

**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:	The KNF, Polish Financial Supervision Authority	
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<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		
Q1	Q1) Do you consider the arguments in favour or against a harmonised recovery and resolution framework, as identified and analysed in this chapter, exhaustive?	
	Both types of arguments, in favour and against harmonisation of national recovery and resolution	

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	frameworks for insurers are worked out in a comprehensive manner in the discussion paper.	
Q2	<p>Q2) In your view, are there any other arguments in favour or against a harmonised recovery and resolution framework which should be considered? If yes, please provide an explanation for the arguments.</p> <p>At this point of time, we do not identify any other significant arguments that should be considered.</p>	
Q3	<p>Q3) What is your view on the proposed building blocks for recovery and resolution?</p> <p>The proposed building blocks for recovery and resolution create a clear plan for the whole framework, which is a good starting point for further development of this important issue for insurance sector.</p>	
Q4	<p>Q4) Should additional building blocks be considered? If yes, what should these building blocks be?</p> <p>At this point the proposed building blocks cover the most important issues of the resolution and recovery theme, therefore there is no need to create additional building blocks. Besides, in our opinion the framework plan should be clear and simple so that it could be easily understood by all considered parties.</p>	
Q5	<p>Q5) What is your view on the scope of a recovery and resolution framework?</p> <p>We agree with proposed scope of recovery and resolution framework. To make it work properly it is important to cover with new regulations all insurers, except for those excluded from the scope of Solvency II. The proportionality principle is very important due to the possible costs of implementing new regulations, which might be a significant financial burden especially for small companies.</p>	
Q6	<p>Q6) What is your view on the approach to the proportionality principle, i.e. defining the specific applicability for each sub-building block separately?</p> <p>As we already mentioned above it is very important to remember about the proportionality principle</p>	

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	while creating new regulations. Therefore we agree with the EIOPA proposal in this scope.	
Q7	Q7) Do you agree on the need for pre-emptive recovery planning? Yes, we agree.	
Q8	Q8) In your view, what should the conditions be in order to determine the range of insurers for which simplified obligations could apply? In our opinion the criteria for determining the range of insurers for which simplified obligations could apply should cover e.g. gross written premium value (non-life), gross written provisions value (life), risks identified within insurance activity, scope of business (meaning markets that a given insurer is conducting its business – is it a local insurer providing insurance cover on a domestic market or also abroad based on the freedom to provide services), number of clients, market share, supervisory assessment of identified risks.	
Q9	Q9) And what should the conditions be in order to determine the range of insurers which may be exempted from the requirement to develop recovery plans? In our opinion insurers exempted from the requirement to develop recovery plans should have low market share, provide insurance cover only on domestic market, the assessment of risk identified within insurance activity shouldn't be lower than "medium-low risk". Captives can be an example of insurer that may be exempted from this requirement.	
Q10	Q10) In your view, what should the content of pre-emptive recovery plans include? We agree with FSB Key Attributes and EIOPA's view on the content of pre-emptive recovery plans described in section 4.4.2. Pre-emptive recovery plans should include the potential need for resolution funding, the sources of funding, operational and practical arrangements for ensuring continuity of coverage and payment under insurance policies and other issues relevant for insurance company having regard business type that they conduct.	
Q11	Q11) Do you agree on the need for pre-emptive resolution planning? Should there be any difference in the scope for pre-emptive recovery planning and resolution planning? If yes, what are the reasons for this?	

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	Yes, we agree. We also think that, due to the fact that pre-emptive recovery plans and pre-emptive resolution plans occur at different stages of the whole r&r process, there shall be a difference between them.	
Q12	<p>Q12) What should the conditions be in order to determine the range of insurers for which the resolution authorities may waive the requirement to develop pre-emptive resolution plans?</p> <p>Our answer is the same as in question no 9.</p>	
Q13	<p>Q13) In your view, what should the conditions be in order to determine the range of insurers for which simplified obligations could apply?</p> <p>As it is stated in the consultation paper the criteria should include the size, complexity and business type as well as interconnectedness of an insurer with the rest of the system. The examples of measures we have already listed in the answer to question no 8.</p>	
Q14	<p>Q14) In your view, what should the content of pre-emptive recovery plans include? (the same question as Q10)</p> <p>We agree with FSB Key Attributes and EIOPA's view on the content of pre-emptive recovery plans described in section 4.4.2. Pre-emptive recovery plans should include the potential need for resolution funding, the sources of funding, operational and practical arrangements for ensuring continuity of coverage and payment under insurance policies and other issues relevant for insurance company having regard business type that they conduct.</p>	
Q15	<p>Q15) Do you agree that resolution authorities should only have to assess the resolvability of insurers for which a resolution plan is drafted?</p> <p>In general – yes, we agree with this statement.</p>	

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	<p>We'd only like to mention that in polish banking sector the duties of resolution authority are conducted by the Banking Guarantee Fund, which is separate from supervisory authority. As for the insurance sector there are no regulations in this scope. Nevertheless we'd like to note that in Poland exists Insurance Guarantee Fund, which is also a separate authority. Taking this into account it would be reasonable to give the supervisory authority the power to take part in the process of resolvability assessment, in case when the role of resolution authority is carried by another authority, like it is in polish banking sector.</p>	
Q16	<p>Q16) Do you agree that resolution authorities should have the power to require the removal of significant impediments to the resolvability of an insurer? And what type of potential impediments could be considered?</p> <p>Yes, we agree. Potential impediments to be considered: complexity of the group structure, high degree of interconnectedness, the level of risk connected with the conducted activities.</p>	
Q17	<p>Q17) How could the simplified obligations in assessing the resolvability of insurers be defined?</p> <p>Having in mind the assumption of minimum harmonisation and the proportionality principle, in our opinion the definition of simplified obligations in assessing the resolvability should be left for the NSA's competencies due to e.g. different scale and characteristics of local insurers.</p>	
Q18	<p>Q18) Do you think that early intervention should be part of a recovery and resolution framework for insurers?</p> <p>Yes, we do.</p>	
Q19	<p>Q19) What is your view on the approach towards early intervention conditions?</p>	

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	We agree with the EIOPA approach described in consultation paper. Early intervention condition should be judgement-based and should not lead to a mechanistic decision-making process by the NSA	
Q20	<p>Q20) Do you have any comments on the early intervention powers listed in the table?</p> <p>We agree with the EIOPA approach described in consultation paper. As the KNF informed in the questionnaire, most of the early intervention powers are available in Polish framework, but some might be considered in our framework too interfering with the right to property or with the freedom to conduct a business, as i.e. limitation or restriction of certain business lines or operations or restriction/prohibition of any asset disposal.</p>	
Q21	<p>Q21) Should other early intervention powers be considered? If yes, what are these powers?</p> <p>In our opinion the intervention powers listed in the table give supervisory authority the proper range of tools needed for an early interventions actions. We'd like to notice than on an early intervention phase of recovery and resolution process there is no need for an extreme supervisory powers. The supervisory authority should have also a range of tool to use in next phases of this process.</p>	
Q22	<p>Q22) Do you agree that Member States should consider the designation of an administrative resolution authority for the resolution of insurers?</p> <p>Yes, we agree.</p>	
Q23	<p>Q23) Do you agree with the objectives of resolution? Should other objectives be considered? If yes, what are these objectives?</p> <p>Yes, we agree. At this stage the proposed objectives seem to be crucial to the resolution framework, and in our opinion there's no need to add other objectives.</p>	

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Q24	<p>Q24) Should the objectives be ranked? If yes, how should this look like and which objective should be the primary objective? If no, how could potential conflicts between the objectives be resolved (e.g. between policyholder protection and financial stability)?</p> <p>It is very difficult and important question to answer. In our opinion the objectives could be ranked but depending on an individual case. For example if an insurer has a high market share its financial stability has direct influence on a real economy. In this case the financial stability should have the highest rank. On the other hand, in case of a small insurer, the highest rank we would give for policyholder protection. In such case, the insolvency of an insurer won't affect the financial stability of the whole economy. That is why the most important here would be to protect the policyholders.</p> <p>In our opinion it is not possible to create an universal ranking of objectives. In our view multiple and not ranked objectives are relevant for recovery & resolution framework and that the objectives recognised by the FSB Key attributes should be considered. The objectives of an equal importance are the following: protection of policyholders, beneficiaries and claimants, avoidance of severe systemic disruption, protection of vital economic functions and avoidance of exposing taxpayers to losses.</p>	
Q25	<p>Q25) Do you agree with the conditions for entry into resolution?</p> <p>Mostly, we agree with the condition related to public interest (the so-called public interest test). At the point of non-viability, we are of the opinion that resolution process should be entered properly in advance, before the insurer becomes insolvent from formal point of view.</p>	
Q26	<p>Q26) Do you agree with the conditions for determining the point of “non-viability” (i.e. where an insurer is no longer viable or likely to be no longer viable)?</p> <p>Yes, we agree.</p>	

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Q27	<p>Q27) What other conditions could be used to define the point of “non-viability”?</p> <p>The other condition used for defining the point of non-viability could be the high likelihood of materializing the risks identified in insurers activity (e.g. operational risk).</p>	
Q28	<p>Q28) Do you have general comments on the powers listed above?</p> <p>Resolution powers listed are mostly unavailable in Polish framework, however some of them are considered to be useful (i.e. bridge institution) and some – controversial and questionable (i.e. bail-in)</p>	
Q29	<p>Q29) Should other powers be considered? If yes, what are these powers?</p> <p>In our opinion this list give a resolution authority a full range of tools to make the resolution process efficient and successful.</p>	
Q30	<p>Q30) Do you have specific comments on the power to bail-in shareholders and creditors?</p> <p>Bail-in shareholders should be a rule. They should cover financial losses of the insurer in the first place. This derives exactly from the resolution objective relating to protection of public funds by minimising reliance on extraordinary public support. Next in line are creditors falling to the same category according to the hierarchy of claims, whereby they should be treated in the same way (pari passu rule).</p>	
Q31	<p>Q31) In your view, what are the benefits and what could be the potential (wider) implications or side effects of the power to bail-in shareholders and creditors?</p> <p>The benefits of shareholders and creditors bail-in are, in our view, increase of share capital, allocation of losses, elimination or limitation of use of the public funds and increase of market discipline. There are also potential risks: limitation of propensity to continuous financing of insurers,</p>	

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	increase of insurance costs.	
Q32	<p>Q32) Do you have specific comments on the power to bail-in policyholders?</p> <p>Bailing-in may result in loss of the polisyholders confidence in the insurance market, discourage policyholders from conclusion of the new insurance contracts. Taking into account low insurance awareness of the Polish policyholders, their common inability to valuate financial stability of the insurance undertaking or risk-based contributions, the main challenge is to convince policyholders that bailing-in should be regarded as a legitimate public interest. Allocating losses to policyholders in our view should be used only as a last resort.</p>	
Q33	<p>Q33) In your view, what are the benefits and what could be the potential (wider) implications or side effects of the power to bail-in policyholders?</p> <p>Bailing-in may result in loss of the policyholders confidence in the insurance market, discourage policyholders from conclusion of the new insurance contracts. Taking into account low insurance awareness of the Polish policyholders, their common inability to valuate financial stability of the insurance undertaking or risk-based contributions, the main challenge will be to convince policyholders that bailing-in should be regarded as a legitimate public interest.</p>	
Q34	<p>Q34) Do you think that other safeguards are needed on top of the above mentioned safeguards and restrictions?</p> <p>In our opinion, at this stage, no other safeguards are needed.</p>	
Q35	<p>Q35) Do you agree on the need to have cooperation and coordination arrangements (e.g. crisis management groups or equivalent arrangements) in place for cross-border insurance groups?</p> <p>Yes, cooperation and coordination between national and foreign authorities in place for cross-borders insurance groups is essential, especially in respect to G-SII's.</p>	
Q36		

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	<p>Q36) How should these cooperation arrangements be organised in order to allow for an efficient decision-making process?</p> <p>In our opinion it is a good idea to establish cooperation and coordination arrangements as a part or addition to the already existing Solvency II supervisory colleges armaments.</p>	
Q37	<p>Q37) What other issues need to be considered in order for the cooperation arrangements to work more effectively and efficiently?</p> <p>In our opinion elements listed in point 240 of consultation paper are a good base for creating the cooperation arrangements. It is important to remember about the scope of information covered by the coordination arrangements signed within supervisory colleges. If a resolution cooperation arrangements are supposed to be part of the college arrangements, the data it covers should not double the information from the college arrangements.</p>	
Q38	<p>Q38) In your view, how and/or to what extent should third countries be involved in these cooperation arrangements?</p> <p>Third countries should be involved in the cooperation arrangements depending on scale and complexity of the insurance activities conducted by located there subsidiaries/ branches and the level of risk identified in their activities.</p>	