

**JOINT SUBMISSION OF NOLHGA AND NCIGF
TO NAIC'S INTERNATIONAL INSURANCE RELATIONS COMMITTEE
REGARDING NAIC COMMENTS ON THE IAIS DRAFT REVISED APPLICATION PAPER ON
RESOLUTION POWERS, PREPARATION AND PLANS**

February 13, 2026

The National Organization of Life & Health Insurance Guaranty Associations ("NOLHGA") and the National Conference of Insurance Guaranty Funds ("NCIGF") are writing to comment on the International Insurance Relations (G) Committee's proposed comments to the International Association of Insurance Supervisor's ("IAIS") draft revised Application Paper on resolution powers, preparation and plans (the "Application Paper").

NOLHGA and NCIGF believe the Application Paper would benefit from a more robust description of the United States' resolution framework in Annexes 1 and 2. NOLHGA and NCIGF would like to offer the below suggestions for inclusion in the NAIC's comments.

Consultation Question 52 – Comments on Annex 1: Examples of relevant existing and proposed legislation on resolution powers

The organizations view this as a good opportunity for the NAIC to highlight the strength of the U.S. system by offering a more detailed United States example in Annex 1. NOLHGA and NCIGF recommend that the NAIC suggest replacement of the Application Paper's current language with the following:

United States

Framework and authorities. In the United States, insurer resolution (often referred to as "receivership") is primarily a matter of state law, administered by the state insurance commissioner (typically acting as receiver) and supervised by a state court in the insurer's state of domicile. State receivership statutes are generally based on the NAIC Insurer Receivership Model Act (Model #555) (or predecessor Model Acts) and interact with state guaranty association laws (based on the NAIC Life and Health Insurance Guaranty Association Model Act (Model #520) and Property and Casualty Insurance Guaranty Association Model Act (Model #540)). Receivership outcomes are also shaped by state case law and, in some instances, receivership-specific administrative practice and guidance.

Resolution vs liquidation (rehabilitation and conservation tools). State frameworks typically provide for multiple proceedings (names and thresholds vary by state), including conservation/supervision, rehabilitation (aimed at restoring viability and/or enabling an orderly transfer/run-off), and liquidation (winding-up and distributing assets under a statutory priority scheme). For group structures, the insurer legal entity is generally resolved under state insurance law, while a non-insurer holding company or affiliate may be subject to federal bankruptcy (Title 11) or other applicable federal regimes.

Safeguards and creditor hierarchy (NCWOL concept). State receivership laws generally include a structured claims filing and adjudication process, statutory priority of distribution of estate assets (with preference to policyholder claims), and court oversight of key actions. In addition, U.S. resolution practice commonly considers a liquidation counterfactual – i.e., how policyholders and other creditors would be expected to fare in liquidation – when evaluating and selecting among available resolution strategies (such as rehabilitation, run-off, or portfolio transfer). While this "no creditor worse off than in liquidation" (NCWOL) concept may be used as an analytical tool to support decision-making and fairness assessments, it is not necessarily implemented as a standalone statutory compensation entitlement in the same manner as in certain other jurisdictions.

Powers and tools commonly available. Depending on the state, courts and receivers generally have powers that include:

- *Taking control/management replacement*: appointment of a receiver (or rehabilitator/liquidator) with authority to take possession of the insurer's assets and operate the business, including replacing management and directing operations.
- *License and new business restrictions / run-off*: authority to restrict business activities, suspend or withdraw authority to write new business, and administer a controlled run-off.
- *Stays and moratoria*: authority to seek court-ordered stays of litigation, attachments, and other creditor actions to preserve estate value and facilitate orderly administration; in some cases, targeted stays related to contract terminations may be available.
- *Portfolio transfers*: authority to transfer policies and related assets (e.g., through assumption reinsurance or portfolio transfer mechanisms) subject to court approval and statutory safeguards; authority to effect commutations or settlements where permitted.
- *Asset disposition and avoidance*: authority to sell, transfer, or otherwise dispose of assets under court supervision; authority to pursue avoidance/recovery actions (e.g., preferences or fraudulent transfers) under applicable state law.
- *Claims administration and priority*: authority to establish and administer a claims process, apply statutory priorities, and make asset distributions consistent with the priority scheme.
- *Guaranty association support*: in liquidation, state guaranty associations provide policyholder protection subject to statutory limits, primarily through assumption reinsurance/portfolio transfers or by paying claims/continuing policies in coordination with other affected guaranty associations.

Reinsurance considerations. The resolution of U.S. insurers frequently involves reinsurance, and state receivership frameworks typically provide tools to manage reinsurance-related issues, including the collection of reinsurance recoverables, coordination with reinsurers regarding claims administration, and the facilitation of assumption reinsurance or portfolio transfers. Treatment of reinsurance contracts (including commutations, continuation, or termination) may depend on state law, contract terms, and court supervision, and may require coordination to mitigate disruption to cedants and policyholders.

Group and cross-border considerations. U.S. insurer receivership is generally entity-based at the state level; group-wide solutions may therefore rely on coordination among multiple state receiverships, supervisors, and courts, and on cooperation with foreign resolution authorities where the group has cross-border operations. The NAIC's coordination frameworks support information sharing and coordination, subject to confidentiality and legal constraints.

Federal regimes for non-insurers and systemic entities (where relevant). A holding company or other non-insurer affiliate may be resolved through Chapter 11 (or other provisions) of the U.S. Bankruptcy Code. Certain entities (e.g., bank affiliates) may be subject to federal bank resolution regimes. If a financial company were designated for systemic resolution, it could be subject to resolution under Title II of the Dodd-Frank Act (Orderly Liquidation Authority), as applicable.

Consultation Question 53 – Comments on Annex 2: Examples of approaches to determining critical functions/criticality

The organizations believe the United States example in Annex 2 could be enhanced by adding contextual language. NOLHGA and NCIGF suggest that the NAIC recommends that the IAIS add the following paragraph to the United States example:

In the United States, the assessment of “critical functions” is typically performed through a resolvability and operational continuity lens rather than through a standalone critical functions taxonomy. Group-wide supervisors evaluate whether disruption of specific activities would materially impair policyholder protection or market functioning, including the insurer's ability to administer policies, process and pay

claims, maintain asset management and liquidity operations supporting policyholder obligations, and sustain access to essential shared services and third-party providers. This analysis is informed by the insurer's stress testing and contingency planning processes, but also considers operational dependencies and substitutability, including intra-group service arrangements, outsourcing and vendor concentration, reinsurance arrangements and recoverables, derivatives and collateral processes, and intercompany guarantees or liquidity support. While an IAIG may not be viewed as systemically important to overall U.S. financial stability, supervisors may still identify functions that are critical to the continuity of insurance coverage and timely claims payment, and resolution planning focuses on maintaining those functions (or temporary continuity) to facilitate transfer, run-off, or orderly wind-down.

Thank you for the opportunity to share our perspective and considering our suggested additions.

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