Title: **Proposals to strengthen the administration regime for insurers**	**Impact Assessment (IA)**
Lead department or agency: HM Treasury	**IA No:**
Other departments or agencies: Financial Services Authority & the Financial Services Compensation Scheme	**Date:** 01/11/2010
	Stage: Development/Options
	Source of intervention: Domestic
	Type of measure: Secondary legislation
	Contact for enquiries: Phelan Hill (020 7270 6105)

Summary: Intervention and Options

What is the problem under consideration? Why is government intervention necessary?

Currently under the insolvency regimes for insurers, policyholders are afforded less protection when an insurer is in administration than when it is in liquidation. As many policyholders (in particular those with long-term contracts of insurance, which include annuities and life policies) rely upon payments under these policies as their main source of income or protection to cover their liabilities, this gap in protection might result in, for example, a delay of payment of benefits to policyholders.

What are the policy objectives and the intended effects?

The Government seeks to strengthen the administration regime for insurers (in particular, those that issue long-term insurance products), by providing legal certainty for administrators and policyholders through revising the objectives of an administrator of an insurance company, by:
- changing the law to require administrators to provide assistance to the FSCS to enable it to administer the compensation scheme and secure continuity of contracts of insurance; and
- applying existing powers relating to continuity of contracts of long-term insurance on the winding-up of an insurer to the administration regime for insurers.

What policy options have been considered? Please justify preferred option (further details in Evidence Base)

- Option 0: do nothing (maintain the status quo).
- Option 1: amend the administration regime for insurers to provide holders of insurance contracts equivalent protection under insolvency law when an insurer is in liquidation to an insurer in administration.

The preferred approach is option 1, as it provides insurance policyholders, in particular those with long-term contracts of insurance, increased security of continuity of payments and overall protection when an insurer is in administration. Under the current regime, if an insurer were to be placed in administration, policyholders may be disadvantaged by, for example, a delay in the payment of benefits, no continuity in protection, loss of benefits and additional costs in moving to new contracts. As many policyholders rely upon these benefit payments as their main source of income, as well as the protection they offer against certain possible liabilities, any potential delay could cause hardship to a number of vulnerable sectors of the population.

When will the policy be reviewed to establish its impact and the extent to which the policy objectives have been achieved?	It will be reviewed in 2 years
Are there arrangements in place that will allow a systematic collection of monitoring information for future policy review?	Not applicable

SELECT SIGNATORY Sign-off For consultation stage Impact Assessments:

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Minister: A Hoba Date: 22/11/10

URN 10/899 Ver. 1.0 04/10

Summary: Analysis and Evidence

Policy Option

Description:

Strengthening the administration regime for insurers by revising the objectives of the administrators (Option 2)

Price Base Year	PV Base Year	Time Period Years	Net Benefit (Present Value (PV)) (£m)		
			Low: N/A	High: N/A	Best Estimate:

COSTS (£m)	Total Transition (Constant Price)	Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	Optional		Optional	**Optional**
High	Optional		Optional	**Optional**
Best Estimate				

Description and scale of key monetised costs by 'main affected groups'

There are no significant ongoing or one-off direct costs associated with these measures. Any cost impacts from the changes set out under policy option two will be modest, as the modifications align the administration regime to current provisions under the liquidation regime for insurers. These costs would only come about should an insurer default.

Other key non-monetised costs by 'main affected groups'

Administrators of insurers will be the most affected group. The modification, however, remove any uncertainty of the administrators approach should an insurer face financial difficulties.

BENEFITS (£m)	Total Transition (Constant Price)	Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	Optional		Optional	**Optional**
High	Optional		Optional	**Optional**
Best Estimate				

Description and scale of key monetised benefits by 'main affected groups'

It is not feasible to quantify the benefits of these measures. However, there are significant benefits of ensuring that if an insurer were to fail, the administration is conducted in an orderly fashion. These are set out in the evidence base.

Other key non-monetised benefits by 'main affected groups'

Holders of policies with an insurer in administration will receive the same level of protection as under the liquidation regime for insurers. Participants in the wider economy will also benefit. Should an insurer face financial difficulties, the modifications should provide assurance to policyholders of improved consumer protection, by ensuring continuity of payments and protection to policyholders without a significant delay.

Key assumptions/sensitivities/risks — **Discount rate (%)** 3.5

Given that over the last 10 years no insurance firm has gone into insolvency, we also assume the likelihood of future occurrences to be low. The incidences of UK insurers being put into administration or being wound-up have been low, with no incidences occurring during the recent financial crisis. In the last 20 years, only 25 general insurers have defaulted and the last case of a life insurance company going into liquidation was Oaklife Assurance Company, in September 1993.

Impact on admin burden (AB) (£m):			Impact on policy cost savings (£m):	In scope
New AB: 0	AB savings: 0	Net: 0	Policy cost savings:	No

nforcement, Implementation and Wider Impacts

What is the geographic coverage of the policy/option?			United Kingdom		
From what date will the policy be implemented?			01/01/2011		
Which organisation(s) will enforce the policy?			FSA		
What is the annual change in enforcement cost (£m)?			N/a		
Does enforcement comply with Hampton principles?			Yes		
Does implementation go beyond minimum EU requirements?			No		
What is the CO_2 equivalent change in greenhouse gas emissions? (Million tonnes CO_2 equivalent)			**Traded:** N/a		**Non-traded:** N/a
Does the proposal have an impact on competition?			No		
What proportion (%) of Total PV costs/benefits is directly attributable to primary legislation, if applicable?			**Costs:**		**Benefits:**
Annual cost (£m) per organisation (excl. Transition) (Constant Price)	**Micro**	**< 20**	**Small**	**Medium**	**Large**
Are any of these organisations exempt?	No	No	No	No	No

Specific Impact Tests: Checklist

Set out in the table below where information on any SITs undertaken as part of the analysis of the policy options can be found in the evidence base. For guidance on how to complete each test, double-click on the link for the guidance provided by the relevant department.

Please note this checklist is not intended to list each and every statutory consideration that departments should take into account when deciding which policy option to follow. It is the responsibility of departments to make sure that their duties are complied with.

Does your policy option/proposal have an impact on...?	Impact	Page ref within IA
Statutory equality duties[1] Statutory Equality Duties Impact Test guidance	No	
Economic impacts		
Competition Competition Assessment Impact Test guidance	Yes	
Small firms Small Firms Impact Test guidance	Yes	
Environmental impacts		
Greenhouse gas assessment Greenhouse Gas Assessment Impact Test guidance	No	
Wider environmental issues Wider Environmental Issues Impact Test guidance	No	
Social impacts		
Health and well-being Health and Well-being Impact Test guidance	No	
Human rights Human Rights Impact Test guidance	Yes	
Justice system Justice Impact Test guidance	No	
Rural proofing Rural Proofing Impact Test guidance	No	
Sustainable development Sustainable Development Impact Test guidance	No	

[1] Race, disability and gender Impact assessments are statutory requirements for relevant policies. Equality statutory requirements will be expanded 2011, once the Equality Bill comes into force. Statutory equality duties part of the Equality Bill apply to GB only. The Toolkit provides advice on statutory equality duties for public authorities with a remit in Northern Ireland.

Evidence Base (for summary sheets) – Notes

Use this space to set out the relevant references, evidence, analysis and detailed narrative from which you have generated your policy options or proposal. Please fill in **References** section.

References

Include the links to relevant legislation and publications, such as public impact assessment of earlier stages (e.g. Consultation, Final, Enactment).

No.	Legislation or publication
1	Banking Act 2009: consultation (http://www.hm-treasury.gov.uk/bankingact09_consultation.htm)
2	Special resolution regime: the Building Societies (Insolvency and Special Administration) Order 2009 and related insolvency rules, and financial assistance to building societies (http://www.hm-treasury.gov.uk/d/consult_srr_buildingsocs_order2009_pu819.pdf)
3	
4	

+ Add another row

Evidence Base

Ensure that the information in this section provides clear evidence of the information provided in the summary pages of this form (recommended maximum of 30 pages). Complete the **Annual profile of monetised costs and benefits** (transition and recurring) below over the life of the preferred policy (use the spreadsheet attached if the period is longer than 10 years).

The spreadsheet also contains an emission changes table that you will need to fill in if your measure has an impact on greenhouse gas emissions.

Annual profile of monetised costs and benefits* - (£m) constant prices

	Y_0	Y_1	Y_2	Y_3	Y_4	Y_5	Y_6	Y_7	Y_8	Y_9
Transition costs										
Annual recurring cost										
Total annual costs										
Transition benefits										
Annual recurring benefits										
Total annual benefits										

* For non-monetised benefits please see summary pages and main evidence base section

·vidence Base (for summary sheets)

Problem under consideration

1. The insolvency regime for insurers has evolved over time. This has resulted in potential gaps in the provision and protection for insurance policyholders (in particular those with long-term contracts, such as annuities and life policies) of an insurer that is put into administration, in comparison to when it is put into liquidation.

2. The Government aims to ensure continuity of payments and protection for protected insurance policyholders should an insurer become insolvent. As part of wider work to review the landscape of the financial sector, and reflecting on lessons learnt during the financial crisis, the Government considers that there are a number of areas of the administration regime for insurers that could be strengthened.

3. If an insurer were to be placed in administration under the current regime, policyholders may be disadvantaged by, for example, a significant delay in the payment of benefits, no continuity in protection, loss of benefits and additional costs in moving to new contracts. As many policyholders rely upon payment of benefits under these policies as their main source of income, as well as the protection they offer against certain possible liabilities, this potential delay in payment and protection could cause hardship to a number of vulnerable sectors of the population.

Objective

4. The Government seeks to refine the administration regime for insurers to improve the continuity of payments and protection for policyholders should an insurer go into administration, in particular, by:

   - adopting certain aspects of the liquidation regime for contracts of long-term insurance incorporated in section 376 of Financial Services and Markets Act 2000 (FSMA), and under the Insolvency Act 1986; and

   - adding specific duties to the objectives of the administrator of an insurer in addition to those currently required under Schedule B1 to the Insolvency Act 1986.

Rationale for intervention

5. Despite the low number of insolvencies in the insurance sector, distinct gaps remain in the administration regime for insurers in comparison to the liquidation regime. This means that policyholders, in particular those with long-term contracts of insurance, would not receive equivalent protection under insolvency law when an insurer is in administration as opposed to when the insurer goes into liquidation.

6. These disparities include the fact that although an administrator currently has the power to:

   - provide assistance to enable the FSCS to administer the compensation scheme and secure continuity of contracts of insurance; and

   - continue the business of the insurer and make payments under any policies;

   the administrator is not required to do so.

Intended effect

7. The proposed modifications to the insolvency regime of insurers aim to:

   - impose a duty on the administrator to assist the FSCS in administering the compensation scheme in relation to contracts of insurance, ensuring that insurance policyholders of an insurer facing financial difficulties receive compensation without delay; and

   - require the administrator to continue the insurer's long term business, maintaining payments under long term insurance contracts, with a view to transferring the business as a going concern, and facilitating the sale/transfer of the insolvent insurer's business.

8. The cost impacts resulting from these modifications are likely to be modest, as the changes align the administration regime to current provisions under the liquidation regime for insurers. Furthermore, these costs would only come about should an insurer default.

Background

The UK insurance sector

9. The UK insurance industry is a key part of the UK financial services sector and is the second largest insurance industry worldwide. It accounts for 8 per cent of premiums globally and, in 2008, it controlled 13.4 per cent of the UK stock market.[2]

10. Insurance companies currently offer two main types of contracts of retail insurance:
    - long-term: this covers life insurance products which include personal pensions and pure protection contracts (such as term, income protection and critical illness insurance); and
    - general: this includes both compulsory insurance (such as motor third party insurance and employers' liability insurance) and non-compulsory insurance such as household and private medical insurance.

11. There are 665 companies authorised by the Financial Services Authority (FSA) to carry out insurance business in the UK. Of these:
    - 401 carry out general business only (which includes, for example, motor, household and commercial insurance);
    - 244 carry out long-term business only (such as life insurance and pensions); and
    - 20 carry out both general and long-term business.

Insurers in insolvency

12. The number of incidences of insurers being put into administration or being wound-up in the UK have been low, with no further incidents occurring during the recent period of financial instability. In the last 20 years, only 25 general insurers have defaulted and the last case of a life insurance company going into liquidation was Oaklife Assurance Company, in September 1993. Due to this low number, the procedures and processes surrounding insurers entering into administration have not been developed significantly either in practice or in law.

13. Although the UK capital regime of insurers has successfully absorbed unexpected losses and has avoided failure of an insurance undertaking, neither the current nor any future solvency regime would be able to create a zero-failure environment for insurance companies.

The evolution of the administration regime for insurers

The Insolvency Act 1986

14. The Insolvency Act 1986 did not permit an insurance company to be put into administration. It was considered that administration would not be an appropriate procedure for insurers:
    - given the different nature of insurance business, in particular for those businesses that provide insurance policies with long-term contracts;[3] and

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[2] Source: Association of British Insurers Key Facts September 2009

[3] As administration is a collective procedure, an administrator is specifically required to carry out his or her functions in the interests of the company's creditors as a whole; where there is insufficient resources available to pay unsecured creditors (such as insurance policyholders) in full, an administrator can only act in a way that does not unnecessarily harm the interests of the creditors of the company as a whole. It was considered that this approach would have a negative impact on insurance policyholders, particularly those with long-term contracts (such as life and annuity policies), who rely upon the cash-flows from their matured policies as their main source of income.

- as there were a number of existing alternative provisions for insurers in, for example, the Insurance Companies Act 1982, and the Insurance Companies (Winding-Up) Rules 1985, specific provisions for administration were not necessary.

The Financial Services and Markets Act 2000

15. Section 360 of FSMA gave HM Treasury (the Treasury) the power to modify Part II (Administration Orders) of the Insolvency Act 1986 to allow insurers to be placed in administration. In 2002, the Government made use of this power and through the Financial Services and Markets Act 2000 (Administration Orders Relating to Insurers) Order 2002 some modifications were made to extend the administration regime to insurers. This new administration regime for insurers was aligned with certain aspects of the liquidation regime for insurers.

The Financial Services Compensation Scheme for insurers

16. The Financial Services Compensation Scheme (FSCS), which was established under FSMA, acts as the UK's compensation fund of last resort for customers of financial services firms (which include credit institutions and insurers). This means that the FSCS protects consumers, if an authorised financial services firm were unable, or were likely to be unable, to pay claims against it.
17. For insurers, the FSCS is the successor to the Policyholders Protection Board. One of the FSCS triggers for the insurance sector includes the appointment of an administrator. Once triggered, the FSCS under the Compensation (COMP) Sourcebook of the FSA Handbook (COMP 3.3.1-3.3.2 - made under section 216 of FSMA)) is required to make arrangements to secure continuity for protected life insurance contracts, if it is reasonably practicable to do so and provided the FSCS is satisfied that the arrangements would be beneficial to the generality of the eligible claimants covered by the arrangements. The FSCS must also ensure that any life insurance benefit falling due is paid at the protected level while it explores the continuity option.
18. The FSCS also has wider powers, but is not obliged, to take such measures as it considers appropriate, for safeguarding life and general insurance policyholders provided they are beneficial to the generality of the eligible claimants and the cost is justified.
19. When securing continuity, the FSCS must ensure that policyholders will receive at least 90 per cent of the benefits under their previous contract. Compulsory insurance is protected in full.
20. If continuity of insurance cannot be secured, the maximum FSCS compensation for policyholders of an insurer in administration is 90 per cent of the value of the policy for protected life insurance contracts and 90% of the claim for protected general insurance contracts. For compulsory insurance, 100% compensation is paid.
21. For the process to work efficiently, it is important that the administrator provides assistance to the scheme manager of the FSCS in its role as scheme manager, to ensure that the FSCS has access to the knowledge, resources and records of the insurer.
22. The FSCS must make arrangements to secure continuity for insurance contracts if:
    - it is reasonably practicable to do so; and
    - the FSCS is satisfied that the arrangements would be beneficial to the generality of the eligible claimants covered by the arrangements.
23. The FSCS must ensure that the claimant will receive at least 90 per cent of the benefits under the policyholder's previous contract (if the FSCS secures less than 100 per cent of the benefits under a contract, the FSCS must ensure that any future premiums are reduced by an equivalent amount).
24. For general insurance contracts and life insurance contracts where the FSCS is not securing continuity, the FSCS may take measures to safeguard policyholders of an insurance company that is in financial difficulty. FSCS must secure that life insurance benefits falling due after the default are paid whilst it explores the continuity options.

Options

25. There are two options:

    a. **Option 0** – do nothing. This would retain the disparity between the protection afforded to insurance policyholders under the administration and liquidation regimes of insurers. An insurer facing financial difficulties and entering into administration could lead to a loss of confidence in the company and consumer detriment to policyholders

    b. **Option 1** – modify the administration regime for insurers (preferred option).

26. To avoid duplication of the costs and benefits of the options, they have been included under the preferred option.

Modifying the administration regime for insurers (Option 1)

27. The proposed modifications to the insolvency regime for insurers aims to:

    a. provide legal certainty in terms of procedure and process for both the policyholder and administrator of an insurer in administration;

    b. ensure insurance policyholders who have contracts with an insurer facing financial difficulties receive continuity of protection and of payment, without any significant delay, should an insurer be put into administration;

    c. secure continuity of business through the continued ability to collect premiums, which would instill confidence in the insurer and should, therefore facilitate the sale/transfer of the insolvent insurer's business; and

    d. promote assurance to policyholders of improved consumer protection.

28. To meet these aims the modifications that were proposed in the consultation were to:

    a. apply the existing rules for valuing contracts of insurance in liquidation to administration; and

    b. revise the objectives of administrators.

Valuation of insurance contracts

29. Although the Financial Services and Markets Act 2000 (Administration Orders Relating to Insurers) Order 2002 modified the administration regime for insurers to some degree, it did not provide a comprehensive administration regime for insurers. For example, currently there are no rules for valuation of both general and long-term contracts in the event of an administration. The consultation therefore proposed to apply winding-up under the Insurers (Winding Up) Rules 2001 when an insurer goes into administration.

30. The majority of respondents to the consultation, however, although seeing the benefits of applying the valuation rules under the Winding Up Rules 2001 to the administration regime for insurers in some circumstances, preferred the administrator to maintain the flexibility of using a range of methods to value contracts insurance. For this reason, **the Government, therefore, will not take this proposal forward and will not impose a duty on administrators to apply the valuation rules under the Winding Up Rules 2001.**

Objectives of the administrator of an insurer:

- *Providing assistance to the FSCS*

31. When an insurer faces financial difficulties, the FSCS plays an important role in ensuring payments to policyholders, as well as protection for policyholders with general and/or long-term contracts of insurance, are maintained. Given that some policyholders rely on the insurance benefit payments, any significant delays in these payments could result in hardship.

32. For the FSCS process to work efficiently, the majority of respondents supported the proposal put forward in the consultation to require an administrator, through the imposition of a duty, to provide assistance to the FSCS to enable it to administer the scheme and to secure continuity of long-term insurance contracts, mobilising the administrative resources of the insurer. The duty placed on the

administrator, which would achieve a degree of consistency with the Bank Insolvency Procedure, is framed in relatively narrow terms of assisting the FSCS to administer the compensation scheme and envisages that the type of assistance, although this is not a conclusive list, would, for example, include:

  - providing policyholder data;
  - assessing claims;
  - paying benefits falling due on long-term policies;
  - maintaining existing cover;
  - facilitating a transfer to another insurer; and
  - communicating with policyholders and their advisors.

- *Continuation of long-term contracts*

33. Section 376 of FSMA ensures that, where possible, long-term insurance contracts will continue where an insurer goes into liquidation. Unless otherwise directed by a court, the liquidator is required to maintain existing contracts so that they may be transferred to another insurer as a going concern. The section provides the liquidator with the necessary duties to undertake such an activity.

34. In contrast, when an insurer is in administration, although an administrator currently has the power to continue the business of the insurer (activities of which includes collection of premiums, managing investments and the payment of benefits under any policies), the administrator is not required to do so. The consultation proposed replicating the duties of the liquidator of an insurer to the administrator of insurers such that policyholders are afforded the same level of protection whether the insurer is liquidation or in administration.

35. The majority of respondents agreed that it would be important to secure the continuity of long-term insurance contracts during an administration, given that many policyholders may rely on the payments made under the contracts, and any significant delays in these payments could result in hardship. They, therefore, supported the proposal to place a duty on the administrator to provide assistance to the FSCS so that the FSCS is able fulfil its duty of securing continuity of long-term contracts.

- *Continuation of non-life contracts of insurance*

36. If an insurer that offers non-life insurance policies were to fail, the FSCS may similarly seek to secure continuity of non-life contracts of insurance. The consultation asked whether, to facilitate this, a duty could be placed on an administrator to assist the FSCS in achieving this objective. This proposal, however, was not widely supported by the majority of respondents.

37. These respondents noted that non-life insurance policies are shorter in term than life policies and may well expire before any transfer of the business can be achieved. Non-life insurance policyholders are therefore more likely to want to cancel existing cover and to be able to seek an alternative elsewhere than their life counterparts, who may be relying on regular annuity or other payments from the insurer, or whose health or other circumstances may have changed since inception of the policy. In consequence, the respondents considered that the termination of non-life insurance contracts, in most circumstances, would have far less impact on the holder of these insurance policies compared with the termination of long-term insurance contracts.

38. The respondents also felt that the current power conferred on the administrator to transfer books of business, or otherwise to facilitate the issuance of new continuous cover by a replacement solvent insurer, where s/he considered it desirable and where the FSCS exercised its powers to provide funding for those purposes, was sufficient.

39. The Government therefore considers that it would not be appropriate to place a duty on the administrator to assist the FSCS to secure continuity non-life insurance contracts.

Costs

40. This option requires the administrator of an insurer:

    a. to continue making payments under contracts of long-term insurance, in the absence of a court order relieving the administrator from that duty. In the first instance, these payments will be drawn from the resources of the company, reducing the assets available to satisfy other unsecured creditors; and

    b. to provide assistance to the FSCS to enable it to administer the compensation scheme and secure continuity of contracts of insurance.

41. There are no significant on-going or one-off direct costs associated with this option and its requirements. In addition, the event in which the duties would be used is likely to be infrequent due to the robust nature of the prudential regulatory regime for insurers in the UK.

Benefits

42. Benefits of option one include:

    a. increased protection for long-term policyholders. The duty on administrators to carry on the insurer's contracts of long-term insurance, and to provide assistance to the FSCS in securing continuity of contracts will benefit policyholders with the continuation of protection and payments due under such policies without any significant delay.

       Many policyholders rely on insurance policies as their main source of income, and any reduction in the delay of receiving the benefits due should reduce any resulting hardship and anxiety. Without the immediate continuation of protection, policyholders would be exposed to liabilities for which the insurance policy afforded protection.[4]

       By ensuring continue of insurance contracts those whose personal circumstances have deteriorated (for example through illness) since inception of the policies would continue to receive protection under their existing contract without the need to obtain equivalent policies, which could be subject to different terms and significantly higher premiums, with new insurers;

    b. increased efficiency of assessment and payment of claims under the scheme by FSCS due to the required assistance of the administrator;

    c. greater confidence in the insurance sector if an insurer were to fail, reducing the number of policyholders surrendering their policies; and

    d. providing greater legal certainty for an administrator to provide assistance to the FSCS to administer the scheme.

Discussion and risk

43. The UK insurance industry is a key part of the UK financial services sector and is the second largest insurance industry worldwide. It accounts for 11 per cent of premiums globally[5] and, in 2008, FSA authorised insurers controlled 13.4 per cent of the UK stock market.

44. Currently, there are 665 companies authorised by the Financial Services Authority (FSA) to carry out insurance business in the UK.

45. The incidences of insurers being put into administration or being wound-up in the UK have been low, with no further incidents occurring during the recent period of financial instability. The Government, however, considers that the administration regime for insurers should be strengthened, in light of the lessons learnt during the financial crisis in relation to the banking sector and as the prudential regime for insurers in the UK, even though it has proved to be robust, is not able to create a zero-failure environment.

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[4] The Association of British Insurers reported that there were over 47 million in force life policies at 31 December 2007. Payments in benefits to pensioners and long-term savers, or in death and disability benefits in 2007 amounted to £77 billion. Rough estimations show that the average life policy is around £11,000 although this may vary.

[5] Source: Association of British Insurers Key Facts September 2008

The aim of refining the administration regime would be to ensure that policyholders continue to receive the payments due from their contracts with the insurer in administration without any significant delay, reducing any potential hardship arising from delayed payments, and to promote transfer of the business of the failed insurer to another firm.

47. The policyholder of insurance contract would bear the risk if the administration regime for insurers remains unchanged (option 1). This would likely lead to the loss of confidence in the insurer, and reduce the ability to continue the business of the insolvent insurer.

48. After considering the risks, costs, and benefits, the Government's preferred approach is option 2.

Implementation timetable

49. The Order modifying the administration regime for insurers is subject to negative procedures, whereby it is adopted 21 days after it is laid before Parliament, provided no objections are made. The final Order will be made and laid in front of Parliament on xx/xx/20xx.

Specific impact assessment

Impact on small firms

50. We have evaluated the options discussed above against the Small Firms impact assessment guidelines. The Government considers that this order will not have any significant impact on small firms as they are eligible FSCS claimants so they can benefit from the proposals in the same way as ordinary customers.

Competition Assessment

51. Based upon the OFT Competition Impact Assessment guidelines, this reform does not have any impact on competition since it puts an obligation on all insurance providers and only comes into effect when an insurance provider goes into insolvency. Furthermore, since the likelihood of insolvency is minimal (no cases over the last 10 years), it is unlikely that the obligations to come into force.

Race, disability, gender and human rights

52. This order will have no impact on race, disability, gender or human rights.

Annexes

Annex 1 should be used to set out the Post Implementation Review Plan as detailed below. Further annexes may be added where the Specific Impact Tests yield information relevant to an overall understanding of policy options.

Annex 1: Post Implementation Review (PIR) Plan

A PIR should be undertaken, usually three to five years after implementation of the policy, but exceptionally a longer period may be more appropriate. A PIR should examine the extent to which the implemented regulations have achieved their objectives, assess their costs and benefits and identify whether they are having any unintended consequences. Please set out the PIR Plan as detailed below. If there is no plan to do a PIR please provide reasons below.

Basis of the review: [The basis of the review could be statutory (forming part of the legislation), it could be to review existing policy or there could be a political commitment to review];
Review objective: [Is it intended as a proportionate check that regulation is operating as expected to tackle the problem of concern?; or as a wider exploration of the policy approach taken?; or as a link from policy objective to outcome?]
Review approach and rationale: [e.g. describe here the review approach (in-depth evaluation, scope review of monitoring data, scan of stakeholder views, etc.) and the rationale that made choosing such an approach]
Baseline: [The current (baseline) position against which the change introduced by the legislation can be measured]
Success criteria: [Criteria showing achievement of the policy objectives as set out in the final impact assessment; criteria for modifying or replacing the policy if it does not achieve its objectives]
Monitoring information arrangements: [Provide further details of the planned/existing arrangements in place that will allow a systematic collection systematic collection of monitoring information for future policy review]
Reasons for not planning a PIR: [If there is no plan to do a PIR please provide reasons here] This legislation will be reviewed on an annual basis as part of the FSA's review of FSMA.

Add annexes here.