

**Comments Template on EIOPA-XX-16-XXX
Discussion Paper on Potential harmonisation of recovery and resolution
frameworks for insurers**

**Deadline
28.02.2017
23:59 CET**

Name of company:	Better Finance	
Disclosure of comments:	<p>EIOPA will make all comments available on its website, except where respondents specifically request that their comments remain confidential.</p> <p>Please indicate if your comments should be treated as confidential, by deleting the word Public in the column to the right and by inserting the word Confidential.</p>	Public
<p>Please follow the instructions for filling in the template:</p> <ul style="list-style-type: none"> ⇒ <u>Do not change the numbering</u> in column "Reference"; if you change numbering, your comment cannot be processed by our IT tool. ⇒ Leave the last column <u>empty</u>. ⇒ Please fill in your comment in the relevant row. If you have <u>no comment</u> on a paragraph or a cell, keep the row <u>empty</u>. ⇒ Our IT tool does not allow processing of comments which do not refer to the specific numbers below. <p>Please send the completed template, in Word Format, to CP-16-009@eiopa.europa.eu, by 28 February 2017.</p> <p>Our IT tool does not allow processing of any other formats.</p> <p>The numbering of the questions correspond with the questions included in the Discussion Paper on Potential harmonisation of recovery and resolution frameworks for insurers.</p>		
Reference	Comment	
General comment	<p>Better Finance, the European Federation of Investors and Financial Services Users, is the public interest non-governmental organisation advocating and defending the interests of European citizens as financial services users at European level to lawmakers and the public in order to promote research, information and training on investments, savings and personal finances.</p>	

**Comments Template on EIOPA-XX-16-XXX
Discussion Paper on Potential harmonisation of recovery and resolution
frameworks for insurers**

**Deadline
28.02.2017
23:59 CET**

	<p>Our federation acts as an independent financial expertise and advocacy centre to the direct benefit of European financial services users. Since the Better Finance constituency includes individual and small shareholders, fund and retail investors, savers, pension fund participants, life insurance policy holders, borrowers, and other stakeholders who are independent from the financial industry, it has the best interests of all European citizens at heart.</p> <p>Better Finance engages in campaigns to provide relevant information and better protection for end-users, promote market integrity and transparency for retail investors and non-industry stakeholders and establish better governance of financial supervision for all European citizens.</p>	
Q1	<p>The arguments in favour and against a harmonized recovery and resolution framework are exhaustively identified and explained. However, they do not have the same degree of importance. Therefore, it could be a good idea to weight them. In this respect, we consider that reinforcing the national frameworks is one of the most relevant issues due to the fact that in certain countries the insolvency procedures are limited. We agree with EIOPA when stating (page 40) <i>“Harmonization would avoid a fragmented landscape of different national recovery and resolution frameworks, which could be a significant impediment to the management of crisis situations. (...) A harmonised environment with a common set of recovery and resolution measures facilitates cross-border cooperation and coordination, as well as mutual alignment and recognition of resolution actions”</i>.</p>	
Q2	<p>As it is stressed in EIOPA’s research work developed for the Financial Stability Report (FSR) and the Stress Test Report (STR), both documents published on December 2016, “supervisory vigilance is required in order to avoid a misestimate of the risks due to the long-term type of concerns implied by the scenario (cf STR, p. 3).</p>	

**Comments Template on EIOPA-XX-16-XXX
Discussion Paper on Potential harmonisation of recovery and resolution
frameworks for insurers**

**Deadline
28.02.2017
23:59 CET**

	<p>This conclusion from the European Authority is key due to the fact that, as we believe, the supervisory vigilance should be strengthened by an appropriate regulatory framework of recovery and resolution for insurers.</p>	
Q3	<p>The four blocks proposed (preparation and planning, early intervention, resolution, and cooperation and coordination) together with the 11 sub-building blocks, which is shown in chart 16, represents a well-defined and flexible framework for insurers.</p>	
Q4	<p>We believe that with the blocks and sub-blocks it should be fine.</p>	
Q5	<p>We agree with EIOPA that the scope of a recovery and resolution framework should be aligned with the EU regulation. In this respect, the 2014 FSB Key Attributes and Solvency II provide a well-established framework for big and small size insurers.</p>	
Q6	<p>We agree with the proportionality principle proposed by EIOPA for requirements imposed on insurers and national authorities to the exercise of power.</p>	
Q7	<p>Yes, we do agree with the pre-emptive recovery planning if it is proportionate. As it is well known, it is very complicated to forecast the parameters in crisis scenarios. This is the reason why the updated information and the information sharing are relevant.</p> <p>The proportioned planning should stand as a summary of recommendations for different possible</p>	

**Comments Template on EIOPA-XX-16-XXX
Discussion Paper on Potential harmonisation of recovery and resolution
frameworks for insurers**

**Deadline
28.02.2017
23:59 CET**

	actions instead of being a precise regulation for crisis managements.	
Q8	The simplified obligations should be applied to insurers who fulfil two requirements: that they are not classified as Global Systemic Important Insurers (G-SIIs), and that they are members of an Insurance Guarantee Scheme.	
Q9	We believe that consistency with Solvency II regulation must be preserved. In this respect, the conditions to determine the range of insurers which may be exempted from the requirements to develop recovery plans should be aligned with those from the scope of Solvency II.	
Q10	<p>The content of pre-emptive recovery plans should be aligned with the requirements stated in the 2014 FSB Key. As a basic requirement, all the Member States have to apply these principles as a minimum way of harmonization.</p> <p>In order to achieve to maintain a decent consumer protection level, the strategic analysis should be directed to the business model and the core business line. Doing this the stress scenarios would include realistic consumer detriment.</p>	
Q11	<p>Yes, we do agree that a pre-emptive resolution planning is needed.</p> <p>No, we think there should not be any differences between the pre-emptive recovery planning and the resolution planning. We believe that there should be no difference in the level of consumer protection depending on the size of the insurer. In this respect, it is important to protect policyholders. This objective was established in Solvency II (article 141) and should be strictly emulated.</p>	

**Comments Template on EIOPA-XX-16-XXX
Discussion Paper on Potential harmonisation of recovery and resolution
frameworks for insurers**

**Deadline
28.02.2017
23:59 CET**

Q12	The requirements for pre-emptive resolution plans should not be waived by any resolution authority for any range of insurers.	
Q13	The condition to apply a simplified obligation should be that the insurer is not classified as Global Systemically Important Insurer (G-SIIs). However, for an ultimate decision the NCAs could take into account certain features (as the size, complexity and business type).	
Q14	As it has been mentioned before, the pre-emptive recovery plans should be aligned with the 2014 FSB Key Attributes, and it should include all the requirements.	
Q15	Better Finance believes that any assessment of resolvability of insurers should be aligned with the pre-emptive resolution plan. However, the requirements should be harmonized on an EU level in order to reach a supervisory consistency.	
Q16	<p>Yes, we agree on the fact that resolution authorities should have the power to require the removal of significant impediments to the resolvability of an insurer. As we have mentioned before, the protection of policyholders is very relevant. In this respect, we could identify certain impediments, such as:</p> <ul style="list-style-type: none"> - Time required to evaluate policyholder liabilities - Capacity of the policyholder protection scheme to transfer a fund - The risk that the insurer will not remain solvent for the whole run-off 	

**Comments Template on EIOPA-XX-16-XXX
Discussion Paper on Potential harmonisation of recovery and resolution
frameworks for insurers**

**Deadline
28.02.2017
23:59 CET**

	<ul style="list-style-type: none"> - The division (legally, operationally and financially) of traditional business, especially non-insurance business - The quality of management information systems - The capacity of the insurer to deliver accurate information of relevant data 	
Q17	<p>We agree with EIOPA’s view on who should have the power to require the removal of impediments. However, we support the idea that for any resolvability assessment the objective should not just be the protection of taxpayers but also of policyholders.</p>	
Q18	<p>Yes, Better Finance agrees that early intervention should be part of recovery and resolution frameworks for insurers. As it is mentioned by EIOPA “In total, one third of the NSAs indicated that they have identified deficiencies in their early intervention powers.” This high rate should be evidence enough to believe that an early recovery intervention should be included in the recovery and resolution framework.</p>	
Q19	<p>We believe that EIOPA’s view is right when thinking that the introduction of early intervention conditions should allow a sufficient degree of supervisory judgement and discretion. We support the idea that a new level of solvency should be avoided.</p> <p>However, as these conditions should be based on judgements there should exist a hierarchy of the indicators, having more relevance the financial indicators than the non-financial ones. We also believe that in the non-financial indicators life expectancy should not be included due to the fact that it could be misleading for the new business lines.</p>	

**Comments Template on EIOPA-XX-16-XXX
Discussion Paper on Potential harmonisation of recovery and resolution
frameworks for insurers**

**Deadline
28.02.2017
23:59 CET**

Q20	As it can be observed in EIOPA's results from the survey, it is evident that there exist great divergences among the EU NCAs when we focus on the early intervention powers. This inequality and lack of consistency of the empowerment of the NCAs should not continue. Thus, we support EIOPA's proposal that harmonized framework must provide for a minimum set of common early intervention powers.	
Q21	We consider that the early intervention powers mentioned in table 3 (cf. DP, chapter 4.5.3., pages 53 & 54) should be sufficient.	
Q22	We agree with the idea that the resolution authority should be included in the National Supervisory Authority in order to ensure financial and judicial independence.	
Q23	Yes, we agree with the resolution objectives proposed by EIOPA.	
Q24	Even if we acknowledge that there is the possibility of losses, we believe that consumers are the weakest of all the stakeholders with regard to hierarchy of claim in liquidation. Therefore, we believe that the resolution objectives should be ranked and should give priority to consumer protection.	
Q25	Yes, we agree with the proposal of the conditions for entry into resolution.	
Q26	Yes, we agree.	
Q27	No comments	
Q28	Our comments would be directed to reinforcing the idea that the resolution objectives should be ranked with strong priority given to consumer protection.	
Q29	We believe that Member States should be able to add other powers if they are necessary at a	

**Comments Template on EIOPA-XX-16-XXX
Discussion Paper on Potential harmonisation of recovery and resolution
frameworks for insurers**

**Deadline
28.02.2017
23:59 CET**

	National level	
Q30	<p>The possible bail-in of shareholders and creditors is indispensable due to the fact that they are capital investors whose primary objective is to seek for the highest returns on investments. Therefore, if the results are negative, a bail-in represents the counterpart of the capital investment.</p> <p>The primary macro-economic objective of the insurance industry should not be the “shareholder value” but the provision of risk coverage that is a basic need for the majority of customers acting as policyholders.</p>	
Q31	Please see our answer in Q31	
Q32	<p>We are against any type of formal bail-in of policyholders. Contrary to shareholders and creditors, policyholders do not search the return of the investment but the risk coverage. This risk is very relevant as it is linked to basic needs such as health, family securitization, longevity, etc. Therefore, the premium should not be an “investment” but a payment for the cover of fundamental needs, and the payment of a premium must not create the obligation of any bail-in in case of capital loss.</p> <p>Furthermore, it is very likely that policyholders contribute to a constant “bail-in” even in good times due to the low interest rate phase when the dividends of shareholders of insurance companies are higher than payouts of surplus for life insurance policyholders.</p>	
Q33	We reject any bail-in for policyholders. Please see our answer to Q32.	
Q34	Yes, we believe that other safeguards are needed as it has been mentioned before. The first claim is directed to policyholder protection. We support the idea stated by FSB when saying that “no loss should be imposed on senior debt holders until subordinated debt has been written-off entirely (cf. 2014 Key Attributes, Chapter 5: Safeguards, p.11).	

**Comments Template on EIOPA-XX-16-XXX
Discussion Paper on Potential harmonisation of recovery and resolution
frameworks for insurers**

**Deadline
28.02.2017
23:59 CET**

	On another note, we would like to highlight the idea that any future harmonization must exclude any possible abuse by those who are responsible for actual branch or group failures in a national frame (for example by aiming at recovering these failures by cross-border capital flows).	
Q35	We believe that there is a need to create a crisis management group or equivalent in the EU. Cross-border cooperation and coordination arrangements must be established among the competent authorities of the EU Member States and those countries which have G-SIIs headquarters.	
Q36	We consider it as a minimum requirement that following to the FSB Key Attributes (Chapter 12) the full access to information sharing is guaranteed by legislation in all EU Member States. Any further cross-border cooperation arrangements for efficient decision-making process should be considered under the premise of proportionality and flexibility.	
Q37	To improve the cross-border cooperation arrangements we would like to refer to the issues outlined in Chapter 3.4. of 2016 FSB Resolution Strategies and Plans.	
Q38	As the FSB Key Attributes were endorsed by the G20 Heads of States in 2011, the EU institution should make any possible efforts aiming at implementing these principles as “a new international standards for resolution regimes”.	