

The LIAJ comments on the IAIS Draft Application Paper on Resolution Powers and Planning

Paragraph	Comment
General Comments	<ul style="list-style-type: none"> • The Life Insurance Association of Japan (hereafter the “LIAJ”) appreciates the opportunity to submit public comments to the International Association of Insurance Supervisors (or the “IAIS”) regarding the Application Paper on the Resolution Powers and Planning. • Bankruptcy and insolvency acts/laws are an important fundamental part of the legal system forming the basis of the economy and society of each country. • From the legal stability and predictability perspectives, there is a need to thoroughly consider the legal systems and business practices that differ from country to country. • In addition, as each national authority has dealt with supervisory practices in its own way according to national needs and conditions, its discretion should be respected to the fullest extent.
Paragraph 8	<ul style="list-style-type: none"> • The LIAJ appreciates the references to the proportionality principle stated in the ICP Introduction. • There are two major types of resolutions in Japan; the administrative process based on the Insurance Business Act, and the corporate reorganization process based on the Corporate Reorganization Act. This means the actual practices established in Japan differ from the Resolution Plan stated in the Application Paper. • The LIAJ would like to respectfully request the IAIS to carefully consider these differences in resolution practices of insurance companies in each country when applying the Application Paper.
Paragraph 25-28 and Box 1: Illustrative examples of resolution conditions (P.14)	<ul style="list-style-type: none"> • In Entry into Resolution (Paragraph 25), it states the resolution process should be initiated when an insurer is no longer viable or is likely to be no longer viable. • In addition, Paragraph 27 states jurisdictions should articulate clear standards or suitable indicators of non-viability in the assessment frameworks developed by the relevant authorities, and have forward-looking triggers that would provide for the entry into resolution. • For example regarding the trigger, according to the Member Survey (Box 1), where a quantitative

	<p>threshold is set under the current system, it ranges between 70% and 150% of the Prescribed Capital Requirement (or “PCR”), and when the insurer is in breach of the Minimum Capital Requirement (or “MCR”) with no reasonable possibility of restoring compliance with MCR. In addition, Paragraphs 60, 65, and 75 state the PCR could be the quantitative trigger for initiating resolution. Do these PCR/MCR refer to the ICS, or do they refer to the solvency margin ratio based on the current system in each country?</p> <ul style="list-style-type: none"> • If these PCR/MCR refer to the ICS, they are inconsistent with the statement in Paragraph 4 that states "Since ICPs 14 and 17 are scheduled to be revised in the coming years (during the monitoring period of the Insurance Capital Standard Version 2.0), developing detailed guidance in this Paper at this time would not be appropriate”.
Paragraph 140	<ul style="list-style-type: none"> • In Section 5.4.7 (Resolution Planning Governance), Paragraph 140 states "In some jurisdictions... the insurer is required to develop and maintain the resolution plan” and "the insurer should be required to have a robust governance process... this should be integrated into the insurer's overall Corporate Governance and Enterprise Risk Management”. • It is our understanding that these statements are only an illustrative guidance describing the actual practices in some jurisdictions, and not to be the prescriptive rules for all jurisdictions including Japan.
Paragraph 156	<ul style="list-style-type: none"> • Regarding the impact on the Policyholder Protection Scheme (or “PPS”), Section 5.4.9 (Impact on the PPS) states "considerations should be made for the potential scope and magnitude of impact that the resolution plan may have on the PPS”. It is our understanding that this statement suggests the resolution plan could not override the legal authority of the PPS without any legal basis. If this is not the case, it is inappropriate to consistently give superiority to the resolution plan over the PPS since the establishment process, basis, functions, and authority of the PPS differ from country to country.