Insurance Europe response to IAIS Consultation or resolution powers, preparation, and plans application paper

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General Questions

Q1. *General comments on the Consultation Paper revised Application Paper on resolution powers, preparation and plans*

Insurance Europe welcomes the opportunity to provide comments to the IAIS Consultation Paper on the draft revised Application Paper on Resolution Powers, Preparation, and Plans.

The Consultation Paper explicitly expands expectations across resolution preparation and plans, broadening the practical perimeter for supervisors and insurance companies. Insurers will face new preparatory demands, which in our opinion, is not justified in the context of a risk-based approach and the stability of the insurance sector.

Q12. *Comments on Section 2.5 Safeguards*

The no-creditor-worse-off-than-in-liquidation (NCWOL) principle should be defined with legal clarity and applied in a proportionate manner. Resolution funding should be strictly limited to outcomes consistent with the NCWOL safeguard. In this context, clarification of paragraph 36 would be appropriate, as the reference to “at least” could be interpreted as allowing compensation beyond the NCWOL threshold, raising proportionality concerns and potential moral hazard. Resolution funding frameworks should also avoid imposing undue burdens on financially sound undertakings, as this could undermine sector stability and the objectives of resolution planning.

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Q13. *Comments on Section 3 Conditions for entry into resolution*

The Consultation Paper consolidates and expands trigger examples, and stresses forward-looking triggers and governance of decision-making. Insurers must pre-align internal playbooks and data to supervisory expectations. We are concerned that more insurance companies could be captured earlier and that the readiness evidence and engagement would lead to more bureaucracy.

Paragraph 77 suggests that resolution strategies could include the recapitalisation of an insurer in resolution. We note that this could be a very costly option, potentially requiring substantial resolution funds, and could imply that the failed insurer continues operating and competing in the market while in resolution. This raises concerns regarding consistency with the objective of an orderly exit, as well as risks of moral hazard, weakened market discipline and distortions of competition. In this context, paragraph 108 appropriately clarifies that only essential services and functions should be maintained in resolution; this could be further specified to ensure that such continuation does not include the sale of new policies or ongoing market competition. If recapitalisation in resolution is nevertheless envisaged, it should be strictly limited to critical functions (in line with paragraphs 102 and 104) and subject to proportionality, ensuring that any burden on other healthy insurers is not disproportionate. We also note paragraph 102, which indicates that adequate recapitalisation by a third-party acquirer would be a preferable approach.

Q14. *Comments on Box 1: Illustrative examples of resolution conditions*

When deriving the financing needs associated to the Resolution plan, the relevant authority should account for the fact that since the prospect of failure is a criteria for activating the resolution plan, it is likely that the entity would have the relevant resources to implement the plan if it is triggered on time.

We do not consider the example referring to a capital ratio of 150% as a potential trigger for resolution (Box 1) to be appropriate. A capital ratio at this level would generally be well above the point of non-viability. Resolution should only be initiated once an insurer has reached the point of non-viability and where recovery is no longer feasible. Under the Solvency II framework, this would typically be the case following a breach of the Minimum Capital Requirement (MCR) that cannot be remedied by the insurer through its own recovery measures.

Q15. *Comments on Section 4 Resolution powers*

Some actions can significantly reduce the value of a firm. Therefore, Resolution authorities should weigh the pros and cons and acknowledge that wealth reduction supervisory actions to manage low likelihood events might be a sub-optimal approach (despite the identified impediments to Resolution).

Q24. *Comments on Section 5 Preparation for resolution*

We are concerned that simplified resolution processes could also be implemented by insurance companies that are not required to have a resolution plan. If certain core elements of a resolution plan need to be implemented, there is a risk that significantly more or all insurance companies will be partially or fully affected by resolution planning. In our opinion, this is not justified in the context of a risk-based approach and the stability of the insurance sector.

Q26. *Comments on Section 5.2 Information needs*

It should be ensured that authorities request necessary information primarily from each other and not from insurance companies. Only if authorities do not have information that they need should they be allowed to approach insurance companies.

Q32. *Comments on Box 4: Examples of considerations of financial and economic functions in resolution*

We consider it essential to clarify that only the preferred resolution strategy should be developed. The development of multiple alternative resolution strategies would significantly increase the operational and administrative burden, leading to a disproportionate workload without a commensurate supervisory or resolvability benefit. Clear guidance in this respect is therefore necessary in para 151 to ensure proportional and efficient implementation.

Q41. *Comments on Section 6.4.6 Operational aspects*

We take a critical view on the development and ownership of operational guides or manuals by insurers. As resolution plans are prepared by the supervisory and/ or resolution authority, these guides or manuals should also be developed by them.

Q45. *Comments on Section 7.1 Resolving impediments*

We underline the importance of maintaining sufficient flexibility for insurers in order to avoid unintended impacts on their going-concern business models and operations. Resolution planning should not adversely affect the functioning of sound and solvent insurers. In this respect, we have concerns regarding paragraph 193 and would encourage further consideration of its wording. In particular, it is important to recognise that risk pooling and asset-liability management are core elements of effective risk management and contribute to insurers' resilience. Measures that could lead to undue structural fragmentation of insurance groups, solely to facilitate a preferred resolution strategy, should therefore be avoided unless clearly justified by genuine resolution needs. More generally, careful calibration is needed to ensure that provisions do not enable disproportionate intervention in solvent insurers in a manner that could undermine well-functioning structures and ultimately affect policyholder value.