

Input from AIA Group, American International Group, Inc. (AIG), Allianz SE, Aviva plc, MetLife, Inc., Prudential Financial, Inc., Prudential plc

20 April, 2020

Via Email

Alex Hart, Chair Resolution Working Group

Hanne van Voorden, [IAIS Secretariat]

Dear Alex and Hanne:

The undersigned companies are members of an industry coalition that supports effective implementation of the IAIS Holistic Framework and greatly appreciates the opportunity to provide input on the proposed Application Paper on Resolution Powers and Planning. However, given ongoing COVID-19 challenges our companies continue to prioritize core business functions, and meeting commitments to policyholders, employees, communities and financial markets. As a result, our ability to provide detailed feedback on the Input document in the allotted time is limited. We believe most stakeholders will be in a similar position and therefore encourage the IAIS to ensure there are additional opportunities to discuss and provide input on this important topic before the Application Paper is released for consultation. Our preliminary comments follow.

Section 1. Introduction

While no specific questions have been included, we offer the following comments. We appreciate the April 3 Input document's reiteration that Application Papers do not set new standards and that the current proposed Application Paper aims to provide guidance to supervisors, resolution authorities, and insurers on a range of resolution topics. As a general matter, given jurisdictional differences in legal and supervisory processes for resolving an insurance company, we strongly believe any guidance relating to resolution powers and planning should be interpreted as illustrative guidance, rather than prescriptive rules supervisors may deem necessary to follow. We therefore believe the primary focus of the Application Paper should be on practical application of proportionality with respect to resolution related tools and communication/cooperation among stakeholders.

In addition, we believe it is important to emphasize the following key themes at the outset of our response: the paper should focus on desired outcomes versus the approach to achieve the outcomes; the paper should acknowledge and support the use of jurisdictional discretion to determine best practices for their market; and the paper should encourage supervisors and resolution authorities to engage with insurers to ensure the best outcomes for all stakeholders.

Below are additional comments relevant for this section:

- We continue to stress the need for flexible and proportionate application of IAIS guidance that is focussed on desired outcomes and broad objectives. While we recognize operating across a number of entities or jurisdictions increases the need for cooperation and coordination across supervisors, we do not believe it justifies a distinct resolution regime. To this point, we strongly urge against guidance or framing of examples within the Application Paper that suggest a special resolution regime or additional measures are required for a select group of insurers solely by virtue of the fact that they are classified as a group or an IAIG.
- The Application Paper should clearly note that imposing resolution related measures, including resolution planning, should be at the discretion of the group-wide supervisor and Crisis Management Group in concert with insurer management. Further, existing jurisdictional best practices and tools, including strong corporate governance and risk management processes, as well as existing supervisory requirements and reporting should be considered and inform the necessity of imposing resolution related requirements.

- We believe the April 21 discussion would have greatly benefited from advance publication of the results of the “Member Survey” that was conducted during Q4 2019. We kindly ask that the IAIS share the results of this analysis with stakeholders along with initial thoughts on if/how it will be incorporated into the Application Paper.
- We appreciate the IAIS’ acknowledgement that the Financial Stability Board’s Key Attributes of Effective Resolution Regimes for Financial Institutions were targeted at a narrow scope of the industry. As noted above, we do not believe it is appropriate to apply or require distinct resolution requirements to a subset of insurers operating in the market, be they solo entities or part of a broader group.

3. Triggers – Entry to Resolution

What indicators should be used by the resolution authority to assess if the conditions for resolution have been met?

Provisions in ICP 12.6 and the corresponding section 3 in the Input document appear to suggest that there is a bright line that demarcates viability and non-viability. We strongly disagree with this notion as well as the idea that a “forward-looking trigger” can be implemented to provide for timely and early entry into resolution.

Rather than suggesting supervisors should focus on specific triggers, we believe the Application Paper should suggest that supervisors could identify a continuum of potential measures and range of jurisdictionally-appropriate tools that would allow them to assess the health of an insurer and its possible trajectory or transition from low risk to viability to non-viability. We suggest that this approach would allow alignment with jurisdictional best practices and existing tools, ladders of regulatory action and resolution law. As suggested below, decisions to require resolution planning could be linked to this continuum but the emphasis should first and foremost be on acknowledging the appropriateness of jurisdictional discretion and engagement with the insurer to ensure all possibilities of recovery have been exhausted.

What information provided by the insurer would be beneficial in assisting the resolution authority in its decision making for resolution condition assessments?

Management and technical experts of the insurer have a wealth of information to share regarding relevant aspects of the insurer’s business, including (to name but a few) risk exposures and how they are managed, liquidity and capital positions, essential functions, intercompany transactions and dependencies, etc. We believe the specific tools and resources that may be of greatest use to the supervisory and/or resolution authority are likely to vary across insurers and the type of stress being faced however, a constant resource of value would be the insight the insurer can provide the parties. Thus, we believe the Application Paper should highlight the importance of communication and collaboration with management of the insurer more so than a finite set of predetermined tools or metrics, which may be of little relevance for a given scenario. Indeed, we believe such communication and collaboration should be deemed as important as cooperation among the various supervisors of the group and resolution authorities.

What should be considered a reasonable timeframe for recovery?

As each insurer’s risk profile is unique, recovery prospects will vary from insurer to insurer. Therefore, we repeat our suggestion of avoiding aiming to establish a bright line that demarcates viability and non-viability. Instead, we believe the Application Paper should highlight the importance of thoroughly considering recovery related measures/requirements the insurer and supervisor have established

before moving to impose resolution measures/requirements. These tools, together with a regulatory action model and recommendations for intervention at different risk levels, will provide supervisors with considerable information to assess the viability of the insurer. To the extent the supervisor determines resolution measures/requirements are needed, they should be developed in accordance with jurisdictional best practices and resolution law as a complement to existing recovery related tools.

4. Resolution Powers

While grouping the resolution powers the IAIS has identified based on common characteristics may allow for a more streamlined illustration of considerations related to potential benefits and shortcomings, it may result in an overly simplistic assessment that proves to be of little value from an application perspective. For example, the motives for curtailing dividends or variable remuneration may vary from prohibiting the transfer of assets. We believe the potential strengths and weaknesses of the powers the IAIS identified, along with the outcomes they are intended to achieve, should be individually and robustly assessed in the context of the proportionality principle as set out in Section 1.3 of the Input document to ensure the issues noted in the introduction of the Input document, regarding items/ambiguities identified during the development of ICP 12 and ComFrame, are adequately addressed.

As noted in our comments on Section 1 above, we recognize effective supervision of an insurance group will increase the need for supervisory cooperation and coordination. For example, the Application Paper might want to clarify that appropriation of resources should be well coordinated to avoid inappropriate restriction at local level that might have adverse unintended consequences on overall outcomes. However, we do not believe this justifies a distinct resolution regime and urge against guidance or framing of examples within the Application Paper that suggests a special resolution regime or additional measures are required for a select group of insurers solely by virtue of the fact that they are classified as a group or an IAIG. Instead, we believe the emphasis with respect to global groups should be on identifying the heightened need for cooperation and communication among supervisors through forums such as Crisis Management Groups.

5. Resolution Plans

What do you expect the role of the insurer is in developing the resolution plan?

As the IAIS is aware, jurisdictions take different, but equally effective, approaches to planning for and/or executing a resolution. For this reason, we recommend that the IAIS refrain from strictly defining roles and responsibilities for developing and maintaining a resolution plan. Instead, the IAIS should provide examples of practices in place across jurisdictions to illustrate the range of options supervisors can consider. That said, we believe it is essential to note that regardless of the approach taken – should it be determined a resolution plan is necessary – that transparency is key and collaboration between the insurer and supervisors is essential.

In addition, we urge the IAIS to reiterate the importance of considering risk management mechanisms and the expected cost, benefits and outcomes of the resolution planning requirement. As noted under CF 12.3.a., these items (along with others) should be considered important factors for a group-wide supervisor and/or resolution authority and Crisis Management Group to consider when determining if a resolution plan is needed and/or the degree of resolution planning required.

What are key considerations in operationalizing a resolution plan and resolution strategy?

Effective operationalization of recovery and/or resolution strategies and plans first and foremost requires an appropriate process for communication between the insurer and supervisor(s) and within the insurer to ensure accurate and timely information flow and deployment of tools in a targeted manner to mitigate risks to support execution.

More broadly, we reiterate our prior comment regarding the inappropriateness of focusing on a bright line that demarcates viability and non-viability. Rather, the supervisor, Crisis Management Group and insurer should engage in dialogue and, if recovery efforts have failed, assess the continuum of potential tools and options, including resolution planning, to determine which are available and most appropriate for the existing circumstances.

In this respect, we reiterate our prior comment on the superior value of an effective recovery plan that identifies in advance the “menu of options” that may be available to an insurer to restore financial strength and viability upon the occurrence of a stress event. Such plans are best placed and sufficiently flexible to guide insurance management, supervisors and Crisis Management Groups in crisis preparedness and management. This form of planning can also translate efficiently to management of resolution of one or more portfolios, branches and subsidiaries through runoff and/or other tools available to insurers under their existing regimes.

In Closing

We reiterate our belief that existing insurance resolution regimes can and will provide for the orderly satisfaction of insurers over an extended period of time and that advance resolution planning is neither necessary nor cost effective. In support of this, we note the well-known fact that insurers very rarely fail rapidly or in a disorderly manner, are far less susceptible than banks to “runs” or acute liquidity demands, and have limited interconnections to each other. We continue to believe greater emphasis should be placed on the presence and use of robust recovery plans, which would provide both the insurer and supervisor(s) much of the information that would be needed to support an effective transition to resolution if it were determined that the insurer could not return to viability.

We reiterate our appreciation for the opportunity to engage and collaborate at the early stages of the IAIS’ efforts to develop the Application Paper and look forward to further discussing the points within this letter on April 21 and to future opportunities to provide input on this topic before the consultation document is published.

Sincerely yours,

AIA Group, American International Group, Inc. (AIG), Allianz SE, Aviva plc, MetLife, Inc., Prudential Financial, Inc., Prudential plc