Management vehicle and bridge institution

EIOPA Seminar – Recovery and resolution in insurance

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Summary

1. French legislative framework
2. General consideration on management vehicles (MV) and bridge institutions (BI)
3. Implementation of a bridge institution under French law
4. Implementation of a management vehicle under French law

French legislative framework

Prevention of crisis

Planning

Recovery planning, resolution planning, resolvability assessment

for the 10-15 largest insurance groups;

for insurers with critical functions

Crisis manage-ment

Resolution powers

including a resolution administrator and portfolio transfers to a bridge insurer or a separation vehicle

excluding bail-in and creation of a resolution fund

for all insurers in France under Solvency 2 ; for all (future) French IORPs

Legal frame-work

ACPR

Insurance supervisory board and supervisory units in charge of recovery planning

Resolution board in charge of resolution planning and resolution for banks and insurers

Compatibility with EU-law

“Resolution” is a form of “reorganisation and winding-up of insurers” as provided by Title IV of S2 Directive —art.267 to 296. These S2 provisions essentially rely on national provisions

French legislative framework

Conditions for triggering a resolution

Insurer is failing or likely to fail

(see next slide for details)

No reasonable prospect that alternative measures would prevent the failure

A resolution action is necessary to preserve the resolution objectives

Positive value of net assets

(with negative net assets and without bail-in powers and resolution fund, a resolution procedure could not observe the NCWO principle, otherwise than by duplicating a liquidation)

Conditions are cumulative

If conditions are met, the resolution board decides to open a resolution procedure. There is a contradictory procedure, which can be shortened to 48 hours and which does not preclude interim measures

Once the resolution procedure is open, the resolution board can take one or several resolution measures, independently or combined

General consideration on MV and BI

Advantages of MV and BI

- Alternative powers (with some common features with portfolio transfer)

- Ability to separate asset/liabilities arising from functions that have to be preserved and A/L from others functions

- No immediate reliance on market participants

- Resolution of multiple failing institutions

- Reduction of the risks of leaks compared to « direct » sales tools

General consideration on MV and BI

- **Issues linked to MV/BI : potential complexity of implementation**
  - Identification of assets and liabilities that have to be transferred
  - For BI, fair treament of policyholders that remain in the legacy entities
  - Operational aspects to be prepared in advance :
    - Establishment of the legal entity
    - Capital requirements that will apply to the MV/BI
    - Operational continuity of services

General consideration on MV and BI

Specific constraint on BI

- BI is a temporary solution => Exit strategy to be defined ex-ante

Conclusion

- Useful tools…
- But operational complexity…
- So to be used when portfolio transfer / sale of business / will not be easily implemented

Implementation of a BI under French law

- **BI will certainly be a subsidiary of the failing entity**
  - Funding by contribution in kind
  - Control exercised by the RA
  - Transfer of operational services from the failing entity

Implementation of a MV under French law

- **MV will be a trust (« fiducie »): temporary separation of A/L of run-off activities governed by a contract not a separate legal entity**

- **Advantage of the trust**
  - No licensing required
  - Management by a trustee that will be another insurer
  - Reduced capital needs on the legacy portfolio but policyholder protected by the trustee
  - Trust contract, approved by the RA, can encompass all operational details regarding SLA