



Protecting Your Deposits

Deposit Protection Scheme

Highlights

Dealing with Parties at Fault in a Bank Failure & Fraud in Deposit Insurance

- The 2007/2008 Global Financial Crisis was partly caused by the improper behavior by bankers and bank-affiliated parties resulting in the deterioration of national financial systems. Concerted efforts have been instituted at national and international levels to strengthen banking supervision and resolution regimes, strengthening existing Deposit Insurance Systems (DIS) and introducing new powers in relation to fitness and probity for bank directors and officers and their responsibility for wrongdoing.
- The stability and sustainability of any financial system is directly influenced by the effectiveness of the legal system and its ability to ensure the recovery of funds from a failed bank's estate. This calls for the need to have in place necessary legislation and adequate law-enforcement practices which allow assets that were lost by any failed bank to be recovered, where such losses are due to irresponsible and/or unlawful actions by its former managers, directors and shareholders.
- Thorough investigations should be carried out to ascertain the probable causes and actions that contributed to a bank failure. This should be accompanied by an effective legal action of different types against persons at fault in the bank failure as it helps to improve market discipline and ensure the recovery of embezzled funds. This, in turn, can decrease the financial burden on DIS member institutions that are required to pay premiums to the deposit insurance fund.
- A number of jurisdictions have tightened regulation for senior managers in banks or are in the process of implementing such reforms. For example, Ireland, Spain, the Netherlands and Ukraine have introduced amendments to their laws that establish stricter requirements for bank directors and managers (fitness and probity standards, whistle-blower regime, increased penalties, personal liability, etc.). The British government recently replaced its "Approved Persons Regime" with the new "Senior Managers Regime" which will allow regulators to take enforcement actions against persons guilty of misconduct and introduce a new criminal offense covering reckless conduct leading to the failure of a bank.
- In other jurisdictions, deposit insurers and other relevant agencies (bank supervisors, public prosecutor's office, investigating authorities, police etc.) have Memoranda of Understanding (MOUs) specifying the respective rights and responsibilities including arrangements for sharing information about their findings in a timely manner. These agencies should have continuing authority to investigate and prosecute parties at fault notwithstanding the successful resolution of a bank.

For more information on the Deposit Protection Scheme contact:

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