Consultation responses on Amendments to the Insolvency Arrangements for Insurers

Please submit your responses to insurer.insolvency.consultation@hmtreasury.gov.uk or post to:

Resolution Policy Unit

HM Treasury

1 Horse Guards Road

SW1A 2HQ

Respondent name:

Organisation address in the UK (if applicable):

Type of organisation (if applicable):

Main contact information:

Secondary contact information:

**General Questions**

1. In what circumstances do you envisage these proposals would be used?
2. Do you envisage any impediments to the use of the proposed measures in practice?
3. Do you agree that these proposals would usefully add to the flexibility with which the distress of an insurer could be managed?
4. Do you have any other comments on these proposals or the current insolvency arrangements for insurers?

**Questions on Proposal One**

1. How will the proposed amendments to section 377 FSMA enhance the UK authorities’ ability to manage the distress of an insurer, resulting in a better outcome for policyholders and creditors?
2. To what extent do you believe that the proposed amendments to section 377 FSMA will improve the usability of the write-down procedure?
3. Do you believe the tests which the court would need to be satisfied are met in order to sanction a write-down under section 377 FSMA (as amended by this proposal) are sufficient to safeguard against undue impact of a write-down on an insurer’s creditors (including its policyholders)[[1]](#footnote-2)?
4. Do you support the nominee write-down manager being able to provide independent views to the court (including on the impact of the write-down on an insurer’s creditors (including its policyholders) at a write-down court hearing?
5. Would the proposed amendments to section 377 FSMA be likely to impact an insurer’s costs (including in relation to debt issuance)?
6. To what extent would the proposed moratorium on legal process during a write-down under section 377 FSMA assist in the write-down process?
7. Do you have any other comments on Proposal One?

**Questions on Proposal Two**

1. Do you support the introduction of a write-down manager to support a write-down under section 377 FSMA (as amended by Proposal One)?
2. To what extent do you agree with the proposed eligibility criteria for a write-down manager under Proposal Two?
3. Do you think the proposed role and powers of the write-down manager would be adequate to ensure the development/ implementation of a write-down is in the interests of the insurer and its creditors (in particular policyholders)?
4. Do you have any other comments on Proposal Two?

**Questions on Proposal Three**

1. Do you agree that the proposed moratorium under Proposal Three would help provide stability, leading to better outcomes for policyholders and creditors overall, in the circumstances outlined above?
2. How would the proposed moratorium under Proposal Three affect the terms on which insurers are able to enter into financial contracts and service contracts?
3. Factoring in the safeguards outlined above, do you have any concerns about the impact of the proposed moratorium under Proposal Three on the rights of an insurer’s counterparties?
4. Do you have any other comments on Proposal Three?

**Questions on Proposal Four**

1. Do you agree that the proposed stay under Proposal Four would help provide stability, leading to better outcomes for policyholders and creditors overall, in the circumstances outlined above?
2. Factoring in the safeguards outlined above, do you have any concerns about the impact of the proposed stay under Proposal Four on the rights of an insurer’s policyholders?
3. Do you have any other comments on Proposal Four?

**Questions on Proposal Five**

1. To what extent do you agree with government’s proposal to ensure protected policyholders are not financially worse off as a result of a write down under section 377 FSMA (as amended by Proposal One), as compared to insolvency?
2. Do you have any other comments on Proposal Five?

## Amendments to the Insolvency Arrangements for Insurers - Processing of Personal Data

1. This notice sets out how HM Treasury will use your personal data for the purposes of **Amendments to the Insolvency Arrangements for Insurers consultation** and explains your rights under the General Data Protection Regulation (GDPR) and the Data Protection Act 2018 (DPA).

### Your data (Data Subject Categories)

1. The personal information relates to you as either a member of the public, parliamentarians, and representatives of organisations or companies.

### The data we collect (Data Categories)

1. Information may include your name, address, email address, job title, and employer of the correspondent, as well as your opinions. It is possible that you will volunteer additional identifying information about themselves or third parties.

### Legal basis of processing

1. The processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in HM Treasury. For the purpose of this consultation the task is consulting on departmental policies or proposals or obtaining opinion data in order to develop good effective government policies.

### Special categories data

1. Any of the categories of special category data may be processed if such data is volunteered by the respondent.

### Legal basis for processing special category data

1. Where special category data is volunteered by you (the data subject), the legal basis relied upon for processing it is: the processing is necessary for reasons of substantial public interest for the exercise of a function of the Crown, a Minister of the Crown, or a government department.
2. This function is consulting on departmental policies or proposals, or obtaining opinion data, to develop good effective policies.

### Purpose

1. The personal information is processed for the purpose of obtaining the opinions of members of the public and representatives of organisations and companies, about departmental policies, proposals, or generally to obtain public opinion data on an issue of public interest.

### Who we share your responses with

1. Information provided in response to a consultation may be published or disclosed in accordance with the access to information regimes. These are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 2018 (DPA) and the Environmental Information Regulations 2004 (EIR).
2. If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals with, amongst other things, obligations of confidence.
3. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information, we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on HM Treasury.
4. Where someone submits special category personal data or personal data about third parties, we will endeavour to delete that data before publication takes place.
5. Where information about respondents is not published, it may be shared with officials within other public bodies involved in this consultation process to assist us in developing the policies to which it relates. Examples of these public bodies appear at: <https://www.gov.uk/government/organisations>
6. Responses to this consultation may be shared (in full, including the organisation’s name and any personal data provided), with officials within the Bank of England, Prudential Regulation Authority, Financial Conduct Authority, Insolvency Service, and other public bodies where HM Treasury deems this necessary to support effective policy development.
7. As the personal information is stored on our IT infrastructure, it will be accessible to our IT contractor, NTT. NTT will only process this data for our purposes and in fulfilment with the contractual obligations they have with us.

### How long we will hold your data (Retention)

1. Personal information in responses to consultations will generally be published and therefore retained indefinitely as a historic record under the Public Records Act 1958.
2. Personal information in responses that is not published will be retained for three calendar years after the consultation has concluded.

### Your Rights

* You have the right to request information about how your personal data are processed and to request a copy of that personal data.
* You have the right to request that any inaccuracies in your personal data are rectified without delay.
* You have the right to request that your personal data are erased if there is no longer a justification for them to be processed.
* You have the right, in certain circumstances (for example, where accuracy is contested), to request that the processing of your personal data is restricted.
* You have the right to object to the processing of your personal data where it is processed for direct marketing purposes.
* You have the right to data portability, which allows your data to be copied or transferred from one IT environment to another.

### How to submit a Data Subject Access Request (DSAR)

1. To request access to personal data that HM Treasury holds about you, contact:

HM Treasury Data Protection Unit
G11 Orange
1 Horse Guards Road
London
SW1A 2HQ

dsar@hmtreasury.gov.uk

### Complaints

1. If you have any concerns about the use of your personal data, please contact us via this mailbox: privacy@hmtreasury.gov.uk.
2. If we are unable to address your concerns to your satisfaction, you can make a complaint to the Information Commissioner, the UK’s independent regulator for data protection. The Information Commissioner can be contacted at:

Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

0303 123 1113

casework@ico.org.uk

Any complaint to the Information Commissioner is without prejudice to your right to seek redress through the courts.

1. Please refer to paragraphs B.7 – B.13 of the consultation document for more detail. [↑](#footnote-ref-2)