

RAB response to HMT Consultation on Introducing an Insurer Resolution Regime

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The Insurance Europe Reinsurance Advisory Board (RAB) welcomes the opportunity to respond to HM Treasury's consultation on the introduction on an Insurer Resolution Regime (IRR).

The RAB recognises the UK government's intention to introduce a dedicated IRR in the UK to align its regulation to the key relevant international standards. However, the RAB does not consider there to be a need to include third-country branches of foreign (re)insurers operating under a comparable recovery and resolution regime in the scope of the UK regime. Further rationale for this view is included in response to the questions below.

1. To what extent do you support the government's intent to implement the relevant international standards in the proposed regime?

While the RAB acknowledges that the Financial Stability Board (FSB) Key Attributes (KAs) of Effective Resolution Regimes for Financial Institutions mandate branches of foreign firms to be in the scope of resolution regimes, it would like to emphasise that the same FSB KAs stress that this should not apply where jurisdictions are subject to a binding obligation to respect resolution of financial institutions under the authority of the home jurisdiction. The RAB would like to stress that both the EU and Switzerland – homes of the groups to which RAB member companies with branches in the UK belong to – are incorporating into their respective jurisdictions the same international standards as the UK plans on doing.

The RAB calls on the Treasury to consider such regulatory developments when deciding the scope of application of the regime, particularly regarding UK branches of foreign firms headquartered in jurisdictions having incorporated the relevant standards. It sets out below its views on why UK branches of such foreign firms should not be subject to any planning requirements by a newly created UK Resolution Authority (RA) or the Prudential Regulation Authority (PRA).

2. To what extent do you support the introduction of a single Resolution Authority under the proposed regime?

n/a

3. Do you agree with the proposed scope of the regime?

The RAB believes that the best practice is to include UK branches of foreign (re)insurers in the scope of the relevant group resolution regime, rather than a UK local regime. A branch is a subset of an overseas legal entity, so it cannot fail/become insolvent independently from that legal entity, as recognised by the Insurance Core



Principles (ICPs) developed by the International Association of Insurance Supervisors (IAIS) — see ICP 4.2.2. The RAB is supportive of empowering the UK RA to coordinate closely with the overseas supervisory authorities and questions the value of imposing additional planning requirements on a branch.

According to the consultation document's section on pre-resolution planning, the RAB understands it shall be at the discretion of the RA to decide whether pre-resolution planning must be carried out and the extent to which a firm would be likely to satisfy the proposed resolution conditions (RCs), in particular the public interest test (RC 3) in the event that RCs 1 and 2 are also met. The RAB calls on the UK government to exclude UK branches of foreign (re)insurers under a comparable regime from this.

Instead, the RAB is supportive of cross-border coordination and cooperation, including the exchange of information among supervisory authorities (even more so where UK branches of foreign (re)insurance companies belong to groups). Please also note that ICP 12 (12.0.12, 12.5.6 and 12.7.15) specifically states that the resolution powers applicable to a legal entity's branches are those applied to the legal entity itself.

4. Do you agree with the proposed approach for entry into resolution (i.e. the resolution conditions), including that this is not set at a fixed level of Solvency Capital Requirement/ Minimum Capital Requirement breach?

n/a

5. Do you agree it is not appropriate for the bail-in stabilisation option to include the introduction of MREL or bail-in bonds for insurers?

n/a

6. Do you support the proposed role of the FSCS in protecting certain policyholders under the bail-in stabilisation option?

n/a

7. Do you have views on how a firm's existing shareholders and subordinated creditors should be treated under the bail-in stabilisation option?

n/a

8. Do you agree with the proposed scope of the NCWO safeguard and compensation, including the approach to calculating the counterfactual?

n/a

9. Considering the requirements of the Key Attributes, do you agree with the proposed approach to pre-resolution planning?

The RAB is fully supportive of the UK government's stated intention that, in all aspects of pre-resolution planning, the PRA and RA will share information, with the aim of minimising the duplication of effort and the resource burden on firms. Regarding resolvability assessments, the RAB is also supportive of the RA focusing its efforts on a restricted group of larger and more complex, systemically important firms.

Consequently, the RAB is of the opinion that UK branches of foreign firms should not be subject to any planning requirements, especially where these are already in place at legal entity/group level (in jurisdictions that are comparable to the UK and with whom the UK's regulatory and supervisory authorities have regular interactions).

10. Considering the requirement of the Key Attributes, do you have views on how a restriction of policyholder surrender rights in resolution should be structured (including for example, the appropriate length of this restriction)?

n/a

11. To what extent will the proposed ancillary powers support an effective resolution?

The RAB welcomes the UK government's stated intent to ensure the proposed IRR makes provision for a framework for the UK to recognise resolution actions taken by other jurisdictions' resolution authorities and to ensure the proposed regime works as intended for the resolution of UK branches of foreign insurers. The RAB also welcomes HMT's acknowledgment of the FSB KAs requirements for interaction among supervisory authorities on resolution matters, in particular the fact that the PRA already has relationships with many overseas regulators as part of its close and continuous supervision of firms. With regards to UK branches of foreign firms, the RAB believes that the focus should be precisely that; supervisory cooperation with home jurisdictions as opposed to duplication of requirements locally.

12. What lead-in time would be appropriate for industry to prepare for the proposed regime? Are there any elements of the proposed regime that would not require a lead-in time?

The RAB believes that consideration should also be given to other jurisdictions that are, in parallel, developing similar regimes – including the EU's Insurance Recovery and Resolution Directive (IRR). Aligning implementation timelines would reduce duplication and implementation costs for the significant number of firms operating on a cross-border basis.

13. Do you agree with the potential impacts of introducing an IRR identified in chapter 2? How would the proposed regime impact insurance firms' costs?

n/a

14. Do you have any other comments on this proposal, or the government's approach to insurer resolution?

The current discussions in the EU on the European Commission's IRRD proposal and the revision of the Swiss Insurance Supervisory Act (ISA) that is underway – both of which will incorporate the FSB KAs – make it even more important that the UK takes into consideration the elements raised by the RAB in this response.

The RAB is aware that both the IRRD and the revised Swiss ISA include or are considering the inclusion of foreign branches in their scope, with a waiver for cases in which the home jurisdiction of a branch's parent undertaking is subject to a similar recovery and resolution regime. The RAB proposes that the UK takes the same approach. It believes that jurisdictions should rely on each other and not duplicate requirements, rather fostering cooperation and supervisory dialogue.

Therefore, the approach to recovery and resolution should be focused at the level of the groups to which UK branches of foreign firms ultimately belong. No local requirements – such as exit, pre-resolution or resolution plans – should be required of such branches.