

**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:	Insurance Sweden (Industry Association) (Sweden)	
Disclosure of comments:	EIOPA will make all comments available on its website, except where respondents specifically request that their comments remain confidential.  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.	Public
<p>Please follow the instructions for filling in the template:</p> <ul style="list-style-type: none"> <li>⇒ <u>Do not change the numbering</u> in column "Reference"; if you change numbering, your comment cannot be processed by our IT tool.</li> <li>⇒ Leave the last column <u>empty</u>.</li> <li>⇒ 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>.</li> <li>⇒ Our IT tool does not allow processing of comments which do not refer to the specific numbers below.</li> </ul> <p><b>Please send the completed template, in Word Format, to <a href="mailto:CP-16-009@eiopa.europa.eu">CP-16-009@eiopa.europa.eu</a>, by 28 February 2017.</b></p> <p><b>Our IT tool does not allow processing of any other formats.</b></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>		
<b>Reference</b>	<b>Comment</b>	
General comment	As a member of Insurance Europe, Insurance Sweden shares the views expressed in the consultation response submitted by that association.  Insurance Sweden would however wish to both highlight and elaborate a bit further on some issues.	

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	<p>In Insurance Sweden´s opinion, the <i>rationale</i> behind any recovery and resolution framework is the need to prevent and handle a situation where a disorderly failure of an institution would have an impact on <i>financial stability</i>, and where the prudential rules have been deemed insufficient to deal with the situation. A recovery and resolution framework should therefore be seen as a "regulation of last resort".</p> <p>In line with this, we see no case for a recovery and resolution framework for <i>insurers</i>, and for the following main reasons:</p> <ul style="list-style-type: none"> <li>• Insurance activities played no part in the financial crisis.</li> <li>• Insurance failures are very rare and given the general lack of interconnectedness do not affect other insurers or the payment systems.</li> <li>• The insurance business model is distinctly different from that of banking. If a crisis does occur, insurers as opposed to banks can typically be wound up in an orderly manner through run off and/or portfolio transfers.</li> <li>• Many insurers are mutuals, and therefore have no external owners.</li> <li>• Should an insurer fail, there is no evidence of a lack of substitutability of products that would justify the introduction of additional measures.</li> <li>• Solvency II and national insolvency law already provide sufficient safeguards as regards policyholder protection (prudential rules, rules on winding-up and right of priority).</li> </ul>	
Q1		
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Q5	<p>Although Insurance Sweden sees no rationale for a recovery and resolution framework, we acknowledge that some regulatory action on this matter may be expected in the EU, especially</p>	

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	<p>given the work undertaken at the global level.</p> <p>As regards the scope of such a framework at the EU level, it would of course be of great importance to avoid excessive burdens by limiting the scope to those insurers where a recovery and resolution framework could have some, at least theoretical, relevance. In our view, this could be achieved in accordance with the following model:</p> <ul style="list-style-type: none"> <li>• Should a recovery and resolution framework be introduced, all insurers and groups covered by Solvency II could be included as a starting point, but subject to strict proportionality.</li> <li>• The relevant national supervisory authority should make the proportionality assessment based on a joint consideration of the following criteria, set out at level 1 in the framework: 1) nature, scale and complexity, 2) level of interconnectedness and 3) potential impact on financial stability.</li> <li>• The criteria should be further fleshed out by clear guidelines issued by EIOPA.</li> <li>• As for groups, relevant authorities involved should of course discuss the assessment within the colleges, but there should be no deviation from the group and home/host structure in Solvency II.</li> </ul>	
Q6	Insurance Sweden wishes to underline that any legal framework must be clear enough to provide sufficient legal certainty. Conditions, triggers and tools should therefore be clearly defined in the legal framework, but there has to be room for flexibility in the <i>application</i> of the rules in order to achieve the optimal outcome.	
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Q23	<p>As already mentioned above, Insurance Sweden sees no rationale for a framework for recovery and resolution for insurers. But it is also important to point out that the rationale behind a framework as such must not be confused with <i>the objectives of resolution</i>, i.e. what criteria should be relevant for an authority's assessment of whether an insurer should be subject to resolution rather than to additional intervention under the prudential framework (or ultimately normal insolvency proceedings).</p> <p>Objectives of resolution will not come into play unless the financial situation of an insurer, based on certain conditions, requires the relevant authority to make a choice between placing the insurer in resolution or to continue to use the tools available under Solvency II or the national insolvency framework. This choice must be based on some criteria, or <i>objectives</i>, that the authority deems will be better fulfilled by resolution than by using the other frameworks. It is therefore not the objective as such that is decisive, it is whether it can be fulfilled in a better way by resolution.</p> <p>Against this background, the objectives of resolution set out by EIOPA (protection of policyholders, financial stability, continuity of functions, protection of public funds) seem relevant <i>per se</i>, although we suspect that they will very rarely need to be fulfilled by</p>	

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	resolution.	
Q24	<p>Insurance Sweden sees no reason to rank the different resolution objectives, for example by stating that policyholder protection should always be the primary objective of resolution. This could imply that policyholder protection is the rationale behind the framework. On the contrary, policyholder protection is the very purpose of prudential regulation and the current level of protection offered by Solvency II and national insolvency law already provides sufficient safeguards.</p> <p>In line with EIOPA 's reasoning, the resolution authority should instead balance the objectives appropriately. Given that resolution should be the last resort, the authority should also avoid placing an insurer in resolution for reasons of policyholder protection when in fact that objective could be better achieved by using the other available frameworks.</p>	
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