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Study of Insurance Economics

Études et Dossiers

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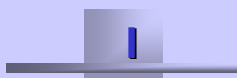
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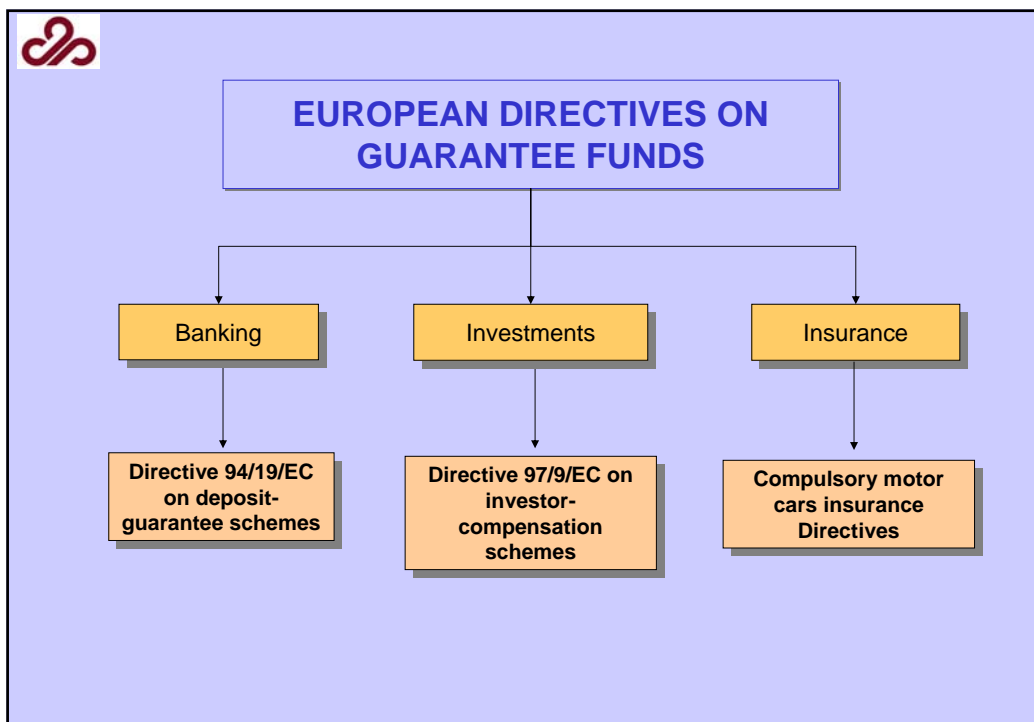
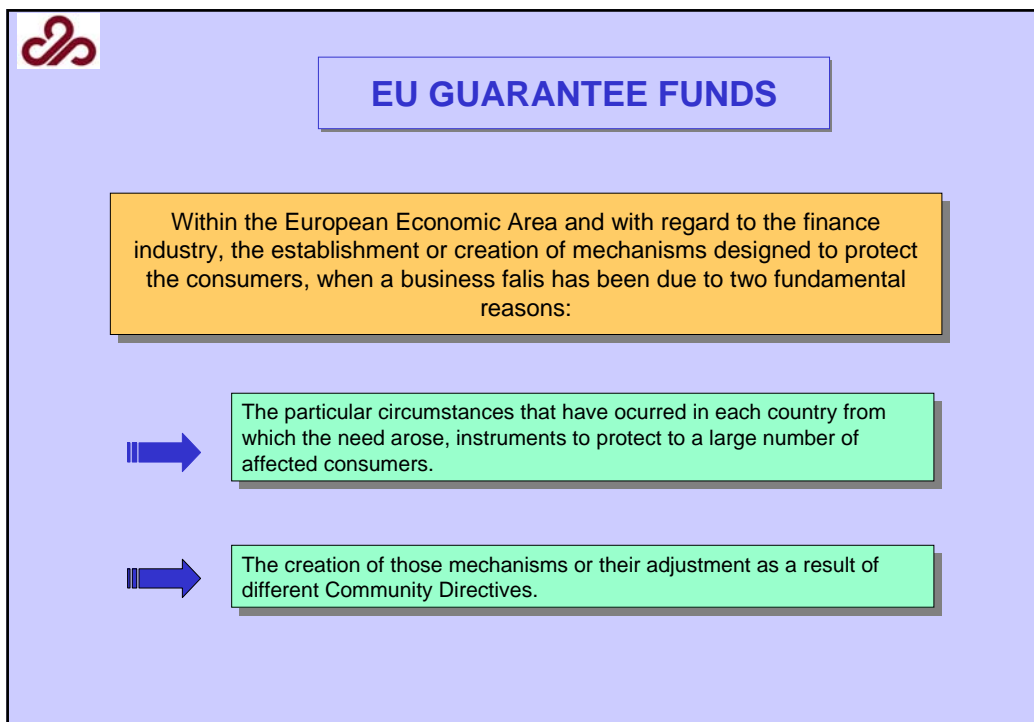
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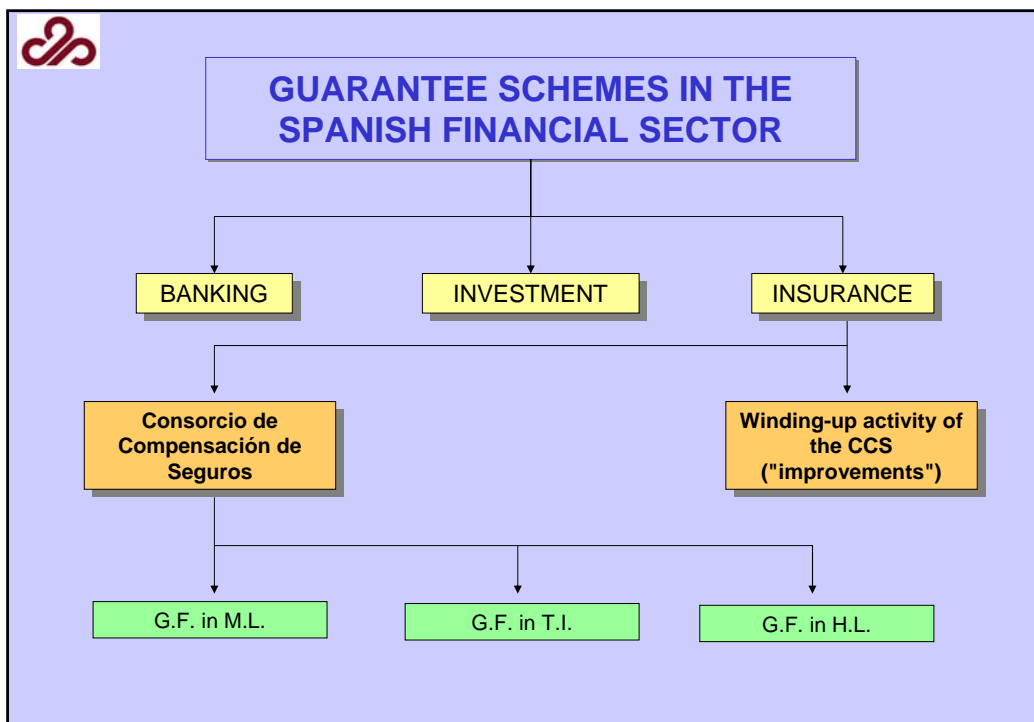
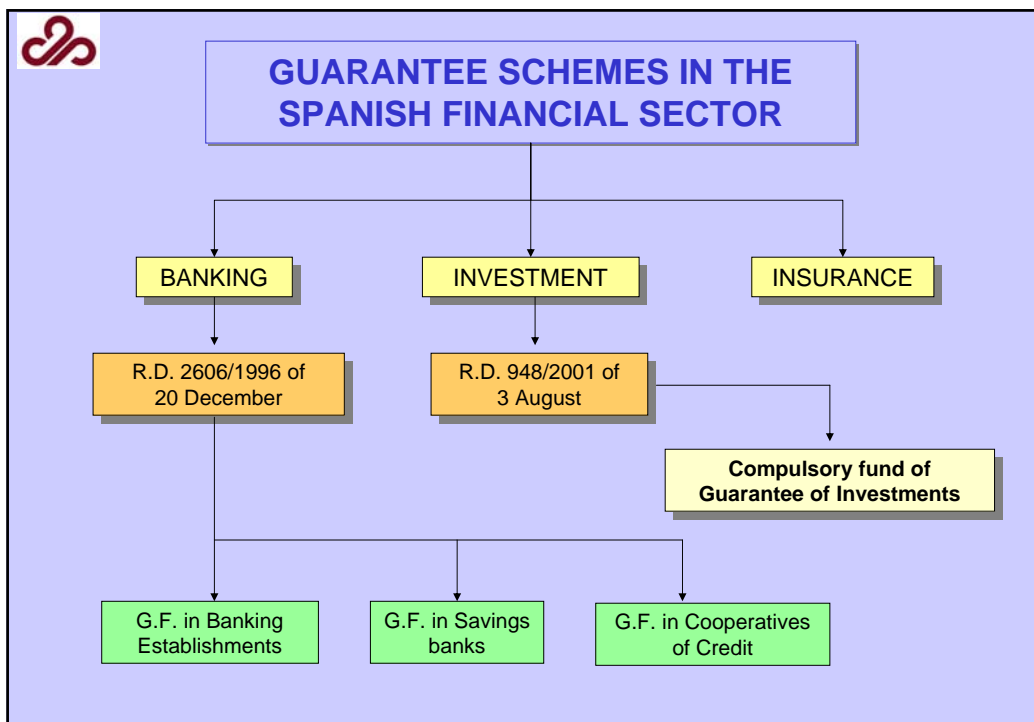
Policyholders Protection and Guarantee Funds in the EU Single Financial Market. Spanish Experience

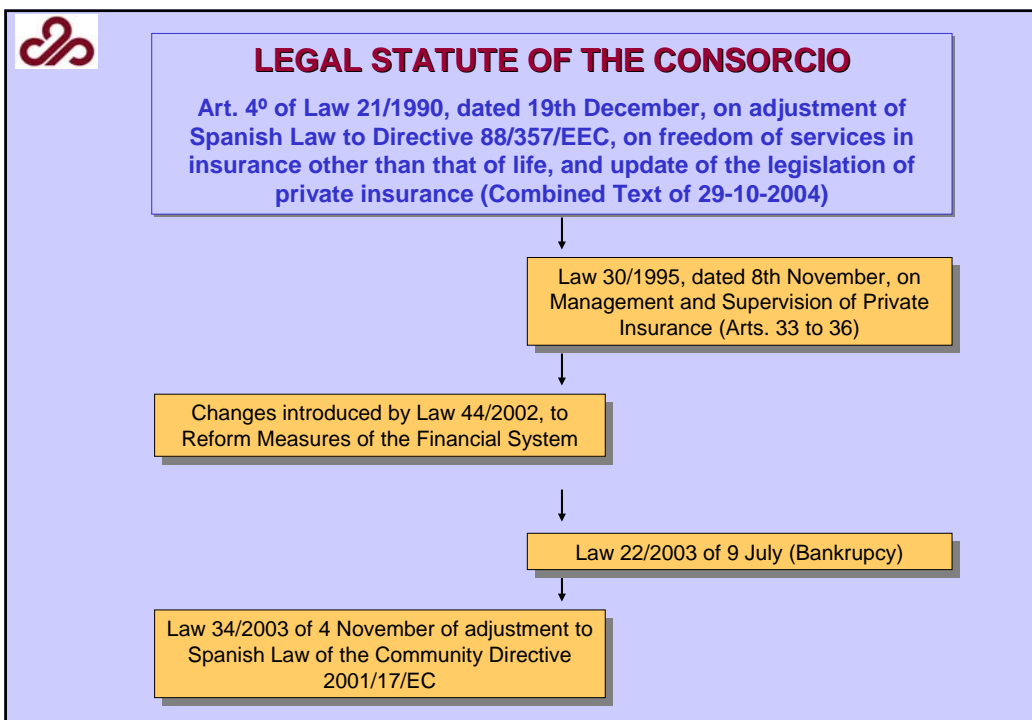
Ana García Barona

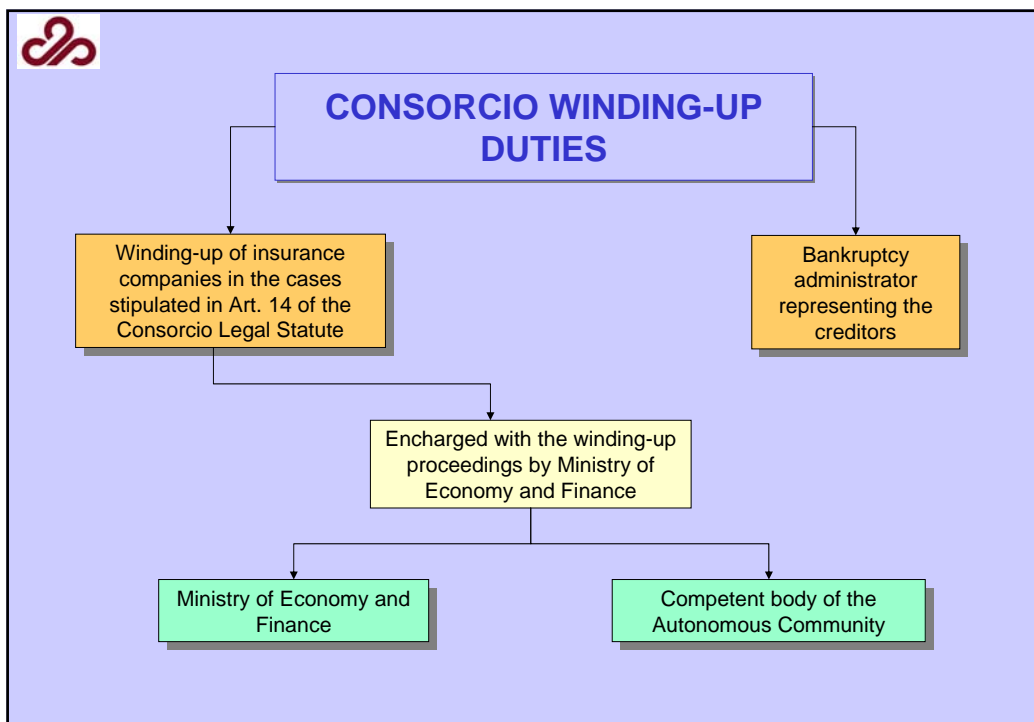
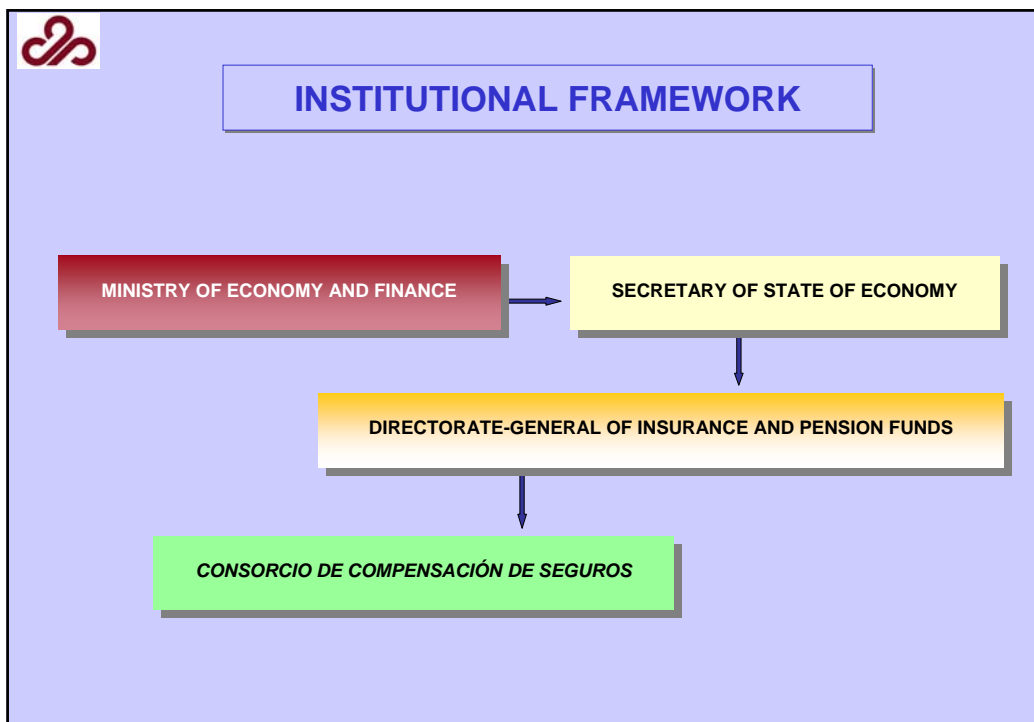


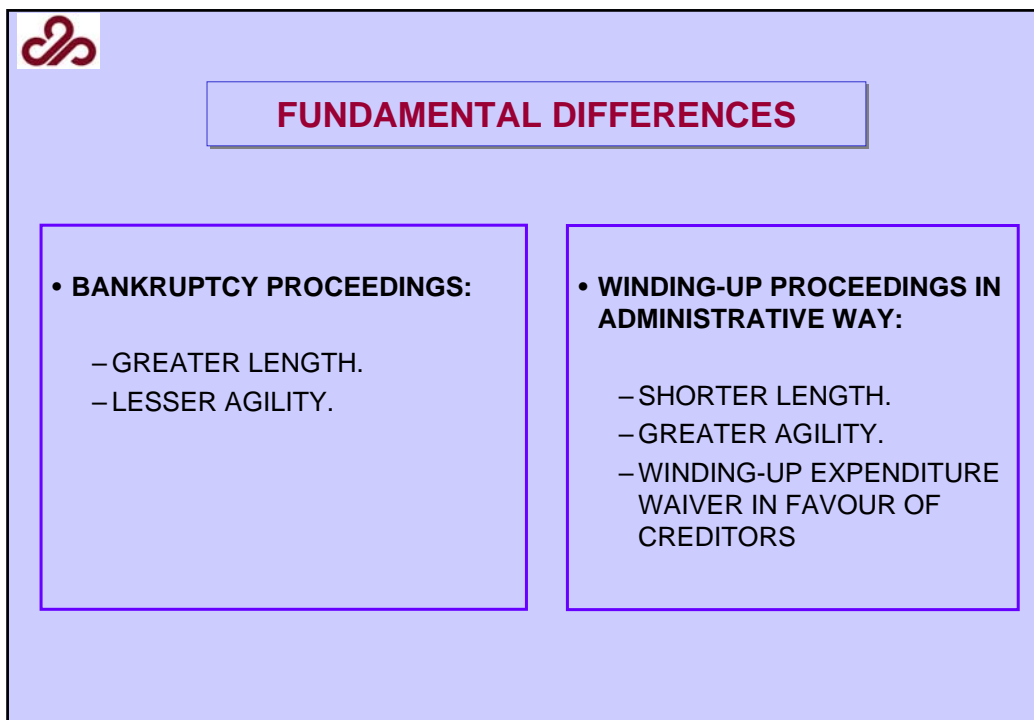
EU GUARANTEE FUNDS












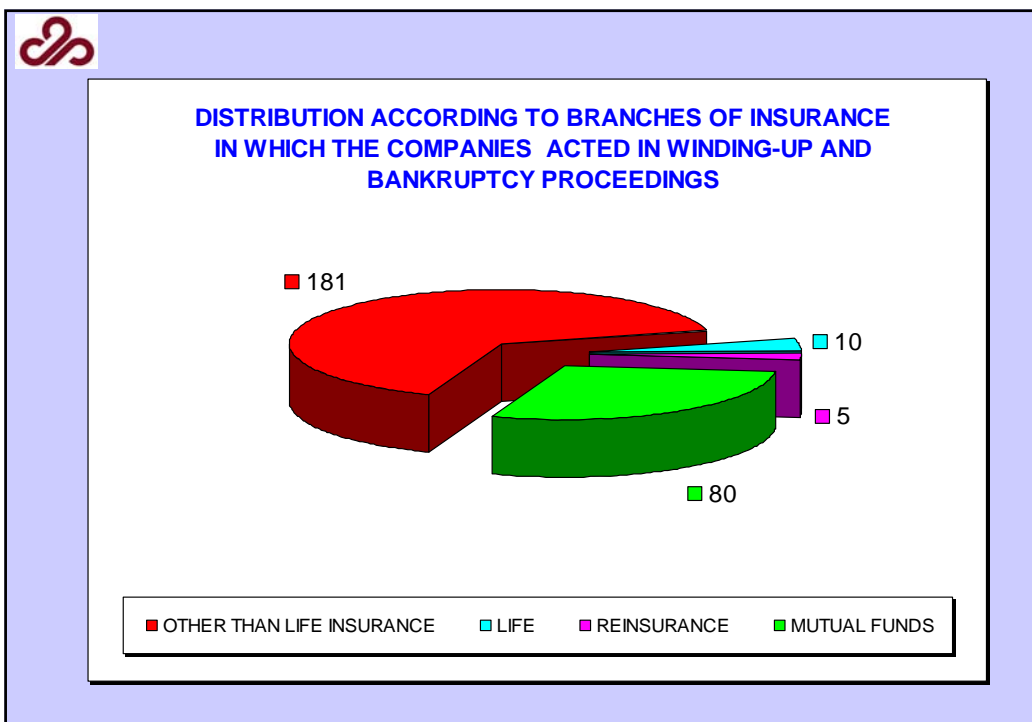
WINDING-UP PROCEEDINGS UNDERTAKEN

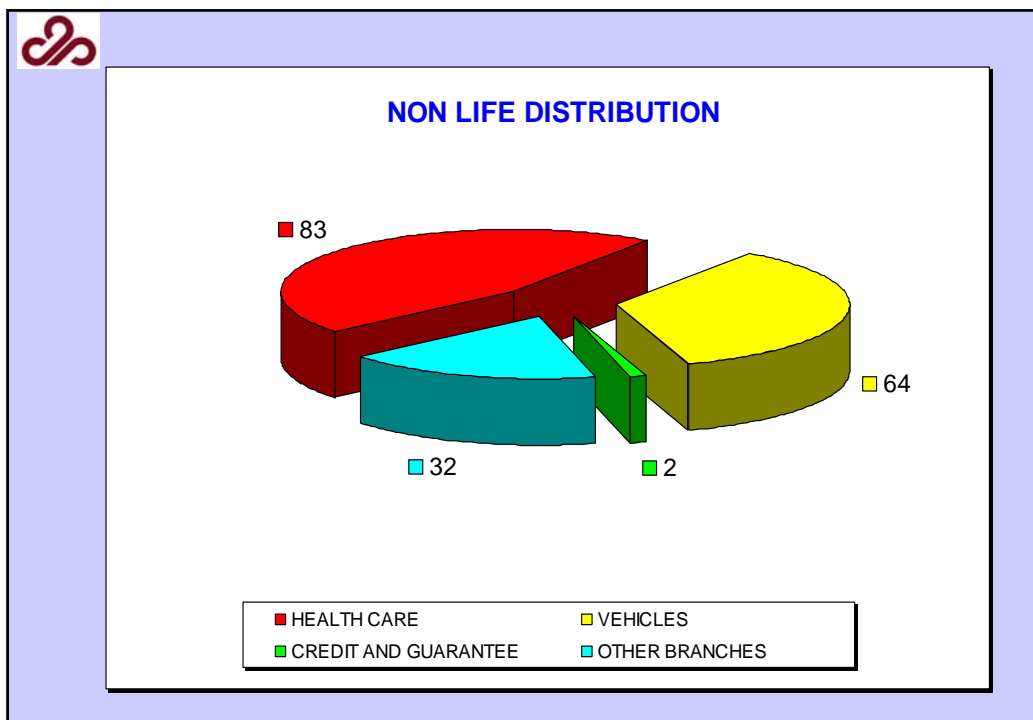
	N° of companies	Total
Undertaken operations:		
Up to 31-12-06	266	
During 2007	3	
		269
Finished winding-up operations:		
Up to 31-12-06	233	
During 2007	2	
		235
Pending winding-up operations		34
Undertaken proceedings:		
Up to 31-12-06	8	
During 2007	0	
		8
Finished winding-up proceedings:		
Up to 31-12-06	5	
During 2007	0	
		5
Pending winding-up proceedings		3



DISTRIBUTION ACCORDING TO BRANCHES OF INSURANCE IN WHICH THE COMPANIES ACTED IN WINDING-UP AND BANKRUPTCY PROCEEDINGS

BRANCH	N° OF COMPANIES
OTHER THAN LIFE INSURANCE	181
Health Care	83
Vehicles	64
Credit and Guarantee	2
Other Branches	32
LIFE	10
REINSURANCE	5
MUTUAL FUNDS	80
Total	276





Alternative systems of winding-up operations stipulated in the European Directive on reorganisation and winding-up of insurance undertakings

- Precedence of the insurance claims over all the social assets with the exception of:
 - Claims by employees.
 - Claims by public bodies on taxes.
 - Claims on assets subject to right in rem.
- Absolute precedence of the insurance claims with respect to assets representing the technical provisions.



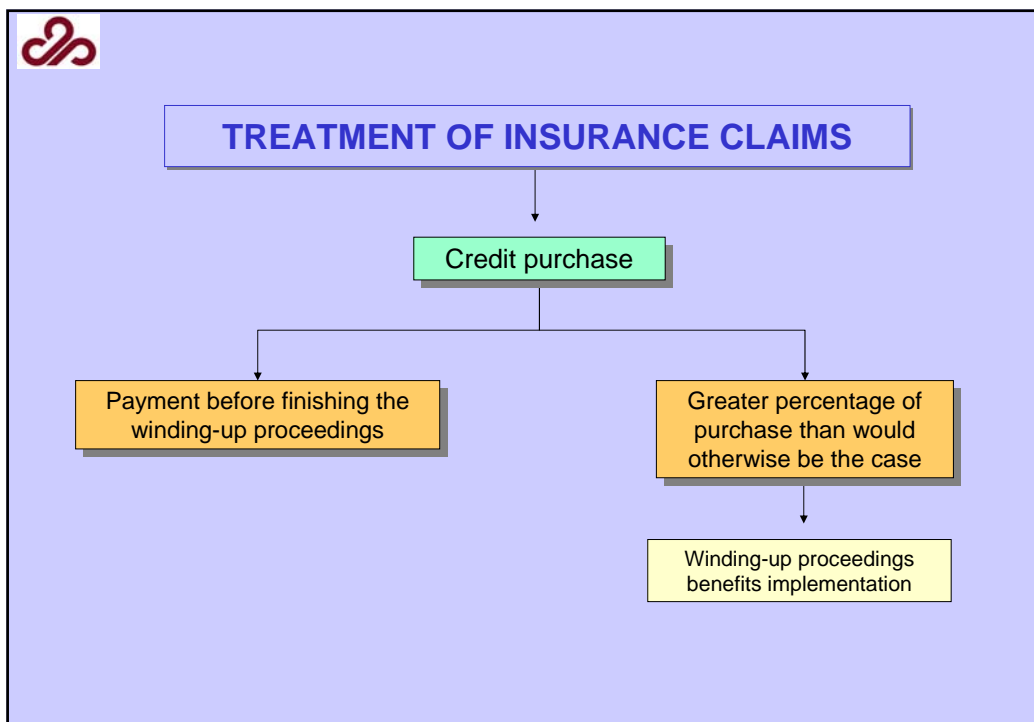
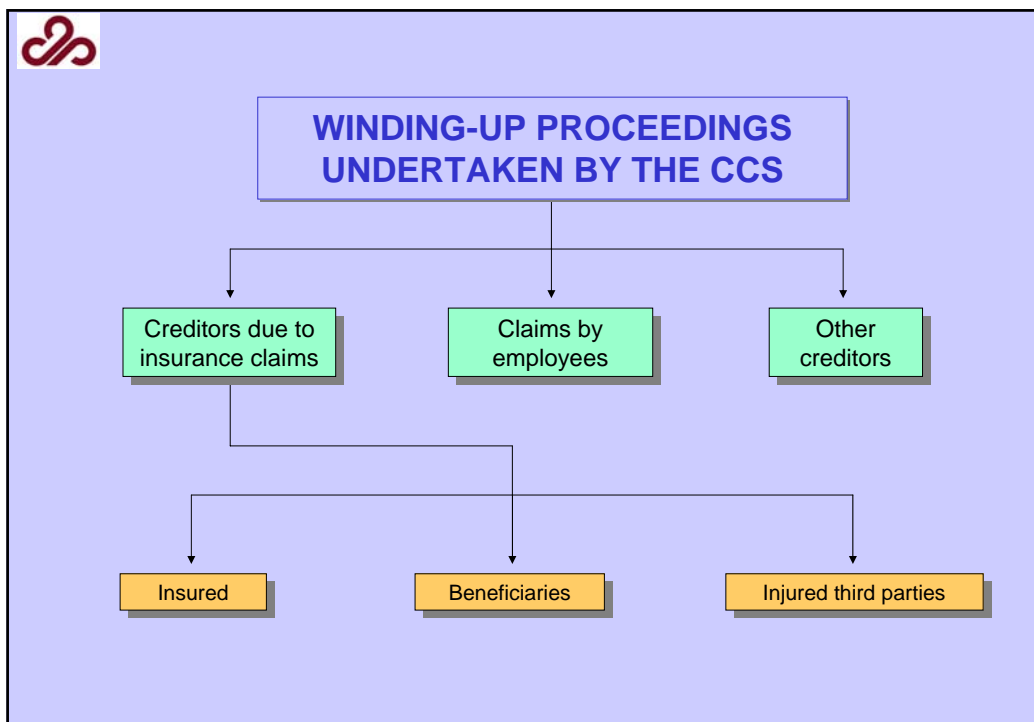
What is the system which Spanish Law has chosen?

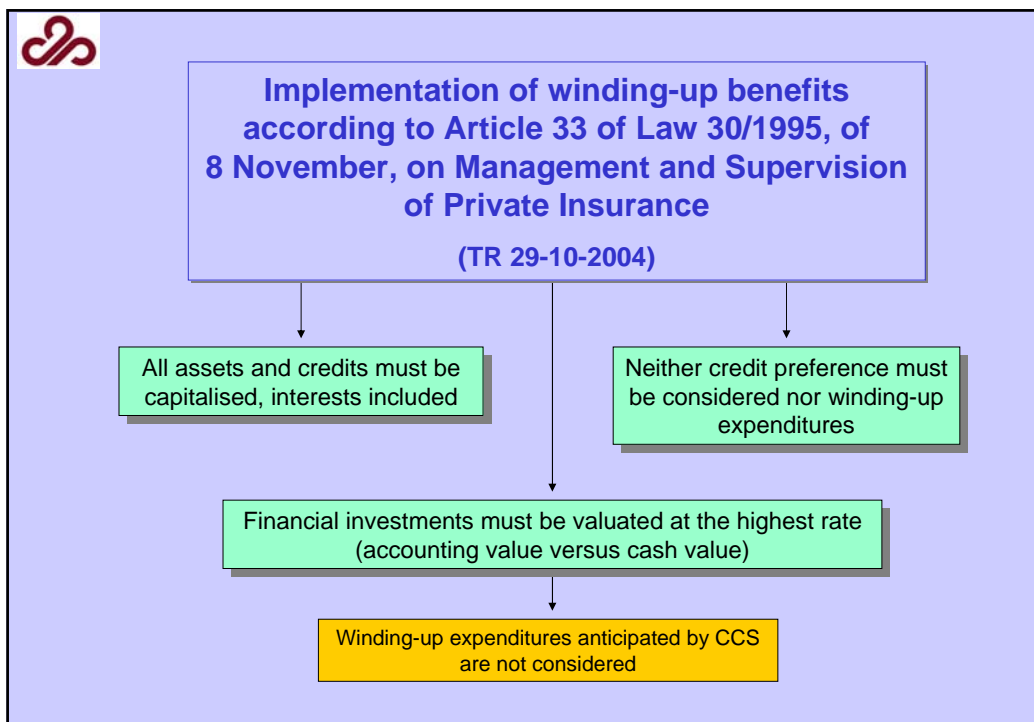
- Absolute precedence of the insurance claims with respect to those registered assets representing the technical provisions (specially registered).
- The only rights with preference over insurance claims, are the rights in rem kept up to date before the adoption of non disposal measures.



Protection of the insured in Spanish law:

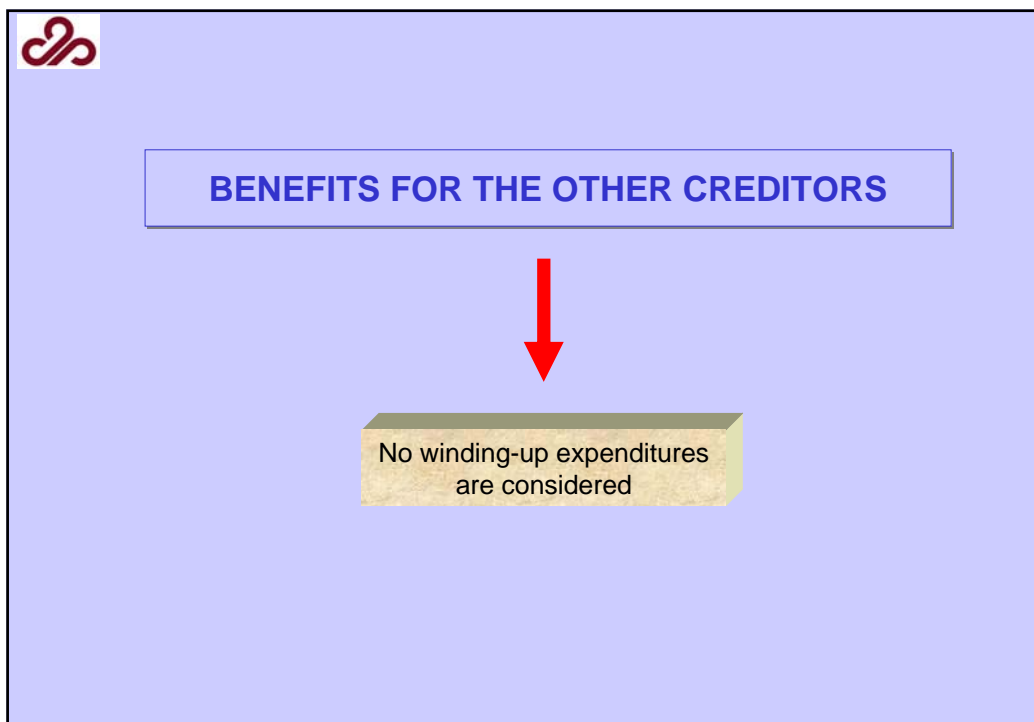
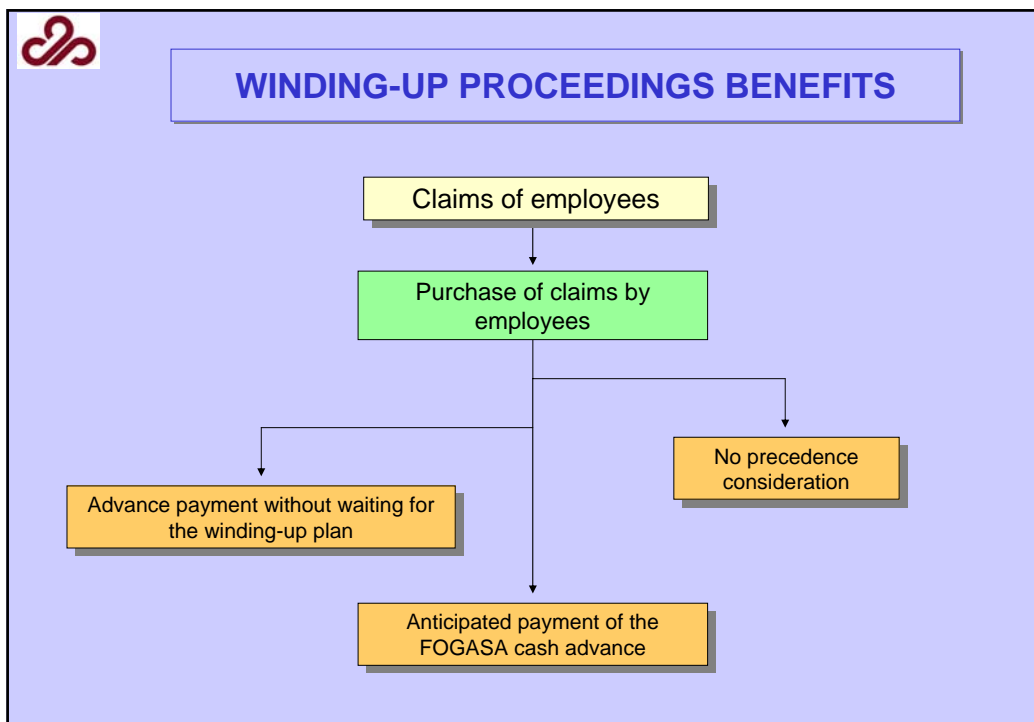
- Purchase of the insurance claims by CCS in a greater percentage than would otherwise correspond as a consequence of winding-up benefits legally stipulated.
- Insurance claims coming from motor-car third-party liability insurance are guaranteed by the Guarantee Fund (CCS) up to the compulsory limit.
- Insurance claims have precedence with respect to assets over which DGSPF has adopted measures restricting disposal, excluding rights in rem kept up to date before measures.
- The part not covered under the previous assets will concur with common creditors.

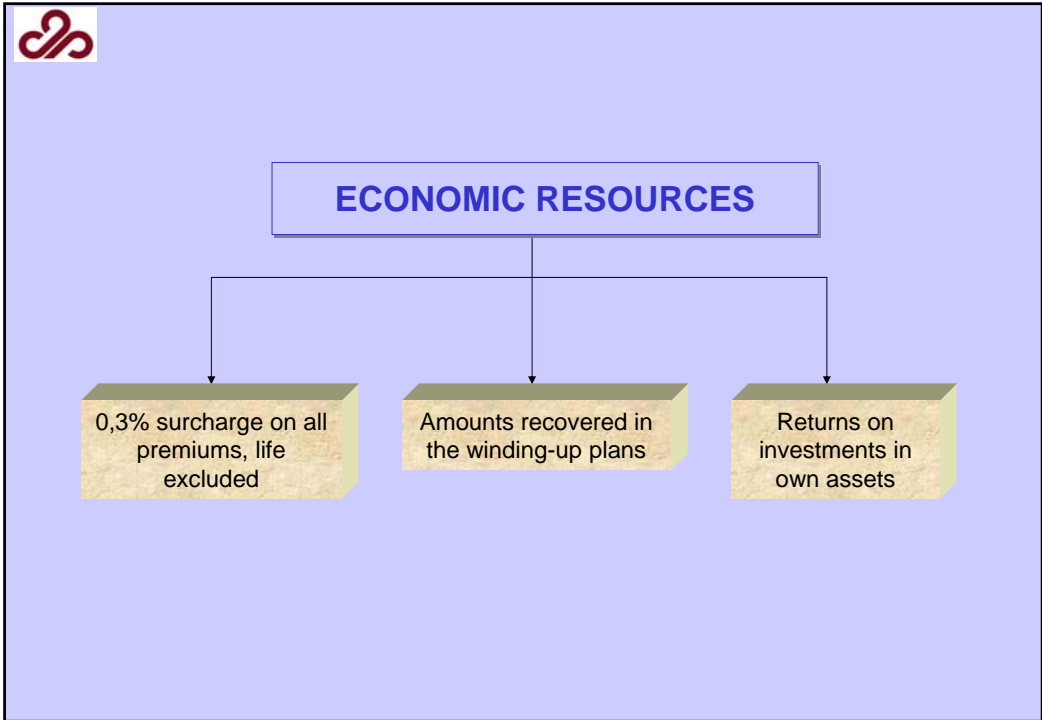
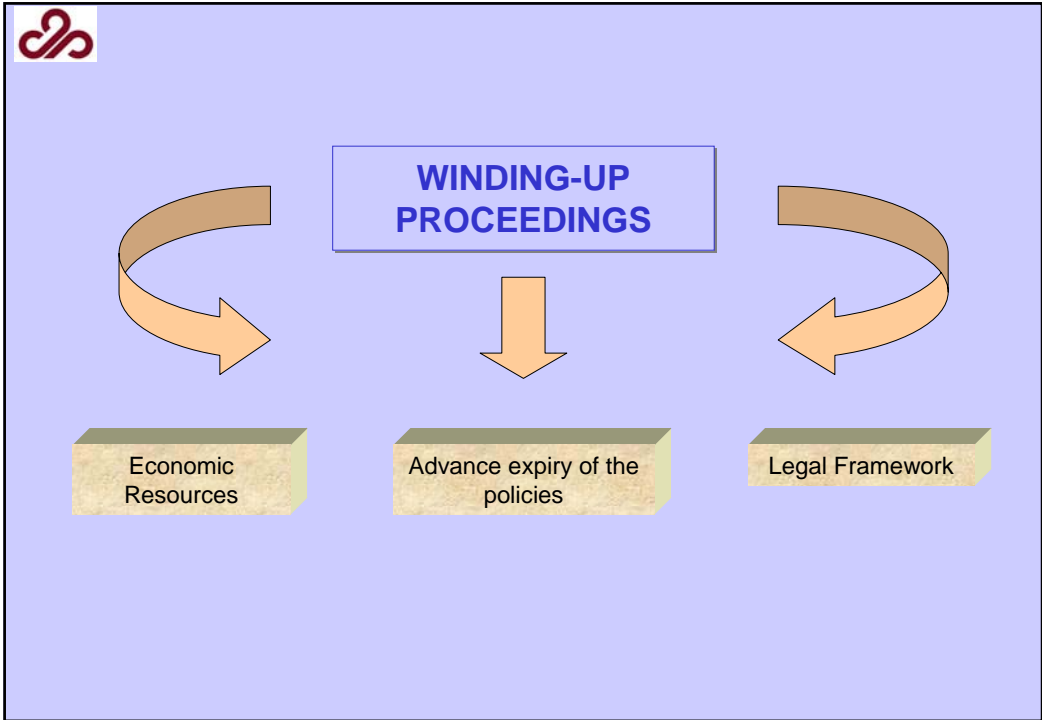





PURCHASE BY INSURANCE CLAIM CREDITORS

YEARS	N° OF PROPOSALS	
	MADE	ACCEPTED
UNTIL 2000	638.430	531.088
2001	67.393	61.355
2002	9.356	17.638
2003	10.888	11.306
2004	11.498	11.638
2005	3.449	3.451
2006	2.673	1.747
2007	18.592	14.126
Totals	762.279	652.349








ADVANCE EXPIRY OF THE POLICIES

- Reason for the adoption of this measure:
 - To avoid a greater debt on the part of the companies.
 - To avoid the chaos that would ensue when a company being wound up continues to insure.
- Consequences:
 - Obligation to return the unconsumed part of the premiums unconsumed.



WINDING-UP PROCEEDINGS LEGAL FRAMEWORK

REPLACEMENT OF THE SOCIAL BODIES	SUSPENSION OF THE IMPLEMENTATION OF SENTENCES	NON LIABILITY TO THE CCS FOR DEBTS OF THE INSURANCE COMPANY
INTERRUPTION OF THE ACCRUAL OF INTERESTS	NON COMPULSORY BANKRUPTCY DECLARATION	ADVANCE PAYMENT AND WAIVER, IN CASE OF INSOLVENCY, OF THE WINDING-UP PROCEEDINGS