REPORT ON STRUCTURED DEPOSITS

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Contents

List of figures

Executive summary

Articles 39(2) and 41(1) of the Market for Financial Instruments Regulation mandate the European Banking Authority (EBA) to monitor the market for structured deposits (SDs) and to temporarily prohibit or restrict the marketing, distribution or sale of SDs. In addition, the European Commission has requested that the EBA issues recurrent reports on the cost and past performance of SDs. With this report, the EBA fulfils this mandate and request.

Based on the input provided by NCAs, the report confirms an observation the EBA had made already previously, which is that robust data on national markets for SDs is difficult to obtain, due to the specific characteristics of SDs. Contrary to most financial instruments, which, once issued, continue to be available to investors and can be traded, SDs are contracts between the provider and the depositor that are non-transferable. SDs are therefore generally less liquid, and information about those products is publicly less available than for financial instruments.

Using the information provided, the report finds that in more than half of the 27 national markets SDs do not exist, that the EU market in aggregate remains very small, and that the market has not significantly changed in terms of size, number of providers, and variety of products since the last time the EBA carried out this exercise in 2018. Across the 11 EU Member States in which SDs are sold and for which the NCAs provided data, 16.7 billion EUR of SDs were sold during the reference period of the report (of 1 January to 30 September 2023). 95% of these issuances were concentrated in only 4 Member States, which also were the few jurisdictions for which increases in the number of offerings and volumes sold were reported, albeit at a very low level. Across the EU, the total value of SDs sold range from 2 million EUR to 10 billion EUR, showing a disparity in market penetration and investor interest.

Measuring the cost and past performance of SDs, in turn, requires performance data that is limited because SDs can usually not be redeemed early, which significantly reduces the number of reimbursements that can be measured, and because the market value of the underlying asset is often not publicly available. The limited data available indicates that the annual net returns on the SDs exhibit a wide range. Some SDs offer no return, other show positive returns, with one product achieving an annual net return up to 24%. This suggests that while some SDs may offer substantial gains, they are also susceptible to market conditions that can result in zero or minimal returns. In terms of the cost of SDs, different types might in principle impact investors' net return, such as entry costs, ongoing costs, and exit cost for early withdrawal. However, while some NCAs have started to collect more robust data on costs and past performance, the data was insufficient to carry out a robust assessment.

The report also assessed the risks arising to investors as a result of SDs and finds that, although SDs can have certain product features that investors need to know and be informed about, such as the inability to withdraw early, the caps on some returns, and the exposure to exchange rate fluctuations on maturity, the risk of extensive detriment is limited, due the fact that SDs are repayable at par at maturity and also protected up to 100 000 EUR per customer and account.

In terms of supervisory actions taken, a small number of NCAs implemented data reporting requirements specific to SDs. In the case of the prohibition or restriction of the marketing, distribution or sales of SD, three NCAs have used this particular empowerment: one issued a moratorium signed by all banks in its jurisdiction not to distribute to retail clients structured products in general that are considered particularly complex, an NCA restricted an advertisement for SDs on the social media site of a particular provider, and another NCA has also issued a recommendation, back in 2016, for banks not to issue SDs with more than two years to maturity.

1. Background

1. Article 39(2) of the Regulation (EU) No 600/2014 (MiFIR)[1] mandates the EBA to "monitor the market for structured deposits which are marketed, distributed or sold in the Union." In addition, Article 41(1) of MiFIR provides that "EBA may [...] temporarily prohibit or restrict in the Union: (a) the marketing, distribution or sale of certain structured deposits or structured deposits with certain specified features; or (b) a type of financial activity or practice […]."

2. As part of the implementation of the Capital Markets Union (CMU) Action Plan, in 2017, the European Commission (EC) sent a formal request to the three European Supervisory Authorities (ESAs), including the EBA, to issue reports on recurrent basis on the cost and past performance of the main categories of retail investment, insurance and pension products (hereafter 'the EC request')[2]. Products covered by the EC request are packaged retail and insurance-based investment products (PRIIPs) and personal pension products. In respect of the former, structured deposits (SDs) is the only product category that also falls under the EBA's consumer protection remit and for which the EBA is therefore providing the requested response via this report.

3. According to the EC request, the report should be based on data and information originating from disclosures and reporting already required by Union or national law. In view of this, as a first step, the EC request asked the ESAs to map existing requirements under Union or national law for pre-contractual disclosures and reporting to investors with the aim of better understanding the relevant information that is being published by manufacturers and distributors of the categories of the products in scope. The mapping conducted by the EBA between December 2017 and February 2018 reviews the specific regulatory requirements on pre-contractual and/or reporting EU requirements in relation to SDs in EU and national law.

4. As a second step, the EC requested that the ESAs develop a methodology for the first iteration of their respective reports, based on which the ESAs would subsequently collect and process the data, and finally issue the first iteration of the reports on the cost and past performance of the categories of products in scope. Similarly, the first iteration is meant to serve also as a basis for the further development of the reporting over time and should therefore include a description of data gaps and other difficulties faced during the development of the reports, including any recommendations for the consecutive reporting cycles.

[1] see http://data.europa.eu/eli/reg/2014/600/2024-01-09
[2] see https://finance.ec.europa.eu/system/files/2017-10/171013-request-to-esas-to-report_en.pdf

5. In fulfilment of this mandate and request, the EBA submitted to the EC and published a short report[3] in January 2019 with its findings on the cost and past performance and the results from its monitoring of the SD market in the EU. The report showed very low volumes of SDs issuances across the EU, possibly as a result of the low interest rate environment at the time, and very limited information available on the costs and past performance of SDs. The monitoring and reporting were therefore paused during subsequent years.

6. As the interest rate environment changed significantly in 2022/23, with the European Central Bank's deposit facility, for example, having been increased 4 times in 2022 and 5 times in 2023, the EBA decided to resume its work on SDs, by repeating the exercise of 2019 and producing its finding in the report on hand. The methodological approach was similar to the one used in 2018: the EBA launched a survey with NCAs to gather information on the national markets for SDs and the observations of NCAs from their market monitoring, including whether NCAs have reasons to believe that the intervention powers granted under Articles 41 and 42 of MiFIR may have to be deployed by NCAs or the EBA.

7. NCAs provided information, some of which based on a representative sample of providers of SDs and/or information stated in the Key Information Documents (KIDs) that banks are required to disclose when they sell a SD under Regulation (EU) No 1286/2014 (PRIIPS Regulation). Some NCAs also visited banks' websites to check the KIDs.

8. Akin to the first EBA report of 2019, the report describes the typical features of SDs (Chapter 2), disclosure and reporting requirements for SDs (Chapter 3) and presents the data sources used to prepare the report (Chapter 4). The report provides also an assessment of national markets for SDs and their recent evolution, including the size of national markets and the cost and past performance of SDs (Chapter 5), as well as an overview of the risks arising to investors from SDs, and supervisory activities (Chapter 6). The final chapter presents the measures the EBA aims to put in place to improve the quality of potential future iterations of this exercise (Chapter 7).

[3] see: https://www.eba.europa.eu/sites/default/files/documents/10180/2551996/05de2b20-4597-46b9-b720-1b78b7c0750a/EBA%20Report%20on%20structured%20deposits.pdf

2. Definition and typical features

9. SDs are legally defined in Article 4 (43) of MiFID II[4] , according to which a SD is a “deposit as defined in point (3) of Article 2(1) of Directive 2014/49/EU of the European Parliament and of the Council[5] , which is fully repayable at par at maturity on terms under which interest or a premium will be paid or is at risk, according to a formula involving factors such as:
    a. an index or combination of indices, excluding variable rate deposits whose return is directly linked to an interest rate index such as EURIBOR or LIBOR;
    b. a financial instrument or combination of financial instruments;
    c. a commodity or combination of commodities or other physical or non-physical nonfungible assets;
    d. a foreign exchange rate or combination of foreign exchange rates.”

10. In addition, akin to other deposits, the amount invested in SDs benefits from the protection of the European Deposit Guarantee Scheme Directive (2014/49/EU) (DGSD), which guarantees that deposits up to 100 000 EUR, or the equivalent amount in national currency, will be repaid even if the bank offering them fails. Investors buying SDs therefore qualify as ‘depositors’, even though MiFID II, and for consistency reasons therefore this report, too, refers to them as ‘investors’.

11. In terms of typical features, SDs are a subset of the wider product category of ‘structured products’. Structured products can be defined as a type of fixed-term investment the return of which is linked to the performance of some defined indices or reference assets (the ‘underlying’). There are a number of forms that structured products can take, called ‘wrappers’, such as securities and deposits. The focus of the EBA work is on deposit-based structured products, i.e. SDs.

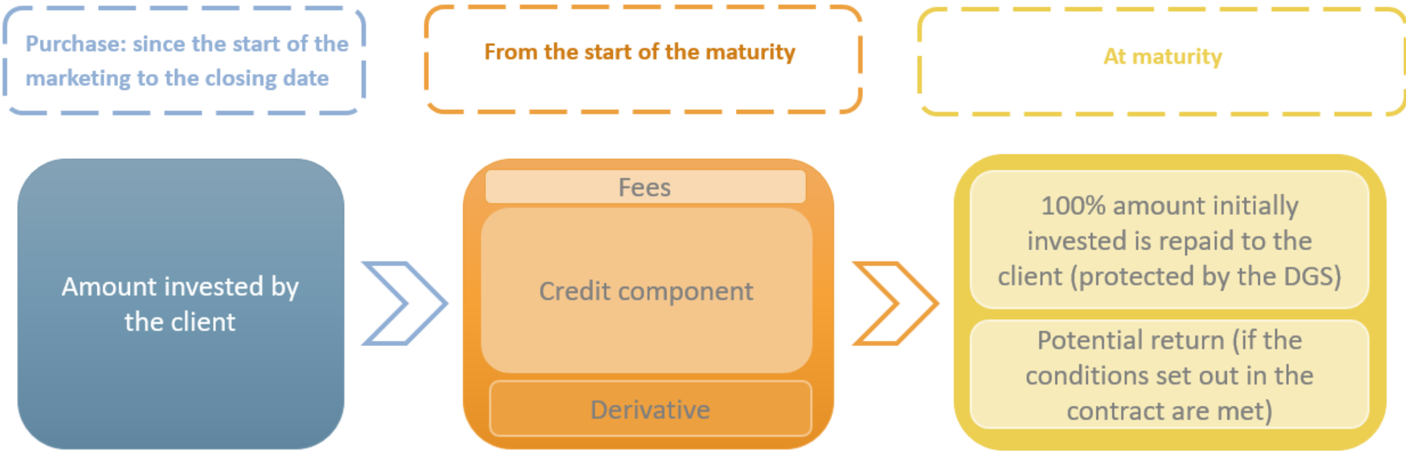
12. SDs, as well as structured products more generally, tend to have the following characteristics:
    i. Fees: some portion of the investment accrue directly to the bank as fee revenue.
    ii. Credit component: the full amount deposited is made available to the bank, which is then generally free to use that money for any investment purpose it sees fit. In this respect, a SD is therefore no different from a bond[6.]
    iii. Derivative: the bank spends some portion of the amount received from the investor in a derivative or combination of derivatives (depending on the complexity of the structure) to replicate the conditions offered to the investors. The derivative

[4] see: http://data.europa.eu/eli/dir/2014/65/oj
[5] see: http://data.europa.eu/eli/dir/2014/49/oj
[6] A bond is a fixed income investment in which an investor loans money to an entity which borrows the funds for a defined period of time at a variable or fixed interest rate.

ensures that the bank will be able to pay to the investor the return agreed if the conditions set out in the contract are met.

13. Figure 1 below describes the life cycle of a SD from inception to maturity.

Figure 1: Life cycle of a structured deposit from inception to maturity



3. Disclosure and reporting requirements

14. According to the EC request, the reporting should be based on data and information originating from disclosures and reporting already required by Union law (e.g. MiFID II/MiFIR, PRIIPs Regulation[7]) or national legislations. To this end, the EBA has mapped existing requirements under Union or national law for pre-contractual disclosures and reporting to investors with the aim of better understanding the relevant information that is being published by manufacturers and distributors for SDs.

15. In terms of EU requirements, the PRIIPs Regulation increased the level of transparency of SDs, through the publication of a KID, which provides information on product characteristics, including the total cost and expected performance of all PRIIPs. However, the PRIIPs KID does not contain information on past performance; and does not introduce reporting requirements on PRIIPs to NCAs, neither before the sale of the PRIIP nor afterwards.

16. MiFID II introduced new requirements for providing information to clients on SDs, notably information on cost and charges. However, MiFID II did not introduce any reporting requirements from credit institutions to NCAs on SDs (e.g. volumes, costs, performance). Reporting requirements on the volume of deposits also exist under the Capital Requirements Regulation (CRR). However, these requirements do not require to submit data that is broken down specifically to SDs.[8]

17. Finally, the DGSD provides that the EBA shall collect information on the level of deposits that are protected by a DGS in each Member State (the level of "covered deposits"). However, the data collected is aggregate and is also not broken down to the level of SDs.

18. In terms of national measures taken, only a small number of NCAs reported recent legislative or regulatory initiatives in respect of SDs. These include the introduction of reporting requirements for SDs since July 2023 in one Member State.

[7] see: http://data.europa.eu/eli/reg/2014/1286/oj

4. Data sources

19. The EBA conducted a survey with NCAs to collect the relevant data for this report. The survey requested NCAs to report aggregated data on the market of SDs as well as data on individual SDs contracts with a view to their cost and past performances. This included the number of products sold in the period from 1 January 2023 to 30 September 2023, the total value of the SDs sold in the reference period (in EUR), the number of firms involved, the most common payout structures observed (up to three, and if known), such as digital/all-or-nothing, podium, autocallable, participation or caps/floors. Finally, the data collected by NCAs covered, the most common types of underlying asset (up to three, and if known), as well as the share of the total value of SDs sold by type of client (retail, professional, eligible counterparty).

20. The survey also requested input from NCAs on the risks to investors, the supervisory activities and mitigating measures taken at the national level.

21. In order to provide a response to the survey, NCAs resorted to various method for collecting the data. As depicted in table 1 below, one of the most frequent methods used were ad hoc requests to a sample of banks in the NCAs jurisdiction. Only 4 NCAs (ES, MT, PT and IT which only started in July 2023) based their estimate on data gathered in response to reporting requirements for banks. Finally, a large number of NCAs did not use any source of data as they reported that no SDs exist in their markets.

Table 1: Sources of data used by National Competent Authorities

Source	NCA
Ad hoc request to a sample of banks	AT, CY, CZ, ES, FR, LU, MT, SI, SK
Regular reporting from banks	ES, IT[8], MT, PT
Desk based research	AT, MT
Ad hoc request to all banks	EE, BG
Ad hoc request to trade associations	DE
PRIIPS Key Information Document (KID)	IT
No response received	EL, RO
No data sources used [9]	BE, DK, FI, HR, HU, IE, LT, LV, NL, PL, SE

22. 25 out of 27 NCAs provided responses to the survey indicating that data on SDs is not readily available across the EU. This is inter alia a reflection of the specific characteristics of SDs, because contrary to most financial instruments, which, once issued, continue to be available to investors (e.g., open-ended funds, securities traded on secondary markets), SDs are contracts between two parties (bank and investor) and are non-transferable. As a result, SDs are, in general, not only less

[8] Data collected on the basis of reporting requirements, which started only in July 2023 and allow the NCA to follow the market activity of each financial institution on a monthly basis

[9] It involves also NCAs which have not reported any SDs in their MS or do not have any competence to supervise SDs.

liquid, but information about those products, including on the price of SDs at a given moment, as there is for financial instruments traded on secondary markets, is also less available than for financial instruments.

23. Many NCAs, therefore, do not seem to have much quantitative information on the size of the market for SDs, and even less on the cost and past performance. In addition, to the extent that data provided by NCAs on their respective national markets for SDs is based, not on regulatory reporting requirements but, for many of them, on surveys of a sample of banks or of trade associations, said data should not be assumed to be comprehensive.

5. National markets and their evolution

24. The survey responses yielded insights into the relevance of SDs in national markets and their recent evolution, the structure of the SDs markets and the cost and past performance of SDs contracts. The responses are reproduced in detail in the Annex, and a summary is provided below.

5.1 Size of national markets for structured deposits across the EU

25. For the assessment of the size of national markets and its evolution, the survey requested to include aggregated data on SDs contracts concerning SDs sold in the period from 1 January 2023 to 30 September 2023. Only 11 NCAs (AT, BG, CZ, ES, FR, IT, LU, MT, PT, SI, SK) were in a position to provide aggregated data for that period on the values of SDs sold, as shown in more detail in the Annex. For these 11 Member States, the SDs market amounts to 16.7 billion EUR for the first nine months of 2023.

26. All 25 NCAs stated that the significance of SDs in their respective national market was low, and most of them added that SDs represent a small percentage of overall deposits and that the market has not significantly changed in terms of size, number of providers, and variety of products since the previous report from 5 years ago.

27. Some NCAs reported even a decrease in the number of providers (AT, BG, CY, CZ, DE, FI, MT, PT, SI, SK). For example, one NCA (BG) reported that since the publication of the last EBA report the number of providers of SDs dropped from three banks (representing 0.23% of total deposits in the Member State) to one bank (representing 0.11%). And another NCA (DE) stated that most banks have ceased to offer SDs altogether. Other NCAs, still, reported that there is no market for SDs at all (BE, CY, DK, EE, HR, HU, IE, LT, LV, SE), which in one case (BE) was partly due to the NCA having called upon the financial sector not to distribute to retail clients structured products that are considered particularly complex[10] , while another (IE) explained that the market for SDs, and structured products more widely, is directed towards corporate clients operating in the financial sector, e.g. professional investors, and not retail clients.

28. The value of SDs sold in the reference period varies significantly across the EU. Based on the data collected from NCAs, the total value of SDs sold range from 2 million EUR to 10 billion EUR for the referenced period of 1 January to 30 September 2023, showing a disparity in market penetration and investor interest. The varying SDs value across the EU indicate differing levels of market acceptance and investor confidence. Higher value suggests products

[10] The NCA explains that the moratorium applies to the distribution to the average individual investor of structured products that are considered particularly complex. These structured products include products that have a derivative component. The moratorium applies to such products regardless of the form in which they are sold – UCIs, insurance contracts, notes or deposits. In order to create a level playing field for all structured products, there is no distinction by the NCA, in its intervention, on the basis of the packaging of the structured product.

that have either been better received or marketed more effectively. Lower values might indicate more specialized products or those that did not meet broader market needs.

29. Only two NCAs (ES, FR) reported a noticeable increase of SDs: One NCA (FR) reported that the number of providers and the nature of the products offered remained stable but the issuance value of SDs by the sampled banks nearly quadrupled, from 524 million EUR in 2018 to 1 559 million EUR for the first three quarters in 2023. Another NCA (ES), reported that the retail SDs market slowed significantly in 2020 and 2021, but it recovered in 2022 when volume sold to retail clients was three times the volume in the previous year, and again in 2023. Although the total market of SDs in the aggregate deposits in that Member State grew to 10.2 billion EUR in 2023, SDs remain a small part of the retail market for financial instruments. This NCA also explained that only a small number of 13 banks offer these products, with the top five banks representing 98% of the volume.

30. Finally, in the case of PT, the NCA specified that the market for SDs had steadily decreased between 2019 and 2022, with 80 SDs contracts having been offered to clients in 2018 and 2019 each, which dropped to 37 in 2022, after which it began increasing again, reaching 67 in September 2023. The value sold dropped from 1.7 billion EUR in 2018 to 0.2 billion EUR in 2021, and then increased to 2.46 billion EUR, in September 2023. The number of banks selling SDs decreased from 8 (in 2018) to 5 (2021) and again increased to 10 (September 2023).

31. In summary, the report finds that in more than half of the 27 national markets SDs do not exist, that the EU market in aggregate remains very small, and that it has not significantly changed in terms of size, number of providers, and variety of products since the last time the EBA carried out this exercise. Across the 11 EU Member States in which SDs are sold and for which the NCAs provided data, 16.7 billion EUR of SDs were issued during the reference period of the report of January to September 2023. 95% of these issuances were concentrated in only four Member States, which also were the few jurisdictions for which increases in the number of offerings and volumes sold were reported, albeit at a very low level.

5.2 Cost and past performance of structured deposits

32. The survey responses provide a general overview of the cost and past performance of SDs in a limited number of Member States (AT, BG, CZ, ES, FR, LU, MT, PT, SK), with a focus in particular on the term (in months), maturity date of SD contracts offered, the underlying assets, as well as the costs with only three Member States (BG, ES, PT) providing detailed data related to entry and exist costs but for SDs having different underlying assets.

33. The scope of the data requested covers SDs sold from 1 January to 30 September 2023. However, NCAs were requested to focus their responses on SDs matured from 1 January 2021 to 30 September 2023 because investors usually hold SDs until maturity and as a result past performance before maturity may not be representative of investors’ performance. In fact, SDs usually do not allow for early redemption, which reduces the number of early reimbursements and the representativeness of performance before maturity. Also, the calculation of past performance of non-matured products may not be easy since the market

value of the derivative embedded in the SD may not be publicly available and, as a result, needs to be calculated on a case-by-case basis.

34. Regarding the maturity of the SD contracts offered in those specific Member States, the survey results suggest that the offered maturity periods vary significantly across products, reflecting the diverse needs of investors. As can be seen in more detail in the annex, some products have short-term maturity periods, ranging from a week to a year or in a few cases beyond a year (e.g. 2, 5, 10 or even 17 years), providing flexibility for investors with different investment horizons.

35. The underlying assets of the financial products for those Member States primarily include foreign exchange rates, with a resultant focus on the potential benefits or risks associated with currency movements. Member States also used as underlying, baskets of shares or stock indexes rather than individual stocks, interest rate indices like the EURIBOR and LIBOR, commodity indices and finally financial instruments. Regarding foreign exchange rates, some of the products offered across the EU are linked to specific national currencies while others offer a choice of currencies, which allows investors to access different currency markets, potentially mitigating risks associated with fluctuations in specific currencies.

36. To be able to evaluate the cost and past performances of SDs, the survey asked NCAs to report SDs contracts that matured in the period from 1 January 2021 to 30 September 2023, rather than those being sold in 2023.

37. In terms of costs, they vary among the SDs and the specific Member States which reported them (BG, ES, PT), including entry costs, ongoing costs, and exit costs. Entry costs may differ in those Member States based on the product and the issuing institution. Some products may have one-off entry costs, while others may have ongoing or recurring costs deducted from investment returns. Additionally, exit costs, if applicable, can impact investors' returns, especially if they decide to withdraw their money before the maturity date. A notable trend is the absence of retail distribution costs across the different types of SDs. The lack of distribution costs suggests that the SDs might be designed for specific client segments where costs are managed differently than in traditional retail investment products.

38. The net returns on the SDs exhibit a wide range. Some SDs offer no return, other show positive returns, with one product achieving an annual net return up to 24%. This suggests that while some SDs may offer substantial gains, they are also susceptible to market conditions that can result in zero or minimal returns.

39. Considering the above, the report concludes that, while some NCAs have started to collect more robust data on the cost and past performance, the data collected do not allow the EBA to draw robust conclusions on the cost and past performance of SDs across the EU.

6. Risks arising to investors, and supervisory activities

40. This chapter provides an overview of the risks arising to investors from SDs and the supervisory activities undertaken or planned by NCAs to mitigate those risks.

6.1 Risks arising to investors from structured deposits

41. The majority of NCAs have identified no or very limited risks arising to investors from SDs, which they attribute to the low or non-existent issuance volumes of SDs, to their observation that many SDs are not bought by retail customers but by corporate clients operating in the financial sector, e.g. professional investors. The NCAs also consider that the risks are low because SDs are repayable at par at maturity, they are protected by a DGS under the DGSD of up to 100 000 EUR per bank and client, and the payout value only depends on the chosen underlying assets and payout structures.

42. NCAs also cite MiFIR, MiFID II and the PRIIPs Regulation as having introduced substantial changes applicable to SDs, including conduct of business requirements for entities that design and sell SDs, and market monitoring mandates and intervention powers for the EBA and NCAs. For example, one NCA (PT) reported that, since the PRIIPs Regulation entered into force in 2018, all SDs marketed in the Member State have been classified with a Summary Risk Indicator (SRI) of the two lowest categories (of 1 or 2) [11].

43. However, SDs as a product category have features that investors should be aware of:

- It is generally not possible for the investor to cancel SDs before maturity, so once investors have deposited the money, they have no access to it until maturity. And should an early withdrawal be permissible, the provider is likely to charge high penalties;
- If the SD chosen by the investor has a currency denominated according to the currency of the Member States in which the SD is being marketed, the investor is exposed, as any other financial products, to currency fluctuations in the event that it exchanges the money into another currency after maturity; and
- Returns from SDs that are linked to an underlying asset such as an index can be capped at a predetermined level, so investors will not benefit further should the index rise above the cap.

44. A consumer protection risk increases for investors if they are not fully aware, and are not sufficiently informed by sales staff, of these features prior to taking out such a product.

[11] The PRIIPs regulation assigns each product a single SRI from a range of 1 to 7. The SRI is a standardised risk indicator that takes into account both, the volatility of a financial instrument (market risk) and the creditworthiness of the issuer (credit risk).

6.2 Supervisory activities at national level

45. This chapter provides an overview of supervisory activities at national level, including the supervisory initiatives undertaken, and current or planned prohibition or restriction of the marketing, distribution or sale of certain SDs.

46. In terms of supervisory activities undertaken, the majority of NCAs did not report any specific actions due to the limited or nonexistent market for SDs, the low risk profile, the low volume sold to retail clients in particular, with the exception of 2 NCAs (IT, FR) that launched surveys on SDs in 2020 and 2021 respectively. Other NCAs indicated that they carried out a risk-based assessment of firms (IE) or collected periodic information on the volume of SDs sold to retail investors as part of their market monitoring. One NCA (ES) also indicated that it recently revised the placement of SDs by a firm where issues were identified with regards to the information provided to customers regarding the costs of SDs.

47. Another NCA (PT) explained that, since 2010, it has put in place requirements for banks to report on a quarterly basis the amounts sold in SDs, and the returns paid on those deposits that matured over the same quarter, together with the obligation, since 2018, to pre-notify the KIDs of their SDs. The information gathered from banks, and subsequently checked, is then made available to the general public, through the bank´s customer website and the annual conduct supervision reports.

48. This NCA also explained that, since mid-2016, it issued a recommendation for banks to refrain from issuing SDs with a maturity in excess of 2 years, and no structured deposit was subsequently traded outside of that maturity limit, with the average term of 20 months for new deposits issued in the year up to September 2023. Furthermore, active advertising requires a formal approval by the NCA, which has resulted in campaigns being more informative and fact-based than promotional.

49. One NCA (MT) explained that they intend to carry out a supervisory exercise in the very near future specifically on SDs and another NCA (IT) stressed that even if no risks have been identified at national level, the NCA will continuously monitor it to be able to identify and address any emerging risks in a timely manner.

50. With regard to the prohibition or restriction of the marketing, distribution or sales of SD, which is an empowerment that MiFID2 and MiFIR conferred on NCAs and the EBA, NCAs were requested to indicate the extent to which they have used said empowerment. NCAs were also requested to mention the identification of any features, activities and practices in their respective markets that gave rise to significant consumer protection concerns or poses a threat to the orderly functioning of financial markets or to the stability of the financial system (which in turn would fulfill the conditions for an NCA to prohibit or restrict said SDs).

51. Most NCAs did not use the empowerment and did also not identify any concerns, with the exceptions of one NCA (BE) that called upon the financial sector not to distribute to retail clients structured products that are considered particularly complex. In that regard, the NCA

set a moratorium on the distribution of particularly complex structured products, which was signed by all distributors in the Member State. An NCA (PT) has also issued, back in 2016, a recommendation for banks not to issue SDs with more than two years to maturity. And another NCA (MT) restricted an advertisement on a social media post that used the term ''guarantee'', because the performance of the SD was in fact not guaranteed. The issue was identified via desk-based research and was infringing the NCA's Conduct of Business rules. The remedial action taken included two elements:

a. the inclusion of the information of who is the guarantor on the Facebook post. The bank explained that the Facebook post now leads directly to the page of the structured product. On this page the investor can find a summary of the features of the product together with the Term Sheet, supplementary information, and the PRIIP documentation, and which all can be downloaded.

b. a modification in the disclaimer form regarding the fluctuation of the price and value of the respective SDs. The bank included the following statement to ensure that the fluctuation in valuation is taken into account, ''the Bonus Interest Payment linked to the performance of the index is not guaranteed. The income you get from this investment may go down as well as up and past performance is not a guarantee to future performance.''

52. Concerning the areas which may be subject to an investigation, one NCA (ES) identified issues regarding the information provided to clients, including the calculation of costs in the KID documents, as well as product governance issues.

7. Potential improvements to future reports

53. The EC request states that where appropriate, the report should contain recommendations to improve the methodology for the consecutive reporting cycles on cost and performance of structured deposits.

54. The EBA acknowledges that the information and data on which this report is based is not sufficiently comprehensive and consistent to be able to carry out robust assessments. This situation can be improved by imposing more uniform and more extensive reporting requirements on NCAs, and via NCAs also on the providers of SDs. However, before doing so, the EBA needs to arrive at an appropriate balance between fulfilling the mandate to monitor SDs and the request to report on their cost and past performance on the one hand and avoiding excessive reporting burdens for NCAs and the industry on the other.

55. Given that SDs do not exist in many national markets, that issuance volumes continue to remain low across the EU, and that the level of risk arising to investors from SDs is also low, the EBA will not immediately implement measures that are aimed at improving future reports. Instead, the EBA will continue to monitor the market and, in case issuance volumes will significantly increase, will then assess the merits of implementing potential improvements or the next reports, including the following:

    - Rely more systematically on the information contained in the KIDs as imposed on banks for SDs under the PRIIPs Regulation;

    - Include a benchmark for the performance and the costs of SDs, which could be the performance and the costs of a particular fixed term deposit of the same maturity, signed at the same date;

    - Harmonise in greater detail the format of the data reported by NCAs to the EBA (and by banks to NCAs), in particular the measurements, currencies, date formats, format to express performance (e.g. annualised vs. cumulative); and

    - Extend to additional NCAs the method of gathering data from banks, or a sample of banks, directly, which could then, in those markets where SDs apparently do not exist, include a question whether the bank has in the past considered issuing SDs and, if so, why it has not done so.

Annex: Aggregated data for national markets for structured deposits in the reference period 01/01/2023 – 30/09/2023

Country	Products sold	Total value sold (in EUR)	Number of firms	Average (initial) term	Most common payout structures	Most common types of underlying asset	Share of volumes sold by type of client
AT	2	1 938 424	1	3 months	- Caps	FX exchange rate	Eligible counterparty: 100%
BE	No structured deposits were sold to retail investors in the reference period						
BG	3	79 000 000	1	52 months	Fixed rate + participation	Stock index	Retail: 100%
CZ	31	1 684 973 741	N/A	1 month per year	- Implicit European foreign exchange option: bank decides whether it will be paid in the currency of the deposit or in another agreed currency. - Guaranteed minimum interest yield (zero or greater than zero) increased by the denomination of the digital binary currency option if the condition is met,	Currency	Non-professional: nearly 100%
CY	There is no market for structured deposits. Only two banks offer structured products, which are not structured deposits.						
DE	132	Information not available	14	3 months to 7 years.	- Exclusively bank deposits (saving deposits) with an agreed notice period of regularly three months and, in some cases, a notice blocking period or a fixed term.	Information not available	Information not available
DK	There is no market for structured deposits						

Country	Products sold	Total value sold (in EUR)	Number of firms	Average (initial) term	Most common payout structures	Most common types of underlying asset	Share of volumes sold by type of client
EE	There is no market for structured deposits. 9 CIs and 4 branches of CIs operating in Estonia and none of them in the reference period offered structured deposits						
EL	No response received						
ES	16.844	10 202 000 000	5	1,5 year	- Information not available	Equity, Foreign exchange/interest rate	Retail: 87%; Professional 13%; Eligible counterparties: 1%
FI	Stable market, with only one bank having structured deposits in its product range.						
FR	427	1 558 803 308	4	3,8 years (weighted average).	- Call/put - Fixed rated - Dual currency investment	- Exchange rates or combination thereof - Indexes or combination thereof; - Financial instruments, emission units or combinations thereof	Professional: 77% Retail: 9% Eligible counterparties: 14%
HR	There is no market for structured deposits						
HU	There is no market for structured deposits. Firms offer so-called dual currency deposits which represent a negligible part of the total deposit volume and are generally available and sold to institutional and corporate clients , thus they raise no significant investor protection concerns.						
IE	There is a very limited retail market for structured deposits, with only one bank offering structured products, none of which are retail.						
IT	17	32 000 000	3	1 year to 10 years	- Dual currency deposits, generally with a maturity of 1 year, non-callable, which provide for repayment upon maturity in the currency that has devalued in the reference period; - Structured deposits, which provide for the payment of periodic coupons linked to a reference index	- Exchange rates or combination of exchange rates - Underlying index	Professional: 100% Retail: (potential)

Country	Products sold	Total value sold (in EUR)	Number of firms	Average (initial) term	Most common payout structures	Most common types of underlying asset	Share of volumes sold by type of client
LT	There is no market for structured deposits						
LV	There is no market for structured deposits						
LU	127	102 463 000	4	26 days to 1 month	- Dual currency deposits. Yield return in either the investment or alternative currency based on option payout of spot rate at maturity relative to strike price	- Foreign exchange rate - Precious metals (not used during the reference period)	Retail: 69.5% Professional: 28.5% Eligible counterparties: 2%
NL	No information available						
MT	1	7 154 840	1	5 years	- Capital guaranteed SD Account offering an annual Fixed Interest Rate and an additional Bonus Interest payment under predefined conditions.	- Underlying index	Retail: 100%
PL	No information available						
PT	67	2 468 025 547	10	19.6 months	- Digital / all-or-nothing - Participation with caps and floors	- Baskets of shares - Shares indexes	Retail 100%
SE	There is no market for structured deposits						
SI	2	4 150 000	1 (broker)	Minimum 20 units / €20k	- SDs are autocallable	- GLOCLAMB Index; - IXTAD50 Index	Retail: 100%
SK	13	520 000 000	3	7 days – 13 months	- Digital	FX	Retail: 100%

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