

Brokers Ireland Submission to the Public Consultation on the Development of a National Resolution Framework for (re)Insurers

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Introduction

Introduction Brokers Ireland is Ireland’s representative body for Insurance Brokers and Financial Brokers, with a combined strength of over 1,225 firms. Of Brokers Ireland’s members, around 351 are either Insurance Brokers selling general insurance, including public liability insurance, or “composite Brokers”, selling both general insurance and life and pensions products. Brokers Ireland believes we represent substantially all the Insurance Brokers and composite Brokers in Ireland. As the premier voice for Insurance Brokers and Financial Brokers, we advise members, regulators, government and other insurance industry stakeholders on key insurance issues, in order to raise and maintain industry standards. Brokers Ireland’s mission is to promote, support and protect our members, both collectively and individually, in the areas of education, compliance, lobbying and business development, so that members are best positioned to offer expert, professional advice and services to their clients. We underpin this support by providing a forum for dialogue and debate, both within Brokers Ireland and with industry stakeholders.

Intermediaries are the dominant distribution channel for general insurance products in Ireland. According to the CBI’s Interim Report on differential pricing in the private car and home insurance markets, 49% of private car policies and 62% of home insurance policies are distributed via Insurance Brokers. In commercial insurances, the Insurance Broker channel is even more dominant. In its recent Market Report on the public liability market, the CCPC found that 72% of respondents confirmed having used an Insurance Broker to obtain insurance.

Insurance Brokers have a vested interest in ensuring that should a general insurance company transacting business in the Irish market go into insolvent liquidation and be unable to pay claims, that their clients are protected from loss to the fullest extent possible.

Consultation Questions	Brokers Ireland Consultation Responses
<p>Should any resolution objectives and the basis for completing a resolution action under a new domestic framework be aligned with the principles set out in the FSB's Key Attributes of Effective Resolution Regimes as applicable to the insurance sector and EIOPA's recommendations contained within its Opinion on the Review of Solvency II?</p>	<p>EIOPA’s Opinion on the Review of Solvency II featured advice that there e developed a minimum harmonised and comprehensive recovery and resolution framework for (re) insurers to deliver increased policyholder protection and financial stability in the European Union. The Opinion also recommended increased use of proportionality across the three pillars of Solvency II, particularly for low-risk undertakings. Brokers Ireland is generally supportive of the proportionality principle in regulation of the insurance industry.</p> <p>Brokers Ireland believes that a domestic resolution framework should be aligned with the principles set out in the Financial Stability Board’s (FSB’s) Key Attributes of Effective Resolution Regimes (2014) (“the KA”). The KA set out the core elements that</p>

	<p>the FSB considers to be necessary to resolve financial institutions in an orderly manner, without taxpayer exposure to loss from solvency support, whilst maintaining continuity of their vital economic functions. The KA set out twelve features that the FSB believes should be part of resolution regimes in all jurisdictions, with the insurance sector specific guidance in the KA (II Annex 2: Resolution of Insurers) providing guidance on how a resolution regime for insurers should meet the general objectives set out in the KA.</p> <p>EIOPA’s failures and near misses in insurance document (October 2021) also notes that harmonisation of recovery and resolution frameworks is essential in insurance.</p> <p>We are not aware of a compelling reason to depart from the KA guidance on the nature of the recovery framework that might be considered.</p> <p>Solvency II, whilst not guaranteeing that insurer insolvency will not occur should ensure that insurance companies bound by its rules have robust procedures and capital reserves in place and the whole insurance industry is already highly regulated. The Dept of Finance should keep in mind the desire to attract back into the Irish market UK insurers that exited because of Brexit, or because of the claims environment. As such, the recovery regime framework and most importantly any financial requirements imposed should not be such as to render Ireland wholly unattractive to UK entities that will be subject to it. Provision of capacity to the Irish market is more likely to come from UK insurers and underwriters than elsewhere so it may be considered unwise to be very out of step with the FCA on this point.</p>
<p>2. a) Should the proportionality principle be applied with regard to defining the insurers that are in-scope for resolution planning?</p>	<p>Brokers Ireland generally advocates the application of the proportionality principle in insurance regulation, whether that applies to insurance companies or intermediaries.</p>

<p>b) Should the Central Bank’s PRISM impact ratings be used as a guide when considering the scope of application?</p>	<p>The Probability Risk and Impact System (PRISM) is the Central Bank’s risk-based framework for the supervision of regulated firms, judging the risks firms pose to the economy and the consumer and mitigating the risks the CBI judges to be unacceptable.</p> <p>A firm’s PRISM rating determines the level of supervision that it may expect from the CBI (high, medium high, medium low and low). In general, the higher impact a firm, the more intensely it is supervised. Bearing in mind that Brokers Ireland supports the proportionality principle, we believe that the knowledge and market insight gleaned from PRISM should be leveraged to apportion risk profile.</p>
<p>c) Should third country branches be considered within the scope of application of relevant provisions of any envisaged domestic framework?</p>	<p>Third country branches should be within the scope, in aid of Irish policyholders. This is more important now that the Commission has recently decided not to proceed with measures to harmonise Insurance Guarantee Funds in the EU. It is important that Irish policyholders can have confidence as to the protections available to them and that extends to third country branches. This would assist in ensuring a higher degree of confidence overall in the insurance sector.</p>
<p>3. a) Should a public interest assessment (PIA) be used to ensure that the deployment of resolution tools would be on an exceptional basis, i.e. for the few rather than the many?</p>	<p>Yes, we believe that a public interest assessment should be used to ensure that resolution tools would be deployed on an exceptional basis. One size does not fit all and not all are affected equally, e.g. a motor insurer failure would pose a greater risk to consumers.</p>
<p>b) Are there sectoral specific considerations that should be taken into account when determining the public interest rule for deploying resolution tools?</p>	<p>Yes – the fact that some lines are consumer lines, ensures that they may be subject to a greater degree of public interest than some other lines. e.g. motor insurance is compulsory, home insurance virtually compulsory for anyone with a mortgage. Where an insurance company that underwrites business in these areas is troubled, consumers are exposed.</p>
<p>4. a) Would a resolution toolkit be of benefit to the resolution authority in seeking to protect</p>	<p>If a resolution toolkit were to offer greater protection to policyholders in the event of insurer</p>

<p>policyholders in situations where liquidation or administration may not offer the same level of protection?</p>	<p>liquidation then it should be considered.</p>
<p>b) Are the resolution tools proposed in this consultation document appropriate to the Irish insurance sector, or are there other options that should also be considered?</p>	<p>The resolution tools seem broadly appropriate to the Irish insurance sector.</p>
<p>c) Would the use of a write-down and conversion tool in limited circumstances be a means to facilitate burden-sharing, with the cost of failure borne by the insurer’s investors in the first instance rather than by policyholders, the broader industry, or by the public/taxpayer?</p>	<p>We agree with the principle that insurer investors should take burden of failure, which ought to be the case in any event.</p>
<p>5. a) Should a resolution plan be prepared on a before the event basis for insurers where there may be a public interest in using resolution tools in the event of failure?</p>	<p>The resolution plan should be prepared on a before the event basis where there may be a public interest in using resolution tools in the event of a failure. The insurer should perhaps set out their resolution steps at authorisation stage and/ or at periodic intervals thereafter. Insurers are already subject to costly and cumbersome regulation; hence, care should be taken to ensure that any system introduced is not off-putting for new market entrants. For example, having to engage with another body may make Ireland less attractive to insurance providers.</p>
<p>b) Do you agree that this plan be developed by the resolution authority? Or do you see a role for the insurers in developing such plans?</p>	<p>See above – we see a role for insurers in developing resolution plans.</p>
<p>c) Where an Irish authorised insurer is a subsidiary of an international regulated entity, should the resolution authority liaise with the resolution/competent authority of the parent entity for resolution planning purposes?</p>	<p>Yes, we believe that the parent company should have a role in resolution. What is meant by “liaise” in this context? The parent company needs to assume responsibility if its subsidiary fails.</p>
<p>6. a) Should insurers, which may require resolution tools in the event of failure, hold an additional buffer of capital or eligible debt to enhance loss absorbing capacity and minimise the risk of costs being borne by policyholders or the public?</p>	<p>A balance may have to be struck to ensure that the capital requirements are not so expensive for the insurer that they are deterred from doing business in Ireland. Bearing in mind the lack of capacity in the Irish market in certain sectors, a very careful cost benefit analysis should be undertaken to ensure that any capital requirements that may be imposed are not such as to deter entrants to the</p>

	<p>market, whether from the UK or elsewhere.</p> <p>Insurers should propose their own plans for unforeseen events, in the way that all businesses should have a disaster recovery plan.</p>
<p>b) What is the anticipated impact of the holding of additional capital buffers on the Irish market in terms of costs and supply?</p>	<p>See above – the impact of holding additional capital buffers may be on the supply of insurance to the market, depending on the nature and extent of the requirement. The Irish market lacks capacity in the liability sector at present and the requirement to hold additional capital buffers may make the Irish market even less attractive to some potential market entrants or insurers currently in the market.</p>
<p>7. a) In order to offer greater protection to policyholders, is there merit in amending the existing insolvency legislative processes? And if so, what would be the key issues of concern to stakeholders?</p>	<p>The key issue for the Irish insurance market is that it not be made an unattractive market for existing and new insurers, with the latter being much needed. When considering changes to the insolvency legislative processes this factor must be borne in mind</p>
<p>b) Are there other enhancements that should be considered to strengthen the administration and winding-up processes?</p>	<p>No comment</p>
<p>8. a) In the event of resolution actions requiring additional financing, should the ICF be utilised or a separate resolution financing facility established</p>	<p>Consideration should definitely be given to why availing of the existing ICF, assuming it is adequately funded and that it will continue to be so into the future. Consideration should be given to funding future failures from the 3% of levies that currently goes to government.</p>
<p>b) Should such a fund be built up using contributions collected on a before the event or after the event basis?</p>	<p>Funds should be in place on a before the event basis to ensure speedier and more efficient resolution of any claims that may fall to be paid.</p>
<p>c) Should arrangements be put in place to ensure any levy contributions are not directly imposed on the policyholders?</p>	<p>Brokers Ireland is strongly of the view that policyholders should not be fixed with further levies. There should be a comparison of the levies applied in Ireland and elsewhere in the EU.</p>

General Feedback

