>	



Full Matching

<i>Essential Criterion 6:</i>	
<p>EC: “The deposit insurer works closely with banks and other safety-net participants to ensure the consistency and accuracy of the information provided to depositors and to maximise awareness on an ongoing basis. Law or regulation requires banks to provide information about deposit insurance in a format/language prescribed by the deposit insurer”.</p> <p>Handbook: “(...) member banks should be obligated either by law or regulation to provide information in a format/language prescribed (i.e. written) by the DI. The DI and, where relevant, safety-net participants have corresponding obligations to set clear standards for the dissemination, form and content of relevant information, provide adequate support and ongoing education to member banks and relevant safety-net participants to meet public awareness guidelines, and work with member banks to continually maximise awareness”.</p> <p>DGSD: Art. 16 (1): “Member States shall ensure that credit institutions make available to actual and intending depositors the information necessary for the identification of the DGSs of which the institution and its branches are members within the Union. Member States shall ensure that credit institutions inform actual and intending depositors of the applicable exclusions from DGS protection”. Art. 16 (2): “Before entering into a contract on deposit-taking, depositors shall be provided with the information referred to in paragraph 1. They shall acknowledge the receipt of that information. The template set out in Annex I shall be used for that purpose”.</p>	



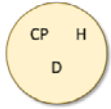
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<i>Essential Criterion 7:</i>	
<p>EC: “The deposit insurer monitors, on an ongoing basis, its public awareness activities and arranges, on a periodic basis, independent evaluations of the effectiveness of its public awareness programme or activities”.</p> <p>Handbook: “The DI must exercise prudent oversight of its communication programme and budget. In addition to this ongoing internal oversight, independent external evaluations of the “effectiveness” of the jurisdiction’s public awareness programme must be conducted. Assessors should examine internal documents for evidence of ongoing reviews of communication plans. Relevant documents may include: performance reports from media outlets; click-through data from online campaigns, the results of public</p>	



surveys and/or tracking reports of the quantity of materials disseminated within a specified time frame; and awareness of the existence of the DI and the terms and conditions of coverage (...)”.

DGSD: no reference.



Full Matching

Essential Criterion 8:

EC: “*Depositors in jurisdictions affected by cross-border banking arrangements conducted through foreign bank branches or subsidiaries are provided with **clear information on the existence and identification of the deposit insurer** legally responsible for reimbursement, and the limits and scope of coverage*”.

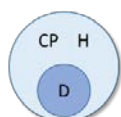
Handbook: “*In jurisdictions where cross-border banking arrangements are in place, at a minimum, insured depositors must be provided with clear, readily available information regarding the existence of the provision of deposit insurance, and the specific identity of the DI responsible for reimbursement to these depositors. Clear, consistent and accurate information regarding the scope of coverage and deposit coverage limits must also be provided to insured depositors. Such information should be readily available, namely, in foreign bank branches and subsidiaries located within the jurisdiction. If information is not readily available, a rating of MNC is warranted. LC is warranted if it is available, but is missing critical elements of the EC*”.

DGSD: Art. 14 (2): “*Depositors at branches set up by credit institutions in another Member State shall be repaid by a DGS in the host Member State on behalf of the DGS in the home Member State. The DGS of the host Member State shall make **repayments in accordance with the instructions of the DGS of the home Member State**. The DGS of the host Member State shall not bear any liability with regard to acts done in accordance with the instructions given by DGS of the home Member State. The DGS of the home Member State shall provide the necessary funding prior to payout and shall compensate the DGS of the host Member State for the costs incurred. The DGS of **the host Member State shall also inform the depositors concerned on behalf of the DGS of the home Member State** and shall be entitled to receive correspondence from those depositors on behalf of the DGS of the home Member State*”.



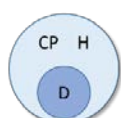
Core Principle 11 – Legal protection

“The deposit insurer and individuals working both currently and formerly for the deposit insurer in the discharge of its mandate must be **protected from liability** arising from actions, claims, lawsuits or other proceedings for their decisions, actions or omissions taken in good faith in the normal course of their duties. Legal protection should be **defined in legislation**”.



Type 1 gap

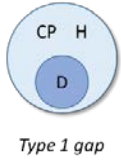
<i>Essential Criterion 1:</i>
<p>EC: “Legal protection is specified in legislation and provided to the deposit insurer, its current and former directors, officers and employees and any individual currently or previously retained or engaged by the deposit insurer, for decisions made and actions or omissions taken in good faith in the normal course of their duties”.</p> <p>Handbook: “Adequate legal protection (indemnification) relieves current and former directors, officers and employees of the DI, as well as individuals currently or formerly retained by the DI, from challenges to, or liability arising from carrying out their official duties while discharging the DI’s mandate. However, neither a contractual indemnity in an individual’s employment agreement/contract nor private insurance is sufficient for full compliance with this Core Principle. Legal protection must explicitly be specified in legislation. It is permissible for protections to individuals to be provided by legislation outside of the law governing the DI. However, it is insufficient that legal protection is provided in a jurisdiction as a matter of practice/general policy. Without regulation or legal support for such policies, a jurisdiction’s rating must be MNC; if legal protection is non-existent, it must be NC. Assessors must also ensure that the provision of legal protection is not explicitly reserved for directors, officers and higher levels of employees of the DI. All employees and agents, both current and former, must be indemnified; if not, a rating of MNC is appropriate”.</p> <p>DGSD: no reference.</p>



Type 1 gap

<i>Essential Criterion 2:</i>
<p>EC: “Legal protection precludes damages or other awards against such individuals and covers costs, including funding defence costs as incurred (and not just reimbursement after a successful defence)”.</p> <p>Handbook: “To receive a rating of C, legal protection should cover all damages and legal fees and other associated costs for the individuals mentioned in EC 1 as incurred. A rating of NC is warranted in instances where legal protection is not offered to the individuals mentioned in EC 1, or where legal costs are not borne upfront by the DI. In instances where only partial legal protection is provided or where legal costs are reimbursed to individuals only after they are found to have acted in good faith and within the scope of DI’s mandate (such determinations are typically made by an internal review committee or a court of law), the rating would be MNC (...)”.</p> <p>DGSD: no reference.</p>





<i>Essential Criterion 3:</i>	
<p>EC: “The operating policies and procedures of the deposit insurer require individuals with legal protection to disclose real or perceived conflicts of interest and to adhere to relevant codes of conduct, to ensure that they remain accountable”.</p> <p>Handbook: “Legal protection only extends to individuals discharging their duties in accordance with relevant codes of conduct, oaths of office and conflict-of-interest rules. Assessors should look for specific guidance from the DI regarding the types of behaviours/actions required by DI staff and agents to meet ethical standards and remain accountable. Such requirements should be sufficiently broad, applied uniformly, specified in policy and prevent actual and potential conflicts of interest(...)”.</p> <p>DGSD: no reference.</p>	



<i>Essential Criterion 4:</i>	
<p>EC: “Legal protections do not prevent depositors or other individual claimants or banks from making legitimate challenges to the acts or omissions of the deposit insurer in public or administrative review (e.g. civil action) procedures”.</p> <p>Handbook: “Any provisions for legal protection by the DI must not prevent, and may provide mechanisms to address, legitimate challenges to acts or omissions by the DI in public or administrative review (e.g. civil action) procedures”.</p> <p>DGSD: Art. 9 (1): “Member States shall ensure that the depositors’ rights to compensation may be the subject of an action against the DGS”.</p> <p>Comments: Recourse against a DGS is provided only in the case of depositors’ right to claim compensation. All legal recourse is limited to the payment of a compensation claim. There is no provision to sue a DGS for damages.</p>	



Core Principle 12 – Dealing with parties at fault in a bank failure

“The deposit insurer, or other relevant authority, should be provided with the **power** to seek **legal redress** against those parties at fault in a bank failure”.

Not applicable

<i>Essential Criterion 1:</i>	
<p>EC: “The conduct of parties responsible for, or contributing to, the failure of a bank (e.g. officers, directors, managers, owners), as well as the conduct of related parties and professional service providers (e.g. auditors, accountants, lawyers and asset appraisers), is subject to investigation. The investigation of the conduct of such parties may be carried out by one or more of the following: the deposit insurer, supervisor or regulatory authority, criminal or investigative authorities, or any other professional or disciplinary body, as applicable”.</p> <p>Handbook: “This EC requires a framework with the requisite power and resources to ensure formal investigation of the conduct of all parties who contributed to a bank’s failure. Importantly, this EC exempts neither related parties nor professional service providers from the group of individuals whose conduct is subject to formal review. Assessors should not downgrade ratings if investigative powers are not specifically bestowed upon the DI. A jurisdiction can be fully compliant as long as the legal power to investigate inappropriate conduct is vested in any one of a jurisdiction’s government entities (e.g. supervisory, regulatory, criminal or investigative authorities, or any other professional or disciplinary body or the bankruptcy administrator). The conduct of related parties and/or professional service providers must be included within the scope of investigations; otherwise a rating of MNC is appropriate”.</p> <p>DGSD: no reference.</p>	
<p>Comments: The gap analysis of Core Principle 12 is not applicable, since the investigation of parties responsible for the failure of the bank is regulated by national criminal laws. Indeed, Recital 128 BRRD states that: “Even though nothing prevents Member States from laying down rules for administrative sanctions as well as criminal sanctions for the same infringements, Member States should not be required to lay down rules for administrative sanctions for infringements of this Directive which are subject to national criminal law. In accordance with national law, Member States are not obliged to impose both administrative and criminal sanctions for the same offence, but they can do so if their national law so permits”.</p> <p>Moreover, Art. 34 BRRD: “Member States shall ensure that, when applying the resolution tools and exercising the resolution powers, resolution authorities take all appropriate measures to ensure that the resolution action is taken in accordance with the following principles: (...) (e) natural and legal persons are made liable, subject to Member State law, under civil or criminal law for their responsibility for the failure of the institution”. Art. 34 (4) BRRD: “Where the sale of business tool, the bridge institution tool or the asset separation tool is applied to an institution or entity referred to in point (b), (c) or (d) of Article 1(1), that institution or entity shall be considered to be the subject of bankruptcy proceedings or analogous insolvency proceedings for the purposes of Article 5(1) of Council Directive 2001/23/EC”.</p> <p>Regarding administrative penalties, Art. 110 BRRD states that: “Member States shall lay down rules on administrative penalties and other administrative measures” in an effective, proportionate and dissuasive manner. “(...) in the event of an infringement, administrative penalties can be applied, subject to the conditions laid down in national law, to the members of the management body, and to other natural persons who under national law are responsible for the infringement. The powers to impose administrative penalties provided for in this Directive shall be attributed to resolution authorities or, where different, to competent authorities, depending on the type of infringement”.</p>	

Not applicable

<i>Essential Criterion 2:</i>	
<p>EC: <i>“The relevant authority takes the appropriate steps to pursue those parties that are identified as culpable for the failure of the bank. The culpable parties are subject to sanction and/or redress. Sanction or redress may include personal or professional disciplinary measures (including fines or penalties), criminal prosecution and civil proceedings for damages”.</i></p> <p>Handbook: <i>“The first part of this EC requires that some authority within the jurisdiction has the power and authority to delineate an appropriate process for determining fault, and to pursue those parties deemed to be at fault in a bank failure. An absence of this authority would warrant an MNC. (...) The second part of this EC requires that parties at fault are subject to sanction and/or redress. An absence of this element of the EC would warrant a rating of MNC”.</i></p> <p>DGSD: no reference.</p>	
<p>Comments: On this issue, see national criminal and administrative laws.</p>	

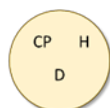
Not applicable

<i>Essential Criterion 3:</i>	
<p>EC: <i>“The deposit insurer, or other relevant authority, has policies and procedures in place to ensure that insiders, related parties and professional service providers acting for the failed bank are appropriately investigated for wrongdoing and for possible culpability in a bank failure”.</i></p> <p>Handbook: <i>“While EC1 requires that there is an entity within the jurisdiction responsible for the investigation of parties contributing to bank failure, EC3 ensures that the responsible entities have policies and procedures in place to ensure that the investigations are appropriate. Assessors should initially look to legislation governing the actions of the appropriate investigative authority for procedural guidance. If the laws are silent regarding policy and procedure, by-laws, regulations and/or internal policy/procedural manuals should be analysed to determine appropriateness. Assessors should rate a jurisdiction NC where specific policies and procedures for investigating bank failures are absent, and MNC where investigations are inconsistent, informal, or do not include insiders, related parties and professional service providers”.</i></p> <p>DGSD: no reference.</p>	
<p>Comments: On this issue, see national criminal and administrative laws.</p>	



Core Principle 13 – Early detection and timely intervention

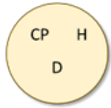
“The deposit insurer should be **part of a framework** within the financial safety-net that provides for the **early detection** of, and **timely intervention** in, troubled banks. The framework should provide for intervention before the bank becomes non-viable. Such actions should protect depositors and contribute to financial stability”.



Full Matching

<i>Essential Criterion 1:</i>
<p>EC: “The deposit insurer is part of an effective framework within the financial safety-net that provides for the early detection of, and timely intervention in, banks in financial difficulty before the bank becomes non-viable”.</p> <p>Handbook: “This criterion has two components. The first component asks if the DI is effectively integrated into the early detection and intervention part of the safety-net framework. The second asks if the safety-net’s early warning systems and intervention mechanisms for troubled banks are timely and effective. A jurisdiction’s system(s) of prudential regulation and supervision should be in compliance with international standards, and their effectiveness assessed using the BCPs. Assessments of compliance may also be conducted as part of an IMF/World Bank FSAP review. Assessors should rely on the results of assessments conducted by these international organisations to determine the effectiveness of the framework for early detection and the corrective action regime (...)”.</p> <p>DGSD: Art. 11 (3): “Member States may allow a DGS to use the available financial means for alternative measures in order to prevent the failure of a credit institution (...)”. Art. 11 (4): “Alternative measures as referred to in paragraph 3 of this Article shall not be applied where the competent authority, after consulting the resolution authority, considers the conditions for resolution action under Article 27(1) of Directive 2014/59/EU to be met”. Recital 51: “Competent authorities, designated authorities, resolution authorities, relevant administrative authorities and DGSs should cooperate with each other and exercise their powers in accordance with this Directive. They should cooperate from an early stage in the preparation and implementation of the resolution measures in order to set the amount by which the DGS is liable when the financial means are used to finance the resolution of credit institutions”.</p> <p>Comments: the European framework for early detection and timely intervention of troubled banks has been introduced by the BRRD. In particular, Art. 5 (1) BRRD states: “Member States shall ensure that each institution, that is not part of a group subject to consolidated supervision pursuant to Articles 111 and 112 of Directive 2013/36/EU, draws up and maintains a recovery plan providing for measures to be taken by the institution to restore its financial position following a significant deterioration of its financial situation. Recovery plans shall be considered to be a governance arrangement within the meaning of Article 74 of Directive 2013/36/EU”. Art. 10 (1) BRRD: “The resolution authority, after consulting the competent authority and after consulting the resolution authorities of the jurisdictions in which any significant branches are located insofar as is relevant to the significant branch shall draw up a resolution plan for each institution that is not part of a group subject to consolidated supervision pursuant to Articles 111 and 112 of Directive 2013/36/EU. The resolution plan shall provide for the resolution actions which the resolution authority may take where the institution meets the conditions for resolution. Information referred to paragraph 7(a) shall be disclosed to the institution concerned”. Art. 27 (1): “Where an institution infringes or, due, inter alia, to a rapidly deteriorating financial condition, including deteriorating liquidity situation, increasing level of leverage, non-performing loans or concentration of exposures, as assessed on the basis of a set of triggers, which may include the institution’s own funds requirement plus 1,5 percentage points, is likely in the near future to infringe the requirements of Regulation (EU) No 575/2013, Directive 2013/36/EU, Title II of Directive 2014/65/EU or any of Articles 3 to 7, 14 to 17, and 24, 25 and 26 of Regulation (EU) No 600/2014, Member States shall ensure that</p>

competent authorities have at their **disposal**, without prejudice to the measures referred to in Article 104 of Directive 2013/36/EU where applicable, at least the **following measures [early intervention measures] (...)**”.



Full Matching

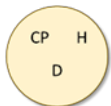
Essential Criterion 2:

EC: “Safety-net participants have the **operational independence and power** to perform their respective roles in the framework for early detection and timely intervention”.

Handbook:“(…) Safety-net participants must have the operational independence and power to perform their respective roles. These powers should ensure a collection of timely, accurate and relevant information to facilitate ongoing evaluation of both individual banks and the banking sector as a whole. There must also be the legal authority for some entity within the safety-net to exercise supervisory powers. These powers must be clearly specified in legislation and include oversight responsibility for banks and for the identification of problem banks (...)

DGSD: no reference.

Comments: Art. 3 (3) BRRD: “(…) Adequate structural arrangements shall be in place to ensure **operational independence** and avoid conflicts of interest between the functions of supervision pursuant to Regulation (EU) No 575/2013 and Directive 2013/36/EU or the other functions of the relevant authority and the functions of resolution authorities pursuant to this Directive, without prejudice to the exchange of information and cooperation obligations as required by paragraph 4. In particular, Member States shall ensure that, within the competent authorities, national central banks, competent ministries or other authorities there is operational independence between the resolution function and the supervisory or other functions of the relevant authority (...)



Full Matching

Essential Criterion 3:

EC: “The framework includes a set of **clearly defined qualitative and/or quantitative criteria** that are used to trigger timely intervention or corrective action. The criteria:

- a) are clearly defined in law, regulation or agreements;
- b) include safety and soundness indicators such as the institution’s capital, asset quality, management, earnings, liquidity and sensitivity to market risk; and
- c) are reviewed periodically, and the procedure for this review is formalised”.

Handbook:“Triggering of intervention must be timely and clear, understood and coordinated among all relevant safety-net participants, and used to initiate the implementation of corrective measures to prevent bank non-viability. The criteria triggering intervention should be identical in banking and deposit insurance law. The triggering criteria can be based on various quantitative or qualitative measures, or a combination of both. (...) Regardless of the methodology used to trigger intervention, the criteria should be based in part on the assessment of financial soundness indicators recommended by authorities such as the FSB and BCBS, which include capital adequacy, asset quality, management soundness, earnings and profitability, liquidity, and sensitivity to market risk and relevant macro-level factors. (...) The trigger mechanism for authorities to take control of a bank and initiate actual failure resolution procedures may include criteria such as, but not limited to:

- the failure to meet regulatory capital requirements exists or is imminent; or

- *statutory conditions for taking control are met (such as failure to comply with orders to increase capital); or*
- *failure to develop and implement a viable business plan, thus making either of the two preceding circumstances inevitable within a short period of time.*

For full compliance, a jurisdiction must periodically review the criteria for triggering corrective action and have a formal procedure for such a review”.

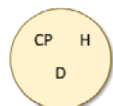
DGSD: no reference.

Comments: In this regard, the EBA has issued Guidelines on triggers for use of early intervention measures:⁸ *“Pursuant to Article 27(4) of Directive 2014/59/EU these Guidelines promote the consistent application of the triggers for the decision on the application of such early intervention measures. In order to increase consistency in supervisory practices in relation to the application of such triggers, the Guidelines also clarify requirements that competent authorities should follow when setting thresholds related to financial and risk indicators to be routinely monitored under the supervisory review and evaluation process (‘SREP’) as specified in the SREP Guidelines, and the procedures to follow in the event of breaches of these thresholds”.*

⁸ EBA, *Guidelines on triggers for use of early intervention measures pursuant to Article 27(4) of Directive 2014/59/EU*, EBA/GL/2015/03, 29 July 2015.

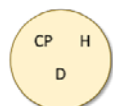
Core Principle 14 – Failure resolution

“An **effective failure resolution regime** should enable the deposit insurer to provide for protection of depositors and contribute to financial stability. The legal framework should include a special resolution regime”.



Full Matching

Essential Criterion 1:	
EC: “The deposit insurer has the operational independence and sufficient resources to exercise its resolution powers consistent with its mandate”.	
Handbook: “This Criterion refers to the overall effectiveness of the DI in resolution. Not all DIs are resolution authorities but all DIs are involved in the resolution process, to some degree. All resolution authorities will need operational independence and sufficient resources to fulfil their mandate. A system is rated C if such operational independence and sufficient resources exist”.	
DGSD: Recital 15: “DGSs should also assist in the financing of the resolution of credit institutions in accordance with Directive 2014/59/EU of the European Parliament and of the Council”. Art. 11 (2): “The financial means of a DGS shall be used in order to finance the resolution of credit institutions in accordance with Article 109 of Directive 2014/59/EU. The resolution authority shall determine, after consulting the DGS, the amount by which the DGS is liable”.	
Comments: The gap analysis of Core Principle 14 is performed by considering the DGSD and the BRRD jointly. In addition to Art. 11 (2) of the DGSD, Art. 109 (5) states that: “In all cases, the liability of a deposit guarantee scheme shall not be greater than the amount equal to 50% of its target level pursuant to Article 10 of Directive 2014/49/EU. Member States, may, by taking into account the specificities of their national banking sector, set a percentage which is higher than 50%”.	

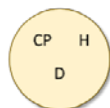


Full Matching

Essential Criterion 2:	
EC: “The resolution regime ensures that all banks are resolvable through a broad range of powers and options ”.	
Handbook: “The resolution framework must be sufficiently flexible to allow for the resolution of small, medium-sized and large banks. The assessors will have to evaluate both the tools available and the decision-making processes. A fully compliant system has the tools needed for all sizes of banks, and has appropriate manuals and legal support for their implementation. If the resolution tools are in law but there are no implementing regulations or means of implementing the law, the jurisdiction may be rated MNC”.	
DGSD: no reference.	
Comments: Art. 5 BRRD: “Member States shall ensure that each institution (...) draws up and maintains a recovery plan providing for measures to be taken by the institution to restore its financial position following a significant deterioration of its financial situation”. Art 10 BRRD: “The resolution authority (...) shall draw up a resolution plan for each institution (...). The resolution plan shall provide for the resolution actions which the resolution authority may take where the institution meets the conditions for resolution. Information referred to paragraph 7(a) shall be disclosed to the institution concerned”. Art. 27 provides for a detailed list of early intervention measures . Finally, Art. 37 (3) BRRD: “The resolution tools referred to in paragraph 1 are the following:	



- a) *the sale of business tool;*
- b) *the bridge institution tool;*
- c) *the asset separation tool;*
- d) *the bail-in tool”.*



Full Matching

Essential Criterion 3:

EC: “Where there are multiple safety-net participants responsible for resolution, the legal framework provides for a **clear allocation of objectives, mandates, and powers** of those participants, with no material gaps, overlaps or inconsistencies. Clear arrangements for coordination are in place”.

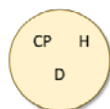
Handbook: “A critical aspect of this Essential Criterion is the existence and use of coordination mechanisms among safety-net participants. Related to information sharing (see CP 4), this Criterion looks at the formal allocation of objectives, mandates and powers, ensuring that all relevant safety-net participants are involved in the resolution of a failed bank”.

DGSD: no reference.

Comments: Art. 3 (1) BRRD: *Each Member State shall designate one or, exceptionally, more resolution authorities that are empowered to apply the resolution tools and exercise the resolution powers.*

Art. 54 of EBA RTS on resolution colleges: “The general framework for cooperation and coordination shall include all of the following:

- a) *description of the **different resolution college substructures** for the **performance of different tasks**, where relevant. For that purpose, in particular with regard to college members concluding joint decisions, the group-level resolution authority shall consider the need of organising the resolution college in various substructures;*
- b) *identification of the college members and observers participating in specific college activities. For that purpose, the group-level resolution authority shall ensure that the various college substructures, including substructures involving observers, shall not result in constraining or pre-empting the process of the joint decision-making in particular with regard to those members of the college who are required to conclude joint decisions in accordance with the relevant provisions of Directive 2014/59/EU;*
- c) *description of the framework, the terms and conditions of the participation of the observers in the resolution college, including terms and **conditions of their involvement in the various dialogues and processes** of the college as well as their rights and obligations with regard to exchanging information having regard to Articles 90 and 98 of Directive 2014/59/EU”.*



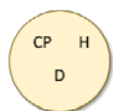
Full Matching

Essential Criterion 4:

EC: “Resolution and depositor protection procedures are not limited to depositor reimbursement. The resolution authority/ies has/have effective resolution tools designed to help preserve critical bank functions and to resolve banks. These include, but are not limited to, powers to **replace and remove senior**



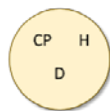
<p>management, terminate contracts, transfer and sell assets and liabilities, write down or convert debt to equity and/or establish a temporary bridge institution”.</p> <p>Handbook: “The assessment will revolve around the following issues: (i) are there adequate legal powers (using the FSB’s KAs as a benchmark); (ii) are those powers supported by appropriate policies, procedures, manuals and implementing regulations; and (iii) are the tools used appropriately? The assessors will need to assess whether the authorities have a clear understanding of when to use which tools. In principle, specialised tools (e.g. bail-in) aimed at resolving systemic institutions should not be applied to small and medium-sized institutions”.</p> <p>DGSD: no reference.</p>
<p>Comments: Art. 34 (1) BRRD: “Member States shall ensure that, when applying the resolution tools and exercising the resolution powers, resolution authorities take all appropriate measures to ensure that the resolution action is taken in accordance with the following principles:</p> <ul style="list-style-type: none"> a) the shareholders of the institution under resolution bear first losses; b) creditors of the institution under resolution bear losses after the shareholders in accordance with the order of priority of their claims under normal insolvency proceedings, save as expressly provided otherwise in this Directive; c) management body and senior management of the institution under resolution are replaced, except in those cases when the retention of the management body and senior management, in whole or in part, as appropriate to the circumstances, is considered to be necessary for the achievement of the resolution objectives; d) management body and senior management of the institution under resolution shall provide all necessary assistance for the achievement of the resolution objectives; e) natural and legal persons are made liable, subject to Member State law, under civil or criminal law for their responsibility for the failure of the institution; f) except where otherwise provided in this Directive, creditors of the same class are treated in an equitable manner; g) no creditor shall incur greater losses than would have been incurred if the institution or entity referred to in point (b), (c) or (d) of Article 1(1) had been wound up under normal insolvency proceedings in accordance with the safeguards in Articles 73 to 75; h) covered deposits are fully protected; and i) resolution action is taken in accordance with the safeguards in this Directive”.



Full Matching

<p>Essential Criterion 5:</p>	
<p>EC: “One or more of the available resolution methods allows the flexibility for resolution at a lesser cost than otherwise expected in a liquidation net of expected recoveries”.</p>	
<p>Handbook: “This Criterion refers to the importance of tailoring the resolution strategy to the characteristics of the failed institution. Neither the law nor national practice should limit the resolution authorities to only one resolution method. Rather, in each case, the range of interventions should be</p>	

<p><i>analysed against the objectives and mandate of the resolution authority, including what options involve a lesser cost than otherwise likely in the case of a depositor reimbursement (...)</i>”.</p> <p>DGSD: Recital 16: “(...)The costs of the measures taken to prevent the failure of a credit institution should not exceed the costs of fulfilling the statutory or contractual mandates of the respective DGS with regard to protecting covered deposits at the credit institution or the institution itself”. Art. 11 (6): “Member States may decide that the available financial means may also be used to finance measures to preserve the access of depositors to covered deposits, including transfer of assets and liabilities and deposit book transfer, in the context of national insolvency proceedings, provided that the costs borne by the DGS do not exceed the net amount of compensating covered depositors at the credit institution concerned”.</p> <p>Comments: Art. 74 (1) BRRD: “For the purposes of assessing whether shareholders and creditors would have received better treatment if the institution under resolution had entered into normal insolvency proceedings, including but not limited to for the purpose of Article 73, Member States shall ensure that a valuation is carried out by an independent person as soon as possible after the resolution action or actions have been effected (...)”. Art 74 (2): “The valuation in paragraph 1 shall determine: the treatment that shareholders and creditors, or the relevant deposit guarantee schemes, would have received if the institution under resolution with respect to which the resolution action or actions have been effected had entered normal insolvency proceedings at the time when the decision referred to in Article 82 was taken”.</p>
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Full Matching

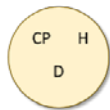
<p>Essential Criterion 6:</p> <p>EC: “Resolution procedures follow a defined creditor hierarchy in which insured deposits are protected from sharing losses and shareholders take first losses”.</p> <p>Handbook: “This Criterion is fully compliant if the creditor hierarchy is clearly set out in law, and if insured deposits are protected from sharing losses and shareholders take first losses. This Criterion will be rated MNC if shareholders do not absorb first losses in a resolution, and NC if no creditor hierarchy is in place”.</p> <p>DGSD: no reference.</p> <p>Comments: Art. 108: “Member States shall ensure that in national law governing normal insolvency proceedings:</p> <p>a) the following have the same priority ranking which is higher than the ranking provided for the claims of ordinary unsecured, non-preferred creditors:</p> <p>(i) that part of eligible deposits from natural persons and micro, small and medium-sized enterprises which exceeds the coverage level provided for in Article 6 of Directive 2014/49/EU;</p> <p>(ii) deposits that would be eligible deposits from natural persons, micro, small and medium-sized enterprises were they not made through branches located outside the Union of institutions established within the Union.</p> <p>b) the following have the same priority ranking which is higher than the ranking provided for under point (a):</p> <p>(i) covered deposits;</p> <p>(ii) deposit guarantee schemes subrogating to the rights and obligations of covered depositors in insolvency”.</p>
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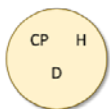
Full Matching

<i>Essential Criterion 7:</i>	
<p>EC: “The resolution regime does not discriminate against depositors on the basis of their nationality or residence”.</p> <p>Handbook: “As with coverage limits, the resolution process should not discriminate against depositors or creditors on the basis of residency status or nationality. The nationality of a creditor makes no difference for financial stability purposes. If this is not the case, a rating of NC is appropriate”.</p> <p>DGSD: no reference.</p>	
<p>Comments: Recital 13 BRRD: “(...) resolution action should be taken only where necessary in the public interest and any interference with rights of shareholders and creditors which results from resolution action should be compatible with the Charter of Fundamental Rights of the European Union (the Charter). In particular, where creditors within the same class are treated differently in the context of resolution action, such distinctions should be justified in the public interest and proportionate to the risks being addressed and should be neither directly nor indirectly discriminatory on the grounds of nationality”. Recital 29 BRRD: “(...) Measures should be neither directly nor indirectly discriminatory on the grounds of nationality”.</p>	



Full Matching

<i>Essential Criterion 8:</i>	
<p>EC: “The resolution regime is insulated against legal action that aims at the reversal of decisions related to the resolution of non-viable banks. No court can reverse such decisions. The legal remedy for successful challenges is limited to monetary compensation”.</p> <p>Handbook: “The objective of this Criterion is not to limit or inhibit judicial review. Rather, it requires that resolution of legal disputes should not include the reversal of resolution actions once those actions have been taken. Compensation for successful challenges is limited to monetary compensation. If compensation for successful challenges is not limited to monetary compensation, a rating of NC would be given”.</p> <p>DGSD: no reference.</p>	
<p>Comments: Art. 85 (4) BRRD: “The right to appeal (...) shall be subject to the following provisions:</p> <ul style="list-style-type: none"> a) the lodging of an appeal shall not entail any automatic suspension of the effects of the challenged decision; b) the decision of the resolution authority shall be immediately enforceable and it shall give rise to a rebuttable presumption that a suspension of its enforcement would be against the public interest”. 	



Full Matching

<i>Essential Criterion 9:</i>	
<p>EC: “The resolution regime keeps the period between depositors losing access to their funds and implementation of the selected resolution option (e.g. depositor reimbursement) as short as possible”.</p> <p>Handbook: “This Criterion addresses the issue of long delays in selecting and implementing a resolution option during stable times. The deposit insurer cannot pay out until the intervention has been triggered and the resolution begun. Prolonged delays in triggering resolution (under the guise of prolonged analysis, review of data, or prolonged analysis of resolution options) could lead to payout periods that are longer</p>	

than the recommended seven days (see CP 15, Reimbursement). However, this Criterion is not meant to suggest that the DI should pay out in the event that systemic crisis management imposes limitations on depositors’ access to their funds (such as a moratorium or deposit freeze). Such policy options have systemic implications and the DI is not expected to reverse such decisions”.

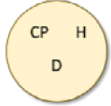
DGSD: no reference.

Comments: Art. 109 (1) BRRD: “Member States shall ensure that, where the resolution authorities take resolution action, and provided that that action ensures that **depositors continue to have access to their deposits**, the deposit guarantee scheme to which the institution is affiliated is liable (...)”. Moreover, Art. 69 BRRD states that Member States shall ensure that resolution authorities have the power to suspend any payment or delivery obligations pursuant to any contract to which an institution under resolution is a party; however, **any suspension shall not apply to eligible deposits.**



Core Principle 15 – Reimbursing depositors

“The deposit insurance system should reimburse depositors’ insured funds **promptly**, in order to contribute to financial stability. There should be a **clear and unequivocal trigger** for insured depositor reimbursement”.



Full Matching

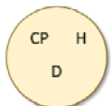
Essential Criterion 1:

EC: “The deposit insurer is able to reimburse most insured depositors **within seven working days**. If the deposit insurer cannot currently meet this target, the deposit insurer has a credible plan in place to do so”.

Handbook: “This Criterion establishes a very specific target date of seven working days for reimbursing most insured depositors. The target date refers to the ability to complete the reimbursement to most insured depositors – not just the start of the process. The EC recognises that it would operationally be extremely difficult to reimburse – within seven working days – some types of deposits such as trust accounts with multiple beneficiaries, temporary high-balance accounts or other deposit instruments whose ownership cannot be easily and promptly determined. Many smaller and/or newly established DIs may not be able to meet this aggressive target date in the near future, or may not have any credible plan to achieve this target. In such cases, these systems would receive a rating of MNC or NC”.

DGSD: Art. 8 (1): “DGSs shall ensure that the repayable amount is available **within seven working days** of the date on which a relevant administrative authority makes a determination as referred to in point (8)(a) of Article 2(1) or a judicial authority makes a ruling as referred to in point (8)(b) of Article 2(1)”. Art. 8 (5): “Repayment as referred to in paragraphs 1 and 4 may be deferred where:

- a) it is uncertain whether a person is entitled to receive repayment or the deposit is subject to legal dispute;
- b) the deposit is subject to restrictive measures imposed by national governments or international bodies;
- c) by way of derogation from paragraph 9 of this Article there has been no transaction relating to the deposit within the last 24 months (the account is dormant);
- d) the amount to be repaid is deemed to be part of a temporary high balance as defined in Article 6(2); or
- e) the amount to be repaid is to be paid out by the DGS of the host Member State in accordance with Article 14(2)”.



Full Matching

Essential Criterion 2:

EC: “To be credible, the reimbursement plan:

- a) has a **clear time frame** for implementation (e.g. **within two years**);
- b) is **supported by relevant laws, regulations, systems and processes** (e.g. intervention and resolution manuals); and
- c) has **clear and measurable deliverables**”.

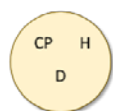
Handbook: “Such a plan, to be acceptable and credible, should include:

- a reasonable time frame (e.g. **not more than two years**) for implementation;
- specific intermediate steps including corresponding start and end dates;
- deadlines and corresponding deliverables;
- identification of adequate resources (staff and funds for obtaining external services) and an IT framework (e.g. within the bank or DI) to be able to implement the plan; and
- any necessary establishment or revision of relevant laws or regulations used to support the reimbursement target.

If the plan meets these conditions, a rating of C may be given. If the DI can reimburse most depositors within seven working days or has a credible plan to reach the target of seven days within a reasonable period (e.g. two years), the assessors may assign a rating of C or LC”.

DGSD: Art. 8 (2): “However, Member States may, for a transitional period **until 31 December 2023**, establish the following repayment periods of up to:

- a) **20 working days** until 31 December 2018;
- b) **15 working days** from 1 January 2019 until 31 December 2020;
- c) **10 working days** from 1 January 2021 until 31 December 2023”.



Full Matching

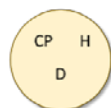
Essential Criterion 3:

EC: “In situations where reimbursement is triggered and there may be extended delays in reimbursements, the deposit insurer may make **advance, interim or emergency partial payments**”.

Handbook: “In situations where reimbursement is triggered and there may be extended delays in reimbursements, the DI may make advance interim or emergency partial payments to avoid hardship for depositors. The use of interim payments is aimed at mitigating the impact of significant, protracted payout delays that cause hardships for depositors. It is not proposed that interim payouts be used frequently or in the normal course of depositor reimbursements, as they may delay the payout process. The DI, through its public awareness programme, should ensure that such interim payments are made mainly to minimise hardship for small depositors, and do not imply potential insolvency of the deposit insurance fund”.

DGSD: Art. 8 (4): “During the **transitional period** until 31 December 2023, where DGSs cannot make the repayable amount available within seven working days they shall ensure that depositors have **access to an appropriate amount** of their covered deposits to cover the cost of living within five working days of a request. DGSs shall only grant access to the appropriate amount as referred to in the first subparagraph on the basis of data provided by the DGS or the credit institution. The appropriate amount as referred to in the first subparagraph shall be deducted from the repayable amount”.

Comments: The CP is not fully relevant for DGSs fulfilling the seven-day requirement.

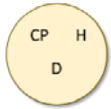


Full Matching

<i>Essential Criterion 4:</i>	
<p>EC: “In order to provide depositors with prompt access to their funds, the deposit insurer:</p> <ul style="list-style-type: none"> a) has access to depositors’ records at all times, which includes the authority to require banks to maintain depositor information in a format prescribed by the deposit insurer in order to expedite insured depositor reimbursement; b) has the authority to undertake advance or preparatory examinations (e.g. on-site and independently or in conjunction with the supervisory authority) on the reliability of depositor records, and has tested member institution’s IT systems and data to ensure the capability to produce such records; and c) has a range of reimbursement options⁹.” <p>Handbook: “There are three components in this EC:</p> <ul style="list-style-type: none"> a) The DI should have access to depositor records at all times and should have the authority to require banks to maintain and share with it DI information in a standard format (e.g. single customer view) created by the DI. The DI’s access to such records should be direct and not through the supervisory agency or the central bank (...). b) The DI has the ability to assess/test the reliability of depositor records. This provides the DI with the authority to conduct off-site and/or on-site examinations of banks, independently or in conjunction with the supervisory agency, to test and verify the accuracy and reliability of depositor records and the IT/data systems generating such records (...). c) The DI has a range of reimbursement options. These may include cash and cheque payments, electronic transfers, payment agent, ATM and transfer of deposits through closed bank P&A transactions (...).” <p>DGSD: Art. 4 (8): “Member States shall ensure that a DGS, at any time and upon the DGS’s request, receives from their members all information necessary to prepare for a repayment of depositors, including markings under Article 5(4)[eligible deposits]”. Art. 7 (6): “Member States shall ensure that DGSs may at any time request credit institutions to inform them about the aggregated amount of eligible deposits of every depositor”.</p>	
<p>Comments: Regarding point b) of EC 4, in May 2016 the EBA published the Guidelines on stress tests of deposit guarantee schemes, under the DGSD. The Guidelines state that DGSs should test various types of scenarios in which they might intervene. All DGSs should test the repayment to depositors whose deposits have been determined unavailable. They should also test their ability to contribute to orderly resolution proceedings with a view to ensuring continuous access to depositors’ funds. Where a DGS is entrusted with supporting the prevention of an institution’s failure, it should test its ability to do so, too.</p> <p>When conducting tests, DGSs should assess their performance in relation to a broad series of operational and financial capabilities, ranging from access to data, staff and other operational resources, communication and payment, funding resources etc. For each of the main areas, the guidelines provide for minimum indicators to be measured by DGSs.</p>	

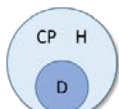
⁹These may include: cheque payments, electronic transfers, payment agents, cash payments, and the transfer of deposits through closed-bank P&A transactions.





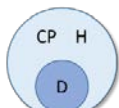
Full Matching

<i>Essential Criterion 5:</i>	
<p>EC: “The deposit insurer has the capacity and capability to promptly carry out the reimbursement process, including:</p> <ul style="list-style-type: none"> a) adequate resources and trained personnel (in-house or contractors) dedicated to the reimbursement function and supported with reimbursement documentation or manuals; b) information systems to process depositor information in a systematic and accurate manner; c) pre- and post-closing activities specified in closing documentation or manuals; and d) scenario planning and simulations, including simulations on bank closings with supervisory and resolution authorities”. <p>Handbook: “A rating of C or LC is appropriate if the DI has the capacity and capability to promptly carry out the reimbursement process, including adequate financial, human, and IT resources”.</p> <p>DGSD: Art. 4 (10): “Member States shall ensure that DGSs perform stress tests of their systems and that the DGSs are informed as soon as possible in the event that the competent authorities detect problems in a credit institution that are likely to give rise to the intervention of a DGS. Such tests shall take place at least every three years and more frequently where appropriate. The first test shall take place by 3 July 2017”.</p>	
<p>Comments: Full matching is achieved if the EBA guidelines on stress tests are considered.</p>	



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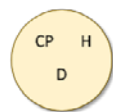
<i>Essential Criterion 6:</i>	
<p>EC: “A review (e.g. post mortem) following a bank failure is performed to determine and analyse elements of the reimbursement process (including the resolution procedures where applicable) which were successful or unsuccessful”.</p> <p>Handbook: “Such reviews can be cursory or very detailed depending upon the size of the failed bank, the primary cause of the bank’s failure and the reimbursement process used. A comprehensive assessment review merits a rating of C. An MNC or LC should be given depending on the post mortems’ scope. A rating of NC should be given in the absence of any post mortems”.</p> <p>DGSD: no reference.</p>	



Type 1 gap

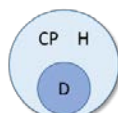
<i>Essential Criterion 7:</i>	
<p>EC: “An independent party conducts a periodic audit of the reimbursement process to confirm that appropriate internal controls are in place”.</p> <p>Handbook: “Every few years, the DI should conduct a thorough review of the entire disbursement process, and take appropriate corrective actions. Such reviews (also known as programme audits) should be conducted by an external independent organisation and should particularly focus on the effectiveness of internal controls built into the reimbursement process. The scope, frequency and independent nature of the review should guide the assignment of a compliance rating”.</p> <p>DGSD: no reference.</p>	





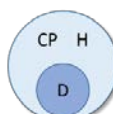
Full Matching

<i>Essential Criterion 8:</i>	
<p>EC: “If set-off of insured deposits against past due claims (e.g. debt service and arrears) or matured loans is applied, such application is timely and does not delay prompt reimbursement of insured depositors’ claims or undermine financial stability”.</p> <p>Handbook: “In cases where set-off/netting is applied to insured deposits, an advantage could be provided to certain uninsured depositors, and the reimbursement process could be delayed. Assessors should ascertain what procedure the DI has in place for applying set-off/netting and then determine if this is likely to delay the reimbursement process for most insured depositors. In such cases, an MNC or NC rating is warranted”.</p> <p>DGSD: Art. 7 (5): “Member States may decide that the liabilities of the depositor to the credit institution are taken into account when calculating the repayable amount where they have fallen due on or before the date on which a relevant administrative authority makes a determination as referred to in point (8)(a) of Article 2(1) or when a judicial authority makes a ruling as referred to in point (8)(b) of Article 2(1) to the extent the set-off is possible under the statutory and contractual provisions governing the contract between the credit institution and the depositor”.</p>	



Type 1 gap

<i>Essential Criterion 9:</i>	
<p>EC: “Working arrangements and/or agreements are in place with relevant clearing and settlement system agencies and liquidators, to ensure that transit items are dealt with in an appropriate, consistent and timely manner¹⁰”.</p> <p>Handbook: “Transit items should be subject to prior agreements among relevant parties (e.g. the bank or the DIS with relevant clearing and settlement system agencies and payment systems operators) to ensure that the items after a bank failure are dealt with in an appropriate and consistent manner, and as quickly as possible. The absence of any working arrangements and/or formal agreements would result in an MNC. If arrangements are specified but lack supporting guidance, a rating of LC would be appropriate”.</p> <p>DGSD: no reference.</p>	



Type 1 gap

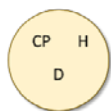
<i>Essential Criterion 10:</i>	
<p>EC: “In cases where the deposit insurer does not have the authority to act as a liquidator, the liquidator is obliged by law or regulation to cooperate with the deposit insurer to facilitate the reimbursement process”.</p> <p>Handbook: “Cooperation between the DI and the liquidator should be specified in laws or regulations, thus expediting the reimbursement process. Absence of such a requirement should result in a rating of NC”.</p> <p>DGSD: no reference.</p>	

¹⁰For more extensive guidance on ensuring prompt reimbursement, see: IADI, *Enhanced Guidance for Effective Deposit Insurance Systems: Reimbursement Systems and Practices*, 2013.



Core Principle 16 – Recoveries

“The deposit insurer should have, by law, the right to **recover** its **claims** in accordance with the statutory creditor hierarchy”.



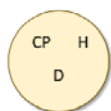
Full Matching

Essential Criterion 1:

EC: “The deposit insurer’s role in the recovery process is clearly defined in law. The deposit insurer is clearly recognised as a creditor of the failed bank by **subrogation**”.

Handbook: “Because of the possibility of the DI having multiple roles in the recovery process, these roles should be clearly defined in the law or regulation. If the roles are not formally specified, an MNC or NC rating should be given. The DI is clearly recognised as a creditor of the failed bank by subrogation”.

DGSD: Art. 9 (2): “Without prejudice to rights which it may have under national law, the DGS that makes payments under guarantee within a national framework shall have the right of **subrogation** to the rights of depositors in winding up or reorganisation proceedings for an amount equal to their payments made to depositors. Where a DGS makes payments in the context of resolution proceedings, including the application of resolution tools or the exercise of resolution powers in accordance with Article 11, the DGS shall have a claim against the relevant credit institution for an amount equal to its payments. That claim shall rank at the same level as covered deposits under national law governing normal insolvency proceedings as defined in Directive 2014/59/EU”.



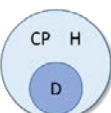
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Essential Criterion 2:

EC: “The deposit insurer has at least the **same creditor rights** or status as a depositor in the treatment in law of the estate of the failed bank”.

Handbook: “The DI has at least the same creditor rights or status as a depositor (including any preferred status) in the treatment in law of the estate of the failed bank. In jurisdictions where deposit insurance payments are generally made upon liquidation of a bank, the DI is usually subrogated to the rights of the insured depositors, and must file and actively manage and enforce the claim arising from the deposit insurance payments. The DI’s costs, when it is acting as a receiver, should be treated as administrative expenses”.

DGSD: Art. 9 (2): “(...)That claim shall **rank at the same level** as covered deposits under national law governing normal insolvency proceedings as defined in Directive 2014/59/EU”.



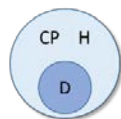
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Essential Criterion 3:

EC: “The deposit insurer, in its capacity as creditor, has the right of **access to information from the liquidator**, so that it can monitor the liquidation process”.

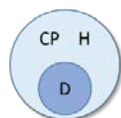
Handbook: “The DI’s right to access relevant information from the liquidator in its capacity as creditor should be specified in law. This is critical for the DI in order to monitor the liquidation process. If such rights are not specified in law, then an NC rating should be given. LC or MNC may be appropriate if the rights are specified in regulations or other official documents”.

DGSD: no reference.



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<i>Essential Criterion 4:</i>	
<p>EC: “The management and disposition of the assets of a failed bank in its asset management and recovery approaches is guided by commercial and economic considerations”.</p> <p>Handbook: “The management of the assets of the failed bank and the recovery process should be guided by commercial considerations and their economic merits. This means consideration of factors such as:</p> <ul style="list-style-type: none"> • quality of the assets; • depth and condition of markets; • use of net present value of assets to balance the competing goals of securing maximum value and early disposal; • legal requirements relating to the disposition of assets; and • availability of expertise in asset management and disposition”. <p>DGSD: no reference.</p>	



Type 1 gap

<i>Essential Criterion 5:</i>	
<p>EC: “Those working on behalf of the deposit insurer, other financial safety-net participants, and third party professional service providers providing resolution services are not allowed to purchase assets from the liquidator”.</p> <p>Handbook: “Third-party professional service providers to the failed bank or its estate, including certified public accountants, attorneys, appraisers, asset managers, and relevant IT service providers, are prohibited from buying assets from the liquidator. These restrictions on asset purchases are in place to avoid any abuse of inside information and a potential conflict of interest. If such restrictions are not provided through laws or regulations, an MNC or LC would be appropriate. This EC does not prohibit a public asset management company or deposit insurer from purchasing assets from the liquidator”.</p> <p>DGSD: no reference.</p>	

