



INSURANCE GUARANTEE SCHEMES (IGS) – FRAMEWORK GUIDANCE

Purpose – The purpose of this Framework Guidance is to identify core principles, common attributes and best practices for Insurance Guarantee Schemes (IGS). The following principles provide a framework for the effective structuring of an IGS and the suggested indicators provide a rubric against which an IGS may be assessed.

1 – PUBLIC POLICY OBJECTIVES

The first principal public policy objective of an IGS is to provide last-resort protection to policyholders, insured parties, beneficiaries or other eligible third parties against loss of part, or all benefits, when an insurer is unable (or likely to become unable) to fulfill commitments under its insurance contracts. The second principal policy objective of an IGS is to ensure consumer confidence and market stability through the protections it provides.

The design of the IGS should reflect the system's public policy objectives.

Indicators

1. Are the public policy objectives of the IGS clearly and formally specified, for example through legislation, documents supporting legislation or public statutes of the responsible body?
2. Is the design of the IGS, including any coverage limits and exclusions, consistent with the system's public policy objectives?
3. Does protection extend to all those entitled to claim or receive protection or benefits under the terms of a protected policy?
4. Is there a review of the extent to which an IGS meets its public policy objectives? This could involve both an internal review conducted on a regular basis by the governing body and/or an external review conducted periodically by an external body (e.g. the body to which the IGS is accountable or an independent entity with no conflicts of interest, such as an auditor general that takes into consideration the views of key stakeholders).
5. If additional public policy objectives are incorporated, are they consistent with the two principal objectives of protecting eligible claimants and promoting consumer confidence and system stability?



2 – MANDATE AND POWERS

The mandate and powers of the IGS should support the public policy objectives and be clearly defined and formally specified in legislation or documents supporting legislation or public statutes of the responsible body.

Indicators

1. *Are the mandate and powers of the IGS formally and clearly specified in legislation, documents supporting legislation, statutes or regulation, and consistent with stated public policy objectives?*
2. *Does the mandate clarify the roles and responsibilities of the IGS and is it aligned with the mandates of other safety-net participants (e.g. government ministry or agency, supervisor, regulator, or resolution authority)?*
3. *Do the powers of the IGS support its mandate and enable the IGS to fulfil its roles and responsibilities?*
4. *Do the powers of the IGS include, but are not limited to:*
 - a. *assessing and collecting premiums, levies or other charges;*
 - b. *with respect to long-term insurance, at least, transferring or arranging to transfer policies to another insurer or otherwise arranging continuity of cover, for example, by running-off the business (save where this is the responsibility of a resolution authority);*
 - c. *meeting (after determining as appropriate) relevant claims or obligations under long-term and general insurance contracts or return of premium (where applicable);*
 - d. *obtaining from insurers and/or from supervisors, regulators or resolution authorities timely, accurate and comprehensive information necessary to fulfil its mandate;*
 - e. *receiving and sharing timely, accurate and comprehensive information within the safety net, and with relevant safety-net participants in other jurisdictions;*
 - f. *setting operating budgets, policies, systems and practices; and*
 - g. *entering into contracts for the purposes of planning for and carrying out its mandate?*

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3 – GOVERNANCE

The IGS should be operationally independent, well-governed, transparent, and accountable.

Indicators

1. *Is the IGS operationally independent in its decision making?*
2. *Is it clear how responsibilities are shared between the organization's governing body and its internal management and, if applicable, the government ministries or agencies which are responsible for overseeing the scheme?*
3. *Is the IGS able to use its powers without interference from external parties to fulfil its mandate?*
4. *Is there any government, central bank, supervisory or industry interference that compromises the operational independence of the IGS?*
5. *Is the governing body of the IGS held accountable to a higher authority? (e.g. government ministry, agency or supervisor)?*
6. *Does the IGS have the capacity and capability (e.g. human resources, service agreements, operating budget, and salary scales sufficient to attract and retain qualified staff) to support its operational independence and the fulfilment of its mandate?*
7. *Is the IGS well-governed and subject to sound governance practices, including internal controls, transparency and disclosure regimes?*
8. *Does the institutional structure of the IGS minimize the potential for real or perceived conflicts of interest?*
9. *Do operating policies and procedures require individuals to disclose real or perceived conflicts of interest and to adhere to relevant codes of conduct to ensure that they remain accountable?*
10. *Does the IGS seek to publish a report, at least annually, that contains the elements listed above as well as its audited financial statements, which is available for all stakeholders?*

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11. Does the IGS operate in an efficient and effective manner while maintaining the ability to scale up quickly to fulfil its mandate?
12. Do the governing statutes or other relevant laws and policies governing the IGS specify that:
 - a. the governing body and head(s) of the IGS are “fit and proper” persons;
 - b. members of the governing body of the IGS (with the exception of *ex officio* appointees) is/are subject to fixed terms and the fixed terms are staggered;
 - c. there is a transparent process for the appointment and removal of the members of the governing body and head(s) of the IGS. Members of the governing body and head(s) of the IGS can be removed from office during their term only for reasons specified or defined in law, internal statutes or rules of professional conduct, and not without cause;
 - d. members of the governing body and employees are subject to high ethical standards and comprehensive codes of conduct to minimize the potential for real or perceived conflicts of interest; and
 - e. the IGS is regularly assessed on the extent to which it meets its mandate, and is subject to regular internal and external audits?
13. Does the governing body hold regular meetings to oversee and manage the affairs of the IGS (as frequently as deemed necessary)?



4 – RELATIONSHIPS WITH OTHER SAFETY-NET PARTICIPANTS

In order to protect policyholders and other eligible claimants and/or contribute to financial stability, there should be a formal and comprehensive framework in place for the close co-ordination of activities and information sharing, on an ongoing basis, between the IGS and other financial safety-net participants (e.g. the ministry of finance, supervisor, resolution authority).

Indicators

1. *Is ongoing information sharing and the co-ordination of actions explicit and formalized through legislation, regulation, memoranda of understanding, legal agreements or a combination thereof?*
2. *Do rules regarding confidentiality of information apply to all safety-net participants and the exchange of information among them?*
3. *Is confidentiality of information protected by law or through agreements so as to permit information sharing within the safety net?*
4. *Do safety-net participants exchange information on an ongoing basis, and in particular when material supervisory actions are being taken, or contemplated, in respect of member insurers?*
5. *In situations where there are multiple IGSs operating in the same national jurisdiction, are appropriate information sharing and co-ordination arrangements in place among those IGSs?*



5 – CROSS-BORDER ISSUES

Where there is a material presence of foreign insurers in a jurisdiction, formal information sharing and co-ordination arrangements should be in place among IGSs in relevant jurisdictions with a priority being to seek to ensure better alignment in policyholder/eligible claimant protection.

Indicators

1. *Where there is a material presence of foreign insurers (i.e. foreign insurer subsidiaries or branches or cross-border business), are formal information sharing and co-ordination requirements in place and clearly documented (including with respect to requirements for confidentiality), are arrangements in place among relevant IGSs and relevant safety-net participants, subject to confidentiality provisions, and are these arrangements subject to review on a regular periodic basis to satisfy all participants as to their adequacy?*

2. *In circumstances where an IGS is responsible for coverage of policyholders in a foreign jurisdiction, or where more than one IGS is responsible for coverage in a jurisdiction, does legislation or regulation or (if not) do bilateral or multilateral agreements exist to determine which IGS is (are) responsible for the continuation or reimbursement process, setting levies and premiums, as well as other operational issues that may arise from time to time?*



6 – IGS'S ROLE IN CONTINGENCY PLANNING AND CRISIS MANAGEMENT

The IGS should have in place effective contingency planning and crisis management policies and procedures, to ensure that it is able to effectively respond to the risk of, and actual, insurer failures and other relevant events. The development of system-wide crisis preparedness strategies and management policies should be the joint responsibility of all safety-net participants. The IGS should be a member of an insurer resolution preparedness or other institutional framework for ongoing communication and co-ordination involving financial safety-net participants related to system-wide crisis preparedness and management.

Indicators

1. *Does the IGS have its own effective contingency planning and crisis management policies and procedures in place, to ensure that it is able to effectively respond to the risk of, and actual, insurer failures?*
2. *Does the IGS develop and, as far as possible, regularly test its own contingency planning and crisis management plans?*
3. *Is the IGS a member of an insurer resolution preparedness or other institutional framework for ongoing communication and co-ordination involving safety-net participants, related to system-wide crisis preparedness and management, which framework is set out by law or other agreement?*
4. *Does the IGS participate in regular contingency planning and simulation exercises related to stress testing system-wide preparedness and management, involving all safety-net participants?*
5. *Does the IGS participate in the development of pre- and post-crisis management communication plans involving all safety-net participants, to ensure comprehensive and consistent public understanding and awareness and communications?*



7 – MEMBERSHIP

Membership in an IGS should be compulsory for all authorized insurers, carrying on protected business, unless government or public owned and otherwise protected.

Indicators

1. *Is membership in an IGS compulsory for all authorized insurers carrying on protected business (and are all insurers subject to sound prudential regulation and supervision)?*
2. *Are the conditions, process and time frame for attaining membership explicitly stated and transparent?*
3. *If the IGS is not responsible for granting membership in an IGS, do the legal or administrative procedures describe a clear and reasonable timeframe within which the IGS is consulted in advance, or promptly notified, and is given sufficient information about an application for membership?*

8 – COVERAGE

Policymakers should define clearly the level and scope of coverage. Coverage should be consistent with the IGS's public policy objectives and related design features.

Indicators

1. *Is protection, and eligibility for protection, clearly and publicly defined in law or regulation (or other legal instrument) and reflective of the public policy objectives?*
2. *Does this definition include the level and scope of coverage?*
3. *If certain types of policies/risks are ineligible for protection, are they clearly specified (and are such exclusions made public)?*
4. *Are such exclusions decided only after thorough and open consideration?*
5. *Does the IGS apply the level and scope of coverage or protection equally across its member insurers for like failures?*
6. *Are the level and scope of coverage reviewed periodically to ensure that they meet the public policy objectives of the IGS?*
7. *In situations where there are multiple IGSs operating in the same national jurisdiction, are any differences in coverage across insurance firms operating within that jurisdiction structured such that they do not adversely affect overall IGS effectiveness and financial stability?*

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9 – SOURCES AND USES OF FUNDS

The IGS should have readily available adequate funds and funding mechanisms necessary to ensure prompt funding of obligations or any assumption of contracts, including assured liquidity funding arrangements and covering the cost of IGSs.

Indicators

1. *Are funding arrangements clearly defined and established in law or regulation or other legal instrument?*
2. *Is funding the responsibility of the member insurers?*
3. *Are emergency or back-up funding arrangements for the IGS, including pre-arranged and assured sources of liquidity funding, explicitly set out (or permitted) in law or regulation or other legal instrument? Sources may include a funding agreement with the government, the central bank or market borrowing.*
4. *Are the arrangements for emergency liquidity funding set up in advance, to ensure effective and timely access when required?*
5. *Does the IGS have responsibility for the sound investment and management of its funds?*
6. *Does the IGS have a defined investment policy for its funds that aims at ensuring:*
 - a. *the preservation of fund capital and maintenance of liquidity (in so far as it would be possible under capital market restrictions)? and*
 - b. *that adequate risk management policies and procedures, internal controls, and disclosure and reporting systems are in place?*
7. *If an ex-ante fund is established by the IGS:*
 - a. *is the target fund size (if any) determined on the basis of clear, consistent and transparent criteria, which are subject to periodic review? and*
 - b. *is a reasonable timeframe set to achieve the target fund size?*
8. *If the IGS uses differential premium systems:*



- a. *is the system for calculating premiums transparent to all participating insurers?*
 - b. *are the scoring/premium categories significantly differentiated?*
 - c. *are the ratings and rankings resulting from any such system, pertaining to individual insurers, kept confidential? and*
 - d. *is there periodic review of the system to ensure it remains valid and fair?*
9. *If the mandate of a guarantee scheme includes tools for stabilizing critical functions of the insurance sector, (for instance as a liquidity facility lender in collaboration with the supervisor), are collateral provisions in place to ensure the guarantee scheme can maintain the continuity of coverage over time?*

10 – PUBLIC AWARENESS

To the extent not prohibited by law, in order to protect policyholders and contribute to financial stability, it is essential that the IGS inform the public about the benefits and limitations of the IGS an ongoing basis.

Indicators

- 1. *Is the IGS responsible for promoting public awareness of the IGS, including its benefits and limitations, using a variety of communication tools, on an ongoing but proportionate basis?*
- 2. *In the event of an insurer failure, does the IGS notify policyholders as expeditiously and appropriately as possible, and as described in law or regulations, via media such as press releases, print advertising, websites and other media outlets, of its role and how protection will be provided? Or if not, is such notification made on its behalf by an empowered authority e.g. a liquidator or other court appointee?*
- 3. *Does the IGS have budget allocation to manage communications and contacts with policyholders?*
- 4. *Does the IGS work closely with insurers and other safety-net participants to ensure the consistency and accuracy of the information provided to policyholders and to promote awareness on an ongoing basis?*
- 5. *Does the IGS monitor, on an ongoing basis, its public awareness activities and arrange, on a periodic basis, independent evaluations of the effectiveness of its public awareness programme or activities?*



11 – LEGAL PROTECTION

The IGS and individuals working both currently and formerly for the IGS in the discharge of its mandate, must be protected from liability arising from actions, claims, lawsuits or other proceedings for their decisions, actions or omissions taken in good faith in the normal course of their duties. Legal protection should be defined in legislation and/or regulation.

Indicators

1. *Is legal protection specified in legislation and provided to the IGS, its current and former directors, officers and employees and any individual currently or previously retained or engaged by the IGS, for decisions made and actions or omissions taken in good faith in the normal course of their duties?*
2. *Does such legal protection preclude damages or other awards against such individuals? Does it also cover costs, including funding defence costs as incurred (and not just reimbursement after a successful defence)?*
3. *Do the operating policies and procedures of the IGS require individuals with legal protection to disclose real or perceived conflicts of interest and to adhere to relevant codes of conduct, to ensure that they remain accountable?*
4. *Do legal protections allow making legitimate challenges to the acts or omissions of the IGS in public or administrative review (e.g. civil action) procedures?*

12 – EARLY DETECTION AND TIMELY INTERVENTION

The IGS should be part of a framework within the financial safety-net that provides for the early detection of, and timely intervention in, troubled insurers. Such actions should protect policyholders and contribute to financial stability.

Indicators

1. *Is the IGS part of an effective framework within the financial safety net that provides for the early detection of, and timely intervention in, insurers in financial difficulty?*
2. *Does the IGS have the operational independence, resources and legal authority and power to perform its role in the framework for early detection and timely intervention?*
3. *Does the framework include a set of clearly defined qualitative and/or quantitative criteria that are used to trigger timely intervention or corrective action by the IGS?*



13– PROTECTING POLICYHOLDERS AND FULFILLING OBLIGATIONS

The IGS should meet insurers' obligations, to the limits specified by the scheme's by-laws or other documentation that establishes the scheme's coverage limits, to policyholders and other eligible claimants promptly (whether by funding payments or continuity, as appropriate, and subject to its mandate and powers). There should be a clear and unequivocal trigger for IGSs action.

Indicators

1. *Is the IGS able to meet obligations promptly?*
2. *Is the IGS able to, as appropriate, protect policyholders and other eligible claimants by:*
 - a. *meeting obligations of the insurer promptly as obligations fall due?*
 - b. *funding or otherwise arranging continuity of insurance – whether by assumption or transfer of policies or run-off or issue of substitute policies or financial assistance?*
 - c. *determining and paying claims for any return of premium – if due and covered?*
 - d. *if covered, meeting obligations not yet falling due but where the failed insurer is or would continue to be “on risk” (i.e. policies have not been terminated or lapsed or expired)?*
3. *Is the IGS able to make advance, interim or emergency partial payments?*
4. *Does the IGS – where possible – have the capacity and capability promptly to carry out its processes, including:*
 - a. *adequate resources and trained personnel (in-house or contractor)?*
 - b. *information systems to process information in a systematic and accurate manner and*
 - c. *pre- and post-closing activities specified in closing documentation or manuals which are reviewed on a regular periodic basis and revised from time to time as may be necessary?*



5. *In cases where the IGS provides continuity of contracts, has the IGS the right to enter into, or continue services and reinsurance contracts, of the failed insurer and manage or have access to the assets of the failed insurer (including the pursuit of lawsuits and other actions available to the company) and/or to meet the cost of claims obligations?*
6. *Is a review (e.g. post mortem) following an insurer failure performed by the IGS, where possible or appropriate, to determine and analyze its processes and engagement with stakeholders and which were successful or unsuccessful and how they might be improved for future cases?*
7. *Does an independent party conduct a periodic audit of the process to confirm that appropriate internal controls are in place?*
8. *In cases where the IGS pays out claims and does not have the authority to act as liquidator, is the liquidator obligated by law or regulation to co-operate with the IGS to facilitate the compensation of policyholders?*

14 – RECOVERIES

The IGS should have, by law, the right to recover its claim in accordance with the statutory creditor hierarchy.

Indicators

1. *Is the IGS's role in the insolvency and recovery process clearly defined in law?*
2. *Is the IGS clearly recognized as a creditor of the failed insurer automatically or by subrogation?*
3. *Does the IGS have at least the same creditor rights or status as a policyholder (or other payee or beneficiary) in the treatment in law of the estate of the failed insurer?*
4. *Does the IGS, in its capacity as creditor, have the right of access to information from the liquidator, so that it can monitor the liquidation process?*