

Directive 2014/49/EU of the European Parliament and of the Council of 16 April 2014 on deposit guarantee schemes (recast) (Text with EEA relevance)

Article 11

Use of funds

1 The financial means referred to in Article 10 shall be primarily used in order to repay depositors pursuant to this Directive.

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.

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 provided that the following conditions are met:

- a the resolution authority has not taken any resolution action under Article 32 of Directive 2014/59/EU;
- b the DGS has appropriate systems and procedures in place for selecting and implementing alternative measures and monitoring affiliated risks;
- c the costs of the measures do not exceed the costs of fulfilling the statutory or contractual mandate of the DGS;
- d the use of alternative measures by the DGS is linked to conditions imposed on the credit institution that is being supported, involving at least more stringent risk monitoring and greater verification rights for the DGS;
- e the use of alternative measures by the DGS is linked to commitments by the credit institution being supported with a view to securing access to covered deposits;
- f the ability of the affiliated credit institutions to pay the extraordinary contributions in accordance with paragraph 5 of this Article is confirmed in the assessment of the competent authority.

The DGS shall consult the resolution authority and the competent authority on the measures and the conditions imposed on the credit institution.

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.

5 If available financial means are used in accordance with paragraph 3 of this Article, the affiliated credit institutions shall immediately provide the DGS with the means used for alternative measures, where necessary in the form of extraordinary contributions, where:

- a the need to reimburse depositors arises and the available financial means of the DGS amount to less than two-thirds of the target level;
- b the available financial means fall below 25 % of the target level.

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.