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CREDITO COOPERATIVO KEY CONCERNS REGARDING THE PROPOSAL OF A BRR

The gestation period of the proposal for Banks Recovery and Resolution (BRR) has been characterized by two extensive consultations led by the Commission during the last two years. Moreover, the Commission has provided communications about many issues related to the BRR, to frame and clarify the content of the proposal. As usual, the proposal finally adopted by the Commission is accompanied by an impact assessment that furthermore explains the problem dealt with by the proposal, its scope, objectives and the preferred policy options. Notwithstanding, we consider that a number of aspects, highly relevant for co-operative banks, need to be taken into account and certain provisions require clarifications. This document highlights our main concerns followed by our proposed amendments to the proposal.
The main questions we would like to raise are the following:

1. Consistency issues between the BRR proposal, the DGS, the CRD/CRR and the Banking Union

1) How to connect the treatment of cooperative solidarity systems in the CRD/CRR, the DGS proposal as adopted by the Euro Parliament and the BRR framework? While cooperative networks and their solidarity/guarantee and protection schemes are recognized in the CRD/CRR and in the DGS, they are not mentioned in the BRR proposal. Moreover, it will be essential for the co-legislators to ensure consistency across the files relating to the BRR, in particular DGS and CRD IV/CRR which have been in the legislative procedure for a longer time and for which the state of discussion is therefore more advanced.
2) Early interventions are ruled in the context of the DGS proposal as they are in the BRR. However, the wording used in the last proposal seems to ignore what it is said in the DGS proposal. How to reconcile the two texts? In relation to the DGS Directive, in our opinion the definition of early intervention in that directive refers to 'early' recovery phase with possibility to use DGS/IPS fund, while CMD/BRRD seems to refer to 'later' recovery

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phase almost towards resolution. In the BRR a reference should be made to the DGS Directive.

2. Specific issues

3) How to take into account the existence of cooperative solidarity systems in order to properly apply the principle of proportionality for recovery and resolution plans?
4) Why not considering cooperative mutual guarantee and protection schemes as financial arrangements required for the purposes of BRR? If they can be considered as financial arrangements that fulfill requirements laid down in the BRR proposal, will they be forced to merge with national resolution funds and later with the European resolution fund in the context of the Banking Union?
5) Does the Commission intend to maintain the roadmap laid down in the Communication of 12th September or will the Commission propose amendments to BRR proposal in order to accelerate the Banking Union project? (For example the setting at this stage of a unique European resolution fund?
6) Can the bail-in tool be applied without changing the specific legal nature of cooperative banks?

1. BRR, DGS AND CRD/CRR

1.1. COOPERATIVE NETWORKS SOLIDARITY SYSTEMS

The proposal of a BRR has strong ties with other legislation in force or under discussion. On one side, the scope of the proposal is identical with that of CRD. On the other side, the proposal completes the safety net alongside to the DGS Directive (under discussion) for the financial stability. However, in some few key points, the proposal seems to ignore provisions contained in those texts, mainly with regard to cooperative networks.

A key element of European co-operative banks is that they have established solidarity schemes a long time ago. The aim of these schemes is to prevent the failure of any individual bank belonging to the network. The aspects of collaboration and mutual support are deeply rooted in the co-operative philosophy. Most of these support schemes have been and still are in operation. These systems undertake prevention, early intervention and use resolution tools. However, nowhere in the crisis management framework their role is recognized and insert in the general framework.

The DGS text adopted by the Euro Parliament (Recital 9b-d) recognizes the existence of different way to set a DGS, according to member states traditions, the landscape of their banking industry, etc. What is of utmost importance is to provide common requirements with regard to core objectives, irrespective of the institutional form that a DGS may adopt. While ensuring a high level of consumer protection, a level playing field between credit institutions as well as

preventing regulatory arbitrages and/or completion, this approach proves to be balanced, respectful of diversity between member states and within the banking sector. Moreover, it promotes good practices that have been developed within certain sectors in the banking industry. It seems that the BRR has adopted a different approach. The cooperative sector in the banking industry throughout the Europe Union has developed safety nets that have proved to be effective in dealing with ailing banks without relying on tax-payers funds. In their day by day functioning, they perform core functions described in the DGS Directive and in the proposal of BRR, fully meeting objectives laid down in the proposal without any recourse to public funds. They have a consolidated experience on early interventions, recovery and resolution plans, statutory mechanism for financial support to members , etc. But, as the proposal looks now, this valuable tradition seems to have been missed.

1. 2. EARLY INTERVENTIONS

Art. 2 paragraph 1, point f-a of the DGS text adopted by the Euro Parliament defines early interventions as "preventive and supportive measures" and Art. 9 paragraph 5 of the same text sets out conditions to be meet in order to activate those measures. Art. 23 of the proposal for the BRR set out a series of measures that are defined as early intervention and Art. 24 deals with the special management measure. All those measures are taken before the formal triggering of the resolution phase. Straightforwardly, those articles in the DGS text as well as in the BRR proposal deal substantially with the same topic. However, their wording is not the same. What is unclear and may lead to confusion is authorities with power of initiative and their level of responsibility. In the DGS text, the deposit guarantee scheme is entitled with power of initiative on all measures defined as early interventions in cooperation with competent authorities. In the BRR, the initiative lies only with competent authorities as defined by Directive 2006/48/EC. At the current state of the two texts, confusion and somehow contradictions may be unavoidable.

Indeed, beyond the wording, there is an issue of substance between the two texts. While in the DGS text, early intervention can implied the use of financial resources of the scheme without formally entering a resolution phase, in the BRR text, early intervention measures don't include financial support from neither the DGS, nor from the resolution fund. In the BRR proposal, the use of financial resources from the resolution fund always implied that the resolution phase has been triggered.

Early interventions are a key step to prevent serious distresses. Therefore, it seems necessary to align definitions, contents and responsibilities between the two texts. We are of the opinion that early intervention means any action taken by competent authority or by the DGS in consultation with competent authority before the formal triggering of the resolution phase. When a DGS undertakes early intervention actions, it may decides whether to use financial resources or not.

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2. SPECIFIC ISSUES

2. 1. CRITERIA TO PROVIDE SIMPLIFIED OBLIGATIONS FOR CERTAIN INSTITUTIONS

Art. 4 of the proposed framework set out criteria for competent authorities to allow simplified obligations for certain institutions. Those criteria are:

- the nature of the business an institution undertakes;
- its size;
- its interconnectedness to other institutions or to the financial system in general, on financial markets;

It seems that one important criterion has been missed, i.e., the legal status or model of an institution. The addition of the legal status among criteria to be taken into account when dealing with recovery and resolution of ailing institutions is of the most importance. The banking sector within the Union is diversified not only having regard to the size, the complexity and the nature of business, but also to the legal status of institutions. Co-operative institutions by law, from this point of view are different to joint-stock companies. There may be mutual co-operative banks of small size and large size co-perative banks. There may be also joint-stock companies of small size, involved in traditional business models. The legal status of institutions is not necessary encompassed in the business model nor it's linked to the size. In the case of co-operative institutions, most of the key characteristics of their business model are an immediate consequence of their legal model. Having regard to the legal status, some resolution tools may be unsuitable to the co-operative legal status. This hold principally for the debt-write-down or the bail-in tool. Debt conversion would create problems regarding the governance of co-operative banks. This would not only require a modification of our cooperative structure, our cooperative identity but it would also be in complete opposition with the cooperative bank model (cf our dedicated position paper on the bail-in tool).

Another aspect missed in criteria to allow simplified obligations for certain institutions is the strategic organizational features of networking banks. Cooperative banks have solidarity mechanism/mutual guarantee schemes or institutional protection schemes according to Art. 80(8) of Directive 2006/48/EC which have the aim to internally prevent or orderly resolve a crisis. We consider it necessary that competent authority shall acknowledge and rely on these existing mechanisms for drawing up recovery and resolution plans in order to avoid the unnecessary imposition of administrative burdens on non systemic relevant co-operative banks. Where relevant, membership to an IPS or cooperative solidarity system should explicitly be allowed and be recognised as an integral part of recovery plans.

Therefore, we argue for a rationale application of the principle of proportionality and strict application of the principle of subsidiarity for recovery and resolution plans by taking into

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account co-operative solidarity mechanism. If competent authorities decide to maintain the obligation of recovery and resolution plans also for small institutions, the existence of IPSs for member institutions must be taken into account. In this case, IPSs should cooperate with competent authorities to ensure an adequate application of Art. 4, 1. Furthermore, IPSs must assist participating banks when they draw up recovery plans.

2. 2. FINANCING ARRANGEMENTS IN THE BRR PROPOSAL, DGS

In the BRR proposal, the deposit guarantee scheme can be used as a resolution financing arrangement (Art. 99, 5). For this purpose, it has to comply with requirements related to financing mechanisms set out in Art. 93 – 98. In the DGS text as it looks both in the Commission initial proposal and in the version adopted by the Euro Parliament, when it comes to financing mechanisms and with regard to safety nets set by cooperative banks, there is an implicit recognition of the plurality of its functions. We are of the opinion that those safety nets shall be considered as fulfilling financial arrangements required for the purposes of BRR.

2. 3. THREE REASONS TO OPPOSE AN INSURANCE SCHEME FOR THE FINANCING OF BRR AS PROPOSED BY THE RAPPORTEUR

A financing mechanism in the form of an insurance scheme seems a palatable formula. However it entails technical difficulties that may contradict policy objectives pursued by the BRR proposal and ultimately, the objectives declared in the current banking union project.

1. Technical difficulties stemmed in the way by which contributions (in this case insurance premia) are calculated. Actually, the draft report of Mr. Hokmark states that "contribution from each institution shall be pro-rata to the total amount of its liabilities, excluding own funds, with respect to the total liabilities, excluding own funds, of all the institutions authorized in the territory of the Member State". This formula is all but not a mode to calculate a fair insurance premium.
2. To be fair, an insurance premium needs to be founded on the probability that a bank will fail to honour its debt and the damage that such a failure will inflict to other (the systemic impact of the bank failure).
3. While at the moment some technics to calculate the probability of a bank not meeting its obligations on debts are available (for example those used in the pricing of credit default swaps or in the rating industry) and used in the funding market for banks, it shall be pointed out that many local and small banks are not covered neither need or want to be covered by rating agencies. Furthermore, it should be pointed out that currently, there is no consensus on how to assess the systemic impact of a bank failure.
4. An insurance scheme may contradict policy objectives pursued by the BRR proposal and the banking union project. Even if the proposal for an insurance scheme for the financing

of banks resolution seems consistent with the other proposal of the Rapporteur that is the stepping in of the State as the last resort, it may result contradictory with the objective to sever the link between banks debt and sovereign debts in Member States. In fact, if a fair insurance premium is to be paid to the State so that the State bears (even if as a last resort) the consequences of banks failure, instead of severing the current mutual reinforcing of banks debts and sovereign debts, it will ultimately reinforce it.

5. A last argument against an insurance premium scheme is that it will look clearly like a permanent tax on the shoulder of banks. As a matter of fact, without a target level for the resolution fund as the current proposal of the Rapporteur supposes, any bank will pay the premium until it exits the market, whatsoever the reason for exiting the market. A consistent target level for the resolution fund ensures that as this target level is reached, contributions from banks are lowered if not ceased.

2. 3. THE BAIL-IN TOOL (CF **ANNEX 1**)

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CREDITO COOPERATIVO AMENDMENTS TO THE PROPOSAL OF A BRR FRAMEWORK

I. SCOPE AND RESOLUTION AUTHORITY

Following the G20 commitments and FSB Key attributes, we expect that the proposed regime should also first and foremost be relevant for systemic-relevant credit institutions. Not all recovery and resolution tools are equally suitable for all sectors of the banking industry. The Directive should thus more clearly insist on, and bring forward, the importance of respecting the proportionality principle when it is implemented.

Suggestion for wording

Proposal for a Directive
Recital 10

Text proposed by the European Commission	*Suggestion for wording (EACB)*
National Authorities should take into account the risk, size and interconnectedness of an institution in the context of recovery and resolution plans and when using the different tools at their disposal, making sure that the regime is applied in an appropriate way.	National Authorities shall take into account the risk, size***, legal status, nature, scope and complexity of business activity,*** and interconnectedness of an institution and ***membership to an IPS as according to Art. 80(8) CRD or other cooperative mutual solidarity systems as according to Art. 80(7) CRD and Art. 3 CRD when applying the requirements under this Directive*** ~~in the context of recovery and resolution plans~~ and when using the different tools at their disposal, making sure that the regime is applied in ***a proprtionate*** and appropriate way.

As such, it is necessary to include a general and overall applicable principle of proportionality in the proposal. Mentioning the principle in Art. 4 is not sufficient as it is limited to the provisions on recovery and resolution plans.
We consider also that the legal status should be included as a parameter in the principle of proportionality. The banking sector within the Union is diversified. This is not only true as regards the size, the complexity and the nature of business, but also regarding the legal status of institutions. Co-operative institutions are by law different from joint-stock companies. The legal status of institutions is not necessarily encompassed in the business model nor is it linked to the size.

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Suggestion for wording – Principle of proportionality 2

Proposal for a Directive
Article 1a(new)

Text proposed by the European Commission	*Suggestion for wording (EACB)*
	The competent authorities shall ensure when establishing and applying the requirements under this Directive and when using the different tools at their disposal to take account of risk, size, legal status interconnectedness, the nature, the scope and the complexity of the activities of institutions andmembership to an IPS as according to Art. 80(8) CRD or other cooperative mutual solidarity systems as according to Art. 80(7) CRD and Art. 3 CRD.

Suggestion for wording –Legal certainty

Proposal for a Directive
Article 3 paragraph 1

Text proposed by the European Commission	*Suggestion for wording (EACB)*
Each Member States shall designate one or more resolution authorities that are empowered to apply the resolution tools and exercise the resolution powers**.**	Each Member States shall designate one or more resolution authorities that are empowered to apply the resolution tools and exercise the resolution powers ***having regard to the national legal system*****.**

We consider that the requirement to draw up a recovery plan should in principle only be applied to G-SIBs/D-SIBs following the FSB Key attributes. If a general exemption of the application of the whole directive on certain institutions is not intended, a waiver for the drawing up of recovery and resolution plans should be introduced.
Non systemic relevant credit institutions should not be obliged to develop recovery plans (see waiver in former Art 13 of the draft proposal) or be obliged to produce a' light touch' plan'.
It should be mentioned that cooperative banks have solidarity mechanism/mutual guarantee schemes or Institutional Protection Schemes (IPS) in place which have the aim an objective and aim to internally prevent or orderly resolve a crisis. We consider it necessary that competent authority shall acknowledge and rely on these existing mechanism for drawing up resolution plans in order to avoid the unnecessary imposition of administrative burdens on non-systemic relevant co-operative banks. Where relevant, membership to an IPS or cooperative solidarity system should explicitly be allowed and be recognised as an integral part of recovery plans. **Therefore, we argue for a rationale application of the principle of proportionality and strict application of the principle of subsidiarity for recovery and resolution plans by taking into account co-operative solidarity mechanism.**

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Suggestion for wording

Proposal for a Directive
Article 4 paragraph 1

Text proposed by the European Commission	*Suggestion for wording (EACB)*
Having regard to the impact that the failure of the institution could have, due to the nature of its business, its size or its interconnectedness to other institutions or to the financial system in general, on financial markets, on other institutions, on funding conditions, Member States shall ensure that competent and resolution authorities determine the extent to which the following apply to institutions:	Having regard to the impact that the failure of the institution could have, due to ***the legal structure of the institution,*** the nature of its business, its size or its interconnectedness to other institutions or to the financial system in general, on financial markets, on other institutions, on funding conditions, ***membership to an IPS as according to Art. 80(8) CRD or other cooperative solidairy systems as according to Art. 80(7) CRD and Art. 3 CRD,*** Member States shall ensure that competent and resolution authorities determine the extent to which the following apply to institutions:

In case smaller institutions are required to draw up a recovery plan, their adherence to an IPS or cooperative solidarity system should explicitly be allowed and be recognised as a recovery plan. In case an institutions which is a member of an IPS or cooperative solidarity system, a recovery plan should only be required at IPS level.

Suggestion for wording

Proposal for a Directive
Article 4 para. 1 (aa) new

Text proposed by the European Commission	*Suggestion for wording (EACB)*
....	***The obligation to draw up and maintain a recovery plan is not necessary for those institutions for which the failure, due to its reduced size or limited interconnectedness to other institutions or to the finanial system in general, would not have both in the case of an idiosyncratic event or at time of broader financial instability or system wide events, an adverse effect on financial stability including throuh contagion to other institutions. Competent authorities can define triggers after whose occurence even the aforementioned institutions have to draw up a recovery plan.***

II. EARLY INTERVENTION

In relation to the DGS Directive, in our opinion in the DGS Directive early intervention refers to 'early' recovery phase with possibility to use DGS/IPS fund, while BRR seems to refer to 'later' recovery phase almost towards resolution. We consider that the DGS Directive's definition

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should be received in order to encompass the whole recovery phase. In the BRR a reference should be made to the DGS Directive.

Suggestion for wording

Proposal for a Directive
Article2 paragraph 1 subaragraph b (new)

Text proposed by the European Commission	*Suggestion for wording (EACB)*
....	***'early intervention' means any action taken by a competent authority, or any preventive and supportive measures taken by the DGS where allowed or by the IPS in consultation with competent a authority before a resolution phase is formally declared***.

A key element of European co-operative banks is that they have established solidarity schemes a long time ago. The aim of these schemes is to prevent the failure of any individual bank belonging to the network. The aspects of collaboration and mutual support are deeply rooted in the co-operative philosophy. Most of these support schemes have been and still are in operation. As these systems do prevention, early intervention and use resolution tools, it seems desirable to acknowledge their role in the crisis management framework.

The importance of IPS should be addressed also in the context of the early intervention instruments. In their day by day functioning, they perform core functions and fully meet the objectives laid down in this proposal without any recourse to public funds. They have a consolidated experience in early interventions, recovery and resolution plans, statutory mechanism for financial support to members, etc. They should therefore be taken into account.

Suggestion for wording

Proposal for a Directive
Recital/Article 23

Text proposed by the European Commission	*Suggestion for wording (EACB)*
....	*Early interventions measures include also measures taken by a DGS or an IPS as supportive or preventive measures. In these cases, preventive or supportive measures may also take the form of granting guarantees, loans and all types of liquidity and capital assistance, including satisfying third-party claims*

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III. THE BAIL-IN

We have concerns that the proposed bail in tool could have serious consequences for cooperative banks. The bail-in tool is not adequate for co-operative institutions for legal and statutory reasons.

There is an urgent need to take certain particularities of co-operative banks on board especially with regard to the conversion of subordinated debt into equity and the scope of eligible debt. While we consider that the bail-in tool should be available, on a proportionate basis, to all types of banking institutions, as currently envisaged, the bail in mechanism is conflicting with the specific governance and business model / balance sheet of co-operative banks (for instance local or regional banks do not issue senior debt).

Instead of the conversion into equity tool, where possible co-operative banks should have the possibility to limit or exclude voting-rights of converted shares and be given a call option in order to exclude non-users/investors from holding capital when the situation allows and the bank has recovered and shares are at nominal value. Without such possibilities the debt equity conversion would be far more intrusive for cooperative banks than for any other bank.
Different solutions can be set up for co-operative banks such as 1) only write down 2) setting up of a bridge bank which will also be a cooperative so as the respect the rule that a cooperative can only be liquidated if another cooperative takes over. Due to the importance of cooperative banks in Europe, a specific solution must be found by the authorities.

Suggestion for wording

Proposal for a Directive
Art. 38(2)

Text proposed by the European Commission	*Suggestion for wording (EACB)*
Resolution authorities shall not exercise the write down and conversion powers in relation to the following liabilities: (a) deposits that are guaranteed in accordance with Directive 94/19/EC; (b) secured liabilities, (c) any liability that arises by virtue of the holding by the institution of client assets or client money, or a fiduciary relationship between the institution (as fiduciary) and another person (as beneficiary); (d) liabilities with an original maturity of less than one month; (e) a liability to any one of the following: (i) an employee, in relation to accrued salary, pension benefits or other	Resolution authorities shall not exercise the write down and conversion powers in relation to the following liabilities: (a) deposits that are guaranteed in accordance with Directive 94/19/EC; (b) secured liabilities, ***(ba) liabilities that are guaranteed by an institutional protection scheme meeting the requirement of art. 108(7) CRR;*** (c) any liability that arises by virtue of the holding by the institution of client assets or client money, or a fiduciary relationship between the institution (as fiduciary) and another person (as beneficiary); (d) liabilities with an original maturity of less than one month;

fixed remuneration, except for variable remuneration of any form; (ii) a commercial or trade creditor arising from the provision to the institution of goods or services that are essential to the daily functioning of its operations, including IT services, utilities and the rental, servicing and upkeep of premises; (iii) tax and social security authorities, provided that those liabilities are preferred under the applicable insolvency law. Points (a) and (b) of paragraph 2 shall not prevent resolution authorities, where appropriate, from exercising those powers in relation to any part of a secured liability or a liability for which collateral has been pledged that exceeds the value of the assets, pledge, lien or collateral against which it is secured. Member States may exempt from this provision covered bonds as defined in Article 22(4) of Council Directive 86/611/EEC38. Point (c) of paragraph 2 shall not prevent resolution authorities, where appropriate, from exercising those powers in relation to any amount of a deposit that exceeds the coverage under that Directive.	(e) a liability to any one of the following: (i) an employee, in relation to accrued salary, pension benefits or other fixed remuneration, except for variable remuneration of any form; (ii) a commercial or trade creditor arising from the provision to the institution of goods or services that are essential to the daily functioning of its operations, including IT services, utilities and the rental, servicing and upkeep of premises; (iii) tax and social security authorities, provided that those liabilities are preferred under the applicable insolvency law. Point (b) of paragraph 2 shall not prevent resolution authorities, where appropriate, from exercising those powers in relation to any part of a secured liability or a liability for which collateral has been pledged that exceeds the value of the assets, pledge, lien or collateral against which it is secured. Member States may exempt from this provision covered bonds as defined in Article 22(4) of Council Directive 86/611/EEC38. Point (a) of paragraph 2 shall not prevent resolution authorities, where appropriate, from exercising those powers in relation to any amount of a deposit that exceeds the coverage under that Directive. ***Point (ba) of paragraph 2 shall not prevent resolution authorities, where appropriate, from exercising those powers in relation to any amount of a liability that exceeds the coverage of the IPS.***

Article 39 (3)

Text proposed by European Commission	*Suggestion for wording*
3. The minimum aggregate amount pursuant to paragraph 1 shall be determined on the basis of the following criteria: (a) the need to ensure that the institution can be resolved by the application of the resolution tools including, where appropriate, the bail in tool, in a way that meets the resolution objectives; (b) the need to ensure, in appropriate cases, that the institution has sufficient eligible liabilities to ensure that, if the bail in	3. The minimum aggregate amount pursuant to paragraph 1 shall be determined on the basis of the following criteria: (a) the need to ensure that the institution can be resolved by the application of the resolution tools including, where appropriate, the bail in tool, in a way that meets the resolution objectives; (b) the need to ensure, in appropriate cases, that the institution has sufficient eligible liabilities to ensure that, if the bail in tool

tool were to be applied the Common Equity Tier 1 ratio of the institution could be restored to a level necessary to sustain sufficient market confidence in the institution and enable it to continue to comply with the conditions for authorisation and to carry on the activities for which is authorised under Directive 2006/48/EC or Directive 2006/49/EC; (c) the size, the business model and the risk profile of the institution; (d) the extent to which the Deposit Guarantee Scheme could contribute to the financing of resolution in accordance with Article 99; (e) the extent to which the failure of the institution would have an adverse effect on financial stability, including, due to its interconnectedness with other institutions or with the rest of the financial system through contagion to other institutions.	were to be applied the Common Equity Tier 1 ratio of the institution could be restored to a level necessary to sustain sufficient market confidence in the institution and enable it to continue to comply with the conditions for authorisation and to carry on the activities for which is authorised under Directive 2006/48/EC or Directive 2006/49/EC; *(c) the size, the business model and the risk profile of the institution;* ***(d) the amount of covered deposits of an institution that are guaranteed in accordance with Directive 94/19/EC;*** ***(e) the extent to which the membership in a risk mitigating cooperative solidarity system, which ensures the prevention of resolution events by reporting requirements and early interventions in the sense of the DGS Directive, could contribute to the financing of resolution in accordance with Article 99;*** *(f) the extent to which the failure of the institution would have an adverse effect on financial stability, including, due to its interconnectedness with other institutions or with the rest of the financial system through contagion to other institutions*.

Article 97 (4)

Text proposed by European Commission	*Suggestion for wording*
The Commission shall be empowered to adopt delegated acts in accordance with Article 103 in order specify the notion of adjusting contributions in proportion to the risk profile of institutions as referred to in paragraph 2 (c) of this Article, taking into account the following: (a) the risk exposure of the institution, including the importance of its trading activities, its off-balance sheet exposures and its degree of leverage; (b) the stability and variety of the company's sources of funding; (c) the financial condition of the institution; (d) the probability that the institution enters into resolution; (e) the extent to which the institution has previously	The Commission shall be empowered to adopt delegated acts in accordance with Article 103 in order specify the notion of adjusting contributions in proportion to the risk profile of institutions as referred to in paragraph 2 (c) of this Article, taking into account the following: (a) the risk exposure of the institution, including the importance of its trading activities, its off-balance sheet exposures and its degree of leverage; ***(ba) the existence of a risk mitigating cooperative solidarity system, which ensures the prevention of resolution events by reporting requirements and early interventions in the sense of the DGS Directive;*** (b) the stability and variety of the company's

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benefited from State support; (f) the complexity of the structure of the institution and the resolvability of the institution, and (g) its systemic importance for the market in question.	sources of funding; (c) the financial condition of the institution; (d) the probability that the institution enters into resolution; (e) the extent to which the institution has previously benefited from State support; (f) the complexity of the structure of the institution and the resolvability of the institution, and (g) its systemic importance for the market in question.

III. FUNDING

It is essential that IPS are considered expressively and formally in the Directive as the first and most useful prevention instrument and also regarding the amount of contributions (risk mitigating function). Where an IPS is recognized as a DGS, it should optionally be considered as financing arrangements according to the purpose of BRR.

Proposal for a Directive
Article 91paragraph 1

Text proposed by the European Commission	*Suggestion for wording (EACB)*
Member States shall establish financing arrangements for the purpose of ensuring the effective application by the resolution authority of the resolution tools and powers. The financing arrangements shall be used only in accordance with the resolution objectives and the principles set out in Articles 26 and 29.	Member States shall establish financing arrangements for the purpose of ensuring the effective application by the resolution authority of the resolution tools and powers. ***Institutional Proctection Schemes shall be considered as financing arrangements, provided that they meet the requirements laid down in art. 80(8) of Directive 48/2006/CE.*** The financing arrangements shall be used only in accordance with the resolution objectives and the principles set out in Articles 26 and 29

Art 94 para 7

Text proposed by European Commission	*Suggestion for wording*
7. The Commission shall be empowered to adopt delegated acts in accordance with Article 103 in order specify the notion of adjusting contributions in proportion to the risk profile of institutions as referred to in paragraph 2 (c) of this Article, taking into account the following: (a) the risk exposure of the institution, including the importance of its trading	*7. The Commission shall be empowered to adopt delegated acts in accordance with* *Article 103 in order specify the notion of adjusting contributions in proportion to the* *risk profile of institutions as referred to in paragraph 2 (c) of this Article, taking into* *account the following:* *(a) the risk exposure of the institution, including the importance of its trading*

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activities, its off-balance sheet exposures and its degree of leverage; (b) the stability and variety of the company's sources of funding; (c) the financial condition of the institution; (d) the probability that the institution enters into resolution; (e) the extent to which the institution has previously benefited from State support; **(f) the complexity of the structure of the institution and the resolvability of the institution, and** (g) its systemic importance for the market in question.	*activities, its off-balance sheet exposures and its degree of leverage;* ***(b) the existence of a risk mitigating cooperative solidarity system, which ensures the prevention of resolution events by reporting requirements and early interventions in the sense of the DGS Directive;*** *(**c**) the stability and variety of the company's sources of funding;* *(**d**) the financial condition of the institution;* *(**e**) the probability that the institution enters into resolution;* *(**f**) the extent to which the institution has previously benefited from State support;* *(**g**) its systemic importance for the market in question.*