JOINT SUBMISSION OF NOLHGA AND NCIGF REGARDING FSB PRACTICE PAPER ON RESOLUTION FUNDING FOR INSURERS

March 15, 2022

The National Organization of Life and Health Insurance Guaranty Associations and the National Conference of Insurance Guaranty Funds respectfully submit their joint comments regarding the Financial Stability Board's Resolution Funding for Insurers practice paper.

NOLHGA and NCIGF are an integral part of the policyholder protection scheme in the United States, coordinating the provision of guaranty association benefits to U.S. insurance consumers whose insurance carriers become insolvent. NOLHGA's members are principally concerned with protecting consumers of failed life, annuity, and health insurers, and NCIGF's members are principally concerned with protecting consumers of failed property and casualty insurers.

The U.S. policyholder protection scheme has been involved in almost all of the significant U.S. insurer insolvencies over the past four decades and has worked with regulators to resolve successfully a number of cases, large and small. As a result of that work, NOLHGA and NCIGF have developed practical experience that we have always tried to share with regulators, policymakers and other interested parties.

NOLHGA and NCIGF commend the FSB on its practice paper and believe that it provides a valuable description of the sources of resolution funding in various jurisdictions. We offer the attached restated Annex 2 to more accurately describe how the U.S. policyholder protection scheme provides funding for certain resolution actions – most notably, timely payment of claims, portfolio transfers, and run-offs.

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Annex 2: PPS - The United States Guaranty Fund System

In the United States, guaranty associations are an important source of funding for certain resolution actions – most notably, timely payment of claims, portfolio transfers, and run-offs.

In the United States, guaranty associations protect insurance consumers by paying specified losses that arise under policies issued by the failed insurer and, with respect to long-term policies issued by life and health insurers and workers compensation policies issued by property and casualty insurers, by continuing coverage. Protection for consumers generally is provided by the guaranty association of the jurisdiction where the consumer resides or, in the case of property insurance, where the property is located.

The guaranty associations' mission is to make certain that an insolvent insurer's obligations to policyholders are honored, up to applicable statutory limits, once the duties of the guaranty associations have been "triggered" by a judicial order of liquidation and determination that the insurer is insolvent. While guaranty associations do not provide rescue or "bailout" financing for financially troubled insurers, they are an important source of funding for certain resolution actions – most notably, timely payment of claims, portfolio transfers, and run-offs.

Timely Payment of Claims

Guaranty associations assure timely payment with respect to policies issued by life and health insurers, often by contracting with the insolvent insurer's liquidator or a third party that agrees to administer and pay claims on the guaranty associations' behalf. Some guaranty associations elect to administer and pay claims on their own behalf.

Timely payment of claims is the core responsibility of the guaranty associations with respect to policies issued by property and casualty insurers, and it entails much more than simply writing checks to policyholders with claims. Guaranty association representatives adjust the pending claims, just as claims adjusters in a solvent company would do. This requires insurance claims specialists qualified to analyze contractual duties under the law of their state, analyze bodily injury claims and assess liability as well as the litigation risk associated with the claim. Most guaranty associations cover claims for unearned premium, thereby helping consumers pay for replacement coverage from a healthy property and casualty insurer.

Portfolio Transfers of Policies Issued by Life and Health Insurers

In addition to assuring timely payment of claims, guaranty associations also continue coverage with respect to long term policies issued by life and health insurers. This is often accomplished by the negotiation of an arrangement known as an "assumption reinsurance" transaction. In such a transaction, a healthy carrier agrees to assume all or part of the policy liabilities of the failed insurer in exchange for a transfer of assets to support the liabilities – assets that are usually provided in part by the liquidator from the estate of the insurer, and in part by guaranty associations.

In connection with two insolvencies (one involving annuities and the other long-term care policies), the guaranty associations formed bridge institutions to assume and run off the covered annuities/policies. Both bridge institutions are captive insurance companies that are overseen by boards of directors comprised of guaranty association and insurance industry professionals.

Run-Offs of Policies

In some cases, guaranty associations simply assume the covered liabilities of the insolvent insurer for whatever period is required for the liabilities to run off. In such instances, the guaranty associations frequently contract with a third party to administer the covered liabilities, but the liabilities stay with the guaranty associations.

Sources of Guaranty Association Funding

In the U.S., guaranty associations draw from multiple sources of funds to pay claims. Their largest source of funding is from the assets of the insolvent insurer. (It is important to note and often overlooked that, even though insolvent insurers are unable to pay *all* claims in full, they typically have significant assets on hand that are used to pay insurance obligations on a pro rata basis.)

To satisfy their obligations beyond what these estate assets can finance, the guaranty associations operating in states where the failed company wrote policies assess other insurers doing business in those states based upon each insurer's statewide market share for the lines of business that guaranty associations cover. The dollars raised through these assessments are used to "bridge the gap" between the guaranty associations' obligations to policyholders and the estate assets available to meet those obligations.