



# **POLICYHOLDER PROTECTION SCHEMES AND RESOLUTION MEASURES**

## **European Meeting of Insurance Guarantee Schemes**

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## POLICYHOLDER PROTECTION SCHEMES AND RESOLUTION MEASURES

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- » IAIS – Issues Paper (October 2013)
- » Oxera – Insurance Guarantee Schemes in the EU (November 2007)
- » European Commission – Consultation on a Possible Recovery and Resolution Framework for Financial Institutions other than Banks (2012)
- » FSB – Key Attributes of Effective Resolution Regimes for Financial Institutions

## UK POLICYHOLDER PROTECTION

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- » Policyholder Protection Act 1975
- » FSCS – UK insurance guarantee scheme
  - Financial Services and Markets Act 2000
- » Insolvency Act 1986 and Insolvency (Administration) Regulations
- » Prudential Regulation Authority
  - › statutory objective of policyholder protection
- » EU Directive on the reorganisation and winding up of insurance undertakings (2001/17/EC)
  - › priority of insurance claims (and IGS)
- » HM Treasury – Financial Sector Resolution: broadening the regime (August 2012)

## UK INSURANCE “RESOLUTION”

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- » Insolvency event
  - › liquidation/provisional liquidation or administration
  - › regulatory determination
- » Portfolio transfer
- » Scheme of Arrangement (composition)
- » “Cramdown” of policy values
- » FSCS to fund continuity
  - › transfer of policies/issue of substitute policies
  - › costs test
- » FSCS to provide “financial assistance” for carrying on of insurance business
- » FSCS to meet claims (90%)
  - › duty on IP to assist

## UK BANK “RESOLUTION”

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- » Banking Act 2009 (as amended)
- » EU – Bank Recovery and Resolution Directive
- » Bank liquidation
  - › FSCS – deposit payout or transfer
- » Stabilisation options
  - › all/partial property transfer
  - › bridge bank
  - › bail in
  - › temporary public ownership
- » Resolution authority – Bank of England

## UK - INSURANCE RESOLUTION v. BANK RESOLUTION

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- » Insurance dependent on company (in insolvency)
- » No administrative process (e.g. to transfer insurers/property)
- » No 'bridge' institution to maintain business and preserve value
- » No bail in process
- » No "nationalisation" option

## ISSUES ARISING

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- » No tool to ensure continuity (without private sector 'volunteers')
- » No emergency measures available to maintain critical functions and/or protect financial stability
- » Risk to continuity of business
- » No clear funding base for emergency measures

## FSB APPLICATION OF THE ATTRIBUTES OF EFFECTIVE RESOLUTION REGIMES TO NON-BANK FINANCIAL INSTITUTIONS (CONSULTATIVE DOCUMENT, 12 AUGUST 2013)

- » Resolution measures for “systemic” insurers (Appendix II)
  - › avoid severe systemic disruption or exposing taxpayers to loss
- » Control, manage and operate the insurer or bridge institution
- » Restructuring of liabilities
- » Portfolio transfer
- » Power to suspend insurance policyholders’ surrender rights
- » Resolvability assessments
- » Recovery and resolution plans



## RESOLUTION OF INSURERS – RESPONSES TO FSB PUBLIC CONSULTATION

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- » Specific characteristics of insurance (not banking)
- » Powers exceed what typically needed and disproportionate
- » Clarify scope of critical functions
- » Clarify trigger (conditions for entry)
- » Extended timelines typical in failure of insurer
- » Bridge institution not add to run-off tools
- » “Bail in” (write down and restructure) not necessary or appropriate
- » Impact on reinsurance (if powers to transfer)

## ADDITIONAL RESOLUTION POWERS – EU CONSULTATION

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- » Remove and replace senior management
- » Separate non-performing assets
- » Recapitalise balance sheet by amending or converting parts of the balance sheet
- » Override rights of shareholders
- » Moratorium of payment flows

## FSB THEMATIC REVIEW OF RESOLUTION REGIMES – PEER REVIEW REPORT (11 APRIL 2013)

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- » Sector specific powers to restructure and/or wind up insurers? (distinct from ordinary corporate insolvency proceedings)
  - › yes: 22/24 (G20)
- » “Resolution” regime – in force or proposed?
  - › Australia, Netherlands, Indonesia, Singapore, Japan, Korea
  - › also Malaysia

## SUMMARY AND CONCLUSIONS

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- » Lack of harmonisation internationally
- » Disparate approaches likely to continue
- » Most jurisdictions lacking suite of resolution powers
- » A risk to financial stability and policyholder protection
  - › systemic only or all?

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# ANY QUESTIONS?

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# THANK YOU

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