Non-paper by Belgium, Sweden and the Netherlands: Proposals for possible amendments within the IRRD and the BRRD to ensure sufficient cooperation between bank and insurance resolution authorities for financial conglomerates

As indicated in the presidency IRRD non-paper (WK 973/2022), financial conglomerates represent a key issue regarding insurance recovery and resolution for several reasons:

1. Important financial groups seldom rely exclusively on banking and securities activities. They pursue diversification by adding insurance activities to their service (or vice versa).
2. The financial interconnections between the insurance undertaking and the credit institution may add complexity to the resolvability of the financial conglomerate.
3. From a legal perspective, conflicts (e.g. of competence) between national recovery and resolution frameworks, the Banking Resolution and Recovery Directive (BRRD) and IRRD could impede the efficiency of the resolution process.

In the context of the IRRD working parties, the Commission explained its intention to follow a step-by-step approach in which, considering the BRRD and following the adoption of the IRRD, the resolution of conglomerates will be tackled afterwards, for instance through amending the FiCo Directive.

However, in anticipation of the next steps of the Commission, a focussed, swift and solid interconnection needs to be established between the autonomous powers conferred to the banking resolution authorities under the BRRD and SRMR and the autonomous powers conferred to the insurance resolution authorities under the IRRD[1].

The interconnection could be ensured via the integration of the following guiding principles in the IRRD as well as the BRRD.

1. Within their respective framework, the respective insurance and bank resolution authorities have **autonomous decision-making powers** and are on an **equal footing.**

2. For the performance of their tasks, the respective insurance and bank resolution authorities **shall cooperate in good faith.**

3. The respective insurance and bank resolution authorities as well as the respective insurance and bank supervisory authorities shall **exchange all relevant information necessary for the performance of their respective tasks**.

In our opinion, these principles can be satisfied in an effective way by means of the following first steps: 1) the introduction of focussed information sharing requirements between insurance and banking resolution and supervisory authorities and 2) granting the **status of observer** to the bank resolution authority in the insurance resolution college of an insurance group that is also defined as financial conglomerate in the FiCo Directive and vice-versa. The latter proposal implies that mirroring additions should be made to the BRRD to provide for the same regime for bank resolution colleges of banking groups that are also defined as financial conglomerates. Granting an observer role would allow the respective authorities to be kept informed and consulted sufficiently early and in a structured way which would allow them to exercise their respective mandates in an informed and consistent way. This is particularly important in the context of i) the pre-emptive recovery planning ii) the resolution planning, iii) the assessment of whether the conditions for resolution are met and, iv) when taking resolution actions in relation to one or more entities being part of financial conglomerates.

The additions to the IRRD and BRRD proposed above aim to establish an interconnection between the autonomous powers conferred to the banking resolution authorities under the BRRD and SRMR and the SRMR and the autonomous powers conferred to the insurance resolution authorities under the IRRD. Our final position in this context is to introduce a review clause regarding the proposed

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[1] Should the IRRD come into force, it shall define the tasks and competences of the National Resolution Authority of insurance and reinsurance undertakings, just as has been done for the Resolution Authorities of credit institutions within the BRRD and SRMR.

changes, so that their proper functioning can be assessed. This would also be beneficial for the Commission's aforementioned planned next steps in dealing with this matter.