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:	FNMF – Fédération Nationale de la Mutualité Française	
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
	Please follow the instructions for filling in the template: ⇨ <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. **Please send the completed template, <u>in Word Format</u>, to CP-16-009@eiopa.europa.eu, by 28 February 2017.** **Our IT tool does not allow processing of any other formats.** The numbering of the questions correspond with the questions included in the Discussion Paper on Potential harmonisation of recovery and resolution frameworks for insurers.	
Reference	**Comment**	
General comment	As a preliminary FNMF members are mainly small and average health insurance undertakings. Therefore FNMF considers as useful to underline few extracts from the regulation (EU)N°1094/2010: – recital (5): "*the European Council confirmed that a European Supervisory Authority[…] should be established […] aimed at* ***upgrading the quality and consistency of national***	

***supervision, strengthening oversight of cross boarder groups** […]*".

-recital (10): "*the Authority should act with a view to improving the functioning of the internal market, in particular by ensuring a high effective and consistent level of regulation and supervision and **taking account of the varying interests of all Members States and the different nature of financial institutions***".

-recital (36) : "***Convergence in the fields** of crisis prevention, management and **resolution**, including funding mechanisms, **is necessary in order to ensure that public authorities are able to resolve failing financial institutions whilst minimising the impact of failures to bail out insurance and reinsurance undertakings and the use of public resources**[…]*".

EIOPA discussion Paper highlights the high level of discrepancy between Members states regarding resolution process. France, one of the most mature insurance market in Europe, already benefit from "*a high effective and consistent level of regulation and supervision*". FNMF understand the wish of the European Council to push for a minimum standardisation, but **this should not result in introducing new constraints where there is no need**.

As an important illustration process, FNMF has built (decades ago), for its own members (more than 200 members representing 20 billions € of premium and more than 50% of the health insurance market in France), a guarantee fund, todays agreed and supervised by the National supervisor, which play a double role of prevention and funding in case of failure from one of its member. The prevention approach allows FNMF to intervene prior a critical financial situation occurs and allows FNMF, with the fragilised member, to find the adequate solution prior the intervention of the national supervisor. Up to know it has fully answered to the need of "resolving failing mutual members" "*whilst minimising the impact of failures to bail out insurance and reinsurance undertakings and the use of public resources".*

In addition, FNMF highlights the fact that the French insurance market, particularly for Life & Health insurance, has its own specificities with "*different nature*" of insurance enterprises (share companies, provident institutions, mutual) and insurance products for which the French insurance market makes sure that regulation and supervision take this variety/specificity into account. More generally, the origin and consequences of the failure of an insurance enterprise are very different from the one of a bank or another financial institution

	Furthermore, the long term nature of the insurance business and the possible actions that can be taken to address a failing insurer (portfolio transfert, reinsurance solution, run off, premium increase ..), do not allow such assimilation between insurance and banking sector.. Therefore FNMF considers that **any attempt to "paste" the banking resolution approach would be a huge mistake**. FNMF also considers that the Solvency II regulation provides with sufficient safegards to protect the policyholders. The requirements in terms of capital with a one year horizon (SCR) and the Own Risk Self Assement (ORSA) which is based already on deteriorated financial scenarii are indeed very protective. More over, the insurance business in Europe has prooved in the past its resilience to crisis situation. Insurance failures are rare and when occuring, it results more from a lack of required capital than from a lack of liquidity with immediate danger for the policyholders. Regarding resolution process, FNMF understands some improvements could be done regarding crossboarder supervision, with a focus on the oversight of croass border groups, but this should not result in increasing constraints for pure national players and, therefore, **proportionality should be respected in that matter**.	
Q1	FNMF sees listed arguments both in favour and against a harmonised recovery and resolution framework as valid. In particular, FNMF underlines the argument (C) against in table 2: "*National frameworks reflect the national specificity a better way*". This does not mean that a minimum harmonisation must not be done but regarding French matured market, there is very little need for additional regulation apart regarding cross boarder cooperation.	
Q2	None identified as a key argument	
Q3	To begin with and as previously mentioned, the failure causes and progress of an insurance undertaking strongly differs from the banking undertaking's. In addition, Solvency 2 new rules should allow the insurance undertaking to monitor its risks, even in a crisis period. In that matter, it's the undertaking responsability to maintain the SCR level, a reference that reflects a level of eligible own funds that enables insurance and reinsurance undertakings to absorb	

	significant losses and that gives reasonable assurance to policyholders and beneficiaries that payments will be made as they fall due. And and to anticipate the means to maintain it! Therefore, FNMF does not see the specific need, at least in the French market, to formalise an early intervention of the supervisor ("*main building block 2 – early intervention*"), who generally maintains a regular contact with the controled entities. In addition, as mentioned as a general comment, for FNMF members, the federal guarantee fund ensures that early intervention/prevention role…	
Q4	None identied	
Q5	As explained before, FNMf view is that on a national basis, apart from some cross border issues, notably relating to large insurance group undertakings, French regulation and supervision current system is efficient and does not need additional regulation.	
Q6	FNMF, as underlined in the general comment, is extremely sensitive to this proportionality question, both due to the size and the main activity of its members. The existing process to avoid and resolve failure is, in France, sufficient for the "average" insurance undertaking and there is no need to increase/complexify the current French regulation apart from some cross border issues, notably relating to large insurance group undertakings. FNMF, through its Federal guarantee fund as put in place an adequate and proportional process which up to now has succeeded in avoiding critical situations, when required in collaboration with the national supervisor.	
Q7	FNMF considers that the Solvency 2 regulation already provides with proper tools to prepare for crisis scenarios (of which ORSA, RSR reports). Once more there is no need for additional constraints apart from, **eventually**, some specific cross border issues, notably relating to large insurance group undertakings. In addition, for French mutual, due to the lack of capital basis and resulting rules to create a prudential group, an affiliation agreement must be concluded for which the French regulation require to define the appropriate mechanism of funding to respond to the potential failure of one of the group members.	
Q8	FNMF considers that such a preemptive recovery planning, **if actually needed**, should only be required for large undertaking which could play an aggravating role in a systemic crisis situation.	

	Must also be highlighted in France the existence of the HCSF whose power notably includes the ability to limit the concentration of direct and indirect exposures (whether it is stakeholder interconnections or exposure of a certain number of players to a common risk factor) or to limit the systemic impact of inappropriate incentives to reduce moral hazard (including strengthening the resilience of large institutions…).	
Q9	See above	
Q10	FNMF does not have experience as FNMF does not see its members playing such aggravating role in a systemic crisis situation.	
Q11	FNMF considers that such a preemptive resolution planning, if actually needed, should only be required for large undertaking which could play an aggravating role in a systemic crisis situation. Otherwise the current French regulation is sufficient to face a crisis situation. Once mor, FNMf inists on the fact that the origin and consequences of the failure of an insurance enterprise are very different from the one of a bank or another financial institution. **The timeline for the resolution of an insurance undertaking generally requires less urgent decisions.**	
Q12	Please see above	
Q13	Please see above	
Q14	FNMF does not have experience as FNMF does not see its members be concerned by such a resolution process.	
Q15	FNMF does agree that the resolution authority should only have to assess the resolvability of insurers for which a resolution plan, such as proposed, is drafted as FNMF considers it **potentially required only for a limited number of undertakings**…For the other undertaking, in France, existing regulation and process should be sufficient.	
Q16	French regulation already provide the Supervisor with a significant list of powers when the solvency or liquidity of an undertaking subject to its control or when the interests of the customers, insured, members or beneficiaries are compromised or likely to be affected (*code monetaire et financier Art. L612-33*).	
Q17	FNMF does not have experience as FNMF does not see its members be concerned by such a resolution process.	

Q18	Please refer to Q3 & Q7 answers	
Q19	Please refer to Q3 & Q7 answers	
Q20	Please refer to Q3, Q7 and Q16 answers	
Q21	Please refer to Q3, Q7 and Q16 answers	
Q22	FNMF agrees on the necessity of operational independence for the resolution autority	
Q23	FNMF agrees on the following objectives of an harmonised recovery and resolution framework: • Protection of policy holders; • Financial stability; • Continuity of functions whose disruption could harm the financial stability and/or real economy • Protection of public fund. But FNMF also underline that the proposed resolution approach only concerns a very limited number of insurance undertaking (concerned with financial stability and/or continuity of function) as for the others, at least in France, current regulation is sufficient to guarantee the protection of policy holedrs and public funds…	
Q24	What for? In such circumstances **it's public authorities <u>liability</u> to take the right decision!**	
Q25	FNMF does not have experience as FNMF does not see its members be concerned by such a resolution process.	
Q26	FNMF does not have experience as FNMF does not see its members be concerned by such a resolution process.	
Q27	FNMF does not have experience as FNMF does not see its members be concerned by such a resolution process.	
Q28	Please refer to Q16 answer. Most of the listed resolution powers are already available in France	
Q29	None identified	
Q30	Mutual do not have shareholders and are only concerned by creditors bail-in, mainly for subordinated debt instruments. Tier 1 debt instruments are structured to be liquid enough to satisfy S2 liquidity constraints if needed. FNMF thinks that attention should be given to the	

	propagation risk as such debt instruments are often purchased by other insurance undertakings (even if they are deducted from the solvency margin calculation).	
Q31	Please see above	
Q32		
Q33		
Q34	FNMF does not have experience as FNMF does not see its members be concerned by such a resolution process.	
Q35	FNMF understands the need for cooperation and coordination regarding crossborder issues.	
Q36	FNMF does not have experience as FNMF does not see its members be concerned by such international issue.	
Q37	FNMF does not have experience as FNMF does not see its members be concerned by such international issue.	
Q38	FNMF does not have experience as FNMF does not see its members be concerned by such international issue.	