

March 14, 2022

Mr. Klaas Knot  
Chair  
Financial Stability Board  
Bank for International Settlements  
Centralbahnplatz 2  
CH-4002 Basel  
Switzerland



**Re: FSB Papers on Resolution Funding for Insurers and Internal Interconnectedness in Resolution Planning for Insurers**

Dear Mr. Knot,

The Institute of International Finance (IIF) and its insurance members are pleased to respond to the FSB Papers on Resolution Funding for Insurers (Resolution Funding Paper) and Internal Interconnectedness in Resolution Planning for Insurers (Internal Interconnectedness Paper) (collectively, the FSB Papers).

We appreciate that the Resolution Funding Paper acknowledges that bail-in and guidance on how resolution funding should be established depend on jurisdictional circumstances, including the creditor hierarchy of claims. Jurisdictional considerations should also play a large role in determining an appropriate resolution strategy for an insurer, and in developing rules and requirements related to contingency planning, recovery, and resolution, while also recognizing the need for a coordinated supervisory approach.

We also appreciate the FSB's efforts to provide practical guidance on mapping and assessing the financial and operational interconnectedness in insurance companies and groups that may be critical for financial and operational continuity, and that may impact the design and choice of a preferred resolution strategy. Understanding material interconnections, via existing risk management and reporting frameworks, can help facilitate a coordinated supervisory response and a resolution strategy tailored to the circumstances that gave rise to the need for resolution, as well as properly reflect applicable legal and regulatory regimes and best protect policyholders and other creditors.

**Overarching Comments**

***In the First Instance, Place the Focus on Recovery.*** We believe first and foremost that the priority for insurers should be on recovery instead of resolution. It has long been acknowledged that insurers generally do not fail suddenly or in a disorderly manner. Unlike banks, insurers are not typically subject to 'runs' that give rise to acute liquidity pressures, mass policy surrenders are extremely rare, maturity matching is the norm, and the interconnectedness of the sector is far more limited than in the banking sector. Insurers often have the time and opportunity to take proactive recovery efforts to avoid resolution

given the longer timeframe in which a crisis tends to materialize in the insurance context. Insurers may also have access to business-as-usual liquidity facilities that can be drawn down in the event of distress.

Insurers are already well equipped to assess risk through robust own risk and solvency assessments (ORSA) and enterprise risk management (ERM) frameworks. Insurers prepare for a number of potential stressors and develop a menu of options that could be deployed in a stress situation.

***Insurance Resolution is Situation-Specific.*** The International Association of Insurance Supervisors (IAIS) Insurance Core Principles (ICPs) state that, “[n]o uniform, single fixed point of non-viability can be defined that will be appropriate for the application of resolution measures in all circumstances. Whether to apply resolution measures, and the type of measures implemented, will depend upon the factual circumstances of the particular resolution scenario.” (ICP 12.0.9) In many cases, insurers depend on the analyses contained in their ORSAs and on their contingency arrangements to develop and implement actions that avoid the need for resolution.

As acknowledged in the introduction to Annex 2 to the FSB’s *Key Attributes of Effective Resolution Regimes for Financial Institutions* (2014 Annex), in the typical case, insurers enter into run off or portfolio transfer arrangements that preserve existing contractual arrangements and keep insurance in force until the end of the contract term. Careful consideration needs to be given to the point at which run off or portfolio transfer arrangements cease to be effective and a formal resolution becomes necessary. A full windup of an insurer does not meet the goals of policyholder protection to the same extent as run off or portfolio transfer arrangements.

***In the Event of Resolution, a Proportional Strategy Should Reflect the Circumstances Giving Rise to the Insurer’s Distress.*** The strategy used in the resolution of an insurer will depend on the particular circumstances surrounding the insurer’s distress and the products and services it offers. The scope and characteristics of an insurer’s resolution strategy should be proportional to the risks, if any, to financial stability posed by that insurer, as well as to the risks posed to policyholders and other creditors, and to the public purse.

When resolution is inevitable, resolution options should be evaluated holistically, with due consideration given to the full range of tools that are available. Resolution, like recovery, is an outcome, not a specific process. The approach taken should be outcomes-focused, rather than focused on the specific means to achieve the desired outcomes.

Given jurisdictional differences in legal and supervisory processes for resolving an insurance company, guidance relating to resolution powers should be illustrative in nature, rather than prescriptive rules, especially with jurisdictions at various stages in their adoption of resolution frameworks. It is very difficult, if not impossible, to determine an optimal resolution strategy in advance of an insurer’s actual stress scenario arising. A specific example of this is the choice of single versus multiple point of entry strategies, which depends on the structure and organization of the group and may depend on the stress scenario as well. A flexible approach provides authorities with the option to utilize either a single or multiple point of entry approach and we encourage the FSB to take a similarly flexible approach as it considers these approaches when assessing implementation.

***When Resolution is Required, a Coordinated Supervisory Approach is Important.*** When the authorities have determined it necessary to resolve an insurer, a coordinated supervisory approach is facilitated by pre-existing cooperation agreements among supervisors. In some jurisdictions, the resolution authority will not be the same as the prudential authority (or the group responsible for resolution may be different from the group responsible for supervision within the prudential authority), further heightening the need for robust communication and coordination protocols in advance of a potential resolution. Greater transparency for such protocols can ameliorate policyholder and public concerns if an insurer experiences significant stress.

Coordination among supervisors in the various jurisdictions in which the insurer operates can result in a resolution strategy that reflects the concerns, interests and perspectives of both home and host jurisdictions. For insurance groups, local insurance supervisors should not develop entity-level resolution strategies but rather should look to contribute to the development of a group-level strategy in coordination with the groupwide supervisor.

Where it is responsible for the establishment and execution of the resolution strategy, the group supervisor should coordinate communication among the local insurance supervisors and take a leading role in the supervisory college and any crisis management group (CMG). Communication among the group supervisor, the company, relevant jurisdictional supervisors, and any CMG is important in order to coordinate efforts around resolution.

Importantly, communication and coordination should include the relevant jurisdictional supervisors and the board and senior management of the affected company in order to reflect the consideration of all relevant facts and to prevent uncoordinated or ineffective actions. Communications between the company and the supervisory community should be held in confidence in order to avoid destabilizing outward communications. In turn, the company should share with its lead supervisor any planned outward communications, such as those that may be legally required.

***Comments on Resolution Funding Frameworks.*** We appreciate the FSB's recognition that jurisdictions are at different stages of developing resolution funding frameworks, and that there are a variety of tools and methods available to implement resolution funding in a proportionate and flexible manner that reflects the legal and regulatory framework within a particular jurisdiction. Jurisdictional supervisors should consider the availability of funding for resolution alongside other existing regulatory and supervisory measures that can mitigate the risk of insurance insolvency. In general, given the rare incidence of insurer failures and the burden of *ex ante* funding mechanisms, we are of the view that *ex post* funding approaches are more appropriate.

With respect to no-creditors-worse-off-than-liquidation (NCWOL) compensation, we would note that it may be difficult to assess whether the resolution arrangements result in losses that exceed those that would have been incurred in liquidation. There should be a high bar for applying a NCWOL determination to creditor payments.

**Comments on the Internal Interconnectedness Paper.** We broadly agree with the need to map financial and operational interconnections in an insurance group and would add that many insurers already do so as part of regular contingency planning and sound risk management. Mapping should be focused on *material* interconnections within the group. Insurers should have the flexibility to use existing risk management or reporting frameworks to map these interconnections; insurance supervisors should not prescribe specific mapping frameworks, which may not be fit for purpose for a particular insurance group.

The FSB should recognize that there are certain core differences between critical functions or services in the banking versus insurance sectors. In general, banks provide functions or services, such as payment and settlement services, that are critical to the functioning of the financial system and real economy, where substitutes are unavailable within a reasonable time and at a reasonable cost and, when unavailable, the function or service would have a significant negative impact on the financial system and real economy. In contrast, insurers provide relatively few, if any, critical functions or services and nearly all of the products and services they offer are highly substitutable, given the generally competitive and unconcentrated nature of insurance markets. As such, the threshold for defining an insurance function or service as critical should be very high, rising to the level of criticality as key banking functions or services, such as payment and settlement services. The criticality of the function or service should be weighed in terms of its potential to have a significant, negative impact on the functioning of the financial system and the real economy, as well as its substitutability. Proxy factors, such as market share, should not be the sole determinant of criticality, rather, criticality should be considered holistically through a multifactor approach.

The Internal Interconnectedness Paper calls for regular supervisory reporting of internal and external outsourcing arrangements. We would limit such reporting to *material* outsourcing arrangements, with a greater focus on external outsourcing.

### **Conclusion**

We appreciate the opportunity to comment on the FSB Papers and the important issues they raise. We would welcome additional stakeholder engagement on the topic of resolution funding and internal interconnectedness in the insurance industry.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Mary Frances Monroe", with a long horizontal flourish extending to the right.

Mary Frances Monroe