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Chairman

European Commission
Lord Jonathan Hill
Commissioner
Financial Stability,
Financial Services and Capital Markets Union
BERL 10/222
Brussels
Belgium



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Recovery and Resolution

Dear Commissioner Hill, ~~Dear Commissioner,~~

I am writing in relation to the ongoing discussions regarding possible future work of the Commission in the area of recovery and resolution.

Based on the exchange of views and experiences in our Board of Supervisors with recovery and resolution planning on the basis of existing national legislation, a number of very useful conclusions can be drawn that could inform the policy making agenda:

- Fragmentation of existing systems and emerging conflicting national solutions

There are substantial differences across countries in terms of the extent to which recovery and resolution powers are available to national authorities and also if they can be used as early intervention powers (i.e. in a preventive way) or only in resolution. Looking across jurisdictions, there is no common "toolkit" available to all national authorities. Some jurisdictions have already sought recovery plans from non-systemic undertakings on the basis of national legislation, whereas others are in the process of seeking the necessary powers.

In the absence of a common EU framework, we see the emergence of national solutions, very often inconsistent and even contradictory, which will in practice increase the difficulty of coordinated actions in crisis situations, with the correspondent risks to financial stability.

- Current risk outlook: risk of "double hit" stress scenario

There are increased concerns about the likelihood of the risk of a sharp reversal in asset prices, which, along with the prospect of a prolonged period of very low interest rates will pose severe challenges to the insurance sector as it was concluded in the recent EIOPA stress test. This means that not only individual undertakings might be affected but also certain business models in life insurance in general.

- Scope of the problem

If this “double hit” scenario emerges, national supervisory authorities could be presented with having to deal with significant numbers of recovery plan processes, refinancing plan processes and even some winding up procedures. The potentially widespread, cross-border nature of the problem, and the likelihood of herding by undertakings, will require close coordination among supervisors to achieve orderly management of the situation. In this context of possible threats to a whole business model, recovery and resolution powers are practical tools needed to ensure the orderly handling of problem situations. In particular, the development of recovery plans is extremely relevant regardless of whether undertakings are systemically important or not.

- Role of Insurance Guarantee Schemes

Finally, I would like to mention the role of Insurance Guarantee Schemes in the broader context of recovery and resolution policy. The current system represents a patchwork of national regimes, resulting in inconsistent treatment of policyholders across Member States. Not all the Member States dispose of guarantee funds and the existing schemes do not provide the same scope or coverage. The lack of harmonisation in this area poses problems, from a policyholder protection perspective, in the case of winding-up of an insurance undertaking. This risk has materialized in recent cases where policyholders were affected by the failure of insurance undertakings operating cross-border, resulting in different levels of protection on the basis of nationality or residence. I am aware of the fact that consumer protection is high on your priority list, and this is an important element of it that should not be neglected.

A further difference that occurs across national regimes is whether they are simple “payboxes” or have broader powers that would allow intervention to support continuity of cover. In both cases there is an interaction with recovery and resolution policy or action. Needless to say, the combination of non-harmonised recovery and resolution regimes, with non-harmonised Insurance Guarantee Schemes, would make the management of a stressed situation much more difficult.

I hope that the foregoing gives some insight into the practical issues supervisors are currently facing. In this context, it will be extremely opportune to launch an EU legislative initiative to achieve a minimum level of harmonization with respect to recovery and resolution of insurance undertakings, including the development of a harmonised framework for Insurance Guarantee Schemes in the EU.

I am looking forward to discuss these issues with you in our meeting on the 2nd of March.

Yours faithfully,

Gabriel Bernardino

