

April 16, 2020

**PACICC SUBMISSION REGARDING IAIS STAKEHOLDER
TELECONFERENCE ON RESOLUTION**

Introduction

The Property and Casualty Insurance Compensation Corporation (PACICC) is the policyholder protection scheme (PPS) that protects Canadian policyholders from undue financial losses in the unlikely event that their property and casualty (P&C) insurer fails in Canada. Members of PACICC are the insurance companies of Canada which fund the administrative costs of PACICC via an annual Assessment. PACICC maintains a liquidity fund that is sufficient to cover the early cash-flow requirements of an insolvent insurer. If additional resources are required, PACICC has the legal authority to assess the industry up to an annual limit, but with no limit on total funds assessed. PACICC works to minimize the costs of insurer insolvencies and seeks to maintain a high level of consumer and business confidence in Canada's P&C insurance industry through the financial protection it provides to policyholders.

PACICC appreciates the opportunity to provide input to the IAIS Resolution Working Group, as it considers the planned Application Paper on Resolution Powers and Planning, particularly the role of PPSs in relation to resolution powers and resolution authorities. We look forward to participating in the discussion on 21 April and want to emphasize the following points:

IAIS Questions (4.3) - PPS

What should be the role of a PPS in resolution? For instance, should the role of a PPS be limited to pay-out after liquidation, or should it also facilitate the execution of other resolution powers such as a restructuring mechanism? If so, how and under what conditions?

PACICC Input

1. Broader authority than just providing compensation after liquidation

PACICC is a founding member of the International Forum of Insurance Guarantee Schemes (IFIGS). This international engagement has made us very aware that the role of the PPS can vary by jurisdiction. In Canada, the powers of a resolution authority are shared between regulators and the PPS. The regulator is the gatekeeper with the ultimate authority to close an insurer, however, PACICC may take reasonable steps with respect to a Member in financial distress, prior to the regulator closing the insurer, including, without limitation, the following:

- (a) assist in the sale, transfer or reinsurance of a book of business written by such

Member which is covered by the Corporation on such terms and conditions as may be approved by the Board of Directors of the Corporation;

- (b) issue guarantees or otherwise provide financial support in respect of a book of business written by such Member which is covered by the Corporation on such terms and conditions as may be approved by the Board of Directors of the Corporation.

It should be stressed that liquidation can be a perfectly reasonable “resolution” outcome for many failed insurers. However, PACICC believes broader authorities such as these can broaden “optionality” for regulators and potentially enable more effective outcomes for policyholders, help to minimize costs to other industry participants and help to maintain overall confidence in the insurance sector among consumers.

- 2. Clear and understood criteria for engagement in “resolution” options other than liquidation

In jurisdictions such as Canada where the PPS is funded via insurer assessments, it is essential that the criteria for decision-making regarding use of such funds be documented and understood well in advance. PACICC has developed a Draft Resolution Protocol and is currently engaged in industry dialogue before finalizing same. We offer for consideration:

Draft PACICC Resolution Protocol

PACICC needs to be satisfied before intervening to assist policyholders in circumstances where a Member Insurer is financially troubled, but has not yet been forced into wind-up:

1. **Recovery is unlikely** – In the words of the IAIS, the insurer “has no reasonable prospect of returning to viability.”
2. **Market circumstances are “outside of the normal”** – Methods normally used to support an “orderly” market exit (such as voluntary run-off) are impractical or otherwise unavailable.
3. **Company must exit the market** – At the end of the resolution activity, the company would be closed.
4. **Must be less expensive than liquidation** - Alternatives to liquidation considered by PACICC must be less expensive than liquidating the insolvent insurer.
5. **Shareholders of the troubled insurer will not benefit** – The focus is on protecting policyholders. No industry funds should end up in the hands of shareholders of the insolvent insurer.
6. **Governance of the troubled insurer will be changed** – The prior Board of Directors and Senior Management are replaced or have governance authority transferred to secure oversight in which PACICC can have confidence.
7. **Advance notice** – Sufficient time exists for PACICC to take meaningful action.

8. **Reputation may be at risk** – A Member insolvency may harm confidence in the P&C insurance industry.

IAS Questions (7) - Co-operation and Co-ordination

What kind of resolution planning information should authorities exchange within the CMG in normal times? What kind of information is relevant to have at hand in crisis times? What are key success factors for the functioning of a CMG?

PACICC Input

1. Critical importance of effective communication among regulatory partners

In the language of resolution, “runway” is the time available before a decision must be made to seek a Winding-up Order in the Courts. The longer the runway, the greater the chances that an alternative to winding-up can be implemented successfully. Where the PPS has a role in resolution, this role should be clearly communicated in order to maximize available “runway.”

The role of a CMG and the effective organization of such entities “in times of peace” will ensure more effective collaboration among regulatory partners in times of financial distress.

In Canada, the roles of the PPS and the regulator are clearly communicated in mutually agreed upon and publicly available “Guides to Intervention.” These Guides promote awareness and enhance transparency of the framework for potential regulatory intervention. The Guides (and related Confidentiality Agreements which enable regulators to share information with a private PPS) outline the types of involvement that an insurer can normally expect from the regulator and PPS, by summarizing the circumstances under which certain intervention measures may be expected and describing the co-ordination mechanisms in place. The Guides to Intervention lengthen the “runway” for resolution and ensure effective alignment among all regulatory partners. We strongly encourage the IAIS to adopt this best practice.

Final Comment

A discussion around the role of a PPS in Resolution would be assisted by a better understanding regarding best practices in design and implementation of an effective PPS. Through PACICC’s membership in IFIGS, we have been deeply engaged in the development of Draft Framework Guidance and Core Principles for a PPS. We would encourage more dialogue between IAIS and IFIGS around this working draft to ensure that it has the full benefit of IAIS input before it is finalized by our Membership this fall.

Thank you again for the opportunity to contribute to this important IAIS work.