

# Insurance industry: new recovery and resolution framework to limit disorderly failure risk

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New recovery and resolution rules for insurers aimed at preventing insurers' disorderly failure took effect on [1 January 2019](#). The new resolution framework is based on new rules in roughly three areas:

1. **Recovery and resolution planning requirements:** insurers will need to draw up a "preparatory crisis plan" and the Dutch Central Bank must (assisted by insurers) prepare resolution plans
2. **New resolution tools and powers:** the Dutch Central Bank acquires new tools, including the bail-in tool, and ancillary resolution powers
3. **Amended insolvency regime:** a new regime for insurers better tailored to protect the interests of policyholders

Recovery and resolution planning is of most relevance for insurers in 2019, with the rules increasing the crisis-planning burden placed on insurers. Certain insurers, in particular larger and more complex groups, may be required to make potentially significant changes to their activities, funding, and legal and operational structure.

## Preparatory crisis plan

Insurers will need to draw up a "preparatory crisis plan", comparable to the recovery plan in the banking sector. The plan's purpose is to offer recovery solutions for a potential crisis situation before the situation arises, and to address the financial, operational and legal feasibility of the suggested solutions.

## Resolution plan

The Dutch Central Bank will, in principle, have to prepare a resolution plan for every insurer or insurance group. In the resolution plan, the Dutch Central Bank describes: how it intends to deal with the resolution of the insurer or insurance group; which resolution tools and powers it intends to use and how; and which obstacles may hamper effective resolution. In addition, the resolution plan outlines important characteristics of the insurer that are relevant for resolution.

A resolution plan is not required if the Dutch Central Bank believes that an insurer's resolvability has been sufficiently safeguarded, or where it is feasible and credible that an insurer can be liquidated in insolvency. In an October 2018 [speech](#), the central bank's Nicole Stolk stated that "at first glance" between ten and twenty Dutch insurers could be eligible for resolution and resolution planning. She added that the scope of the resolution regime thus focuses not only on systemic insurers, but also on any insurer that may have an impact on "Dutch society, financial

markets and economy".

## Removing impediments to resolution

When preparing the resolution plan, the Dutch Central Bank may identify impediments to resolution and require the insurer to propose and implement correcting measures to address these impediments. If the resolution authority (the Dutch Central Bank) believes that the proposed measures will not have the required effect, it can impose its own measures. For example, the insurer or group could be asked to change its legal or operational structure, revise or implement funding arrangements, or limit or discontinue existing or proposed activities.

The proposed measures must be proportionate and can only be applied after the insurer has had a reasonable period to remove the identified impediments.

## How we can help insurers

De Brauw's regulatory experts have extensive experience in advising on the existing recovery and resolution framework for banks, which is similar to this new framework for insurers. We can help you with:

- drawing up a preparatory crisis plan
- providing the necessary assistance to the Dutch Central Bank in drawing up a resolution plan
- getting your organisation resolution-proof (finding solutions for impediments to resolution, analysing contracts, etc.)
- interacting with the Dutch Central Bank and advising on strategic options if impediments to resolution have been identified

For more information, read our [booklet](#) explaining how the new rules may impact insurers. On 5 and 7 February 2019, [the Dutch Central Bank](#) will also organise seminars to discuss the process of drawing up a preparatory crisis plan and any issues relating to resolution planning.

The new Act and Decree were both published at the end of December 2018; they can be found [here](#) and [here](#). A related [draft decree](#) on valuation of insurance claims was published for consultation in September 2018; the final decree has not been published yet.