



UNIDROIT SECRETARIAT FEEDBACK

ON PROPOSED REVISIONS TO THE IADI CORE PRINCIPLES FOR EFFECTIVE DEPOSIT INSURANCE SYSTEMS

Thank you very much for the opportunity to submit comments on the proposed revisions to the *IADI Core Principles for Effective Deposit Insurance Systems* (IADI CP).

Several of the proposed changes concern issues that are addressed in the [*UNIDROIT Legislative Guide on Bank Liquidation \(2025\)*](#) and we are pleased to note the general alignment. See, for instance, the draft guidance on “creditor hierarchy and depositor preference” (p. 20 of the proposal – Chapter 8 of the UNIDROIT Legislative Guide), the greater attention to the potential use of the deposit insurance fund to support non-payout measures by means of a dedicated draft Principle (p. 44 of the proposal – Chapter 7 of the UNIDROIT Legislative Guide), and the references to sale of assets and liabilities “also in liquidation” (p. 5 and 9 of the proposal – Chapter 6 of the Legislative Guide).

We hereby submit some suggestions for your consideration:

- The term “liquidation” seems to be used in different ways in the proposal:
 - “Liquidation” is defined as *“the winding-down (or “winding-up” as used in some jurisdictions) of the business affairs and operations of a failed insured deposit-taking institution through the orderly disposition of its assets, settling debts and distributing remaining funds to creditors and shareholders after its licence has been revoked. In some jurisdictions, “liquidation” is synonymous with “receivership.”* This language is similar to the current definition (2014 version of the IADI CP) and essentially refers to what is referred to as “piecemeal liquidation” in the UNIDROIT Legislative Guide.
 - In the Introduction and the definition of “resolution”, however, reference is made to *“sale of assets and liabilities also in liquidation under insolvency law”*. We welcome the explicit reference to the option of sales as a going concern in liquidation and support this broader use of the term “liquidation”— in line with the approach in the UNIDROIT Legislative Guide (where liquidation encompasses both piecemeal liquidation and sales as a going concern). It could be considered to use the term “piecemeal liquidation” as a precision of “liquidation” in the IADI CP where appropriate.
- In the reference to “sale of assets and liabilities also in liquidation under insolvency law” you may wish to consider deleting the phrase “under insolvency law”. The UNIDROIT Legislative Guide on Bank Liquidation advises jurisdictions with a dual-track regime to set out provisions governing bank liquidation proceedings in a dedicated bank liquidation law, while the integration of such provisions in the banking law or general business insolvency law are alternatives (see Recommendation 1 of the UNIDROIT Legislative Guide).
- We suggest adding a reference to the UNIDROIT Legislative Guide on Bank Liquidation as a reference for international guidance on bank liquidation frameworks that complements the *FSB Key Attributes of Effective Resolution Regimes for Financial Institutions*. This could be done in Section V “Conditions Affecting the Effective Implementation of the Core Principles” (e.g., in the sentence on p. 14 starting with “Relevant background information ...” or on the top of

p. 17). If needed to avoid confusion, it could be explained that the UNIDROIT Legislative Guide is not intended to serve as standard or code used in countries' assessment by international organisations; it is rather a tool for legislators and policy makers seeking to introduce or amend bank liquidation frameworks.

- We observe that the reference to "transferring deposits to another bank" has been deleted from Principle 2, Essential Criterion 4 in the proposal. Similarly, the sentence "Resolution and depositor protection procedures are not limited to depositor reimbursement" seems to have been deleted from Principle 14, Essential Criterion 4. We assume this is because the possibility of using deposit insurance fund (DIF) resources for non-payout measures is addressed (with different language) in draft Principles 14 and 16. However, such explicit sentences were useful to encourage jurisdictions to consider allowing the use of DIF resources to facilitate transfers of assets and liabilities. The UNIDROIT Legislative Guide (Chapter 7) explains that there are significant advantages to allowing such use of DIF resources in bank liquidation proceedings as an alternative to payout.
- We observe that footnote 16 (old) on the possible exclusion of certain types of deposits for protection seems to have been deleted in the proposal. The UNIDROIT Legislative Guide on Bank Liquidation refers to examples in that footnote in the guidance on the ranking of certain deposits (interbank deposits and related parties) in Chapter 8, Section C of the Legislative Guide.
- In case of a "gross" contribution to a transfer as referred to in draft Principle 16, Essential Criterion 3(d), there may be a need for a separate legal basis to file a claim in the liquidation of the residual entity to receive a "net" result, as noted in paragraph 328 of the UNIDROIT Legislative Guide on Bank Liquidation (footnote 175).

We hope these comments are useful and remain available for any questions or clarifications.