



# **HIGH LEVEL SEMINAR ON BAIL IN AND DEPOSIT INSURANCE SYSTEM INTERACTIONS – SAFEGUARDS TO LIMIT RISK OF BAIL IN FOR DGS**

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Alex Kuczynski

Director of Corporate Affairs, FSCS

## Safeguards to Limit Risk of Bail In for DGS

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- » The 'Bail In' Regime and the DGS
- » BRRD – DGS Bail In
- » UK Resolution Tool Kit
- » UK regime
- » Dunfermline Building Society and Independent Valuation
- » Risks

# The 'Bail In' Regime and the DGS

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- » Bank Recovery and Resolution Directive
- » Deposit Guarantee Schemes Directive
  - » Article 10 – use of funds
  - » “shall be used in order to finance the resolution of credit institutions” (10(2))
  - » “allow a DGS to use the available financial means for alternative measures” (10(3))
  - » “finance measures to preserve the access of depositors to covered deposits provided that the costs borne by the DGS do not exceed net amount of compensating covered depositors” (10(6))
- » Financial Services (Banking Reform) Act 2013
  - » additional stabilisation tool/resolution power
  - » depositor preference
  - » no direct bail in of FSCS/DGS
  - » FSCS contribution to costs of resolution - Banking Act 2009

## Bank Recovery and Resolution Directive – DGS Bail In

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- » covered deposits excluded from bail in
- » DGS can contribute to absorb losses but cannot become an equity holder
- » bail in follows creditor hierarchy
- » DGS “super preferred”
- » contribution capped at net payment in insolvency counterfactual

## Bail In as Part of UK Resolution Tool Kit

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- » UK – stabilisation power
- » other options available e.g. transfer, bridge bank
- » DGS can contribute funding
  - » relationship with Resolution fund to be confirmed
- » DGS “no worse off”
  - » net cost of payout

## UK Regime – Contribution to Costs of Resolution

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- » Banking Act 2009
- » s.214 (B) and (C) Financial Services and Markets Act 2000
- » Financial Services and Markets Act 2000 (Contribution to Costs of Special Resolution Regime) Regulations 2010/2220
  - » Notification of expenses
  - » Interim payment
  - » FSCS cap – net cost
  - » Independent valuer

# Dunfermline Building Society

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- » 30 March 2009
- » Deposit transfer, bridge bank, administration
- » HMT notification
- » FSCS payout report
  - › amount
  - › timing
- » Independent Valuer
  - › report and determination
  - › reconsideration
- » Calculation of Cap
  - › interest
  - › Accounts provision

## Independent Valuation – time line

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- » 30 March 2009 – Resolution
- » January 2010 – Appointment of IV
- » Evidence gathering and inquiry
- » 31 July 2012 – Determination and Report
- » 30 October 2012 – FSCS request for reconsideration
- » 30 April 2013 – Reconsideration and report



## Independent Valuation - Issues

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- » Adequacy of disclosure
- » Access to information
- » Scope of challenge ("margin of appreciation")
- » Use of hindsight and other assumptions (e.g. 'no state support')
- » Length of process
- » Reference to Tribunal

## Risks

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- » “Double” payment by DGS
  - › resolution objectives
  - › timing – one event or two?
- » Depletion of DGS funds for payout
  - › Article 10 (DGSD) – “primarily... to repay depositors”
- » Use of funds for alternative measures
  - › participation (or consultation) in resolution strategy (if not resolution authority)
  - › “risk monitoring and greater verification rights” (Article 11 DGSD)
- » Future role of payout?

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# ANY QUESTIONS?

[alex.kuczynski@fscs.org.uk](mailto:alex.kuczynski@fscs.org.uk)