

EIOPA Technical Seminar on recovery and resolution in (re-) insurance, 18 November 2022

Summary of the discussions

Dimitris Zafeiris, EIOPA's Head of Risks and Financial Stability Department, opened the event explaining the rationale for holding it and its objectives. Over 500 participants worldwide, coming from public authorities and national supervisors, insurance companies, associations, consultancy firms, etc. registered to the event, showing a great interest in the topic.

Introductory remarks

Petra Hielkema, EIOPA's Chairperson, delivered a keynote speech explaining the relevance of the topic in terms of contributing to a sound insurance industry, protecting consumers and maintaining financial stability. This explained the interest that EIOPA has put in this topic since the establishment of the Authority, actively contributing to the discussions and publishing very relevant material. She highlighted some key elements of the IRRD proposal and their expected benefit, expressing satisfaction with its main elements.

Similarities and differences between IRRD and BRRD

Jean Hilgers, Executive Direction at NBB, explained why a specific framework to address failing insurance undertakings was needed, compared some elements of the IRRD and the BRRD and ended up his intervention pointing at two missing pieces of the IRRD, namely, the issue of resolution funding and how to deal with conglomerates. On this last item, Mr Hilgers explained the main challenges of having one framework for banks and another (albeit consistent) for insurance. He referred to the two different trigger/starting points coming from the two different frameworks, planning aspects, the exercise of the different tools and the funding issues as main elements that require further thoughts.

Case study - Resolution process

Marie Donnay, Head of Resolution and deposit insurance Unit at DG Fisma (European Commission) presented a stylised case study, which included the main procedural steps leading up to a failing or likely to fail declaration. The case study presented demonstrated the benefits and improvements brought by the IRRD in terms of crisis management for (re-)insurers, in particular for cross-border groups.

A question on the more important elements of the framework was posed. Three elements were mentioned. First the emphasis on preparedness to be ready and adjust in case of need. Secondly, a

harmonised set of tools and powers, which is particularly relevant in cross-border cases. Lastly, the approach to have early determination of FOLTF and intervene early enough (before MCR breach) to avoid further deterioration. Some questions revolved around the preventive planning, the usefulness and the expectations. It was mentioned that preventive powers are complementary to the recovery plan, emphasising the important of preparedness of also the authorities and not only the undertakings. Finally, some participants were interested on the timeline. It was mentioned that the timeline is difficult to foresee, given the different steps in the process.

Panel discussion - Proportionality

The first panel was devoted to the important issue of ensuring proportionality. The panel was composed of three speakers, Francesco Mauro (Head of Supervisory Review, Recovery and Resolution Unit at EBA, Daria Ringwelska (Deputy Director, Insurance Supervision Department, Polish Financial Supervision Authority, KNF) and Ana Teresa Moutinho (Head of Supervisory Processes Department at EIOPA) and moderated by Dimitris Zafeiris. The panellist addressed a variety of questions around the concept of proportionality, its key elements, the main proportionality aspects included in the IRRD and how proportionality is ensured in the BRRD. Special attention was devoted to the relationship between size of companies and proportionality, and how to ensure that proportionality does not mean that policyholders from smaller or less risky companies are less protected than those from bigger ones. Furthermore, it was mentioned that when the public interest assessment is positive, the bank will go to resolution and not liquidation but should be noted that this is not the same as the assessment for the eligibility for proportionality. Speakers concurred in highlighting the importance of designing, implementing and monitoring the proportionality elements.

Setting up resolution authorities

Dagmara Wieczorek-Bartczak, Member of the Management Board of the Bank Guarantee Fund in Poland, shared the Polish experience in setting up a resolution authority. She provided an overview of how the authority would work regarding the insurance resolution function, the challenges faced and shared some lessons learned with regard to dealing with distressed insurers and the current difficulties when there is no proper resolution framework in place.

Main discussion was around the cooperation between the supervisory, resolution authority and IGS. Ms Wieczorek-Bartczak explained how this is handled in Poland, which includes the participation of KNF chairman as a member of the resolution authority and KNF vice-chairman as member of the IGS Supervisory Board. It was also questioned, why the resolution authority was set up in the Bank Guarantee Fund instead of in the insurance one. One of the reasons is that the Polish IGS is rather a private institution, with insurance companies sitting in the Supervisory Board, which did not make it adequate to avoid conflict of interest. Furthermore, in terms of the challenges, it was highlighted that good quality data is critical from the resolution authority perspective and raising awareness and educating market on insurance resolution is also very important.

Resolution planning

Carine Henry, Head of Unit in ACPR's Resolution Directorate, focused on the French experience with the preparation of resolution plans, which covers 14 French insurance undertakings (almost 90% of the French insurance market). As part of her presentation, she also explained the approach taken in France with regards to the critical functions and provided examples of critical functions identified. She ended up her presentations with some notes on the resolvability assessment.

The audience raised several issues such as whether the focus was essentially on the pre-emptive part of the framework or whether the tools had already been used. Ms Henry mentioned that, at that stage, it was more on the former. There was some discussion also on the issue of critical functions and the type of functions identified (in particular, with regards to the Unit-linked products) as well as on the tools and whether there were specific tools for mutuals. Regarding potential impediments for resolution, the presenter mentioned that no impediments had been identified at that time, as they were still at the beginning of the process with regards to the resolution plans. Some questions also addressed the issue of cooperation. First, with regards to the conglomerate, where Ms Henry mentioned that CMGs composed of both banks and insurance authorities were being considered, but also cooperation with regards to other authorities. On the issue of cooperation, it was mentioned that, given the purely national scope of the framework, the focus was essentially on French undertakings and that cooperation with other authorities was basically limited to the analysis of potential interconnections. On the issue of national vs European framework, Ms Henry mentioned that an EU Directive would allow to broaden the toolkit.

Panel discussion – Resolution funding possibilities

The second panel of the day, moderated by Dimitris Zafeiris, benefited from the insights of Leonard Flink (Head of department, Resolution Division, DNB), Alex Hart (Chair of the IAIS Resolution Working Group) and Olav Jones (Deputy Director General, Insurance Europe). The panel revolved around the always difficult topic of resolution funding. Panellists were asked several questions around the cost of resolution and the different ways to fund them, the power to write down and convert liabilities and if there is a need to have resolution funding in place. As part of the discussion, the industry representative mentioned that the industry, in general, did not see the need for a complex and burdensome framework on top of Solvency II. This also has an impact on the potential funding needs. Some discussion took place with regards to the transfer of portfolio and potential funding implications, including national differences and ex post vs pre ante funding.

A last question, which should help to introduce the following topic, was the potential role of IGS in resolution funding. While one speaker considered that IGS and resolution funding were different matters, other speakers considered that some losses could be absorbed by the IGS, e.g. in case of write down insurance liabilities. However, it was mentioned that the approach to IGS varied significantly in the different jurisdictions.

Insurance Guarantee Schemes

Alister Campbell, Chair of the Policy and Profile Working Group of IFIGS and Javier Bonhome, Deputy Director at the Spanish IGS (Consorcio de Compensación de Seguros) delivered the last presentation

of the event. It revolved around the rationale for setting up an IGS (providing examples of recent failures) and explaining some options for the design and operation. The presentation finalized with an introduction to the Spanish IGS and some final thoughts on the need for harmonization in the case of the EU.

One issue raised by the audience referred to the geographical scope (home vs host country principle) and the issue of funding. It was mentioned that, to address the challenges of companies operating cross-border in the EU, it was important that all jurisdictions had an IGS and cooperation agreements in place. An example of such a regime is the US and the way this works there was explained. Moreover, a licence is needed in all states that the company operates in. However, it was also mentioned that in the US there was no harmonised supervisory regime.

The event was closed by Dimitris Zafeiris, who summarized the main take away's from the public event and thanked the speakers and participants for such an interesting and useful discussion.