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Between Liquidation and Resolution: Reforming Insurance Failure

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The “Aspis” case and the limits of liquidation

Abstract

The collapse of Aspis Pronoia (“Aspis”) remains the defining failure of the Greek insurance market, exposing structural deficiencies in supervision, regulatory and Insurance Insolvency law, and policyholder protection. More than a decade later, its legacy continues to shape litigation, regulatory reform, and legal debate. At the same time, the European Union is advancing toward the implementation of a harmonised Insurance Recovery and Resolution

Directive (IRRD), designed to introduce preventive and resolution tools analogous—though not identical—to those in the banking sector.

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The failure illustrated what a liquidation-only response cannot deliver: continuity of cover and timely, predictable outcomes for policyholders.

1. Introduction

Insurance undertakings occupy a particular position within financial systems. Unlike banks, they are not subject to liquidity runs, yet their failure can produce severe

social and economic consequences, particularly for long-term life and pension products – making the design of insurer-failure tools crucial. The Greek experience provides a striking illustration.

The collapse of Aspis in 2009 affected hundreds of thousands of policyholders and generated protracted litigation that continues to this day. It exposed shortcomings in **prudential supervision** and management of **insurer distress**, while underscoring the absence of a coherent framework for the orderly resolution of failing insurers.

Despite subsequent reforms—most notably the implementation of Solvency II—Greek law remains fundamentally oriented toward **ex post liquidation**, rather than **ex ante recovery and resolution**. This article argues that, in light of insurance insolvency cases such as Aspis and the adopted, and now moving toward transposition, EU Insurance Recovery and Resolution Directive (IRRD), relevant policies should move from a liquidation-centric model to a structured resolution-oriented approach that better protects policyholders

while supporting market stability. It proceeds by (i) revisiting Aspis and its legal aftermath (ii) mapping the current Greek framework and its limits, (iii) explaining why liquidation underperforms for insurers, (iv) situating the debate within the IRRD initiative, (v) addressing supervisory-liability spillovers, (vi) highlighting cross-border coordination problems, and (vii) examining the practical transition from framework design to implementation, including the role—and limits—of market-based solutions under the existing regime, before concluding.

2. The Aspis Collapse: A Systemic Failure

2.1 Background and Scale

Aspis was one of the largest insurance groups in Greece, offering a wide range of life and non-life products. Its collapse in 2009 followed the revocation of its operating licence due to severe solvency deficiencies.

The failure -unprecedented in the Greek market- illustrated what a liquidation-only response cannot deliver: continuity of cover and timely, predictable outcomes for policyholders.

With hundreds of thousands affected, delay and uncertainty became **systemic harms**.

Because much of the exposure concerned life savings and pension-type products, losses could not be treated as ordinary short-tail claims without undermining the protective function of insurance. The protracted compensation and claims-resolution process shows that liquidation may frustrate policyholder protection even where formal priority rules exist.

2.2 Supervisory Failures

The Aspis case exposed regulatory oversight failures with direct implications for insurer-insolvency policy: when supervision is delayed and enforcement is weak, a liquidation-only framework deprives authorities of any credible means to stabilise a distressed undertaking while protecting policyholders. Reported issues included delayed intervention despite evident solvency pressures, inadequate monitoring of asset quality and reserves, and weak enforcement of governance standards.

These failures also raised questions about **supervisory-authority liability**, although such claims have encountered significant legal challenges.

2.3 Legal Aftermath and Litigation

The aftermath of the collapse has been marked by extensive litigation, criminal and civil proceedings, and complex liquidation processes. More than fifteen years later, the case continues to generate jurisprudence, underscoring the protracted and uncertain nature of insurance insolvency. More importantly, it illustrates the structural inability of a liquidation-based system to deliver timely and policyholder-oriented outcomes.

3. The Current Legal Framework

3.1 Liquidation-Centric Approach

Greek insurance law, as structured under Law 4364/2016 (transposing the Solvency II Directive), provides for the special liquidation of insurance undertakings through licence revocation, appointment of a liquidator, and satisfaction of claims according to statutory priority rules. While this ensures an orderly wind-down, it is fundamentally reactive, as it is triggered only after the insurer has effectively failed.

3.2 Limited Early Intervention Tools

Unlike banking law, Greek insurance law does not provide a dedicated set of recovery and resolution instruments comparable to those available under the BRRD, such as early supervisory intervention, recovery planning, and pre-insolvency restructuring. Although Solvency II introduces governance and supervisory powers, these remain primarily **prudential** and fall short of constituting a structured framework designed to preserve continuity of cover outside liquidation.

3.3 Policyholder Protection Mechanisms

Policyholder protection in Greece relies on a combination of priority ranking of insurance claims and guarantee funds, which remain limited in scope.

However, in a large-scale failure, these mechanisms can leave material gaps in practice: coverage may be limited, funding and pay-out processes may not match the speed and scale of losses, and liquidation timelines can delay effective relief—as the Aspis case has demonstrated.

4 The Conceptual Gap: Why Insurance Needs Resolution, Not Just Liquidation

4.1 The Limits of Liquidation

Liquidation is inherently value-destructive in the insurance context because it converts a relationship built on long-term risk pooling into a short-term asset realisation exercise. The result is a **loss of going-concern value** which is a primary consideration under the basic principles of modern Insolvency Law: contracts are disrupted, expected benefits are frustrated, and asset sales may occur under distressed conditions.

This transformation is particularly problematic in the case of life and pension products, where policyholders rely on continuity and predictability. The liquidation process, however orderly in formal terms, introduces delay, uncertainty and, in many cases, a loss of value associated with the premature termination of contractual expectations.

More fundamentally, liquidation fails to preserve the **continuity function** of insurance. Insurance portfolios are not simply collections of assets and liabilities; they are embedded in operational structures, distribution channels and actuarial assumptions that lose coherence once the undertaking is dismantled. As a result, liquidation may lead to outcomes that are suboptimal not only for policyholders, but also for the market more broadly.

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4.2 The Case for Resolution

Against this background, a resolution framework seeks to preserve the continuity function of insurance by maintaining insurance contracts as going concerns, rather than reducing them to claims in liquidation. It aims to **preserve critical insurance functions**, transfer portfolios to solvent entities, and minimise losses to policyholders.

It does so by equipping authorities with administrative tools that allow distressed insurers to be stabilised or restructured before formal insolvency becomes inevitable.

These tools include portfolio transfer, temporary public



administration, or (where justified) bridge arrangements, rather than proceeding directly to special liquidation.

Such tools are particularly relevant in:

- Systemically significant insurers
- Markets with low insurance penetration (such as Greece)

4.3 Distinguishing Insurance from Banking

The IRRD marks a decisive shift in regulatory philosophy, moving the centre of gravity from the ex post management of insurer failure to the ex ante management of financial distress and its orderly handling.

While the development of resolution regimes has been strongly influenced by banking regulation, important differences justify a tailored approach for insurance:

Insurers are generally less exposed to liquidity shocks, but are characterised by longer-term liabilities and complex contractual relationships with policyholders.

These features reduce the relevance of certain banking tools, such as broad bail-in mechanisms, while increasing the importance of preserving contractual continuity. For these reasons, the objective is not to replicate the banking model, but to adapt its core logic—early intervention and structured resolution—to the specificities of the insurance sector.

5. European Developments: The Insurance Recovery and Resolution Directive

5.1 The IRRD Initiative and the implications for Greece

The European Union has adopted the **Insurance Recovery and Resolution Directive (IRRD)**, establishing a harmonised framework across Member States that must be transposed into national law.¹ The IRRD marks a decisive shift in regulatory philosophy, moving the centre of gravity from the *ex post* management of insurer failure to the *ex ante* management of financial distress and its orderly handling. In practical terms, it requires (re)insurers to engage in forward-looking recovery planning, empowers supervisory authorities to intervene at an earlier stage, and equips resolution authorities with a structured toolkit—including portfolio transfers and, in limited cases, bridge institutions—designed to ensure continuity of cover and protect policyholders without defaulting to liquidation as the primary response.

As in other EU Member States, for Greece, the IRRD would represent a transition from a liquidation-based model to a more structured and harmonised framework, requiring legislative reform and enhanced supervisory capacity.

While Solvency II does provide for reorganisation measures, these remain embedded in national insolvency frameworks, are largely reactive, and focus on restoring the undertaking. By contrast, the IRRD is designed to establish a harmonised, pre-emptive, and administratively driven resolution regime, aimed not only at recovery but at ensuring the continuity of insurance coverage and the orderly management of failure.

5.2 Policyholder Protection Revisited

The IRRD places **policyholder protection** at the centre of the framework, reflecting the experience from cases such as Aspis. In particular, it seeks to move beyond *ex post* compensation mechanisms by promoting earlier intervention and tools designed to preserve continuity of cover. This shift is especially relevant in the insurance context, where policyholder interests are closely linked to the stability and predictability of long-term contractual relationships. At the same time, it raises questions as to how enhanced protection can be achieved without imposing disproportionate regulatory burdens—an issue that underlies the broader debate on the role of market-based solutions.

1. Officially published on 8 January 2025 – to be transposed into national law by 29 January 2027.

6. Supervisory Authority Liability: Potential Exposure

Given that the prevailing framework proved inefficient, and failed to avert insolvency in a timely manner, the parties concerned sought to recover their losses by bringing actions against the supervisory authorities.

More generally, reliance on liquidation raises questions regarding supervisory responsibility. Where intervention is delayed or ineffective, policyholders may suffer harm that is difficult to redress through existing legal mechanisms; moreover, the lack of effective recovery and resolution tools may not only impair outcomes but also increase pressure on supervisory authorities. Conversely, both Greek and EU law set high thresholds for establishing liability, and courts have generally been reluctant to impose it absent sufficiently serious breaches.

6.1 Basis of Liability

The *Aspis* case raised the question of whether supervisory authorities may incur responsibility for failures in the exercise of their oversight functions.² Such failures may take the form of delayed intervention, particularly where signs of financial deterioration are evident, or inadequate supervision, including insufficient monitoring of solvency and governance requirements.

Under Greek law, claims of this nature must overcome significant legal obstacles. In particular, they are subject to the high thresholds applicable to state liability, as well as the requirement to establish a causal link between the alleged omission and the damage suffered by policyholders. These requirements render successful claims difficult in practice.

6.2 EU Law Dimension

EU law introduces additional considerations in this respect, including the principle of effective judicial protection and the possibility of state liability for breaches of EU law. In theory, these principles may provide an additional avenue for claims against supervisory authorities.

In practice, however, courts have generally been reluctant to impose such liability, particularly in the absence of manifest and sufficiently serious breaches. This reinforces the importance of preventive and resolution-oriented mechanisms, which may reduce the likelihood of such claims arising in the first place.

These undesired repercussions—namely, policyholders seeking to recover losses through claims against supervisory authorities—further underscore that the effective management of insurer failure should rely less on after-the-event remedies and more on the design and coordination of resolution mechanisms, particularly in cross-border contexts.

7. Cross-Border Dimensions and Market Fragmentation

Because liquidation is administered at national level while insurance activity is often cross-border, the absence of coordinated resolution mechanisms can amplify losses and produce fragmented and uneven policyholder outcomes across jurisdictions—an issue the IRRD seeks to mitigate.

The Greek insurance market operates within the EU single market, allowing insurers to provide services across borders. In insolvency scenarios, this raises complex issues, including questions as to which authority is competent, how claims are coordinated between jurisdictions, and how policyholders in different Member States are treated.

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Reliance on liquidation raises questions regarding supervisory responsibility, as delayed or ineffective intervention can cause harm to policyholders that is difficult to redress.

The IRRD seeks to address these challenges through enhanced coordination mechanisms and a more harmonised framework, thereby supporting more consistent policyholder outcomes across the Union.

8. Toward the Resolution Framework: From Design to Implementation

As the application of the IRRD moves toward implementation, the debate is shifting from abstract reform to operational delivery, with concrete implications for supervisory authorities and insurance undertakings alike.

2. Decisions 1501/2014 of the Plenary Assembly of the Greek Conseil d'Etat and 3783/2014 of the 1st Division of the same Court.

At EU level, preparatory work is already underway to operationalise the IRRD's high-level architecture into practical supervisory and resolution instruments. The emerging framework is being supplemented by technical standards and guidance aimed at ensuring consistent application across Member States.³

In parallel, national authorities will need to adapt their legal and institutional arrangements to accommodate recovery planning, early intervention and resolution preparedness within the insurance sector. This entails both legislative transposition and the development of supervisory capacity capable of operating a pre-emptive, administratively driven resolution regime in practice.

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The transition from liquidation to resolution is not merely technical; it reflects a broader conceptual shift in the function of insurance law, from passive loss allocation to more active risk management and market stabilisation.

From an insurance industry perspective, the approaching implementation of the IRRD requires early preparation and proactive engagement with recovery planning obligations. Insurance companies and groups will need to assess their resolvability, and where necessary, adjust governance, risk management and operational structures accordingly.

8.1 Market-Based Solutions and the Limits of Supervisory Practice

Concerns about over-regulation have intensified with the shift toward a resolution framework.⁴ These concerns deserve careful consideration, not least because they reflect the operational realities of insurance markets and the cumulative impact of post-crisis financial regulation.

It is often argued that Solvency II, combined with supervisory intervention, already provides effective tools for managing insurer distress, notably through mechanisms such as portfolio transfers.

While Solvency II enables portfolio transfers and may ensure continuity of cover where a willing buyer exists, these mechanisms do not amount to a comprehensive resolution framework. In particular, they lack key features typically associated with such regimes, such as bridge arrangements and structured loss-allocation tools, and remain heavily dependent on market conditions.

“Post- Aspis” cases in Greece have showed how supervisory authorities may use the existing (Solvency II) framework to guide portfolio transfers, thereby maintaining continuity of cover where solvency concerns arise and a suitable acquirer is available. However, such market-based solutions work only under favourable market conditions and do not provide predictable outcomes. In the absence of an acquirer, policyholders may ultimately be exposed to the same risks and delays associated with liquidation.

9. Conclusion

The collapse of Aspis exposed fundamental weaknesses in the Greek insurance law framework, several of which persist. While significant progress has been made in prudential regulation, the legal architecture governing insurer failure remains anchored in a liquidation-based model that is not well calibrated to the distinctive features of the insurance sector.

As the European Union moves toward a harmonised recovery and resolution regime, a critical opportunity to modernise the approach to insurance insolvency has emerged. The transition from liquidation to resolution is not merely technical; it reflects a broader conceptual shift in the function of insurance law, from passive loss allocation to more active risk management and market stabilisation.

At the same time, this transition should be approached with due regard to the particularities of the insurance sector. As illustrated by market-based tools such as portfolio transfers, existing supervisory tools can deliver effective outcomes under certain conditions. However, their contingent nature underscores the need for a structured framework capable of operating where such solutions are not available.

The success of this transition will ultimately depend on the ability to strike an appropriate balance between policyholder protection, market discipline and regulatory proportionality. In this context, the IRRD should be understood not as a wholesale transplant of the banking model, but as a complementary and flexible framework that addresses the structural limitations of a purely liquidation-based system.

3. https://www.eiopa.europa.eu/eiopa-publishes-first-batch-guidelines-and-draft-technical-standards-related-irrd-2026-02-16_en

4. See also: <https://www.insuranceeurope.eu/priorities/2553/recovery-resolution>. It becomes evident that the IRRD implementation will occupy the insurance industry in the months to come.



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