



## Malta Bankers' Association

25 May 2012

Dr Anton Felice  
Chairman  
Depositor Compensation Scheme Management Committee  
c/o Malta Financial Services Authority  
Notabile Road  
Attard BKR 3000

Dear Dr Felice,

### Consultation Document on the setting up of a Fast Payout Mechanism & Reform of Reporting Requirements

We refer to the captioned document which was published on 30 March 2012 and give you hereunder our Association's feedback:

**1. Electronic Information Transmission:** In the case of smaller banks which do not have numerous deposits, it may not be feasible to create an automated I.T. system to provide the required data. An alternative solution would be for them to capture the data on spreadsheets, save these as comma separated files, and upload the files to the provided FTP location. We understand that this would be acceptable, provided that the required data is captured on standard templates, corresponding to the five templates attached to the Consultation Document.

**2. Single Customer View (SCV) Unique Customer Identifier:** Those banks which allocate a unique customer number to their clients propose using that unique number in this field, rather than creating a new incremental customer identifier. This should equally serve the purpose of linking accounts held by the same account holder.

The data type of this field should be changed to alphanumeric to cater for the different client account formats from different banks. We will ask the individual banks to let us know the format of their unique customer numbers, and will inform you accordingly.

**3. Beneficiary Accounts:** The Consultation Document states on Page 7 (under "Class2") that *"...the failed credit institution will also be required to provide the Scheme within a period of time agreed with the Management Committee, with a list of the SCV identification numbers and account numbers of all beneficiary accounts reported in Template B, together with the following data on each respective beneficiary: Name, ID Number, Contact Details (Mail Address, Email Address, Telephone Number), Beneficiary's Share on the Account"*. Once a bank has failed, these details (most of which will not be known to the bank) will have to be obtained directly by the Scheme from the relative trustee, notary/lawyer holding a clients' account, etc.

**4. Communication with a credit institution in respect of which a determination has been made:** The DCS is recommending (on page 9 of the Consultation Document) that *"...all credit institutions should nominate an official in possession of the necessary authority and with access to the credit institution's records in order to respond to the information requirements of the DCS"*. This does not appear to us to be workable. Once a bank fails, staff will be discharged or the employees themselves will choose to move off. Moreover, the appointed administrator/liquidator will assume full control/authority, and should therefore be the Scheme's point of reference.

#### **5. Template A:**

- Customer Identification Number – In the case of "other entities", the banks do not record the entity's income tax registration number in their systems. Therefore, completion of this field should not be mandatory.
- Name of commercial partnership or other entity - We suggest that the proposed field length (50) is increased.
- Address – Banks are unable to split the address into six fields as requested. At best, the country could be shown in a separate field. Some banks may even be able to show the postcode separately, but this may not apply to all the banks.
- Telephone number / Email address – Completion of these fields should not be mandatory, as this information is not always held. Also, when the telephone number field is populated, the country code may not always be included.
- Internet Banking – A customer's subscription or otherwise to internet banking is not necessarily recorded in the banks' main system, and this information may therefore not be captured. In any case, what purpose does this serve once internet banking will no longer be accessible upon a bank's failure?

#### **6. Template B:**

- IBAN – This information serves no useful purpose and the relative field should be deleted.
- Account Type – We would point out that that a credit card positive balance could also feature in this field.

- Account Status Code – Banks are not in a position to provide all the Indicator Codes specified for Case 2 and Case 3 deposits. We will request the individual banks to inform us which of the codes they can/cannot provide, possibly also indicating the number of accounts involved.
- Please note that on page 7 of the Consultation Document, the third paragraph under “Class 3” should read: *“In the event of a current or savings account which is partially blocked, the blocked amount should be reported as a **Class 3** record on its own. The unblocked amount must be reported as a separate **Class 1** record in the same Template”*. We also understand that two Class 3 records should also be raised in the case of a partially blocked term deposit account.
- “Blocking” of a balance due to the existence of “Uncleared Effects” at the time of determination does not appear to have been specifically addressed. We feel that this requires further discussion and clarification.
- Interest amount – Please note that this could be a negative amount, despite the account being in funds at the time of reporting.
- Another aspect which we feel requires further consideration relates to the instructions given by customers regarding the deduction or otherwise of Final Withholding Tax when interest is paid.

#### 7. Template C:

- Liability Account Balance / Interest Amount – Although no reference is made to joint accounts in these fields, it stands to reason that, as in the case of deposit accounts, only the joint account holder’s share of the liability should be included in these fields. This is being stated only for the avoidance of any doubt.

#### 8. Template D1:

- Account Details Class – We take it that this field should be left blank when the template refers to Claims.

#### 9. Schedule LD 7:

- Please note that the indicated ranges beyond € 100,000 should read *“over € 100,000 and up to € 150,000”*; *“over € 150,000 and up to € 300,000”*, etc.
- Paragraph B(v) of Annex 2 states that eligible deposits held in any nominee account, trust account or other beneficiary account must be reported in full under both “eligible deposits” and “covered deposits”. Therefore such balances should best be grouped under a separate heading. However, if the account holding bank has information which establishes that the underlying beneficiary / beneficiaries is/are not eligible for compensation in terms of the First Schedule to the Regulations, then such balances should be excluded from the return.
- In the final paragraph of B (ii) in Annex 2, the words *“any interest credited”* should read *“any interest accrued”*.

- We feel that paragraph 2.3 on page 3 of Annex 2 should more appropriately read: *“Reporting agents should assume that a company qualifies for compensation unless such company is clearly identified as not meeting the criteria indicated in 2.1 above”*.

**10. Possible amendments to existing Regulations - Stakeholders’ views have been sought in relation to the following aspects of the existing regulations:**

**(a)** The compensation regarding fixed term deposits to be payable within the prescribed compensation period instead of on maturity of the deposit:

Both the existing Directive as well as the draft Recast Directive define a deposit as *“...any credit balance .....which a credit institution must repay under the legal and contractual conditions applicable”*. The legal and contractual conditions applicable to a fixed term deposit are that the deposit is repayable on maturity. Paying compensation within the prescribed compensation period rather than on maturity would impose a heavier cash flow burden on the Scheme. We therefore favour retaining the current provisions of Regulation 19(2)(b) which states that *“any compensation in respect of an eligible deposit shall only be payable as and when the deposit becomes due”*.

As regards interest, the Recast Directive contains a new Article 6(6) which states that *“Interest on deposits which has accrued until but has not been credited at the date on which the competent authorities make the determination.....shall be reimbursed by the Deposit Guarantee Scheme. The limit referred to in Article 5(1) shall not be exceeded”*. This applies equally to fixed term deposits.

**(b)** All compensation payments to be effected in Euro only:

The draft Recast Directive contains a new Article 5(4) which states that *“Deposits shall be paid out in the currency in which the account was maintained”*. As such, there would be no scope in amending the existing Regulation 17(2) which makes a similar provision.

**(c)** The elimination of the right of set-off against a customer in the calculation of the customer’s compensation:

The Recast Directive contains a new Article 6(4) which states that *“Liabilities of the depositor against the credit institution shall not be taken into account when calculating the repayment amount”*. An amendment has been moved to add the words *“except for liabilities of the depositor which are due on the reference date”* to this Article. The existing Regulation 19(1)(c), which allows full set off, will therefore have to be amended in due course when the Recast Directive finally goes through. Meanwhile, however, we would prefer leaving matters as they stand for the same reason mentioned under (a) above.

We look forward to a continued ongoing dialogue between our Association and the Scheme Management Committee with a view to facilitating the smooth implementation of the proposed Fast

Payout Mechanism by all concerned within a reasonable period. Given the extent of the task involved, our members' initial estimate is that an 18 to 24 month timeframe is likely to be needed.

Yours sincerely

[SIGNED]

**James Bonello**  
**Secretary General**