FSB FINANCIAL STABILITY BOARD

6 June 2016

Developing Effective Resolution Strategies and Plans for Systemically Important Insurers

Overview of Responses to the Public Consultation

On 3 November 2015, the Financial Stability Board (FSB) published a consultative document – *Developing Effective Resolution Strategies and Plans for Systemically Important Insurers* ('Guidance') – that proposed guidance to assist authorities in developing effective resolution strategies and plans for systemically important insurers. The proposal also incorporated elements from the *Guidance on Identification of Critical Functions and Critical Shared Services*, which was the subject of a separate consultation in 2014.

The FSB received 16 responses to the public consultation from individual insurers, industry associations, and a law firm.[1] Respondents generally welcomed the FSB's initiative to develop Guidance to assist authorities in meeting the resolution planning requirements under the FSB *Key Attributes of Effective Resolution Regimes for Financial Institutions* ('*Key Attributes*').

Objectives of resolution strategies

A majority of respondents agreed that authorities should identify institution-specific resolution objectives as set out in Section I of the Guidance. Resolution objectives should be developed in consideration of the unique characteristics of each insurer and the requirements of the applicable legal regimes. Several respondents suggested that the Guidance recognise to a greater extent the importance of policyholder protection. In finalising the Guidance, the FSB has clarified that authorities should develop resolution strategies with the aim of protecting policyholders as well as maintaining financial stability.

Determination of preferred strategy

Respondents generally supported the factors and considerations for the strategic analysis underlying the development of preferred resolution strategies and found that concerns raised in the 2014 consultation about differences between the insurance sector and the banking sector had been taken into consideration. Several respondents stressed the differences between the two sectors, in particular with regard to the degree of internal interconnectedness within banking groups and within insurance groups. The final Guidance acknowledges those differences.

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1 The comment letters are published at: Public responses to the November 2015 consultative document 'Developing Effective Resolution Strategies and Plans for Systemically Important Insurers' - Financial Stability Board

Identifying points of entry into resolution

The consultative document proposed two stylised approaches to identifying the potential point or points of entry within an insurance group to which authorities would apply resolution tools under their preferred strategy. The Guidance distinguishes entry into resolution at the level of individual operating entities (opco) and at the level of a non-operating holding company (topco). Most respondents supported a flexible approach and the considerations for identifying the point or points of entry into resolution set out in Section II.1. of the Guidance. However, several respondents suggested that, in insurance groups, entry into resolution will generally be at the opco level because each entity is locally supervised and because resolution measures are generally taken under local resolution regimes, and where relevant, local policyholder protection schemes are triggered.

Given the heterogeneity of legal and organisational structures and business models, the final Guidance retains both approaches and recognises that resolution strategies may be based on one of those approaches or combine both, depending on the characteristics of the group. The availability and coverage levels of policyholder protection scheme was added as an additional consideration for determining the preferred point or points of entry.

Identifying preferred resolution tools for points of entry

Respondents welcomed the categorisation of resolution tools distinguishing stabilisation and restructuring tools; tools aimed at ensuring the orderly run-off of the whole or part of the existing business lines and insurance products; and stay and suspension powers. A number of respondents expressed a preference for portfolio transfer and run-off tools and suggested that other tools should only be applied if portfolio transfers or run-off do not achieve the resolution objectives. They emphasised that resolution plans need to be proportionate, flexible, and transparent to insurers. Respondents also stressed that insurance resolution does not have the same urgency as bank resolution, and tools such as portfolio transfer and run-off facilitate this longer term process. Some respondents commented that a creditor-financed recapitalisation through bail-in of liabilities would not be appropriate given the structure of insurers' balance sheets which are different from banks' balance sheets. Furthermore, a couple of respondents stressed that liquidation and winding-up should only be used in exceptional cases since they would destroy value in a portfolio designed for buy to hold.

Development of the resolution strategy

Most respondents agreed that the framework set out in the Guidance for developing effective resolution strategies and plans for insurers is appropriate and stressed the need for it to remain non-prescriptive and flexible enough to take due account of the different types of their business.

Commenting on reinsurance, a couple of respondents emphasised the importance that the resolution strategy avoids unnecessary destruction of the value provided by exploiting diversification. Therefore, the Guidance recognises that where, as is the case for reinsurance, the business model is designed to benefit from diversification, it is likely that the resolution strategies for that firm will seek, as far as possible, to preserve or avoid unnecessary destruction of that diversification.

Critical functions and continuity of insurance

Respondents welcomed the revised approach for identifying critical functions (Section III.2. of the Guidance) and critical shared services (Section III.3. of the Guidance) and found that the analysis provided greater clarity as compared to the 2014 consultation document. However, several respondents commented that, in spite of narrowing the scope of the definition, the proposed approach was still too extensive. The final Guidance further clarifies the definition of critical function by distinguishing key functions carried out by the insurer (writing new business; providing insurance cover for existing business; and making payments to policyholders).

Making the resolution strategy operational

Overall, respondents supported the Guidance on aspects that need to be considered when developing the operational plan for implementing the resolution strategy, but stressed that resolution planning must be tailored to the insurance sector and avoid 'bank-centric' concepts. To address such concerns the final Guidance avoids the use of terminology (such as loss-absorbing capacity) which is used in the context of bank resolution policies.