

# APEC Policy Dialogue on Deposit Insurance

KUALA LUMPUR, MALAYSIA  
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Asia-Pacific  
Economic Cooperation

**CDIC**

Canada Deposit Insurance Corporation  
A Leader in Deposit Insurance



## Discussion Paper Framework APEC Policy Dialogue on Deposit Insurance

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# I. *Legal Protection and indemnification*

1. There is a need to protect the staff (e.g. employees, directors, agents) of deposit insurers and other financial safety-net system participants against civil and criminal lawsuits for their actions taken in “good faith” while discharging their mandates.
2. Protection needs to be codified in legislation and administrative procedures; it should be automatic; and include the full coverage of legal costs for those indemnified.

## *Legal Protection and indemnification* (cont'd)

3. Legal protection of staff must coexist in an environment where there are clear mandates and a strong accountability framework. This involves having appropriate oaths of office and codes of conduct in place with enforcement provisions.
  
4. Provisions regarding secrecy and confidentiality regarding all documents, information and records pertaining to matters dealt with by the deposit insurance entity need to be in place.

## II. *Governance and Interrelationships*

1. The sound governance of agencies comprising the financial system safety net strengthens the financial system's architecture and contributes directly to system stability.
2. The four major elements comprising sound governance of agencies are: independence, accountability, transparency and integrity. All are equally important and reinforce each other.
3. Independent and accountable safety net organizations -- insulated from undue political and industry influence – have more integrity, credibility and legitimacy than entities lacking such independence.

## *Governance and interrelationships* (cont'd)

4. Experience shows that a separate, independent and accountable deposit insurance entity within a country's financial safety net is the best option available to promote the elements of sound governance.
5. This arrangement also provides the most effective incentives for the control of moral hazard and forbearance affecting a deposit insurer. It also provides for greatest protection of the interests of small depositors; more balanced and effective decision-making; and more extensive external monitoring of potential conflicts than entities lacking such independence.

## *Governance and interrelationships* (cont'd)

6. A deposit insurer's interrelationship needs vary according to its mandate and powers, but the need for close coordination and information sharing among safety-net participants is essential in all cases.
7. Information sharing among all safety-net participants is essential for an effective deposit insurance system. Such information should be timely, accurate and relevant with due respect given to maintaining confidentiality when required.
8. Formal information sharing arrangements either through legislation, memoranda of understanding, legal agreements or a combination of these techniques is necessary.

## *Governance and interrelationships* (cont'd)

9. The most important and effective way to promote smooth coordination on the part of financial safety net participants is to provide for a clear mandate and division of powers and responsibilities among them. Formal arrangements are necessary in providing a general framework for safety net participants to coordinate their related activities.

### III. *Trigger Mechanisms for Early Intervention and Failure Resolution*

1. In a competitive financial system banks can and do fail. Financial-system safety net providers must ensure that a framework exists for the prompt detection, intervention and resolution of troubled or failed banks. This helps reduce the social costs of failures, contributes to stability and reduces the likelihood of future crises.
2. Institutional arrangements for early intervention need to include clear roles and responsibilities and objectives for all safety net participants. This involves ensuring that the intervention and resolution framework is well defined, transparent and understood by safety-net participants and individual banks.



## *Trigger mechanisms* (cont'd)

3. Institutional arrangements for early intervention and failure resolution need to be supported by strong regulation and supervision, sound accounting and disclosure regimes; and an effective legal system.
4. Personnel involved in the intervention regime require legal protection and indemnification, accountability frameworks, independence and sufficient resources to fulfill their duties and obligations.
5. Information sharing and coordination among the various agencies that make up the safety-net, particularly when dealing with troubled banks, should also be addressed as part of the framework associated with an early intervention resolution system.

## *Trigger mechanisms* (cont'd)

6. The intervention framework should not be strictly legalistic or rules-based nor should it be based entirely on discretion. A balance between these points needs to be struck.
7. The determination and recognition of when a bank is in serious financial difficulty should be made early and on the basis of well defined and transparent trigger mechanisms by safety net participants with the independence and legal authority to act.
8. Because a bank's financial performance and capital position can deteriorate quickly, single measures such as capital insolvency or illiquidity may not be sufficient. Effective trigger mechanism should include a variety indicators based on appropriate measures of financial "non-viability" criteria.

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