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To: Scharnowski, Saskia
Subject: Depositor protection - updating the UK regime for EU requirements

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Depositor protection - updating the UK regime for EU requirements

13 November 2014

CP 20/14

PRA is consulting on changes to the FSCS regime. These changes are being made principally in order to meet the requirements of the recast Deposit Guarantee Schemes Directive (DGSD), but also involve changes to Single Customer View (SCV) and continuity of access requirements. These changes will bring some deposit taking firms into the scope of FSCS requirements for the first time. Firms that are already within the scope of the FSCS depositor protection regime will need to address a variety of operational changes.

In line with DGSD, the current FSCS depositor protection regime will be broadened and strengthened in various ways –

Larger corporates

Current protection is, essentially, only for individuals and SMEs. Under DGSD, larger corporates (other than financial institutions) will be protected. This will expand the scope of operational requirements (such as flagging) which will apply to more accounts/customers. It will also bring (approximately 46) 'wholesale only'

deposit takers into scope of the FSCS/Single Customer View regime for the first time.

Protection of temporary high balances (THBs)

Under DGSD, THBs arising in certain narrow circumstances will have additional protection above the normal protection limit of £85,000 (per depositor per bank). The deposits to which THB protection will apply include deposits relating to monies (i) for the purchase, or the proceeds from the sale, of a private property, (ii) relating to depositor's divorce or marriage, (iii) benefits paid on death or retirement and state benefits for incapacity or disability, (iv) a legacy or inheritance, (v) compensation for personal injury or death, wrongful conviction or unfair dismissal or (vi) benefits payable under an insurance policy.

THB protection will only be available for 6 months, but can survive movements from one account to another within that 6 month period. There will be up to £1 million of additional protection (above £85,000), but no limit will apply to payments in connection with personal injury or incapacity.

There will be no requirement to notify or flag accounts subject to THB protection at the time. Instead THB status will be determined by the FSCS after default and will be based on information provided by depositors to the FSCS at that stage.

Reducing the payout deadline

In line with DGSD, the payout deadline will be reduced from 20 working days to 7 working days (by the end of 2023), but the current target that a majority of eligible depositors be compensated within 7 calendar days will be retained. For those not so compensated, the DGSD requires emergency payments to cover the cost of living within 5 working days of a request.

Enhanced disclosure to depositors

An information sheet prescribed by DGSD will be used on bank account statements and there will be related changes to FSCS posters and stickers used in branches and on web sites. There are disclosure requirements for events, such as mergers, which may change FSCS coverage for depositors. In the case of mergers, depositors will have the right, for a, three month period, to withdraw (up to the covered amount) without penalty.

Single Customer View operational changes

There are broader/increased obligations on firms.

These include the loss of the opt-out for firms with less than 5,000 eligible accounts and reduced time in which to produce the SCV file (24, instead of 72, hours) and other changes to SCV requirements including greater standardisation of data. There are also provisions to address the complications of in-flight transactions (those that are not fully settled at the time of resolution). Firms' systems will also need to mark accounts covered by the depositor preference regime under the Bank Recovery and Resolution Directive (BRRD) (see section entitled 'Depositor preference' of our report on BRRD [here](#))

Continuity of access operational changes

Firms' systems must be able (at resolution) to freeze all accounts that do not contain eligible deposits (unmarked accounts) and to separate FSCS-covered and uncovered balances (after taking account of multiple accounts), so that uncovered balances can be transferred into separate accounts (and therefore only the covered balance remains in the unfrozen account). Compliance will be checked by a self-certification report (which should include a copy of any auditor's report on compliance), and then by a more intensive PRA assessment.

PRA says it would consider waivers. Continuity of access requirements do not apply to credit unions.

Funding of deposit protection

FSCS coverage would continue to be funded by ex-post levies/FSCS contributions (i.e. levies made after the collapse of a deposit-taker as well as contributions to the FSCS on an ongoing basis). If a call is made and banks cannot be levied immediately, then funding will be provided from the bank levy but recovered at a later stage from the banking sector via FSCS contributions.

Assessing the impact

These changes impact (approximately 166) UK and third country (non-EEA) banks, (approximately 45) building societies and (approximately 538) credit unions. One consequence of financial institutions not having protection under DGSD is that **credit unions (as financial institutions) will lose FSCS protection** where they have their own monies deposited, for example, at a bank or building society.

These firms need to review the detail of the changes, which broaden the scope of FSCS coverage/related obligations, to determine the impacts on their business.

Most of the requirements of DGSD, which is largely a **maximum harmonisation** directive, must be implemented by **3rd July 2015**. [Click here](#) to read our report on DGSD (including its implementation in Germany).

DGSD also has a regime for **EEA credit institutions** with branches in other EEA states. Under DGSD, whilst depositors at host state branches are the responsibility of the home state deposit guarantee scheme (DGS), the host DGS will act on behalf of the home DGS, including making payments to depositors on its behalf. Given the harmonisation under DGSD, PRA will cease the current arrangements for EEA credit institutions to join the FSCS in order to 'top up' the protection for their UK depositors.

Operational changes arise from all three areas – the directive driven changes, the changes to SCV and the continuity of access requirements. As one would expect, the direct cost of these changes is expected to be highest (relatively speaking) for wholesale-only depositor takers. The one-off costs for the DGSD and SCV changes are similar, but the costs arising from the continuity of access changes may be much greater (particularly for larger institutions).

PRA's proposals are set out in [CP20/14 published on 6th October](#). The CP was one of 4 consultations launched on that day which PRA grouped together under the heading 'resolution and resilience'. To read our report on UK bank ring-fencing [click here](#) and to read our report on one of the other consultations (insurance policyholder protection) [click here](#). The consultation on CP20/14 closes on 6th January 2015.

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