

Nordic insurers are against any *requirement in IRRD of national resolution financing*

The Nordic insurance industry (Insurance Sweden, Finance Finland, Finance Iceland, Insurance & Pension Denmark and Finance Norway) is very concerned about ongoing discussions on a requirement to establish national resolution financing arrangements within the proposed Insurance Recovery and Resolution Directive (IRRD). The costs of such financing arrangements, e.g. resolution funds, will ultimately be paid by the policyholders, risking a reduction in the overall level of insurance protection. It should be left to the discretion of the EEA Member states to decide whether resolution funds for insurance should be introduced and the design of it.

EC and EIOPA dismiss resolution financing requirements

The European Commission's proposal of the IRRD does not include any requirements on financing. The Commission considered it not to be proportionate to require the financing of a resolution fund by the insurance industry, to absorb losses and recapitalise failing insurers.¹

EIOPA also did not argue for the establishment of resolution financing in its proposal of a recovery and resolution framework in the 2020 review.² Instead, EIOPA has highlighted the absence of resolution funds in IRRD as one of the main differences to BRRD in its arguments why IRRD is not just a copy of BRRD.³

There is no financial stability risk that justifies a harmonized approach to resolution financing

Unlike banks, there are no financial stability risks with failing insurance companies that could motivate a harmonized approach to resolution funding. Resolution financing arrangements will instead lead to increased costs for insurance companies and in the end higher premiums for policyholders.

Higher premiums could make financial vulnerable individuals less inclined to buy insurance policies. In this sense, a requirement of national resolution financing arrangement could reduce the overall level of insurance protection in the society, which in the end could imply higher costs for governments.

The establishment of a resolution fund or similar arrangements may also lead to insurers not being able to offer certain insurance products as it will be too costly. Thus, this could have a negative impact on policyholders that demand and need those insurance products.

A requirement of resolution financing would also greatly increase the complexity of IRRD and especially in relation to insurance guarantee schemes (IGS), including the funds required by the Motor Insurance Directive.⁴ Thereby there is a risk that well-functioning national systems will be impacted negatively.

It is our opinion that resolution, if IRRD is introduced, should only be used to wind up a failing insurance company in the event that resolution would lead to a better result for the policy holders than would be the case if the company was wound up in bankruptcy proceedings.⁵ Therefore, it should be left to the discretion of the member states if and how resolution financing should be designed taking into consideration the differences in the national markets.

¹ European Commission (2021), Proposal for a directive for the recovery and resolution of insurance and reinsurance undertakings (COM(2021) 582 final).

² EIOPA (2020), Opinion on the 2020 review of Solvency II.

³ EIOPA (2022), Overview of the proposal for an insurance and resolution directive, EIOPA Staff Paper.

⁴ The funds in Motor Insurance Directive referers to Article 10a and 25a in Directive (EU) 2021/2118.

⁵ See also *Nordic insurers are strongly against EC's proposal on IRRD*, Joint Nordic position paper (2022).

A thorough impact assessment must be conducted

No impact assessment has been conducted by e.g. the Commission or EIOPA of how a requirement of establishing national resolution financing arrangement would affect, for example, insurance companies and policyholders.

An extensive and thorough impact assessment is needed before any decision to introduce requirement of national resolution financing arrangements in IRRD. To decide on financing arrangements without knowing the consequences is not a proper legislative procedure and comes with a large risk that it will result in large unnecessary costs and other negative consequences without any substantial improvements for policyholders, beneficiaries and the society as a whole.

It should be the Member states that decide whether resolution financing arrangements should be introduced and how they should be designed

The subsidiarity principle authorises intervention by the Union when the objectives of an action cannot be sufficiently achieved by the Member States but can be better achieved at Union level. Establishing a requirement of resolution financing would be contrary to this principle as this issue is better resolved at national level. At the same time, it would pose a risk for significant negative impact on well-functioning national systems and markets.

Any decisions on whether resolution financing arrangements should be introduced and, if so, designed should, therefore, be taken at national level. This is the only way to reflect the fact that there are important differences between Member States regarding e.g. the social welfare system, differences in insurance products, presence of IGS, and type of insurance companies (mutuals etc.).

If a requirement to establish national resolution financing arrangement is introduced in the IRRD it should be limited to compensate policyholders, beneficiaries and injured parties. Policyholders in well-managed and sound insurance companies should not have to pay shareowners of failing insurance companies with poor risk management. The resolution financing arrangement should, therefore, not compensate shareholders and other creditors due to the No Creditor Worse Off-principle (NCWO) or for other reasons.

In addition, compensation by resolution fund or similar arrangements due to NCWO can be seen as an insurance against poor decisions by supervisory and resolution authorities, where the premium have to be paid by insurers and in the end policyholders. Mistakes by supervisory or resolution authorities should be compensated by the government and not for example by the resolution fund.