At the 5 October 2017 SCOF meeting the Chairperson queried why policyholders do not have preferential creditor status in the event of the insolvency of an insurer. The NT and FSB explained why this protection has not yet been provided for in the South African regulatory framework. The Chairperson subsequently requested the NT and FSB to provide the SCOF with a concise write-up of the explanation for possible inclusion in the SCOF’s report on the Insurance Bill.

*Concise write-up*:

“International standards do require that legislation affords policyholders a high legal priority in the event of the insolvency of an insurer. However, such priority has not yet been provided for in the South African regulatory framework.

High legal priority may be provided through a Policyholder Protection Scheme (“PPS”), or / and other protection mechanisms (such as tied assets or preferred claims).

The National Treasury, in its 2015 policy document on *Strengthening South Africa’s Resolution Framework for Financial Institutions* committed that further technical work will be undertaken relating to creditor hierarchy and implications specifically as they relate to policyholders when an insurer is in resolution. The further technical work is required to inform policy decisions on the type of insurance products and investment-related insurance products that should be afforded preference, the maximum amount that can be claimed in the case of a life or a non-life policy and the type of policyholders that must be protected.

The National Treasury has also in this policy document stated that preliminary research has been undertaken on establishing a PPS in South Africa, but that a policy decision can only be taken following further technical work. If such a policyholder protection scheme is established, it will form part of a second phase following the establishment of a depositor guarantee scheme.”