



International
Forum of Insurance
Guarantee Schemes
IFIGS

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INTERNATIONAL FORUM OF INSURANCE GUARANTEE SCHEMES

Annual General Meeting Profile Enhancement Working Group - IGS Framework Guidance

Washington DC, USA

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- **5 December 2019**

IFIGS Profile Enhancement Working Group, and the IGS Framework Guidance

- Profile Enhancement Working Group
- Objectives and Actions
- Purpose of Framework Guidance
- Framework Guidance 1 – 14
- Questions

IFIGS Profile Enhancement Working Group Members

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Working Group Objectives and Actions

- To identify methods and tools to raise awareness of IFIGS
- To engage with international bodies
 - IAIS
 - EIOPA
 - IMF
 - World Bank
- To draft framework guidance for IGSs – as a tool for members and policymakers and as a promotional product of IFIGS

DRAFT FRAMEWORK GUIDANCE (1)

- Modelled on standard setter
- Principle based
- Flexible and multi jurisdictional (neutral)
- Indicative guidance, not absolute standards
- Allows national discretion

DRAFT FRAMEWORK GUIDANCE (2)

- Purpose
- *The purpose of the Framework Guidance is to identify common attributes and best practices for insurance guarantee schemes. They provide a framework against which an IGS may be established or assessed*
- 14 “principles”
 - General and long term insurance
 - Compulsory membership and coverage
 - Industry funded
- NOT:
 - Resolution – authority or powers
 - Data privacy
 - Enforcement powers

1. PUBLIC POLICY OBJECTIVES

- **The principal public policy objectives for insurance guarantee schemes are to protect policyholders (and claimants/victims) and promote consumer confidence and market stability. The design of the insurance guarantee scheme should reflect the system's public policy objectives**

PUBLIC POLICY OBJECTIVES - INDICATORS

1. Are the public policy objectives of the insurance guarantee scheme clearly and formally specified, for example through legislation or documents supporting legislation?
2. Is the design of the insurance guarantee scheme consistent with the system's public policy objectives?
3. Does protection of policyholders include 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 insurance guarantee scheme meets its public objectives? This could involve both an internal review conducted on a regulator basis by the governing body and/or an external review conducted periodically by an external body (e.g. the body to which the insurance guarantee scheme is accountable or an independent entity with no conflicts of interest, such as an auditor general); and take into consideration the views of key stakeholders.
5. If additional public policy objectives are incorporated, do they conflict with the two principle objectives of protecting policyholders and contributing to the stability of the financial system?

2. MANDATE AND POWERS

- **The mandate and powers of the insurance guarantee scheme should support the public policy objectives and be clearly defined and formally specified in legislation or documents supporting legislation**

MANDATE AND POWERS – INDICATORS (1)

1. Are the mandate and powers of the insurance guarantee scheme formally and clearly specified in legislation, documents supporting legislation, or regulation, and consistent with stated public policy objectives?
2. Does the mandate clarify the roles and responsibilities of the insurance guarantee scheme and is it aligned with the mandates of other safety-net participants (eg ministry of finance, regulator, resolution authority)?
3. Do the powers of the insurance guarantee scheme support its mandate and enable the insurance guarantee scheme to fulfil its roles and responsibilities?

MANDATE AND POWERS – INDICATORS (2)

4. Do the powers of the insurance guarantee scheme 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 (save where this is the responsibility of a resolution authority)
 - c. meeting relevant claims under long term and general insurance contracts or return of premium (where applicable), or otherwise;
 - d. obtaining directly from insurers timely, accurate and comprehensive information necessary to fulfil its mandate;

MANDATE AND POWERS – INDICATORS (3)

- e. receiving and sharing timely, accurate and comprehensive information within the safety-net, and with relevant safety-net participants in other jurisdictions; and
- f. setting operating budgets, policies, systems and practices.
- g. entering into contracts for the purpose of carrying out its mandate?

3. GOVERNANCE

- **The insurance guarantee scheme should be operationally independent, well-governed, transparent, and accountable**

GOVERNANCE – INDICATORS (1)

1. Is the insurance guarantee scheme operationally independent in its decision making?
2. Is it able to use its powers without interference from external parties to fulfil its mandate?
3. Is there any government, central bank, supervisory or industry interference that compromises the operational independence of the insurance guarantee scheme?
4. Is the governing body of the insurance guarantee scheme held accountable to a higher authority?
5. Does the insurance guarantee scheme 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?

GOVERNANCE – INDICATORS (2)

6. Is the insurance guarantee scheme well-governed and subject to sound governance practices, including appropriate accountability, internal controls, transparency and disclosure regimes?
7. Does the institutional structure of the insurance guarantee scheme minimise the potential for real or perceived conflicts of interest?
8. Does the insurance guarantee scheme operate in a transparent and responsible manner?
9. Does the insurance guarantee scheme operate in an efficient and effective manner?
10. Unless prohibited by law, does it disclose and publish appropriate information for stakeholders on a regular basis?

GOVERNANCE – INDICATORS (3)

11. Do the governing statutes or other relevant laws and policies governing the insurance guarantee scheme specify that:
- a. the governing body and management are “fit and proper” persons;
 - b. members of the governing body and the head(s) of the insurance guarantee scheme (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 insurance guarantee scheme. Members of the governing body and head(s) of the insurance guarantee scheme 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; and
 - d. members of the governing body and employees are subject to high ethical standards and comprehensive codes of conduct to minimise the potential for real or perceived conflicts of interest?

GOVERNANCE – INDICATORS (4)

12. Is the insurance guarantee scheme regularly assessed on the extent to which it meets its mandate, and is the insurance guarantee scheme subject to regular internal and external audits?
13. Does the governing body hold regular meetings to oversee and manage the affairs of the insurance guarantee scheme (as frequently as deemed necessary)?

4. RELATIONSHIPS WITH OTHER SAFETY-NET PARTICIPANTS

- **In order to protect policyholders and/or contribute to financial stability, there should be a formal and comprehensive framework in place for the close coordination of activities and information sharing, on an ongoing basis, between the insurance guarantee scheme and other financial safety-net participants (eg the Ministry of Finance, supervisor, resolution authority) the guarantee scheme should reflect the system's public policy objectives**

RELATIONSHIPS WITH OTHER SAFETY-NET PARTICIPANTS – INDICATORS

1. Is ongoing information sharing and the coordination of actions explicit and formalised 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 in respect of member insurers?
5. In situations where there are multiple insurance guarantee schemes operating in the same national jurisdiction, are appropriate information sharing and coordination arrangements among those insurance guarantee schemes in place?

5. CROSS-BORDER ISSUES

- **Where there is a material presence of foreign insurers in a jurisdiction, formal information sharing and coordination arrangements should be in place among insurance guarantee schemes in relevant jurisdictions**

CROSS-BORDER ISSUES - 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 coordination arrangements in place among relevant insurance guarantee schemes and relevant safety-net participants, subject to confidentiality provisions?
2. In circumstances where an insurance guarantee scheme is responsible for coverage of policyholders in a foreign jurisdiction, or where more than one insurance guarantee scheme is responsible for coverage in a jurisdiction, does legislation or regulation or if not do bilateral or multilateral agreements exist to determine which insurance guarantee scheme is (are) responsible for the reimbursement process, setting levies and premiums?

6. INSURANCE GUARANTEE SCHEME'S ROLE IN CONTINGENCY PLANNING AND CRISIS MANAGEMENT

- **The insurance guarantee scheme 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 events. The development of system-wide crisis preparedness strategies and management policies should be the joint responsibility of all safety-net participants. The insurance guarantee scheme should be a member of any institutional framework for ongoing communication and coordination involving financial safety-net participants related to system-wide crisis preparedness and management**

INSURANCE GUARANTEE SCHEME'S ROLE IN CONTINGENCY PLANNING AND CRISIS MANAGEMENT - INDICATORS

1. Does the insurance guarantee scheme 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 and other events?
2. Does the insurance guarantee scheme develop and regularly test its own contingency planning and crisis management plans?
3. Is the insurance guarantee scheme a member of any institutional framework for ongoing communication and coordination involving safety-net participants related to system-wide crisis preparedness and management?
4. Does the insurance guarantee scheme participate in regular contingency planning and simulation exercises related to system-wide crisis preparedness and management involving all safety-net participants?
5. Does the insurance guarantee scheme 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 insurance guarantee scheme system should be compulsory for all authorised insurers, carrying on protected business, unless government or public owned and otherwise protected**

MEMBERSHIP - INDICATORS

1. Is membership in an insurance guarantee scheme compulsory for all authorised 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 insurance guarantee scheme is not responsible for granting membership in the insurance guarantee scheme system, do the legal or administrative procedures describe a clear and reasonable time frame within which the insurance guarantee scheme 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 policyholder coverage. Coverage should be consistent with the insurance guarantee scheme's public policy objectives and related design features**

COVERAGE – INDICATORS

1. Is policyholder protection clearly and publicly defined in law or regulation (or other legal instrument) and reflect the public policy objectives?
2. Does this definition include the level and scope of coverage?
3. If certain types of policyholder and/or policy are ineligible for protection, are they clearly specified (and such exclusions made public)?
4. Are such exclusions decided only after thorough and open consideration?
5. Does the insurance guarantee scheme apply the level and scope of coverage ie protection equally across its member insurers for like claims?
6. Are the level and scope of coverage reviewed periodically to ensure that they meet the public policy objectives of the insurance guarantee scheme?
7. In situations where there are multiple insurance guarantee schemes 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 insurance guarantee system effectiveness and financial stability?

9. SOURCES AND USES OF FUNDS

- **The insurance guarantee scheme should have readily available funds and all funding mechanisms necessary to ensure prompt funding of claims or any assumption of contracts, including assured liquidity funding arrangements. The cost of insurance guarantee schemes should be funded from insurers**

SOURCES AND USES OF FUNDS – INDICATORS (1)

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 funding arrangements for the insurance guarantee scheme, 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. If market borrowing is used, are there other sources of funding?
5. Are the arrangements for emergency liquidity funding set up in advance, to ensure effective and timely access when required?
6. Does the insurance guarantee scheme have responsibility for the sound investment and management of its funds?

SOURCES AND USES OF FUNDS – INDICATORS (2)

7. Does the insurance guarantee scheme have a defined investment policy for its funds that aims at ensuring:
 - a. the preservation of fund capital and maintenance of liquidity? and
 - b. that adequate risk management policies and procedures, internal controls, and disclosure and reporting systems are in place?

8. If an ex-ante fund is established by the insurance guarantee scheme:
 - a. is the target fund size determined on the basis of clear, consistent and transparent criteria, which are subject to periodic review? and
 - b. is a reasonable time frame set to achieve the target fund size?

SOURCES AND USES OF FUNDS – INDICATORS (3)

9. If the insurance guarantee scheme 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 the system pertaining to individual insurers kept confidential?

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 public be informed on an ongoing basis about the benefits and limitations of the insurance guarantee scheme**

PUBLIC AWARENESS – INDICATORS (1)

1. Is the insurance guarantee scheme responsible for promoting public awareness of the insurance guarantee scheme, using a variety of communication tools on an ongoing but proportionate basis?
2. In the event of an insurer failure, does the insurance guarantee scheme notify policyholders, as appropriate and as described in law, 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 eg a liquidator or other court appointee?
3. Does the insurance guarantee scheme make some budget allocations to manage communications and contacts with policyholders?
4. Does the insurance guarantee scheme 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?

PUBLIC AWARENESS – INDICATORS (2)

5. Does the insurance guarantee scheme 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 insurance guarantee scheme and individuals working both currently and formerly for the insurance guarantee scheme 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**

LEGAL PROTECTION – INDICATORS

1. Is legal protection specified in legislation and provided to the insurance guarantee scheme, its current and former directors, officers and employees and any individual currently or previously retained or engaged by the insurance guarantee scheme, 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 insurance guarantee scheme 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 insurance guarantee scheme in public or administrative review (e.g. civil action) procedures?

12. EARLY DETECTION AND TIMELY INTERVENTION

- **The insurance guarantee scheme 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**

EARLY DETECTION AND TIMELY INTERVENTION – INDICATORS

1. Is the insurance guarantee scheme 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. Do safety-net participants have the operational independence and power to perform their respective roles 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?

13. PROTECTING POLICYHOLDERS AND PAYING CLAIMS

- **The insurance guarantee scheme should meet policyholders' claims 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 insurance guarantee schemes**

PROTECTING POLICYHOLDERS AND PAYING CLAIMS – INDICATORS (1)

1. Is the insurance guarantee scheme able to meet claims promptly?
2. Is the insurance guarantee scheme able to, as appropriate, protect policyholders by:
 - a. meeting claims on the insurer promptly as claims fall due?
 - b. funding or otherwise arranging continuity of insurance – whether by assumption or transfer of policies 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 claims not yet falling due but where the failed insurer is or would continue to be “on risk” (ie policies have not been terminated or lapsed or expired)?

PROTECTING POLICYHOLDERS AND PAYING CLAIMS – INDICATORS (2)

3. Is the insurance guarantee scheme able to make advance, interim or emergency partial payments?
4. Does the insurance guarantee scheme have the capacity and capability to promptly 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?

PROTECTING POLICYHOLDERS AND PAYING CLAIMS – INDICATORS (3)

5. Is a review (e.g. post mortem) following an insurer failure performed by the insurance guarantee scheme where possible or appropriate to determine and analyse its processes and engagement with stakeholders and which were successful or unsuccessful?
6. Does an independent party conduct a periodic audit of the process to confirm that appropriate internal controls are in place?
7. In cases where the insurance guarantee scheme does not have the authority to act as liquidator, is the liquidator obligated by law or regulation to cooperate with the insurance guarantee scheme to facilitate the compensation of policyholders?

14. RECOVERIES

- **The insurance guarantee scheme should have, by law, the right to recover its claim in accordance with the statutory creditor hierarchy**

RECOVERIES – INDICATORS

1. Is the insurance guarantee scheme's role in the insolvency and recovery process clearly defined in law?
2. Is the insurance guarantee scheme clearly recognised as a creditor of the failed insurer automatically or by subrogation?
3. Does the insurance guarantee scheme 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 insurance guarantee scheme, in its capacity as creditor, have the right of access to information from the liquidator, so that it can monitor the liquidation process?

Questions?

Next Steps?

Thank you

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